



CITY OF MENDOTA

"Cantaloupe Center Of The World"

ROLANDO CASTRO
Mayor
VICTOR MARTINEZ
Mayor Pro Tempore
OSCAR ROSALES
ROBERT SILVA

AGENDA
MENDOTA CITY COUNCIL
Special City Council Meeting
CITY COUNCIL CHAMBERS
643 QUINCE STREET
February 28, 2017
5:00 PM

VINCE DiMAGGIO
City Manager
JOHN KINSEY
City Attorney

The Mendota City Council welcomes you to its meetings, which are scheduled for the 2nd and 4th Tuesday of every month. Your interest and participation are encouraged and appreciated. Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda. **Please turn your cell phones on vibrate/off while in the council chambers.**

Any public writings distributed by the City of Mendota to at least a majority of the City Council regarding any item on this regular meeting agenda will be made available at the front counter at City Hall located at 643 Quince Street Mendota, CA 93640, during normal business hours, 8 AM - 5 PM.

CALL TO ORDER

ROLL CALL

FLAG SALUTE

INVOCATION

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda

CITIZENS ORAL AND WRITTEN PRESENTATIONS

At this time members of the public may address the City Council on any matter not listed on the agenda involving matters within the jurisdiction of the City Council. Please complete a "request to speak" form and limit your comments to THREE (3) MINUTES. Please give the completed form to City Clerk prior to the start of the meeting. All speakers shall observe proper decorum. The Mendota Municipal Code prohibits the use of boisterous, slanderous, or profane language. All speakers must step to the podium, state their names and addresses for the record. Please watch the time.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the special City Council meetings of January 18, 2017, February 7, 2017, and February 15, 2017.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

City Council Agenda

1

2/28/2017

CONSENT CALENDAR

Matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Calendar and will be considered separately.

1. FEBRUARY 22, 2017 THROUGH FEBRUARY 24, 2017
WARRANT LIST CHECKS NO. 042133 THRU 042184
TOTAL FOR COUNCIL APPROVAL = \$241,565.75
2. Proposed adoption of **Resolution No. 17-11**, approving the Final Map of Tract No. 6148, and entering into a subdivision agreement therefor.
3. Proposed adoption of **Resolution No. 17-17**, allowing Mendota Police Personnel to utilize the Federal Correctional Institution-Mendota firing range.
4. Proposed adoption of **Resolution No. 17-20 and an accompanying reimbursement resolution**, authorizing the City Manager to perform various actions related to obtaining funds from the State Water Resources Control Board.

BUSINESS

1. Discussion and consideration on filling the City Council Member vacancy.
 - a. *Receive report from City Manager DiMaggio*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council takes action as appropriate*
2. Discussion and consideration of the composition of the Public Safety Sub-Committee.
 - a. *Receive report from Economic Development Manager Flood*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council takes action as appropriate*
3. Proposed Adoption of **Resolution No. 17-21**, approving Mendota Designated Local Agency Promissory Note.
 - a. *Receive report from City Attorney Kinsey*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council takes action as appropriate*

4. Proposed Adoption of **Resolution No. 17-22**, Approving Second Amendment to Solar Power Services Agreement.
 - a. *Receive report from City Attorney Kinsey*
 - b. *Inquiries from Council to staff*
 - c. *Mayor opens floor to receive any comment from the public*
 - d. *Council takes action as appropriate*

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Public Works
 - a) Monthly Report
2. City Attorney
 - a) Update
3. City Manager

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)
2. Mayor

CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS
CA Government Code § 54956.8
Property: Approximately 2,000 acres within Westlands Water District in the County of Fresno located south of the Ashlan Avenue alignment, west of Dos Palos Road/State Highway 33 (Derrick Avenue), north of Belmont Avenue, and east of Douglas Avenue
Agency Negotiator: Vince DiMaggio, City of Mendota
Negotiating Parties: Westlands Water District

ADJOURNMENT

CERTIFICATION OF POSTING

I, Celeste Cabrera, Deputy City Clerk of the City of Mendota, do hereby declare that the foregoing agenda for the Mendota City Council Regular Meeting of February 28, 2017, was posted on the outside bulletin board located at City Hall, 643 Quince Street Friday, February 24, 2017 at 5:50 p.m.



Celeste Cabrera, Deputy City Clerk

BUSINESS

1. Discussion Forum

a. Community Center

Discussion was held on the ownership of the community center; the property belonging to MUSD; a lease that was in place between the City and the previous owners of the property; the need to improve the community center and senior center; a proposal for a school-based health clinic at the community center; the various programs that the district has; the importance of having youth programs; the City continuing to maintain the community center; seeking funding to develop a community multi-purpose center; having the grant consultants of both entities work together to file joint grant applications; organizations that currently use the community center; and accommodating the organizations to utilize school sites.

b. Use of MUSD Marquees to post City Announcements

Discussion was held on the City posting announcements on the MUSD marquees and promoting community events at school sites.

c. Use of MUSD Facilities for Community Events

Discussion was held on the City utilizing MUSD facilities for community events.

d. Additional School Resource Officer

Discussion was held on meeting with Assembly Member Arambula regarding acquiring funding for an additional School Resource Officer; the role and duties of campus monitors; increasing public safety efforts; the duties of the School Resource Officer; the importance of students reporting incidences; the impact that academics and athletics have on MUSD; and the benefits of anonymous reporting.

e. Assembly Member Arambula Visiting School Sites

Discussion was held on Assembly Member Arambula visiting the Mendota High School on February 24th.

f. Other Issues of Joint Interest

Councilor Amador reported on resigning as a City Council Member and his last day being January 24, 2017.

Discussion was held on the attainment of Safe Routes to School grants.

Mayor Castro thanked the MUSD Board of Trustees, their staff, and the public for their cooperation and participation.

ADJOURNMENT

At the hour of 8:32 p.m., with no more business to be brought before the Council, a consensus was reached to adjourn the meeting.

Rolando Castro, Mayor

ATTEST:

Matt Flood, City Clerk



MINUTES OF MENDOTA SPECIAL CITY COUNCIL MEETING

Special Meeting

February 7, 2017

Meeting called to order by Mayor Castro at 5:00 p.m.

Roll Call

Council Members Present: Mayor Rolando Castro, Mayor Pro Tem Victor Martinez, Councilors Oscar Rosales and Robert Silva.

Council Members Absent: None.

Flag salute led by Director of Public Works & Planning Gonzalez.

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda.

A motion was made by Councilor Silva to adopt the agenda, seconded by Councilor Rosales; unanimously approved (4 ayes).

CITIZENS ORAL AND WRITTEN PRESENTATIONS

None offered.

BUSINESS

1. Council discussion on issues pertaining to public safety and potential flooding.

Mayor Castro introduced the item and inquired on the provisions contained in the 1978 Belmont Avenue injunction.

Discussion was held on the occasions that staff has had to close Belmont Avenue due

to flooding and the purpose of the 1978 Belmont Avenue injunction.

Joseph Amador (719 7th Street) – inquired on whether staff has noted which property owners on Belmont Avenue have not complied with the injunction.

Discussion was held on the possibility of discussing the issues at a future meeting in Closed Session; whether the drain pipes on Belmont Avenue have been flushed; the costs associated with flushing the drain pipes; and the status of the Mowry bridge.

Joe Gomez (2033 7th Street) – shared his concerns regarding flood waters flowing onto his property.

Discussion was held on having staff check which properties along Belmont Avenue are not in compliance with the injunction and discussing the issue at a future meeting.

Mayor Castro inquired on the possibility of acquiring additional resources and funding to address gang related issues.

Discussion was held on the possibility of acquiring additional funding to address gang related issues; the various homicides that have occurred in the City recently; the various resources that the police department utilizes to address public safety issues; the costs associated with constructing a new police department; the possibility of creating a dispatch center; and applying for public safety grant funding.

Victoria Baez (584 J Street) – stated that she feels unsafe; reported on an incident in which her son found a handgun; and urged the City to do what it could to make the community safe.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 6:25 p.m. by Councilor Silva, seconded by Councilor Rosales; unanimously approved (4 ayes).

Rolando Castro, Mayor

ATTEST:

Matt Flood, City Clerk



MINUTES OF MENDOTA SPECIAL CITY COUNCIL MEETING

Special Meeting

February 15, 2017

Meeting called to order by Mayor Castro at 6:01 p.m.

Roll Call

Council Members Present: Mayor Rolando Castro, Mayor Pro Tem Victor Martinez, Councilors Oscar Rosales and Robert Silva.

Council Members Absent: None.

Flag salute led by Chief of Police Andreotti.

Invocation led by Reza Nekumanesh from the Islamic Cultural Center of Fresno.

FINALIZE THE AGENDA

1. Adjustments to Agenda.
2. Adoption of final Agenda.

A motion was made by Councilor Silva to adopt the agenda, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes).

CITIZENS ORAL AND WRITTEN PRESENTATIONS

Joe Gil Gomez (2033 7th Street) – inquired on an outstanding water bill at one of his apartment complexes.

Discussion was held on staff investigating the issue and the ordinance that exists that makes property owners responsible for paying outstanding water accounts.

Ortencia Carbajal (354 J Street) – stated that she operates a business out of her home; explained that she received a citation and a letter from the code enforcement

department revoking her Home Occupation Permit; stated that she sold food and alcohol out of her home; and inquired on why she didn't receive a warning prior to receiving a citation and having her permit revoked.

Discussion was held on whether Ms. Carbajal can appeal the citation and permit revocation; the appeal process; and the actions taken by the code enforcement department on the issue.

Jose Negrete (934 2nd Street) – stated that he has lived in his home, which is located on a cul de sac, for over 24 years; explained that the code enforcement department advised him and his neighbors that they had to park their vehicles along the curb and not facing the curb; reported on the limited amount of parking that is available; and inquired on why he was no longer able to park his vehicles facing the curb.

Discussion was held on state law requiring that vehicles be parked alongside the curb in a cul de sac and fire trucks and ambulances having issues turning their vehicles when cars are illegally parked.

Delia Macias - reported on the importance of educating the public on various issues.

Macario Banuelos (930 Gaxiola Street) – stated that Mr. Negrete lives in a duplex home.

APPROVAL OF MINUTES AND NOTICE OF WAIVING OF READING

1. Minutes of the regular City Council meetings of January 24, 2017.
2. Notice of waiving of the reading of all resolutions and/or ordinances introduced and/or adopted under this agenda.

A motion was made by Councilor Silva to approve items 1 and 2, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes).

Discussion was held on whether special City Council meeting minutes will be on the next agenda for approval.

CONSENT CALENDAR

1. JANUARY 24, 2017 THROUGH FEBRUARY 10, 2017
WARRANT LIST CHECKS NO. 042034 THRU 042132
TOTAL FOR COUNCIL APPROVAL = \$716,075.40
2. Proposed adoption of **Resolution No. 17-13**, amending the salary schedule for the position of Chief Plant Operator.
3. Proposed adoption of **Resolution No. 17-14**, entering into a mutual aid agreement with the Federal Correctional Institution, Mendota.

4. Council authorize the Mayor to execute a letter of support for H.R. 23, the Gaining Responsibility On Water (GROW) Act of 2017.
5. Council approval of a Community Development Block Grant funding agreement.
6. Council approval of an agreement to allow the City to participate in the Proteus Temporary Worker Program.

Requests were made to pull items 1, 2, 4, and 5 for discussion.

A motion was made by Councilor Rosales to adopt items 3 and 6 of the Consent Calendar, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes).

2. JANUARY 24, 2017 THROUGH FEBRUARY 10, 2017
WARRANT LIST CHECKS NO. 042034 THRU 042132
TOTAL FOR COUNCIL APPROVAL = \$716,075.40

Discussion was held on various items contained on the warrant list (6:48 p.m. Mayor Pro Tem Martinez left the Council Chambers and returned in the same minute).

A motion was made by Councilor Rosales to adopt item 1 of the Consent Calendar, seconded by Councilor Silva; unanimously approved (4 ayes).

4. Council authorize the Mayor to execute a letter of support for H.R. 23, the Gaining Responsibility On Water (GROW) Act of 2017.

Discussion was held on adding information regarding the Temperance Flat Dam to the letter of support.

A motion was made by Councilor Rosales to adopt item 4 of the Consent Calendar, seconded by Mayor Pro Tem Martinez; unanimously approved (4 ayes).

2. Proposed adoption of **Resolution No. 17-13**, amending the salary schedule for the position of Chief Plant Operator.

Discussion was held on the purpose of the resolution and whether the position of Chief Plant Operator could be filled by a current employee.

A motion was made by Mayor Pro Tem Martinez to adopt item 4 of the Consent Calendar, seconded by Councilor Silva; unanimously approved (4 ayes).

5. Council approval of a Community Development Block Grant funding agreement.

Discussion was held on the purpose of the 7th Street and Derrick Avenue realignment project and the possibility of allocating the CDBG funds to a different road project.

A motion was made by Councilor Silva to adopt item 5 of the Consent Calendar, seconded by Councilor Rosales; unanimously approved (4 ayes).

BUSINESS

1. Appointment of a Mendota resident to the Mendota Planning Commission.

Mayor Castro introduced the item and Economic Development Manager Flood reported on an application that was received for the position of Alternate Planning Commissioner.

Abdul Obaid – introduced himself, shared his background, and summarized his goals.

City Manager DiMaggio welcomed Mr. Obaid to the Planning Commission and stated that he would be available to meet with Mr. Obaid in the near future to discuss the role and purpose of the Planning Commission.

The Council congratulated Mr. Obaid.

A motion was made by Mayor Pro Tem Martinez to approve Mayor Castro's request to appoint Abdul Obaid as the Alternate Planning Commissioner, seconded by Councilor Rosales; unanimously approved (4 ayes).

2. Council discussion and consideration of a grant and entering into a loan agreement for the automated water meter project

City Manager DiMaggio summarized the report including acquiring a grant to replace all of the residential water meters with automated water meters; the grant not covering commercial properties; and the option to receive a zero interest loan from the State Revolving Fund to cover the costs associated with replacing the water meters on commercial areas.

Discussion was held on the terms of the loan; the costs associate with only replacing residential water meters; the terms of the automated water meter grant that the city received; and whether the city should seek financing for the project.

Mark Banuelos (930 Gaxiola Street) – reported on the benefits of replacing both residential and commercial water meters.

Jonathan Leiva (638 N. Juanita Street) – state that the accuracy of the automated water meters would be beneficial and stated that he was in favor of the city replacing both residential and commercial water meters.

Gabriel Llanos (654 Lozano Street) - reported on the benefits of replacing both residential and commercial water meters.

Discussion was held on the benefits of replacing both residential and commercial water

meters and the terms of the State Revolving Fund loan.

A motion was made by Councilor Silva to adopt Resolution No. 17-16, seconded by Councilor Rosales; approve (3 ayes, no: Martinez).

3. Council discussion and direction to staff regarding the sign ordinance and proposed adoption of **Resolution No. 17-12**, initiating an ordinance amending provisions of Title 17 of the Mendota Municipal Code relating to outdoor advertising and signs.

Mayor Castro introduced the item and Economic Development Manager Flood summarized his report including what the Mendota Municipal Code (MMC) currently allows in regards to outdoor advertising (7:34 p.m. Mayor Castro left the Council Chambers and returned in the same minute); presented pictures of signs throughout the City that represent either good or bad outdoor advertising; and shared staff's recommendation regarding modifying the provisions of outdoor advertising.

Discussion was held on the process to revise MCC relating to outdoor advertising; being business friendly; the importance of beautifying the community; only permitting signs that are made from durable materials and are printed (7:48 Mayor Castro left the Council Chambers and returned at 7:49 p.m.); and allowing 50% of window space to be used for signs .

A motion was made by Mayor Pro Tem Martinez to adopt Resolution No. 17-12, seconded by Councilor Rosales; unanimously approved (4 ayes).

4. Council discussion on the use of City letterhead.

Mayor Castro reported that a member of the public asked him for a letter of recommendation; and explained that he would've liked to use City letterhead, however after speaking with the City Attorney, he would not do so.

Discussion was held on letters on City letterhead should be from the entire Council and the decision to not utilize City letterhead for personal use was in order to protect the City and individual Council Members from potential liability.

DEPARTMENT REPORTS AND INFORMATIONAL ITEMS

1. Code Enforcement
 - a) Monthly Report

Economic Development Manager Flood summarized the report including the department's focus for the month of January, and the possibility of creating a renter responsibility ordinance similar to the City of Fresno's proposed ordinance.

Discussion was held on a home on Black Street that homeless individuals might be

living in, and the possibility of creating an ordinance that will require individuals to move their parked vehicles off of the street on their designated street sweeping day.

Consensus was reached to direct staff to create an ordinance that will require individuals to move their parked vehicles off of the street on their designated street sweeping day.

2. Police Department
 - a) Monthly Report

Chief of Police Andreotti provided a personnel update; reported on a training that he attended in which DMV offered to investigate certain crimes such as potential chop shops; and reported on the upcoming Coffee with a Cop event that will be held on Wednesday, February 22nd at DiAmici Coffee Shop.

Abdul Obaid (310 Gomez Street) – requested that the police department inform students of events that will be held.

3. City Attorney
 - a) Update

City Attorney Kinsey reported on meeting with a representative from Westlands Water District regarding a potential solar project west of the City and reported that AB1234 training will be held on March 13th.

4. City Manager

City Manager DiMaggio reported on a meeting with individuals regarding negotiating the purchase of property near Bass Avenue and Highway 33.

MAYOR AND COUNCIL REPORTS AND INFORMATIONAL ITEMS

1. Council Member(s)

Councilor Rosales commended Chief and the officers for their quick response during an emergency.

Councilor Silva inquired on whether he is still able to attend the Oversight Board to the Mendota Designated Local Authority, as Successor Agency to the Mendota Redevelopment Agency on behalf of the Council.

Mayor Pro Tem Martinez thanked staff and reported on the impact that recent rains have had on water levels.

2. Mayor

Mayor Castro reported on an upcoming fundraiser for a student at Mendota High School.

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL -- PENDING LITIGATION
Pursuant to Paragraph (1) of subdivision (d) of Govt. Code Section 54956.9; Edward Warkentine et al. v. Hector J. Soria, et al., U.S. District Court Eastern District Case No. 13-cv-01550.

At 8:43 p.m. the Council moved into closed session.

At 8:59 p.m. the Council reconvened in open session and City Attorney Kinsey reported that in regards to item 1 of the closed session, there was nothing to report.

ADJOURNMENT

With no more business to be brought before the Council, a motion for adjournment was made at 8:59 p.m. by Councilor Silva, seconded by Councilor Rosales; unanimously approved (4 ayes).

Rolando Castro, Mayor

ATTEST:

Matt Flood, City Clerk

CITY OF MENDOTA
CASH DISBURSEMENTS
02/22/2017 - 02/24/2017
Check # 042133 - 042184

Date	Check #	Amount	Vendor	Department	Description
February 22, 2017	42133	\$1,772.00	STATE OF CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT	GENERAL	UNEMPLOYMENT INSURANCE ENDING 12/31/2016
February 22, 2017	42134	\$90,795.00	WESTAMERICA BANK	GENERAL	PAYROLL TRANSFER FOR 2/06/2017-2/19/2017
February 22, 2017	42135	\$780.00	ADMINISTRATIVE SOLUTIONS, INC	GENERAL	MONTHLY MEDICAL ADMINISTRATION FEES - FEB 2017
February 22, 2017	42136	\$531.76	AGRI VALLEY IRRIGATION, INC.	GENERAL- WATER - SEWER	ADAPTER MALE, STRAINER SUCTION, HOSE CLAMP, TRANSFER LINE 10"X20', RING LOCK FOR STEEL 10", NIPPLE SCHEDULE FLANGE VAN
February 22, 2017	42137	\$1,028.28	ALERT-O-LITE	STREETS	BARRICADE LIGHT AC4DSL-NL SOL, BATTERY D BARRICADE, ASPHALT PATCH 60 #BAG 090369, K-RAIL WATER FILLED 42"X 6" RENTAL,
February 22, 2017	42138	\$3,517.36	AMERITAS GROUP	GENERAL	DENTAL INSURANCE- MARCH 2017
February 22, 2017	42139	\$41.26	JOSE ARCIGA	GENERAL	FUEL FOR CITY VEHICLE DURING SUPERVISOR TRAINING
February 22, 2017	42140	\$39.90	BATTERIES PLUS BULBS	WATER	12V. LEAD DURA 12-8 SF (WATER)
February 22, 2017	42141	\$549.23	BEST UNIFORM	GENERAL	HAT, TIE, HOLSTER, 4 SHORT SLEEVE SHIRTS, PANT M.ESCOBEDO, 1-HAT-ROBERT PEREZ (PD)
February 22, 2017	42142	\$1,164.00	BSK ASSOCIATES	WATER- SEWER	WASTE WATER WEEKLY, GENERAL QUATERLY SAMPLES 2017 DBP-1 SET
February 22, 2017	42143	\$195.00	CORBIN WILLITS SYSTEM INC	GENERAL- WATER - SEWER	SERVICE& ENHANCE UTILITY BILLING MODULE AND REVERSAL OF CHECKS
February 22, 2017	42144	\$223.35	DATAMATIC, INC.	WATER	MONTHLY MAINTENANCE SOFTWARE & LICENSE
February 22, 2017	42145	\$113.64	EINERSON'S PREPRESS	GENERAL	250 16 PT MATTE (3) M. ESCOBEDO , M. PEREZ, CHIEF (PD)
February 22, 2017	42146	\$137.24	FRESNO COUNTY SHERIFF	GENERAL	RMS JMS ACCESS FEE FOR JANUARY 2017
February 22, 2017	42147	\$41.51	FUTURE FORD OF CLOVIS	GENERAL	CHANGE OIL AND FILTER, ROTATE TIRES (FUSION) (PD)
February 22, 2017	42148	\$393.64	GRAINGER INC.	WATER	KIT ROC 1 CYL 48 FR- PISTON DRIVEN AIR PUMPS (WATER)
February 22, 2017	42149	\$144.00	KERWEST NEWSPAPER ACCOUNTS PAYABLE DEPT	GENERAL	LEGAL ORDINANCE 17-01 (ZONING MAP)
February 22, 2017	42150	\$45,926.63	MID-VALLEY DISPOSAL, INC.	REFUSE	30 YARD ROLLOFF EXCHANGE QTY: 3.49, 10 YARD ROLLOFF EXCHANGE QTY 8.48, SANITATION CONTRACT SERVICES- DECEMBER 2016
February 22, 2017	42151	\$1,174.82	NORTHSTAR CHEMICAL	WATER	SODIUM HYPOCHORITE 12.5% MILL MEETS NSF/ANSI 60
February 22, 2017	42152	\$772.91	OFFICE DEPOT	GENERAL- WATER - SEWER	MANILA 1/3 CUT, RECYCLED PAPER, TONER (CITY HALL), PAPER 65#C, 96B, CANARY, CARDSTOCK (CITY HALL), COPY PAPER 20# 6 BOXES (CITY
February 22, 2017	42153	\$674.00	PG&E	GENERAL	CITYWIDE UTILITIES- WATERWELLS 1/07/2017
February 22, 2017	42154	\$49,100.42	PROVOST & PRITCHARD	GENERAL	PASS THRU, LAS PALMAS PLAN CHECK, DERRICK AND 7TH INTERSECTION- PROFESSIONAL SERVICES,
February 22, 2017	42155	\$88.27	R.G. EQUIPMENT COMPANY	GENERAL	3 BLADE RECYCLER 60" DECK EDGE BLADE (PARKS)
February 22, 2017	42156	\$217.60	RAMON'S TIRE & AUTO SERVICE	GENERAL- WATER - SEWER	TIRE REPAIR INSIDE PATCH FORD TAURES (PD), BLUE PUMP VALVE SYSTEM, TIRE MOUNT AND DISMOUNT, TIRE REPAIR INSIDE PATCH (PD)
February 22, 2017	42157	\$1,368.35	SORENSEN MACHINE WORKS	GENERAL- WATER - SEWER	MULTIPLE DEPARTMENT SUPPLIES

**CITY OF MENDOTA
CASH DISBURSEMENTS
02/22/2017 - 02/24/2017
Check # 042133 - 042184**

February 22, 2017	42158	\$311.57	UNION PACIFIC RAILROAD COMPANY	STREETS	PUBLIC ENCROACHMENT PERMIT 03/01/2017- 03/31/2017, TECH HOURS VEHICLE TOOLS, TEST EQUIPMENT
February 22, 2017	42159	\$1,107.00	TELSTAR INSTRUMENTS, INC.	WATER	TECH HOURS VEHICLE TOOLS, TEST EQUIPMENT, TECH HOURS- VEHICLE
February 22, 2017	42160	\$1,082.82	THOMASON TRACTOR COMPANY	GENERAL	LUBRICATION FITTING, LOCK NUT, KEY, APINDLE (PARKS) V-BELT PART (PARKS) HOSE, BULK HOSE, FITTING (4) (PARKS)
February 22, 2017	42161	\$150.00	UNITED HEALTH CENTERS	GENERAL- WATER - SEWER	PRE-EMPLOYMENT DRUG SCREEN M. ESCOBEDO, M. GONZALEZ
February 22, 2017	42162	\$78.74	USA BLUEBOOK	WATER	12' WATER PIPE HEAT CABLE (WTP)
February 22, 2017	42163	\$579.50	VERIZON WIRELESS- GPS	GENERAL- WATER - SEWER	MONTHLY GPS SERVICE- DECEMBER 2015- MONTHLY GPS- OCTOBER 2015, MONTHLY SERVICE NOVEMBER 2016
February 22, 2017	42164	\$51.91	VETERINARY MEDICAL CENTER	GENERAL	2 CITY EITHANASIA (1) MEDICAL WASTE FEE
February 22, 2017	42165	\$999.00	A1 JANITORIAL SUPPLY	SEWER	ALL PURPOSE CITRUS LIFE STATION DEGREASER
February 24, 2017	42166	\$217.38	ADT SECURITY SERVICES	GENERAL	ROJAS-PIERCE PARK CONCESION STAND SECURITY SERVICE
February 24, 2017	42167	\$645.88	AFLAC	GENERAL	AFLAC INSURANCE FOR FEBRUARY 2017
February 24, 2017	42168	\$318.01	ALLIED ELECTRIC	WATER	3- 1 FUS AJT125 600V CLASS J TD FUSE
February 24, 2017	42169	\$46.65	GREGG ANDREOTTI	GENERAL	ESPENSE REIMBURSEMENT - COFFEE FOR COMMUNITY EVENT
February 24, 2017	42170	\$100.00	CRYSTAL G. AVITIA	GENERAL	(1) BLOOD DRAW 2/14/2017
February 24, 2017	42171	\$42.73	SENDY AYALA	MCC	PROGRAM REIMBURSEMENT- BINDERS FOR EXPLORERS
February 24, 2017	42172	\$27,192.19	BLUE SHIELD OF CALIFORNIA	GENERAL	MEDICAL INSURANCE FOR MARCH 2017
February 24, 2017	42173	\$116.00	CENTRAL VALLEY TOXIOLOGY	GENERAL	LAW ENFORCEMENT LAB ANALYSIS ABUSE SCREEN - DRUG CONFIRMATION LEVEL
February 24, 2017	42174	\$112.63	COMCAST	GENERAL- WATER - SEWER	XFINITY CABLE SERVICES 1/27/2017- 2/26/2017
February 24, 2017	42175	VOID			
February 24, 2017	42176	\$645.52	CORBIN WILLITS SYSTEM INC	GENERAL- WATER - SEWER	ENHANCEMENT SERVICES FOR FEBRUARY 2017
February 24, 2017	42177	\$800.00	D&D DISPOSAL INC.	GENERAL	ANIMAL DISPOSAL PICK UP JANUARY 2017
February 24, 2017	42178	\$42.24	EWING	GENERAL	SEEDS 11/06/2016
February 24, 2017	42179	\$616.60	GIERSCH & ASSOCIATES INC.	WATER	PLANS FOR WATER TRANSMISSION PIPELINE
February 24, 2017	42180	\$2,896.00	MOUNTAIN VALLEY ENVIRONMENTAL SERVICES	SEWER	CITY WASTEWATER TREATMENT AND CPO SERVICES MARCH 2017
February 24, 2017	42181	\$1,156.08	MUTUAL OF OMAHA POLICY HOLDER SERVICES	GENERAL	LIFE AD&D LTD STD INSURANCE MARCH 2017
February 24, 2017	42182	\$550.00	TECH-MASTER PEST MANAGEMENT	GENERAL- WATER - SEWER	PEST CONTROL SERVICES FEBRUARY - CITY HALL SENIOR CENTER, WATER PLANT, PUBLIC WORKS, POLICE DEPT, AIRPORT, AND AMBULANCE

CITY OF MENDOTA
 CASH DISBURSEMENTS
 02/22/2017 - 02/24/2017
 Check # 042133 - 042184

February 24, 2017	42183	\$731.25	HOME DEPOT CREDIT SERVICES	SEWER	MILWAKEE M18 18V LI-ION 4 PIECE COMBO 6 -1/2 CIRC SAW, DEWALT 70A WHEEL CHARGER CORR- ROOF PANEL
February 24, 2017	42184	\$185.88	ZEE MEDICAL SERVICE	GENERAL- WATER - SEWER	BLOOD CLOTTER SPRAY CLEANSING TOWEL TAPE 2"X 5YRD , BURN SPRAY, EYE WASH, RESPIRATOR, CLEAN-N-SAFE TOWELETTES
		\$241,565.75			

AGENDA ITEM

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JEFFREY O'NEAL, AICP, CITY PLANNER

VIA: VINCE DIMAGGIO, CITY MANAGER

SUBJECT: CITY COUNCIL APPROVAL OF THE FINAL MAP OF TRACT 6148, PHASE VIII OF LAS PALMAS ESTATES

DATE: FEBRUARY 28, 2017

ISSUE

Should the Council approve the final map of Tract 6148?

BACKGROUND

Vesting Tentative Map No. 5483 was approved on March 22, 2005, and was initially valid through March 22, 2007. The Subdivision Map Act (Govt. Code Section 66410, *et seq.*) establishes the criteria for all divisions of land in California, and is implemented via the City of Mendota Subdivision Ordinance (Mendota Municipal Code Title 16). The Map Act provides various mechanisms by which approved maps can be extended without action being taken by the City. Through mechanisms provided by Govt. Code Sections 66452.6(a)(1) and 66452.24, the approved Vesting Tentative Map has received a number of automatic extensions and is currently valid through March 22, 2017. Until that date, the subdivider may file a final map or maps on a portion or all of the land remaining within the boundary of the approved tentative map.

Multiple final maps may be filed, approved, and recorded consistent with the provisions of the approved tentative map. In addition to creating some number of individual lots for imminent development, each phased final map may result in the creation of an unsubdivided remainder parcel, which itself may be further subdivided via a new final map, and so forth.

A note regarding the tract numbering system: in Fresno County, prior to submitting a tentative map for processing, a subdivider must contact the Recorder's Office to be assigned a unique tract number for that tentative map; in this case 5483. Filing of multiple phased final maps based on an approved tentative map requires that each subsequent final map after the first be assigned its own unique tract number. As a result, Vesting Tentative Map No. 5483 has resulted in final

maps numbered 5483, 5678, 5826, 5835, 5847, 5925, 6111, 6146, and now 6148¹. Any future final maps will also have unique identifying numbers.

ANALYSIS

The owner, KSA Investments, LLC, has submitted a final map covering a portion of the remainder parcel resulting from the recordation of Tract No. 6146. The map, Tract No. 6148, is located east of Amador Avenue and is immediately north of recently-recorded Tract No. 6146. It includes 52 single-family lots along with local streets, curb, gutter, sidewalk, streetlights, and underground utilities. It forms the next logical development area within the overall Las Palmas project. This phase of the project will construct a short extension of Amador Avenue to the north of where it currently exists. This extension is part of a larger overall scheme to provide additional options for ingress and egress. Future phases of the Las Palmas project will continue construction of Amador and other interior streets to complete the area's circulation and further reduce impacts to the Black Avenue system.

As is typical with final maps, the required improvements for service of the mapped area will not be installed prior to final map approval. To that end, the City has prepared a subdivision agreement meeting the requirements of the City Engineer as to content and the City Attorney as to form. The Subdivision Agreement dictates timelines for installation of the required infrastructure, provides for payment of development impact fees, and establishes the required bonds to ensure timely completion of the project. The 52 single-family lots created via recordation of the map will be subject to a total of \$586,541.91 of development impact fees. In the event that the developer constructs offsite improvements, some of these fees will be credited in accordance with the type and cost of those improvements.

Environmental Assessment

Approval of a final map is ministerial in nature, meaning that it does not involve exercise of discretion or judgment during consideration. The Council is required to approve the final map if it substantially conforms to the approved tentative map, and is required to deny the final map if it does not substantially conform (Govt. Code Section 66474.1). Ministerial projects, expressly including approval of final maps, are exempt from environmental review under the California Environmental Quality Act (CEQA Guidelines Section 15268(b)(3)).

Public Notice

No public notice is required for approval of a final map.

Findings

The City Engineer has reviewed the final map and improvement plans, and makes the following determinations:

¹ Tract 6148 is commonly referred to as Phase VIII of Las Palmas Estates. However, since Phase II of the project was split into two sub-phases (IIA and IIB), Phase VIII is actually the ninth phased final map recorded for the project.

1. He has reviewed the map.
2. The subdivision as shown is substantially the same as it appeared on the tentative map.
3. The subdivider has complied with all provisions of Chapter 2 of the Subdivision Map Act (commencing with Govt. Code Section 66425) and all local ordinances in effect at the time of tentative map approval.
4. He is satisfied that the map is technically correct.

FISCAL IMPACT

Any costs associated with review, processing, and recordation of the final map are pass-through costs that are paid by the project proponent. Development impact fees, discussed above and less any amount credited for offsite construction, would be collected to fund City capital improvements. There would be no impact to City funds.

RECOMMENDATION

Staff recommends that the City Council adopts Resolution No. 17-11, approving the final map of Tract 6148, accepting all rights-of-way and other public dedications indicated thereon, and approving the subdivision agreement, development impact fees, and bond amounts.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA IN THE MATTER
OF APPROVAL OF THE FINAL MAP OF
TRACT NO. 6148, AND ENTERING INTO A
SUBDIVISION AGREEMENT THEREFOR**

RESOLUTION NO. 17-11

WHEREAS, KSA Investments, LLC, a Delaware Limited Liability Company, (“Owner”) has applied for approval of a final map designated as Tract No. 6148, Phase VIII of Las Palmas Estates (“Map”); and

WHEREAS, the Map comprises a 52-lot phased final map prepared pursuant to approved Vesting Tentative Map No. 5483, said Vesting Tentative Map valid as of the time of filing of the final map; and

WHEREAS, the property to be subdivided lies entirely within the corporate boundary of the City of Mendota; and

WHEREAS, all of the certificates that appear on the Map, excepting the approval certificate of the City Clerk and the recording certificate of the Fresno County Recorder, have been signed and acknowledged; and

WHEREAS, the Map conforms to all of the requirements of the Subdivision Map Act of the State of California (Govt. Code Section 66410, *et seq.*), and all City of Mendota ordinances, resolutions, and standards in effect at the time of tentative map approval, excepting that Govt. Code Sections 66492 and 66493 may not be fully complied with at the time of passage of this resolution, the owner previously having filed with the Clerk of the Board of Supervisors of Fresno County a Tax Compliance Certificate Request along with copies of the final map considered herein by the City Council; and

WHEREAS, the Owner, whose signature appears on the Map, has offered for dedication certain streets, public utility easements, access rights, and other public properties and uses as shown and delineated on said map; and

WHEREAS, the Owner has caused to be prepared Plans, Specifications, and Detail Documents (“Plans”) illustrating consistent with the City of Mendota Standard Specifications and Standard Drawings and other specifications and standards as required the type, location, and extent of public improvements to be installed within and without the boundary of the Map; and

WHEREAS, the City Engineer has reviewed said Plans and deemed that they accurately depict the requirements of said Standard Specifications, Standard Drawings, and other specifications and standards; and

WHEREAS, at the time of approval of the Map, said public improvements have not been completed or accepted pursuant to the requirements of Title 16 of the Mendota Municipal Code and as a result the Owner shall be required to enter into a subdivision agreement detailing the timing of improvements, payment of fees, and bonds to be acquired to ensure timely and proper installation of said improvements; and

WHEREAS, approval of a final map is considered to be ministerial in nature, and is therefore exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15268(b)(3); and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Mendota that the final map of Tract No. 6148 as incorporated herein as Attachment A hereto substantially conforms to approved Vesting Tentative Map No. 5483, and is hereby approved.

BE IT FURTHER RESOLVED by the City Council of the City of Mendota that the Mayor of the City is hereby authorized to sign the subdivision agreement on behalf of the City of Mendota, said subdivision agreement incorporated herein by reference.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at Mendota City Hall on the 28th day of February, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk

Attachment "A", Page 1

OWNER'S STATEMENT

THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND WITHIN THIS SUBDIVISION, HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP AND OFFER FOR DEDICATION FOR PUBLIC USE THE PARCELS, STREETS, AND EASEMENTS SPECIFIED ON THIS MAP AS INTENDED FOR PUBLIC USE FOR THE PURPOSES STATED THEREIN.

OWNER: KSA INVESTMENTS, LLC, A DELAWARE LIMITED LIABILITY COMPANY

HAIR FAMILY TRUST, MANAGING MEMBER

BY: _____ DATE: _____
STEPHEN W. HAIR, TRUSTEE

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA /
COUNTY OF _____ / SS
ON _____ BEFORE ME,
_____ A NOTARY

PUBLIC, PERSONALLY APPEARED STEPHEN W. HAIR, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/HEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT. I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT. WITNESS MY HAND AND OFFICIAL SEAL.

NOTARY'S SIGNATURE _____
PRINT NOTARY'S NAME _____
PRINCIPAL COUNTY OF BUSINESS _____
REGISTRATION # _____
MY COMMISSION EXPIRES: _____

SUBDIVISION AGREEMENT

THE SUBDIVISION OF THIS PROPERTY IS AFFECTED BY AN AGREEMENT WITH THE CITY OF MENDOTA, RECORDED _____, AS DOCUMENT NUMBER _____, OFFICIAL RECORDS OF FRESNO COUNTY.

NOTES

THIS PROPERTY IS AFFECTED BY:
INSTRUMENT #2003-0098349, FRESNO COUNTY RECORDS, RECORDED MAY 1, 2003.
DOCUMENT #104180, BOOK 7120, PAGE 872, FRESNO COUNTY RECORDS, RECORDED SEPTEMBER 18, 1978.
INSTRUMENT #2005-0180536 OF OFFICIAL RECORDS, FRESNO COUNTY.
INSTRUMENT #2007-0122749 OF OFFICIAL RECORDS, FRESNO COUNTY.

MAP OF TRACT # 6148
LAS PALMAS ESTATES
PHASE VIII
CONSISTING OF 3 SHEETS

LYING IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 13 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN, CITY OF MENDOTA, COUNTY OF FRESNO, CALIFORNIA.

SURVEYED AND PLATTED IN JANUARY 2017 BY

HAWKINS & ASSOCIATES ENGINEERING
436 MITCHELL RD. MODESTO, CALIFORNIA 95354

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MENDOTA, COUNTY OF FRESNO, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 13 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN, CITY OF MENDOTA, COUNTY OF FRESNO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING THE "UNSUBDIVIDED REMAINDER" AS SHOWN ON THE MAP OF TRACT #6148, LAS PALMAS ESTATES PHASE VII, FILED FOR RECORD IN BOOK 86 OF PLATS, PAGES 51 THROUGH 53, FRESNO COUNTY RECORDS.

EXCEPTING THEREFROM THAT PORTION OF SAID UNSUBDIVIDED REMAINDER DESCRIBED IN THE DEED TO THE CITY OF MENDOTA, RECORDED AUGUST 21, 2009, AS DOCUMENT NO. 2009-0116175, OF OFFICIAL RECORDS, SAID PORTION DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE "UNSUBDIVIDED REMAINDER" SHOWN ON THE MAP OF TRACT #5835, LAS PALMAS ESTATES PHASE IIIA, FILED FOR RECORD IN BOOK 79 OF PLATS, PAGE 72, FRESNO COUNTY RECORDS, SITUATE IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 13 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 397 OF ABOVE SAID TRACT, WHICH POINT ALSO LIES ON THE SOUTH LINE OF ABOVE SAID UNSUBDIVIDED REMAINDER; THENCE NORTH 1°35'45" EAST, A DISTANCE OF 304.33 FEET TO THE POINT OF TANGENCY WITH A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 75.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 64°03'32", A DISTANCE OF 83.85 FEET; THENCE NORTH 28°00'48" EAST, A DISTANCE OF 103.18 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 508.00 FEET, TO WHICH POINT A RADIAL LINE BEARS NORTH 20°44'42" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 35°13'32", A DISTANCE OF 312.32 FEET TO A POINT ON THE EAST LINE OF SAID UNSUBDIVIDED REMAINDER; THENCE SOUTH 1°35'45" WEST ALONG SAID EASTERLY LINE, A DISTANCE OF 227.34 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 280.00 FEET, TO WHICH POINT A RADIAL LINE BEARS NORTH 61°37'54" WEST; THENCE LEAVING THE EAST LINE OF SAID UNSUBDIVIDED REMAINDER, SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°21'31", A DISTANCE OF 50.62 FEET TO THE NORTHEAST CORNER OF LOT 399 OF SAID TRACT, SAID POINT ALSO LYING ON THE SOUTH LINE OF SAID UNSUBDIVIDED REMAINDER; THENCE NORTH 89°51'11" WEST ALONG THE SOUTH LINE OF SAID UNSUBDIVIDED REMAINDER, A DISTANCE OF 231.47 FEET, TO THE POINT OF BEGINNING.

ALSO EXCEPTING ALL RIGHTS TO OIL, GAS, OTHER HYDROCARBON SUBSTANCES OR MINERALS ON OR UNDER THE PROPERTY AS CONVEYED TO HARRIS FARMS, INC., BY DEED RECORDED MAY 6, 1986, AS DOCUMENT NO. 86049433, OF OFFICIAL RECORDS.

SOILS CERTIFICATE

A GEOTECHNICAL INVESTIGATION REPORT FOR THE SUBDIVISION HAS BEEN PREPARED BY KLEINFELDER, INC., REPORT JOB NO. 46915.GEO, DATED OCTOBER 14, 2004, AND SIGNED BY DAVID L. PEARSON, PE, GE NO. 674.

SURVEYOR'S STATEMENT

THIS MAP WAS MADE BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF KSA REALTY INVESTMENTS LLC ON MARCH 4, 2016. I HEREBY STATE THAT ALL THE MONUMENTS ARE, OR WILL BE, SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED, AND THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

KEVIN J. GENASCI DATE
L.S. 8660

CITY ENGINEER'S STATEMENT

I, DAVID M. MCGLOSSON, CITY ENGINEER OF THE CITY OF MENDOTA, HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP, THAT THE SUBDIVISION SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE APPROVED TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF, THAT THE MAP COMPLIES WITH THE PROVISIONS OF THE SUBDIVISION MAP ACT, STATE OF CALIFORNIA STATUTES OF 2017, AND ALL LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP AND THAT I AM SATISFIED THE MAP IS TECHNICALLY CORRECT.

DAVID M. MCGLOSSON DATE
MENDOTA CITY ENGINEER
P.L.S. 6968

CITY CLERK'S CERTIFICATE

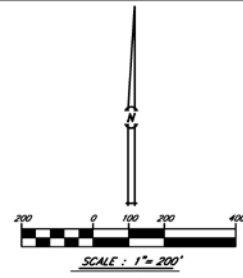
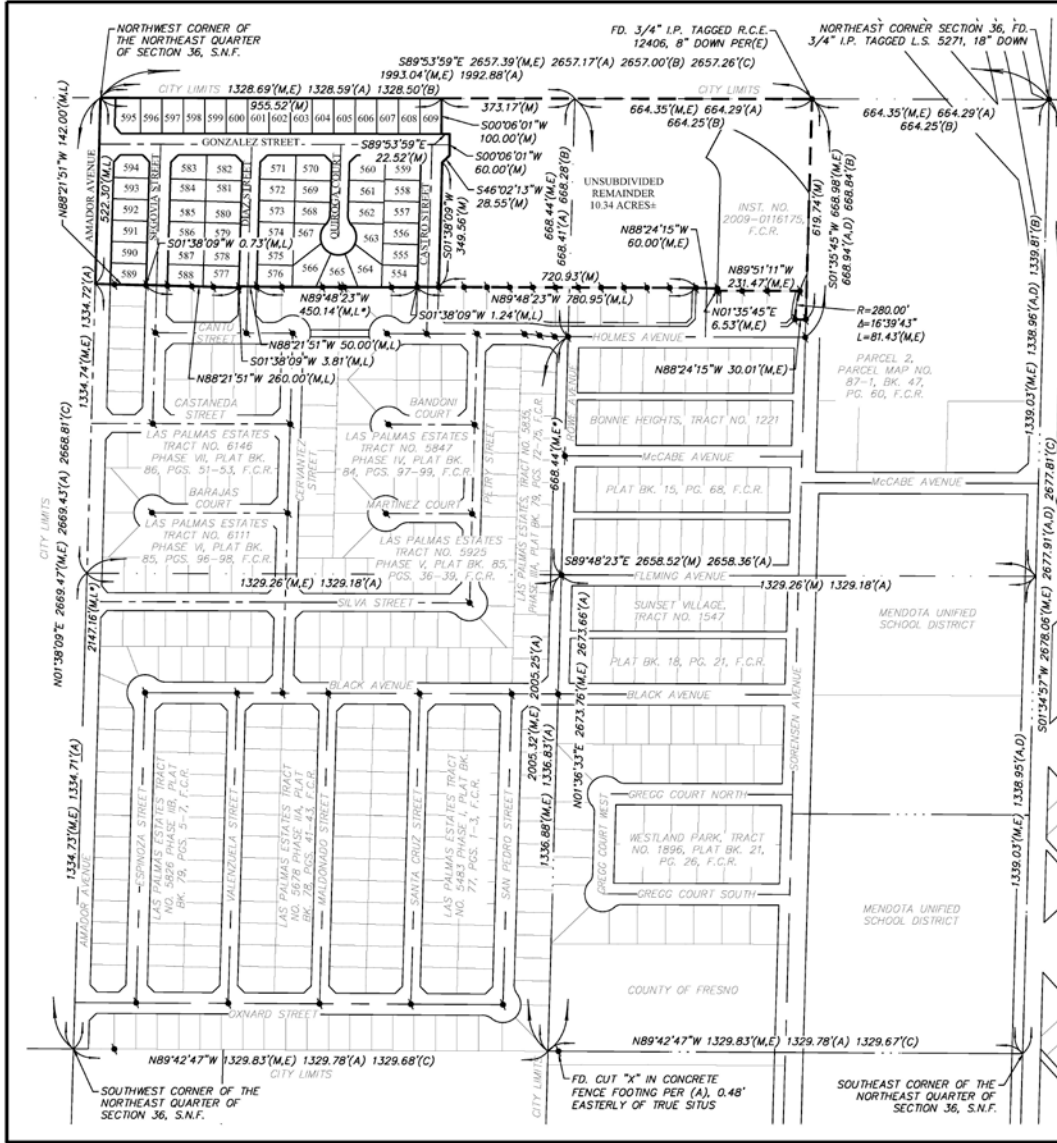
I HEREBY CERTIFY THAT THE CITY COUNCIL OF THE CITY OF MENDOTA, COUNTY OF FRESNO, STATE OF CALIFORNIA, BY RESOLUTION NO. _____, ADOPTED AT THE REGULAR MEETING OF SAID COUNCIL DULY CONVENED AND HELD ON THE _____ DAY OF _____, DID APPROVE THE WITHIN MAP (AND ACCEPTED ON BEHALF OF THE PUBLIC, SUBJECT TO CONSTRUCTION, ALL PARCELS OF LAND AND EASEMENTS OFFERED FOR DEDICATION FOR PUBLIC USE IN CONFORMITY WITH THE TERMS OF THE OFFER OF DEDICATION). IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL OF SAID CITY THIS _____ DAY OF _____, 2017.

MATT FLOOD
CITY CLERK OF THE CITY OF MENDOTA

RECORDER'S CERTIFICATE

DOCUMENT NO. _____ FEE PAID \$ _____
FILED THIS _____ DAY OF _____, 2017,
AT _____ M. IN BOOK _____ OF PLATS, AT PAGES
_____, FRESNO COUNTY RECORDS, AT THE REQUEST OF
STEPHEN W. HAIR.
PAUL DICTOS, C.P.A., ASSESSOR-RECORDER
COUNTY OF FRESNO RECORDS
BY: _____
DEPUTY COUNTY RECORDER

Attachment "A", Page 2



MAP OF TRACT # 6148
LAS PALMAS ESTATES
PHASE VIII
 CONSISTING OF 3 SHEETS
 LYING IN THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP
 13 SOUTH, RANGE 14 EAST, MOUNT Diablo BASE AND MERIDIAN,
 CITY OF MENDOTA, COUNTY OF FRESNO, CALIFORNIA.
 SURVEYED AND PLATTED IN JANUARY 2017 BY
HAWKINS & ASSOCIATES ENGINEERING
 436 MITCHELL RD. MODESTO,
 CALIFORNIA 95354



- REFERENCES**
- NOTE: ALL REFERENCES PER FRESNO COUNTY RECORDS
- A. BOOK 34 OF SURVEYS, AT PAGE 70
 - B. VOLUME 15 OF PLATS, AT PAGE 68
 - C. BOOK 10 OF PARCEL MAPS, AT PAGE 38
 - D. BOOK 47 OF PARCEL MAPS, AT PAGE 60
 - E. LAS PALMAS ESTATES IIIA-TRACT NO. 5835-PLAT BK 79, PGS. 72-75
 - F. LAS PALMAS ESTATES IIIB-TRACT NO. 5826-PLAT BK. 79, PGS. 5-7
 - G. LAS PALMAS ESTATES IIA-TRACT NO. 5678-PLAT BK. 78, PGS. 41-43
 - H. LAS PALMAS ESTATES I-TRACT NO. 5483-PLAT BK. 77, PGS. 1-3
 - I. LAS PALMAS ESTATES IV-TRACT NO. 5847-PLAT BK. 84, PGS. 97-99
 - J. LAS PALMAS ESTATES V-TRACT NO. 5925-PLAT BK. 85, PGS. 36-39
 - K. LAS PALMAS ESTATES VI-TRACT NO. 6111-PLAT BK. 85, PGS. 96-98
 - L. LAS PALMAS ESTATES VII-TRACT NO. 6146-PLAT BK. 86, PGS. 51-53

- LEGEND**
- INDICATES FOUND MONUMENT, AS NOTED
 - ◊ INDICATES FOUND MONUMENT PER MAP OF TRACT #5483, #5678, #5826, #5835, #5847, #5925, #6111, AND #6146 LAS PALMAS ESTATES PHASES I, IIA, IIB, IIIA, IV, V, VI, & VII OR AS NOTED
 - (M) MEASURED AS NOTED ON THIS MAP
 - INDICATES LIMITS OF TRACT 6148 PHASE VIII
 - S.N.F. INDICATES SEARCHED, NOTHING FOUND
 - (R) RADIAL BEARING
 - * CALCULATED PER RECORD
- BASIS OF BEARINGS**
- THE COURSE OF NORTH 89°31'34" WEST ALONG THE SOUTH LINE OF SECTION 36, T.13S., R.14E., AS SHOWN ON PARCEL MAP RECORDED NOVEMBER 15, 1973 IN BOOK 10 OF PARCEL MAPS, AT PAGE 38, FRESNO COUNTY RECORDS, IS THE BASIS FOR ALL BEARINGS ON THIS MAP.

CURVE TABLE					
CURVE	LENGTH	DELTA	RADIUS	TANGENT	CHORD
C1	30.78'	39°11'09"	45.00'	16.02'	30.18'
C2	33.41'	42°32'13"	45.00'	17.52'	32.65'
C3	2.63'	3°21'03"	45.00'	1.32'	2.63'
C4	60.27'	9°38'20"	50.00'	34.41'	56.69'
C5	35.65'	40°50'52"	50.00'	18.62'	34.90'
C6	39.86'	45°40'38"	50.00'	21.06'	38.81'
C7	37.90'	43°25'59"	50.00'	19.91'	37.00'
C8	57.64'	66°02'53"	50.00'	32.50'	54.50'
C9	8.14'	35°42'57"	45.00'	4.08'	8.13'
C10	25.26'	32°09'59"	45.00'	12.97'	24.93'
C11	33.41'	42°32'13"	45.00'	17.52'	32.65'
C12	231.32'	265°04'26"	50.00'	54.49'	73.68'

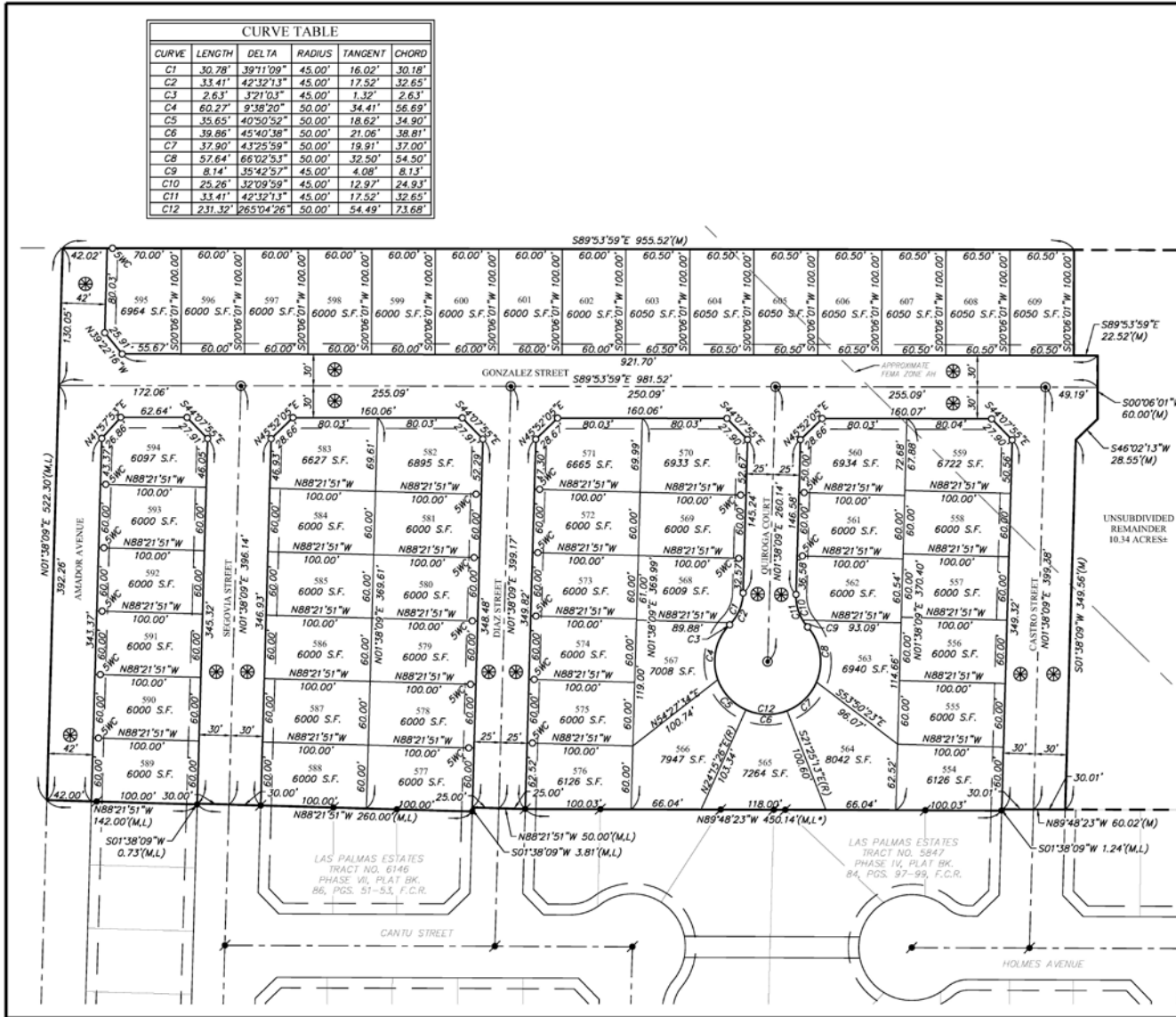
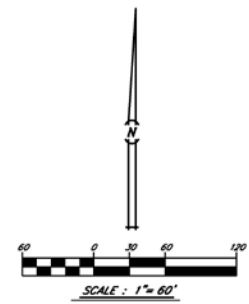
MAP OF TRACT # 6148
LAS PALMAS ESTATES
PHASE VIII
 CONSISTING OF 3 SHEETS
 LYING IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP
 13 SOUTH, RANGE 14 EAST, MOUNT DIABLO BASE AND MERIDIAN,
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 SURVEYED AND PLATTED IN JANUARY 2017 BY
HAWKINS & ASSOCIATES ENGINEERING
 436 MITCHELL RD. MENDOTO,
 CALIFORNIA 95354

LEGEND

- ✱ INDICATES FOUND MONUMENT PER MAP OF TRACT #5483, #5678, #5826, #5835, #5847, #5925, #6111, & #6146 LAS PALMAS ESTATES PHASES I, II, III, IV, V, VI, & VII OR AS NOTED
- INDICATES SET 2.5" LONG, 3/4" IRON PIPE TAGGED L.S. 8660 6" BELOW GRADE
- INDICATES SET 2.5" LONG, 3/4" IRON PIPE TAGGED L.S. 8660 6" BELOW GRADE AND 5.00 FEET FROM TRUE POSITION ALONG LOT LINE
- ⊙ INDICATES SET BRASS CAP IN CONCRETE, STAMPED L.S. 8660, FLUSH WITH PAVEMENT, PER CITY OF MENDOTA STANDARD DWG M-9
- ⊕ INDICATES SET 2.5" LONG, 3/4" IRON PIPE TAGGED L.S. 8660 AT LOT CORNERS, 6" BELOW GRADE, PER CITY OF MENDOTA STANDARD DWG M-9
- P.U.E. INDICATES PUBLIC UTILITY EASEMENT
- (M) MEASURED AS NOTED ON THIS MAP
- ⊕ OFFERED FOR DEDICATION FOR PUBLIC STREET AND UTILITY PURPOSES
- INDICATES LIMITS OF TRACT 6148 PHASE VIII
- (R) INDICATES RADIAL BEARING

NOTES

1. SEE SHEET 2 FOR BASIS OF BEARING AND REFERENCES.
2. ALL DISTANCES AND DIMENSIONS ARE SHOWN IN FEET AND DECIMAL PARTS THEREOF.
3. SUBDIVISION CONTAINS 56 LOTS ON 11.70 GROSS ACRES, MORE OR LESS.



SUBDIVISION AGREEMENT
TRACT No. 6148
PHASE VIII OF VESTING TENTATIVE MAP No. 5483

Las Palmas Estates

CITY OF MENDOTA
FRESNO COUNTY, CALIFORNIA

THIS AGREEMENT is made this _____ day of _____, 2017, by and between the City of Mendota, a Municipal Corporation (herein "City"), and KSA Investments, L.L.C., a Delaware Limited Liability Company (herein "Owner"), the owner of record, without regard for number or gender.

RECITALS

A. Owner has filed with the City a Final Map proposing the subdivision of land owned by Owner, and referred to as Tract No. 6148, Phase VIII of Las Palmas Estates, situated in the City of Mendota, along with certain Plans, Specifications and Detail Documents. Upon requesting approval by the City, Owner shall deliver all required documents and pay all fees required under the Mendota Municipal Code, and this Agreement.

B. City requires as a condition precedent to the acceptance and approval of the Final Map the dedication of such streets, highways and public places and easements as are delineated and shown on the Final Map, and deems the same as necessary for the public use, and also requires any and all streets delineated and shown on the Final Map shall be improved by the construction and the installation of the improvements hereinafter specified.

C. Section 16.32.390 of the Mendota Municipal Code requires the Owner to enter into this Agreement with City whereby Owner agrees to do, perform and complete the work and matters required as Conditions of Approval for Vesting Tentative Map No. 5483 as set forth in Exhibit "C" attached hereto, hereinafter referred to as "Conditions of Approval", within the time hereinafter specified.

D. Owner desires to construct the improvements and develop the Subject Property.

E. Owner hereby warrants that any and all parties having record title interest in the Final Map which could ripen into a fee have subordinated to this instrument and all such instruments of subordination, if any, are attached hereto and made a part hereof.

AGREEMENT

In consideration of approval by the **City** of the Final Map of Tract No. 6148 (Phase VIII of Vesting Tentative Map No. 5483) for filing and recording as provided and required by law, it is mutually agreed and understood by and between Owner and City as follows:

1. Owner shall perform the onsite and offsite work and improvements hereinafter specified to the satisfaction of the City Engineer. Owner understands and

agrees that the following schedule of work is intended to provide a guideline as to diligent prosecution of the work under this agreement.

In any event, the **Owner** agrees to furnish and install the following and agrees to complete all improvements hereinafter specified to the satisfaction of the City Building Official and the City Engineer within a period not to exceed twenty-four (24) months.

The Owner agrees to construct all improvements per the drawings and specifications on file with the City and the time allotted per the following schedule:

	<u>Date of Completion</u>
Onsite and Offsite Grading	3-1-2019
Water Facilities	3-1-2019
Sewer Facilities	3-1-2019
Storm Drainage Facilities	3-1-2019
Gas, Electrical, and Telephone Facilities	3-1-2019
Street Improvements including Sidewalks	3-1-2019
Street Lights and Signage	3-1-2019

If the construction of the improvements shall be delayed without the fault of Owner, the time for completion thereof may be extended by the City Council for such period as the City Council may deem reasonable.

Building permits for homes within the Division may be issued once the water system has been installed, tested and accepted by City, and fire protection is available to the lots within the Division. However, all construction covered by this agreement shall be completed prior to issuance of any Certificates of Occupancy for dwellings within the Division. No model home certificates of occupancy will be allowed. Certificates of Occupancy may be issued by the Building Official at his discretion upon completion of all improvements and all building construction in accordance with applicable codes, standards and this Agreement.

2. Wherever used in this agreement, the following words and phrases shall have the meaning herein given, unless the context requires a different meaning:
 - a. "Engineer" shall mean the City Engineer of the City of Mendota, or duly authorized representative.
 - b. "Inspector" shall mean the City Engineer, and/or the City Building Official, Building Inspector, Public Works Director, and/or Public Utilities Director of the City of Mendota.
 - c. "Standard Specifications" shall mean the Standard Specifications of the City of Mendota dated September 2007, as amended; and State Standard Specifications, current revision, as applicable, including attached details and amendments thereto.

- d. "Division" shall mean and include the real property shown and described on the final map of Tract No. 6148, Phase VIII of approved Vesting Tentative Map No. 5483, Las Palmas Estates, including street areas of adjacent existing public streets to the centerlines thereof.
3. All of the work and improvements and materials shall be performed, installed, and provided in strict accordance with the Standard Specifications, and all applicable Building Codes incorporated herein as though set forth in full. All said work and improvements shall also comply with the requirements of the City of Mendota Municipal Code. All of said work and improvements and materials shall be done, performed, and installed under the supervision of the Engineer and the Building Official of the City of Mendota, under whose directions the work shall be inspected as it progresses.

Notwithstanding the fact the Owner's plans and specifications, completion of the work, and other acts are subject to approval of the City, it is understood and agreed that any approval of the City hereof shall in no way relieve Owner of satisfactorily performing said work or Owner's obligations hereunder.

4. Owner agrees to perform and construct all work and improvements shown on the approved Plans on file with the Building Official of the City of Mendota,
5. Owner and City hereby agree that Owner is obligated to pay those fees and charges as set forth on Exhibit "A", attached hereto and incorporated herein by reference. Said fees and charges are due and payable upon approval of the Agreement by the City, unless agreed otherwise. City fees shall be collected per City regulations, or upon issuance of individual building permits for residences within the tract as agreed between Owner and City in accordance with applicable City ordinances and regulations.
6. Neither City nor any of its officers or agents shall be liable to Owner or its contractors for any error or omission arising out of or in connection with any work to be performed under this contract.
7. City shall not be liable to Owner or to other person, firm, or corporation whatsoever, for any injury or damage that may result to any person or property by or from any cause whatsoever in, on, or about the subdivision of said land covered by this agreement, or any part thereof.
8. Owner hereby releases and agrees to indemnify and hold City and its officers, agents, and employees harmless from and against any and all injuries to and deaths of persons and injuries to property, and all claims, demands, costs, loss, damage and liability, howsoever, the same may be caused and whensoever the same may appear, resulting directly or indirectly from the performance or non-performance of any or all work to be done in and upon the public street rights-of-way and upon the premises adjacent thereto pursuant to this agreement, and also from any and all injuries to and deaths of persons and injuries to property or other interests, and all claims, demands, costs, loss, damage, and liability, howsoever same may be caused and whensoever the same may appear, either directly or indirectly made or suffered by the Owner, the Owner's agents, employees, and subcontractors, while engaged in the performance of said work.

Prior to the commencement of any work pursuant to this contract, Owner's contractors shall furnish to City satisfactory evidence of insurance policies written upon forms and by companies which meet with the approval of the City, insuring City and its respective officers, agents, and employees against loss or liability which may arise during the work of which may result from any of the work herein required to be done, including all costs of defending any claim arising as a result thereof. The minimum limits of such policy shall be in the amount of:

- a. Comprehensive Liability (including operations, products and completed operations.) \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. Auto Liability: \$1,000,000 per accident for bodily injury and property damage.
- c. Workers Compensation and Employers Liability: Worker's Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

Said policy or policies shall include coverage for underground explosion and collapse. Said policy shall be in favor of Owner or Owner's contractors and of the City, Provost & Pritchard Consulting Group (City Engineer), and their respective officers, agents, and employees and shall be maintained in full force and effect during the life of this agreement. Said policy shall state by its terms and by an endorsement that said policy shall not be cancelled until City shall have had at least 30 days notice in writing of such cancellation. The Owner shall furnish the City with a copy of any and all insurance policies, along with a declarations page for each, adding the above-named entities as additional insured.

9. Upon completion of the improvements agreed to herein, Owner shall file a Notice of Completion of the improvements herein specified pursuant to Government Code Section 66499(b). This instrument shall be recorded and indexed in the Grantor Index to the names of all record owners of the property and in the Grantee Index to the City.
10. At the time Plans, Specifications, and Detail Documents for offsite and onsite improvements are approved, Owner shall submit the final documents and shall furnish to the City in a form acceptable to the City Attorney the following:
 - a. Improvement security in the amount of one-hundred-fifty percent (150%) of the total estimated cost for the faithful performance of all work and improvements required by this agreement;
 - b. Improvement security in the amount of one-hundred percent (100%) of the estimated cost of all required work to secure payment to the Contractor, his or her subcontractors, and to persons renting equipment or furnishing labor or materials for such improvements;

- c. Improvement security to secure the maintenance of the offsite improvements for a period of one (1) year after the completion and acceptance thereof against any defective work or labor done, or defective materials furnished, in the performance of the agreement with the City or the performance of the act. Said security shall not exceed an amount equal to twenty-five percent (25%) of the estimated cost of furnishing and installing said Offsite facilities. This security shall be in addition to any warranty required of the manufacturer;
 - d. Security in the amount equal to the estimated cost of placing all monuments and lot corners not set at the time the Final Map is recorded, as specified by the Subdivision Ordinance.
 - e. As a part of the obligation guaranteed by the security and in addition to the face amount of the security, there shall be included costs and reasonable expenses and fees, including reasonable attorney's and administration fees, incurred by the local agency in successfully enforcing the obligation secured.
 - f. Security in the estimated amount of taxes and special assessments collected as taxes which are a lien but which are not as yet payable as referred to in Government Code Section 66493, or satisfactory evidence in the form of a written receipt of prepayment of said taxes and special assessments as described herein at the time of recordation of the Final Map.
- 11. Owner and Owner's contractors and subcontractors shall pay for any materials, provisions and other supplies or terms used in, upon, for, or about the performance of the work contracted to be done, and for any work or labor thereon of any kind and for amounts due under the Unemployment Insurance Act of the State of California, with respect to such work or labor, and shall file with City pursuant to Section 3800 of the Labor Code a Certificate of Worker's Compensation and shall maintain a valid policy of Worker's Compensation Insurance for the duration for the period of construction.
 - 12. Compaction soil tests and retests shall be paid for by Owner. Street and onsite utility trench tests shall be taken in varying locations and depths as required and directed by the Engineer.
 - 13. Owner shall comply with Street, Plumbing, Electrical, and Zoning Codes and any other Codes of the City, and Owner shall secure an Encroachment Permit before working within any City of Mendota public right-of-way.
 - 14. Owner shall coordinate all work done by Owner's contractors and subcontractors, such as scheduling the sequence of operations and the determination of liability if one operation delays another. In no case shall representatives of City be placed in the position of making decisions that are the responsibility of Owner. It shall further be the responsibility of Owner to give the City Engineer written notice not less than two (2) working days in advance of the actual date on which work is to be started. Failure on the part of Owner to timely notify the City Engineer may cause delay for which Owner shall be solely responsible.

Whenever Owner varies the period during which work is carried on each day, Owner shall give due notice to the Engineer so that proper inspection may be provided. Any work done in the absence of the Engineer will be subject to exposure, inspection, and potential rejection.

Inspection of the work shall not relieve Owner of any of Owner's obligations to fulfill the Agreement as prescribed. Defective work shall be made good by Owner and unsuitable materials will be rejected when discovered, notwithstanding the fact that such defective work and unsuitable materials may have been previously overlooked by the City Engineer, Inspector and/or Building Official and accepted.

15. Any damage to the Public Water, Sewer, or Stormwater Systems, concrete work, or street paving that occurs after installation and prior to final acceptance shall be made good to the satisfaction of the City Engineer by Owner before release of bonds and final acceptance of completed work.
16. Adequate dust and mud control shall be maintained by Owner on all onsite and offsite work required to be done under this agreement from the time work is first commenced in the development until the paving is completed. "Adequate dust control" as used herein shall mean the sprinkling with water and/or the laying of a coat of dust palliative thereon with sufficient frequency to prevent the scattering of dust by wind or the activity of vehicles and equipment.

Whenever in the opinion of the City Engineer adequate dust control is not being maintained as required by this paragraph and the requirements of the SJVAPCD, the City Engineer shall give notice to Owner to comply with the provisions of the paragraph forthwith. Such notice may be personally served upon Owner or, if Owner is not an individual, upon any person who has signed this agreement on behalf of Owner, or a superintendent or foreman of Owner or Owner's subcontractor at the subdivision or, at the election of the City Engineer, such notice may be mailed to Owner or Owner's address on file with the City Engineer.

If within twenty-four (24) hours after such personal service of such notice or within forty-eight (48) hours after the mailing thereof as herein provided Owner shall not have commenced to maintain adequate dust control or shall at any time hereafter fail to maintain adequate dust control, the City Engineer may, without further notice of any kind, cause any such work to be completed by City forces or by others, as he may deem advisable to eliminate the scattering of dust. Owner agrees to pay to City forthwith, upon receipt of billing therefore, the entire cost to City of such work. When the surfacing on any existing street area is disturbed, this surfacing shall be replaced with temporary or permanent surfacing within fourteen (14) calendar days, and the roadway shall be maintained in a safe and passable condition at all times between the commencement and final completion, and adequate dust control shall be maintained during these operations.

17. Owner shall perform all work within the public rights-of-way and install all street improvements in accordance with Title 16, Chapter 16.32 of the Municipal Code of the City of Mendota, the City of Mendota Standard Specifications, and the State of California Department of Transportation Standard Specifications, current edition, and the approved construction plans.

18. Concrete curbs and gutters, the sanitary sewer system, water system, storm drainage pipeline and structures, together with water mains, gas mains, and their respective service connections, shall be completed and accepted by the City Engineer before finish pavement improvements are started.
19. Time is of the essence of this agreement, and the same shall bind and inure to the benefit of the parties hereto, their successors and assigns.
20. No assignment of this agreement nor of any duty or obligation of performance hereunder shall be made in whole or in part by Owner without the prior written consent of City.
21. This agreement includes the following Exhibits that are included herewith and made a part of this agreement:
 - a. Exhibit A — Fees and Bond Requirements
 - b. Exhibit B — Security
 - c. Exhibit C — Resolution and Conditions of Approval, Vesting Tentative Map No. 5483
 - d. Exhibit D — Final Map, Tract No. 6148, Las Palmas Estates Phase VIII
22. In the event it becomes necessary for either party to bring an action with respect to enforcement of the provisions of this agreement, or the security herewith, the prevailing party in such action shall be awarded reasonable attorney's fees and court costs as may be determined by the court.
23. Owner agrees to defend, indemnify and hold harmless the City, and its respective agents, officers, and employees from any claim, action, or proceeding against any of them to attack, set aside, void, or annul, any approval of the City or Fresno County concerning action brought within the time period provided for in Government Code Section 66499.37. The City agrees to properly notify the Owner of any claim, action or proceeding, and the City agrees to cooperate fully in the defense.
24. In the event an extension is granted to the time within which all work is to be completed, the Owner agrees that it will comply with all the applicable improvement standards in effect at the time the extension is granted.
25. It is agreed that all conditions of approval shall apply to and be included in this Agreement.
26. The City Engineer is assumed to be a just arbitrator between City, Owner, and the Contractor, and the entire work is under his jurisdiction to such end. It is his function to interpret the drawings and specifications; and pass judgment upon merits of materials and workmanship.
27. The Owner agrees to obtain a City of Mendota Business License for the General Contractor and for each of the Sub-Contractors performing construction work on the improvements.
28. Pursuant to Government Code Section 66462 and Mendota Municipal Code Section 16.32.390, the undersigned hereby certify and acknowledge that the construction of improvements identified herein shall be completed on or before March 1, 2019 or any approved extension thereof.

29. The Owner acknowledges that the City has formed a community facilities district (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "Act") to finance all or a portion of the cost of providing police, fire and paramedic services, as well any other services determined by the City which are allowed to be financed pursuant to the Act, that are in addition to those provided in the territory within the CFD prior to the formation of the CFD and do not supplant services already available within the territory proposed to be included in the CFD and to levy a special tax to pay for such services. The Owner agrees to include Tract No. 6148 in the CFD or annex Tract No. 6148 into the CFD, and the Owner shall cooperate with the City and take any necessary actions in order to assist the City in annexing Tract No. 6148 into the CFD. In furtherance of the foregoing, the Owner agrees to approve the levy of a special tax on any residential dwelling unit in the amount that is no less than \$838.66 per year but not greater than \$838.66 per year, which shall be subject to an annual escalation factor of no less than 2% but no greater than the rate of increase in the Consumer Price Index published by the U.S. Department of Labor for the County of Fresno.

In the event the Owner does not cooperate with the City and Tract No. 6148 is not included in the CFD or annexed into the CFD, the Owner agrees to pay the City an amount equal to the present value of all future special tax that would have been levied within Tract No. 6148 using a discount rate determined by the City in its sole discretion and assuming sixty (60) years of levy, which shall be used to mitigate the impact on the City's general fund in providing funds to finance the services described above.

(Signatures on Following Page)

The parties have executed this agreement on the day and year first above written.

**OWNER: KSA Investments, LLC, a Delaware Limited Liability Company:
Hair Family Trust, Managing Member**

Stephen W. Hair, Trustee

CITY: CITY OF MENDOTA, a Municipal Corporation

Robert Silva, Mayor

ATTEST:

Matt Flood, City Clerk

APPROVED AS TO FORM:

John P. Kinsey, City Attorney

EXHIBIT "A"
DEVELOPMENT FEES AND BOND REQUIREMENTS
(Fees based upon 2007 City of Mendota Development Impact Fee Schedule for
Low Density Development)

Fees 1 through 11 are due and payable per unit at the time the Building Permit is issued.

1.	City management \$218.81 per unit x 56 units	\$12,253.36
2.	Law Enforcement \$591.49 per unit x 56 units	\$33,123.44
3.	Fire Protection \$714.10 per unit x 56 units	\$39,989.60
4.	Storm Drainage \$5,169.45 per acre x 11.69 acres (<u>\$1,079.12 per unit for Tract No. 6148 only</u>)	\$60,430.87
5.	Water Supply & Treatment \$2,350.30 per unit x 56 units	\$131,616.80
6.	Wastewater & Treatment \$1,947.56 per unit x 56 units	\$109,063.36
7.	Traffic \$690.05 per unit x 56 units	\$38,642.80
8.	Recreational Facilities \$1,364.51 per unit x 56 units	\$76,412.56
9.	Water Service Connection Charges \$420.77 per unit x 56 units	\$23,563.12
10.	Sewer Service Connection Charges \$480.88 per unit x 56 units	\$26,929.28
11.	West Side Sewer Interceptor \$616.37 per unit x 56 units	\$34,516.72
12.	Other (due upon approval of agreement and before construction)	
	(a) Deposit estimated inspection fees (Owner will be required to pay any cost that exceeds the deposited amount shown)	\$32,872.42
	(b) Performance bond, lien, cash deposit, approved by the City Attorney	\$2,652,133.19
	(c) Labor and material bond, lien, cash deposit approved by City Attorney	\$1,768,088.79
	(d) Off-Site warranty security	N/A
	(e) A surety bond approved by the City Attorney to guarantee payment for placing street monuments and lot corners	\$2,500.00
	(f) A cash security in the amount of taxes which are a lien but are not yet payable, or evidence of taxes paid (for maps filed for recordation in November or December). Amount to be determined by Fresno County Auditor.	

EXHIBIT "B"
SECURITY

Owner shall provide City with a Bond or Bonds, reflecting the amounts set forth in items 12(b) through and including 12(e) of Exhibit "A".

All other fees and expenses identified in Exhibit A shall be due and payable in accordance with the terms set out therein.

EXHIBIT "C"
CONDITIONS OF APPROVAL

Reference City of Mendota City Council Resolution No. 05-15, dated March 22, 2005, approving Vesting Tentative Map No. 5483, and consisting of the Resolution and Conditions of Approval.

Exhibit "D"
Final Map

Reference FINAL MAP OF TRACT NO. 6148 as approved by City of Mendota City Council Resolution No. 17-11, dated February 28, 2017.

Said final map recorded concurrently herewith, in Fresno County Records.

Subdivision Bond
Faithful Performance

Bond No. PB02762300139
Premium \$ 39,782.00

SUBDIVISION BOND

KNOW ALL MEN BY THESE PRESENTS: That KSA Investments, LLC as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized and existing under the laws of the State of Pennsylvania and authorized to transact surety business in the State of California, as Surety are held and firmly bound unto City of Mendota in the sum of two million, six hundred fifty-two thousand, one hundred thirty-three & 19/100 Dollars (\$ 2,652,133.19), for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS the above Named Principal has entered into an agreement, dated _____, with the City of Mendota to do and perform the following work, to wit:

Las Palmas Estates, Phase VIII Tract 6148

NOW, THEREFORE, if the above-bounden Principal shall well and truly perform the work referred to in such agreement, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney in Fact at Irvine, California this 10th day of February 20 17

KSA Investments, LLC
(Principal) (Seal)

By: [Signature]

Philadelphia Indemnity Insurance Company
(Surety) (Seal)

By: [Signature]
Charles M. Griswold, Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On February 10, 2017 before me, P. K. Simicich, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Charles M. Griswold
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____

Signer is Representing: _____

California All-Purpose Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Kern

On 2/13/17 before me, Grace T. Kerber Notary Public
Name of Notary Public Title
personally appeared Stephen W. Hair

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Grace Kerber
Signature of Notary Public



OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment on unauthorized document and may prove useful to persons relying on this document.

Description of Attached Document

The preceding Certificate of Acknowledgement is attached to a

Title or description of Document
containing _____ pages, and dated _____

Subdivision Bond
Labor & Material

Bond No. PB02762300139
Premium Included in Performance Bond

SUBDIVISION BOND

KNOW ALL MEN BY THESE PRESENTS: That KSA Investments, LLC as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized and existing under the laws of the State of Pennsylvania and authorized to transact surety business in the State of California, as Surety are held and firmly bound unto City of Mendota in the sum of ~~one million, seven hundred sixty-eight thousand, eighty-eight & 79/100~~ one million, seven hundred sixty-eight thousand, eighty-eight & 79/100 Dollars (\$1,768,088.79), for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that, whereas the above-bounden Principal has entered into a contract, dated _____, _____, with the City of Mendota to do and perform the following work, to wit:

Las Palmas Estates, Phase VIII Tract 6148

NOW, THEREFORE, if the above-bounden Principal shall pay all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid contract, then this obligation shall be void; otherwise to remain in full force and effect.

SIGNED, SEALED, DATED: February , 10 . 2017

KSA Investments, LLC
(Principal) (Seal)

By: [Signature]

Philadelphia Indemnity Insurance Company
(Surety) (Seal)

By: [Signature]
Charles M. Griswold, Attorney-In-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

NOTARY PUBLIC - STATE OF CALIFORNIA - COMMISSION # 2124840 - EXPIRES SEP 21, 2013

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On February 10, 2017 before me, P. K. Simicich, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Charles M. Erlswold
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer - Title(s): _____
 Partner - Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: _____

Signer's Name: _____
 Corporate Officer - Title(s): _____
 Partner - Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer is Representing: _____

California All-Purpose Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Kern

On 2/13/17 before me, Grace T. Kerber, Notary Public
Name of Notary Public, Title

personally appeared Stephen W. Hair

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Grace T. Kerber
Signature of Notary Public



OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgement on unauthorized documents and may prove useful to persons relying on the document.

Description of Attached Document

The preceding Certificate of Acknowledgement is attached to a

Title or description of Document

containing, _____ pages, and dated _____

PHILADELPHIA INDEMNITY INSURANCE COMPANY
231 St. Asaph's Rd., Suite 100
Bala Cynwyd, PA 19004-0950
Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That PHILADELPHIA INDEMNITY INSURANCE COMPANY (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint: **DAVID J. BACHAN, F.J.L. HUDSON III, DEBORAH L. TABLAK, YVESIA RIVERA, VINCENT M. SCOLARI, CHARLES M. GRISWOLD AND PATRICIA SIMICICH OF MCSHERRY & HUDSON**

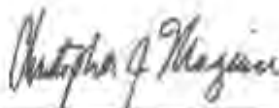
its true and lawful Attorney (s) in fact with full authority to execute on its behalf bonds, undertakings, recognitions and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$5,000,000.00.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY at a meeting duly called the 11th day of July, 2011.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company to: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with the respect to any bond or undertaking to which it is attached.

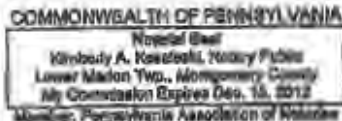
IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 18TH DAY OF JULY, 2011.



President

Christopher J. Maguire
President Philadelphia Indemnity Insurance Company, a Pennsylvania Corporation.

On this 18TH day of July 2011, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the PHILADELPHIA INDEMNITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.



Notary Public

I, Craig P. Keller, Executive Vice President, Chief Financial Officer and Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and this Power of Attorney issued pursuant thereto on this 18TH day of July 2011 are true and correct and are in full force and effect. I do further certify that Christopher J. Maguire, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 10th day of February 2012.



Craig P. Keller
Executive Vice President, Chief Financial Officer & Secretary



**Bond No. PB02762300140
Premium: \$100.00**

MONUMENT BOND

Subdivision Map Act Bond Format

WHEREAS, **KSA Investments, LLC**, hereinafter designated as "Principal", desires to record a final map for the development identified as: **Las Palmas Estates, Phase VIII Tract 6148**

WHEREAS, pursuant to Article 9, Chapter 1, Division 2, SUBDIVISION, of the Government Code of the State of California, the interior monuments shown on said final map need not be set at the time the map is recorded and said "Principal" wishes to have the interior monuments set after the time the map is recorded. Said "Principal" agrees to furnish a security guaranteeing the cost of setting such monuments.

NOW, THEREFORE, We, the "Principal" and **Philadelphia Indemnity Insurance Company**, as Surety, are held and firmly bound unto the **City of Mendota** in the penal sum of **two thousand, five hundred Dollars (\$2,500.00)**, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The conditions of this obligation is such that if the monuments are set, and the engineer or surveyor setting the final monuments shall have been paid, then this obligation shall become null and void. Otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the amount of deposit specified above, it is agreed that we shall pay the costs and reasonable expenses and fees, including reasonable attorney's fees, if any, incurred by the City in successfully enforcing such obligation against us, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder of the specifications accompanying the same shall in anyway affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the principal and surety above named, on February, 10, 2017.


Principal

KSA Investments, LLC

By: 

Surety

Philadelphia Indemnity Insurance Company

By: 
Charles M. Griswold, Attorney-in-fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1169

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

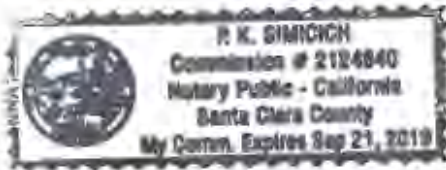
On February 10, 2017 before me, P. K. Simicich, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Charles M. Griswold
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer -- Title(s): _____

Partner -- Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer -- Title(s): _____

Partner -- Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

California All-Purpose Acknowledgement

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Kern

On 2/13/17 before me, Grace T. Kerber, Notary Public
Name of Notary Public, Title
personally appeared Stephen W. Haer

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Grace T. Kerber
Signature of Notary Public



Seal

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgement on unauthorized document and may prove useful to persons relying on the document.

Description of Attached Document

The preceding Certificate of Acknowledgement is attached to a

Title or Description of Document
containing _____ pages, and dated _____

PHILADELPHIA INDEMNITY INSURANCE COMPANY
231 St. Asaph's Rd., Suite 100
Bala Cynwyd, PA 19004-0950
Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint: **DAVID J. BACHAN, F.J. HUDSON III, DEBORAH L. TABLAK, VESENIA RIVERA, VINCENT M. SCOLARI, CHARLES M. GRISWOLD AND PATRICIA SIMICICH OF MCSHERRY & HUDSON**

its true and lawful Attorney (s) in fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$5,000,000.00.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY at a meeting duly called the 11th day of July, 2011.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company to: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with the respect to any bond or undertaking in which it is attached.

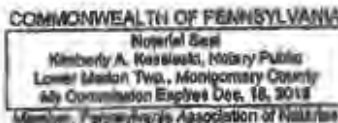
IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICER THIS 18TH DAY OF JULY, 2011.



President

Christopher J. Maguire
President Philadelphia Indemnity Insurance Company, a Pennsylvania Corporation.

On this 18th day of July 2011, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the PHILADELPHIA INDEMNITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.


Notary Public

I, Craig P. Keller, Executive Vice President, Chief Financial Officer and Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and this Power of Attorney issued pursuant thereto on this 18th day of July 2011 are true and correct and are still in full force and effect. I do further certify that Christopher J. Maguire, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 10th day of February 2017.


Craig P. Keller
Executive Vice President, Chief Financial Officer & Secretary

AGENDA ITEM - STAFF REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: GREGG L. ANDREOTTI, CHIEF OF POLICE
VIA: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: FIRING RANGE USE AGREEMENT: FCI-MENDOTA
DATE: FEBRUARY 10, 2017

ISSUE:

Should the City Council enter into an agreement with the Federal Correctional Institution (FCI), Mendota to allow Mendota Police Department (MPD) personnel train at their firing range?

BACKGROUND:

Mendota Police Department personnel currently handle firearms training at the City of Firebaugh firing range, located at their waste water treatment plant. The size of the range limits activities and there is no shooting after 9:00PM. When the wind direction is towards the firing line, air conditions are not up to acceptable standards. Additionally; when training, Mendota personnel must travel approximately eight miles out of the City of Mendota to the Firebaugh facility.

Informally, FCI-Mendota allowed MPD to utilize their firing range for a few trainings in 2016 and the training was very well received by Police Personnel. The facility is state of the art with a modern firing range, amenities and ample room for movement and long range firing drills. The facility is located on FCI-Mendota property along Derrick Avenue a short distance south of the City Limits. Personnel attending training are within very close proximity to the City and their response time to calls-for-service is greatly reduced.

FCI-Mendota is not charging MPD a fee for use of the facility.

FISCAL IMPACT:

None

RECOMMENDATION:

Staff recommends that the Council approved Resolution No. 17-17 to enter into an agreement with the FCI-Mendota to allow MPD personnel train at their firing range, and authorize the Chief of Police to execute.

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA TO ALLOW
MENDOTA POLICE PERSONNEL TO
UTILIZE THE FEDERAL CORRECTIONAL
INSTITUTION-MENDOTA FIRING RANGE**

RESOLUTION NO. 17-17

WHEREAS, Mendota Police Department personnel currently handle firearms training at the City of Firebaugh firing range, located at their waste water treatment plant; and

WHEREAS, the size of the Firebaugh range limits activities and there is no shooting after 9:00 p.m.; and

WHEREAS, presently, Mendota Police Department personnel must travel approximately eight miles out of the City of Mendota to the Firebaugh facility for firearms training; and

WHEREAS, FCI-Mendota allowed MPD to utilize their firing range for a few trainings in 2016 and the training was very well received by Police Personnel; and

WHEREAS, The FCI-Mendota facility is state of the art with a modern firing range, amenities, and ample room for movement and long range firing drills; and

WHEREAS, The FCI-Mendota facility is located on FCI-Mendota property along Derrick Avenue a short distance south of the City Limits; and

WHEREAS, Personnel attending training are within very close proximity to the City and, by utilizing the FCI-Mendota facility, their response time to calls-for-service would be greatly reduced; and

WHEREAS, FCI-Mendota is not charging MPD a fee for use of the FCI-Mendota facility.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Mendota does hereby approve the Chief of Police on behalf of the Mendota Police Department, to enter into an agreement with FCI-Mendota to allow MPD personnel to train at their firing range without charge.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at the Mendota City Hall on the 28th day of February, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk



U.S. Department of Justice

Federal Bureau of Prisons

Western Regional Office

Office of the Regional Director

Stockton, California 95219

January 23, 2017


MEMORANDUM FOR JILL RYAN, CHIEF, FIELD ACQUISITION OFFICE

FROM: Mary M. Mitchell, Regional Director

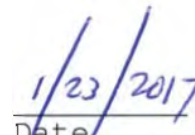
SUBJECT: Memorandum of Agreement (MOA) Between the Federal Correctional Institution, Mendota, CA, and Mendota Police Department, Review and Concurrence

Based on the review and approval from the Regional Counsel's Office, I am providing my review and concurrence for the MOU between FCI Mendota and Mendota Police Department for use of the FCI Mendota firing range.

If you require additional information, please contact Dominic Ayotte, Deputy Regional Counsel, at (209) 956-9731.



Reviewed/Approved by
Dominic Ayotte, Deputy Regional Counsel



Date



MEMORANDUM OF UNDERSTANDING

BETWEEN THE
FEDERAL CORRECTIONAL INSTITUTION, MENDOTA, CALIFORNIA
AND
MENDOTA POLICE DEPARTMENT
FOR USE OF THE BOP'S FIRING RANGE AT FCI MENDOTA

Pursuant to the authority contained in Intergovernmental Personnel Program, 42 U.S.C. §§ 4742(a) and (b); the Anti-Deficiency Act, 31 U.S.C. §§ 1341-42; and other relevant federal law, this Memorandum of Understanding ("MOU" or "Agreement"), is entered into on the date the last signatory signs this Agreement. It is between the United States Department of Justice, Federal Bureau of Prisons ("BOP"), Federal Correctional Institution, Mendota, California ("FCI Mendota") and the Mendota Police Department ("MPD"). FCI Mendota and MPD are collectively referred herein as the "Parties."

I. PURPOSE/SCOPE:

The Parties recognize the opportunity to establish procedures and responsibilities for the MPD staff to use the firing range ("the Range") on the premises of FCI Mendota.

Accordingly, the Parties hereby agree as follows:

II. FCI MENDOTA RESPONSIBILITIES TO MPD:

- A. Subject to availability, permit MPD staff to use the Range and appropriate training areas or buildings in accordance with the terms and conditions set forth in this Agreement.
- B. Provide to MPD, and update as necessary, the name(s) and contact information for FCI Mendota contact person(s) designated by the Warden to be responsible for approving/scheduling all Range activities.
- C. Provide notice to MPD as soon as practicable after circumstances arise that would prevent a scheduled use of the Range by MPD staff.

- D. Reserve the right to exclude any MPD participant from using the Range at any time.
- E. In the event of simultaneous training activities, official FCI Mendota and BOP training events shall have preference for use of the Range.
- F. Appoint an escort officer to be present at the Range during its use by the MPD participants.
 - 1. The presence of the escort officer is solely for escort purposes. The escort officer is not responsible for inspecting the facilities prior to use of the facilities by the MPD staff or for instructing or supervising MPD on the safe and proper use of the facilities.
 - 2. The escort officer is responsible for notifying the Control Center that MPD staff are in place and ready to commence use of the Range. Only after the Control Center has documented this notification is MPD staff authorized to use the Range.
- G. Instruct the MPD Training Coordinator on the proper inspection and safe use of the Range, including types of weapons and ammunition that may be used.

III. MPD RESPONSIBILITIES TO FCI MENDOTA:

- A. Supply own certified firearms instructors and/or safety officers, as required, and its own weapons, ammunition, targets, and safety equipment consistent with Range requirements.
- B. Schedule use of the Range through the BOP contact person identified by the Warden by submitting a written request to use the Range 30-days in advance of the desired training.
- C. Ensure that MPD participants comply with the operational details established by the BOP to implement this MOU, including institution rules and policies concerning use of the Range and general institution security and safety, including but not limited to entry/exit procedures.

- D.** Designate a MPD employee to serve as Training Coordinator, who shall, prior to each MPD use of the Range:
1. Conduct an inspection, consistent with previous BOP instructions, to ensure the facilities are safe and proper for use by MPD employees. If a defect or hazardous condition is discovered, the facilities shall not be used and the defect or hazardous condition shall be reported immediately to the BOP.
 2. Complete the top portion of the Training Coordinator Acknowledgment Form, which is attached and incorporated herewith as Attachment B.
 3. Ensure that all MPD staff desiring to use the Range sign a Waiver of Liability Form, which is attached and incorporated herewith as Attachment A.
 4. Ensure that MPD staff utilize the Range **only** when a BOP escort officer is present and all required procedures have been completed.
- E.** Designate a MPD employee to serve as Training Coordinator to accompany all MPD staff during their use of the Range, and instruct all MPD staff on the safe and proper use of the facility.
- F.** Designate a MPD employee to serve as Training Coordinator, who shall, upon completion of the use of the Range to accompany all MPD staff during their use of the Range:
1. Ensure that all weapons, ammunition (including spent ammunition), safety equipment, etc., are removed from the Range.
 2. Complete the bottom portion of the Training Coordinator Acknowledgment Form, which is attached and incorporated herewith as Attachment B, and submit it to the BOP escort officer.
- G.** Comply with all environmental laws, regulations and policy governing use of the firing range and contribute to any necessary subsequent environmental clean-up attributed to MPD's use of the firing range.
- H.** Repair or replace to the satisfaction of FCI Mendota and the BOP any institution property damaged during the MPD use of the Range.

IV. GENERAL PROVISIONS

A. Period of Agreement/Termination

1. Initial Term: FCI Mendota and MPD have reached this initial Agreement for the term beginning upon the date the last signatory signs the Agreement. The term shall remain in effect for three years.
2. Renewal: The Agreement can be renewed for an additional period thereafter, should the authorized representatives for each party find that each continues to actively support the appropriate goals of the other. The Agreement cannot be renewed automatically.
3. Termination: This Agreement may be terminated by mutual written agreement of the authorized representative of both parties or by either party providing thirty (30) days advanced written notice to the other party without cause.

B. Modification Procedures

Either party may propose to modify this Agreement at any time. All proposed changes, deletions, modifications or additions to this Agreement shall be in writing and shall become effective only upon written concurrence of the authorized representative of both parties. No oral understanding or agreement shall be binding on any of the parties hereto.

C. Severability

If any provisions of this Agreement are determined to be invalid and unenforceable, the remaining provisions shall continue in force and unaffected to the fullest extent permitted by law and regulation.

D. Entire Agreement

This agreement constitutes the entire Agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, arrangements, and understandings with respect thereto. Neither party has made any representation, promise, inducement or statement of intention not embodied herein and no party shall be bound or liable for any alleged representation, promise, inducement or statement not set forth herein.

E. Liability and Indemnification

1. MPD shall be solely responsible for any administrative actions and/or litigation arising from the use of the Range by its employees.
2. Each party shall cooperate with the other party in the investigation and resolution of administrative claims and/or litigation arising from conduct related to the provisions of this Agreement.

F. Financial Provision

1. Nothing contained herein shall be construed to violate the Anti-Deficiency Act, 31 U.S.C. § 1341, by obligating the parties to any expenditure or obligation of funds in excess of or in advance of appropriations.
2. This Agreement will not involve the obligation of funds or financial compensation for either party.

G. Waiver

The waiver by either party of a breach of any provision of this Agreement by the other party shall not be construed as a waiver of any subsequent breach by the other party. No delay or omission on the part of a party in exercising any right or remedy shall operate as a waiver thereon, and no single or partial exercise by a party of any right or remedy shall preclude any other or further exercise thereof or the exercise of any other right or remedy.

H. Assignments

Neither party may assign this Agreement either in whole or part.

I. Dispute Resolution

In the event of a dispute between the parties, over the performance or alleged non-performance or breach of this Agreement, the parties will endeavor to use their best efforts to resolve that dispute informally through consultation and communication, or other forms of non-binding alternative dispute resolution ("ADR") mutually acceptable to both parties, such as mediation, prior to the filing of any action for enforcement. ADR must be mutually acceptable to both parties for its use in resolving any dispute.

J. Third Party Claims

This Agreement is for the sole and exclusive benefit of the signatory parties, and shall not be construed to bestow any legal right or benefit upon any other persons or entities, including, but not limited to, MPD employees.

K. Notice Information

Each party shall provide notice to the other party of a Contact Person authorized to act as a liaison with the other party. The information shall include the name, title, telephone number and e-mail address, and be updated as necessary by providing a notice to other party of any changes regarding the Contact Person.

.....

The parties have executed this Agreement as set forth below.

IN WITNESS WHEREOF, the undersigned duly authorized officials hereby subscribe their names on behalf of the Federal Correctional Institution, Mendota, California and the Mendota Police Department.

**DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS**

CONCURRENCE BY:

Rafael Zuniga, Warden
33500 W. California Avenue
Mendota, CA 93640

Date

BY:

Jill Ryan

JILL RYAN
2017.02.09 20:40:00 -06'00'

Jill Ryan, Chief of Field Acquisition
Procurement & Property Management Branch
346 Marine Forces Drive
Grand Prairie, TX 75051

Date

MENDOTA POLICE DEPARTMENT

BY:

Gregg L. Andreotti
Chief of Police, Mendota PD

Date

WAIVER OF LIABILITY
for use of Federal Bureau of Prisons firing range

In consideration for being granted the privilege of utilizing the Federal Bureau of Prisons ("BOP") facilities at the Federal Correctional Institution, Mendota, California, including the Firing Range, I hereby release and agree to hold as harmless the United States of America, the United States Department of Justice, the BOP and its employees and agents from any and all liability for any damage or injury which I may receive while using the aforesaid facilities from any cause whatsoever. I understand that my non-BOP employer sponsoring this activity is fully responsible for the safe condition of the facilities and for ensuring the safe use of the facilities by all non-BOP participants. I understand I assume the risk of any injuries or liability that may occur during this activity. I understand this activity is not sponsored by or associated with the BOP. Further, I understand that using the facilities is an inherently dangerous activity. I agree to fully waive all claims against the aforesaid parties for any injury that I may sustain while using the BOP facilities, and I assume all risk for participating in the said training and am fully aware that personal danger could be involved. I understand these facilities may not be inspected by BOP officers on a daily basis, and that I should inspect and make myself aware of any hazardous conditions prior to my use. I will not use the facilities if a defect or hazardous condition exists and shall immediately report any defect or hazardous condition to the BOP contact person.

This release of liability and agreement by me to the United States of America, the United States Department of Justice, the Federal Bureau of Prisons, and its employees and agents shall so apply to any right of action that might accrue to myself, my heirs, or my personal representatives. By signing this waiver, I agree to abide by all posted safety rules, and all known BOP policies and procedures regarding institution access, security and safety, and use of the Firing Range.

Agency Name: _____
Printed Name

Participant Name: _____
Printed Name

Signature: _____

Date: _____

**EACH PARTICIPANT MUST READ, SIGN AND DATE
WAIVER OF LIABILITY**

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA AUTHORIZING
THE CITY MANAGER TO SIGN FINANCING
AGREEMENT, AMENDMENTS, AND
CERTIFICATIONS FOR FUNDING UNDER
THE DRINKING WATER STATE REVOLVING
FUND (DWSRF); AUTHORIZING THE CITY
MANAGER TO APPROVE CLAIMS FOR
REIMBURSEMENT; AUTHORIZING THE CITY
MANAGER TO EXECUTE BUDGET AND
EXPENDITURE SUMMARY; AUTHORIZING
THE CITY MANAGER TO SIGN THE FINAL
RELEASE FORM AND TO SIGN THE
CERTIFICATION OF PROJECT COMPLETION;
AND PLEDGING AND DEDICATING NET
WATER REVENUES FROM TO PAYMENT
OF DWSRF FINANCING**

RESOLUTION NO. 17-20

WHEREAS, the City of Mendota seeks financing from the State Water Resources Control Board for a project commonly known as the Automated Meter Reader (AMR) Project (hereinafter known as the "Project"); and

WHEREAS, the City of Mendota seeks to obtain funding from the DWSRF for the purpose of replacing antiquated and inefficient water meters in all commercial areas of the City;

WHEREAS, the City of Mendota will replace all water meters in the commercial areas of the City with state-of-the-art automated water meters; and

WHEREAS, the conversion to automated water meters will allow the City to track water usage more accurately, prevent water waste, and allocate staff resources more efficiently; and

WHEREAS, the City Council received a staff report on the DWSRF financing options, accepted public testimony, and independently determined that the participation in the DWSRF financing program is in the best interest of the residents of the City of Mendota.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that

1. The City Manager is hereby authorized and directed to sign and file, for and on behalf of the City of Mendota a financial assistance application for a financing agreement from the State Water Resources Control Board for the Project;
2. The City Manager or their designee is hereby authorized to sign the DWSRF program financing agreement for the Project and any amendments thereto, and provide the assurances, certifications and commitments required therefor;
3. The City Manager or designee is hereby authorized to represent the City of Mendota in carrying out the City of Mendota's responsibilities under the financing agreement, including approving and submitting disbursement requests (including Claims for Reimbursement) or other required documentation, compliance with applicable state and federal laws, and making any other necessary certifications;
4. The City of Mendota does hereby dedicate and pledge its net water revenues and its water enterprise fund to payment of the DWSRF financing for the Project. The City of Mendota commits to collecting such revenues and maintaining such fund(s) throughout the term of such financing and until the City of Mendota has satisfied its repayment obligation thereunder unless modification or change is approved in writing by the State Water Resources Control Board. So long as the financing agreement(s) are outstanding, the City of Mendota pledge hereunder shall constitute a lien in favor of the State Water Resources Control Board on the foregoing fund(s) and revenue(s) without any further action necessary. So long as the financing agreement(s) are outstanding, the City of Mendota commits to maintaining the fund(s) and revenue(s) at levels sufficient to meet its obligations under the financing agreement(s). If for any reason, the said source of revenues proves insufficient to satisfy the debt service of the DWSRF obligation, sufficient funds shall be raised through increased water rates, user charges, or assessments or any other legal means available to meet the DWSRF obligation and to operate and maintain the project.; and
5. The authority granted hereunder shall be deemed retroactive. All acts authorized hereunder and performed prior to the date of this Resolution are hereby ratified and affirmed. The State Water Resources Control Board is authorized to rely upon this Resolution until written notice to the contrary, executed by each of the undersigned, is received by the State Water Resources Control Board. The State Water Resources Control Board shall be entitled to act in reliance upon the matters contained herein, notwithstanding anything to the contrary contained in the formation documents of the City of Mendota or in any other document.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at the Mendota City Hall on the 28th day of February, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk

FINANCIAL SECURITY PACKAGE (CONSTRUCTION)

Applicant (Entity) Name:	
Project Title:	
Contact Person:	Phone: ()

1. Amount of Assistance Requested: \$

2. Term Requested: 20-Year 30-Year (Disadvantaged Communities only)

3. Other Project Funding Sources

Name and Type of Funding Sources	Amount	Applied	Approved	Received
	\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	\$	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Current Year Median Household Income: \$

5a. Current Year Estimated Population Served:	5b. Check box if less than 50% of residences are permanently occupied <input type="checkbox"/>
--	---

6. Average current monthly residential water bill \$ _____

7. Average monthly residential water bill for the prior three years:

Year	Average Monthly Residential Water Bill	Please explain the reason for increases or decreases in the average monthly residential water bill.

Attach water systems' water rate structure covering each of the last three years (including commercial and industrial users) – Label as Attachment F1

8. Average projected increase to the monthly residential water bill as a result of this financing request:	\$
---	----

9. Discussion of Material Events, Material Obligation Conditions, and Any Debt Limit

Identify any current prior material events such as bankruptcy, defaults, litigation, grand jury findings, unscheduled draws on reserve funds, substitution of insurers or their failure to perform, unscheduled draws on credit enhancements, actions taken in anticipation of filing Chapter 9, rating changes, relevant conditions in material obligations, and any local debt limit.

10. Water Rate Study

Has a water rate study been conducted for the water system? Yes No

If **yes**, please list the date of the study and describe the findings and actions taken by the water system's governing body.

11. Projected monthly residential water bill for the next 3 years:

Year	Average Monthly Residential Water Bill (not including amount in #7)	Please explain the reason for increases or decreases in the average monthly residential water bill

12. Attach a 5 year revenue/expenditure projection for the water system (label as Attachment F2).**13. Identify and describe the dedicate revenue source to be used for loan repayment/obligation satisfaction. (See the Application Instructions for more detail.)****14. Security**

Identify and describe the security you are proposing to use for the DWSRF obligation.

If you are proposing to use property (land), you must answer the following questions:

Is the land you are proposing to use currently pledged as security on other debt? Yes No

If **yes**, list the name of the person/entity to whom the property is pledged as security, their address, and the current balance of the loan being secured.

What is the assessed value of the property? _____

What is the market value of the property and how was it determined?

ATTACHMENTS (Check the box next to each item attached to your application.)

- F1 – Water Rate Structure (3 years)
- F2 – Revenue/Expenditure Projection (5 years)
- F3 – Tax Questionnaire (if applicable-see instructions)
- F4 – Reimbursement Resolution (if applicable)
- F5 – Audited Financial Statements or Federal Tax Returns (3 years)
- F6a – Authorizing Resolution/Ordinance (required for publicly owned entities)
- F6b – Corporate Resolution to Apply, Borrow and to Grant Security (required for corporations)
- F6c – Other Entity Type (see Application Information & Instructions)
- F7 – Rate Adoption Resolution or Applicable Documentation (See Application Information and Instructions)
- F8 – Draft Pledged Revenues and Funds (PRF) Resolution/Certification (required for publicly owned entities)
- F9 – Related Debt (see Application Information & Instructions)
- F10 – Agreement for Operation of the Facility (if applicable)
- F11 – New Special Tax, Assessment District, or Service Charge Projections (if applicable)
- F12 – Relevant Service, Management, Operating, or Joint Powers Agreements (if applicable)
- F13 – Future Capital Needs (if applicable)
- F14 – Other Material Debt Documents (if applicable)

**STATE WATER RESOURCES CONTROL BOARD
DRINKING WATER STATE REVOLVING FUND PROGRAM
TAX QUESTIONNAIRE (Version April 2015)**

LEGAL NAME OF APPLICANT

State Use Only:

DWSRF Project No.

DATE/TIME REC'D BY
SWRCB

***Instructions:** Answer all and provide all information and documents requested. Begin typing in the shaded area and the space will enlarge to accommodate the information that is typed. In lieu of typing in the shaded areas for any question, a separate page may be attached to this Tax Questionnaire or an electronic file in Word format may be attached.*

***Certain Definitions:** As used in this Tax Questionnaire, "Project" means the facilities and/or capital improvements that you described in the Financial Assistance Application submitted to the State Water Board and constitutes those costs that will be funded by the State Water Board under the Financing Agreement (a template Financing Agreement can be found on the State Water Board's website), "Governmental Entity" means a state, city, county, town, public school district, other special district or joint powers authority, and "Non-Governmental Entity" means any person, partnership, corporation or other organization that is not organized as a state, city, county, town, public school district, other special district or joint powers authority. The federal government constitutes a Non-Governmental Entity. A Section 501(c)(3) organization constitutes a Non-Governmental Entity.*

1. Briefly describe the Project, its functions and its principal components.

2. Indicate by principal components your current estimates of the costs of the Project, as follows:

- a. Construction costs \$ _____
- b. Equipment costs \$ _____
- c. Land Purchase \$ _____
- d. Rehabilitation or renovation of facilities \$ _____
- e. Site preparation costs \$ _____
- f. Architectural/engineering, design and planning costs \$ _____
- g. Engineering and administrative costs during construction \$ _____
- h. Surveys \$ _____
- i. Legal fees \$ _____
- j. Financing costs \$ _____
- k. Commitment fees and deposits \$ _____
- l. Other construction costs (please specify) \$ _____
- m. Other planning/design costs (please specify) \$ _____

3. Will any portion of the financing provided under the Financing Agreement be used to refinance other debt(s) (e.g., including any bonds, notes, leases or commercial paper) relating to the Project?

- Yes No Not Applicable

4. If you answered "yes" to Question #3, please state the amount of financing provided under the Financing Agreement that is expected to be used for refinancing purposes.

\$ _____

5. If you answered "yes" to Question #3, please specify the date(s) on which the financing provided under the Financing Agreement will be used to redeem other debt(s) relating to the Project.

6. If you answered "yes" to Question #3, please provide the following information:

- a. Name of the existing indebtedness to be refinanced: _____
- b. Issue date of the existing indebtedness: _____
- c. Par amount of the existing indebtedness: _____
- d. Purpose(s) of the existing indebtedness: _____
- e. Whether the existing indebtedness is immediately prepayable: _____
- f. Whether the interest on the existing indebtedness is federally taxable or tax-exempt: _____

7. If you answered "yes" to Question #3, are any proceeds of the other debt(s) relating to the Project still unspent?

- Yes No Not Applicable

If yes, please identify the amounts and the funds or accounts in which such proceeds are on deposit.

8. If you answered "yes" to Question #3, was the other debt(s) to be refinanced with the financing provided under the Financing Agreement used to refinance other prior debt(s) relating to the Project?

- Yes No Not Applicable

If yes, please provide the name of the original indebtedness, the issue date of the original indebtedness, the par amount of the original indebtedness, the purpose(s) of the original indebtedness, and whether the interest on the original indebtedness was federally taxable or tax-exempt.

9. Will any portion of the financing provided under the Financing Agreement be used for new financing of the Project?

- Yes No Not Applicable

10. If you answered "yes" to Question #9, please provide the dates of expected commencement and completion of construction of the Project.

Expected Commencement Date of Project:....._____

Expected Completion Date of Project:....._____

11. If you answered "yes" to Question #9, please state the amount of the financing provided under the Financing Agreement that is expected to be used for new financing purposes. If you answered "no" to Question #9, skip to Question #18 below.

\$ _____

12. If you answered "yes" to Question #9, please state the amount of Project costs to be newly financed under the Financing Agreement that are expected to be paid within the following periods of time:

Please respond to this question using the expected initiation date of construction.

Project costs to be spent within 6 months..... \$ _____

Project costs to be spent within 12 months (cumulative) \$ _____

Project costs to be spent within 18 months (cumulative) \$ _____

Project costs to be spent within 24 months (cumulative) \$ _____

Project costs to be spent within 30 months (cumulative) \$ _____

Project costs to be spent within 36 months (cumulative) \$ _____

Project costs to be spent *beyond* 36 months (cumulative) \$ _____

13. If you answered "yes" to Question #9, have you paid any costs of the Project prior to the date hereof?

- Yes No Not Applicable

For each Project cost that has been previously paid, please provide an itemization of the following:

- a. Amount of the payment..... _____
- b. Purpose of the payment..... _____
- c. Date of the Payment..... _____
- d. Source of payment of such cost (e.g., revenue, federal or state grants, other financing, internal loan)..... _____

14. If you answered "yes" to Question #13, have you at any time adopted a resolution or other official action (e.g., a so-called "reimbursement resolution") relating to your intent to finance the Project with financial assistance from the State Water Board or other indebtedness?

- Yes No Not Applicable

If yes, please identify the date of such resolution or other document and attach a copy.

15. If you answered "yes" to Question #9, will any portion of the financing provided under the Financing Agreement be used to pay administrative or engineering expenses directly relating to the construction of the Project?

- Yes No Not Applicable

If yes, please state the amount expected to be so used and provide details as to its calculation (e.g., based on actual costs or a percentage of construction).

16. If you answered "yes" to Question #15, will any portion of the administrative or engineering expenses directly relating to the construction of the Project be incurred by the staff of the Applicant?

- Yes No Not Applicable

If yes, please state the amount expected to be so used and provide details as to its calculation (e.g., based on actual costs or a percentage of construction).

17. If you answered "yes" to Question #16, will the administrative or engineering expenses directly relating to the construction of the Project be tracked by an accounting system, such as a cost accounting system, that will allow them to be differentiated from other charges for other work done by the applicant's staff?

- Yes No Not Applicable

If yes, please specify how charges will be tracked.

18. Does any Non-Governmental Entity own, or do you anticipate any Non-Governmental Entity owning, any portion of the Project at any time during the term of the financing?

- Yes No Not Applicable

If yes, identify the Non-Governmental Entity and provide all available details with respect to its ownership interest.

19. Does any Non-Governmental Entity lease, or do you anticipate any Non-Governmental Entity leasing, any portion of the Project at any time during the term of the financing?

- Yes No Not Applicable

If yes, identify the Non-Governmental Entity and provide all available details with respect to its lease interest.

20. Have you entered, or do you anticipate entering, into any inter-municipal contract or agreement(s) with any Governmental Entity with respect to the Project (or any portion of the Project) during the term of the financing?

Yes No Not Applicable

If yes, please describe the purpose of each such agreement, and attach a copy of any existing or contemplated agreement.

21. Have you entered, or do you anticipate entering, into any contract or agreement any Non-Governmental Entity contracting to operate, manage or provide any exclusive services with respect to the Project (or any portion of the Project) during the term of the financing?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity and explain the arrangement. If an operations, management or exclusive services contract currently exists, please attach a copy. Contracts that relate solely to services that are merely incidental to the primary use of the Project need not be listed. Examples of incidental services are contracts for janitorial services, office equipment repairs or billing services. If you are uncertain as to whether the contract is incidental or not, please describe the contract and the services provided thereunder.

22. Does the Project provide, or do you anticipate the Project providing, water or wastewater services to any Non-Governmental Entity other than on the basis of standard rates and charges which are generally applicable and uniformly applied and are adjusted from time to time by the Applicant?

Yes No Not Applicable

If there are or will be any non-standard rates and charges, describe the rate structure, focusing on any special rate agreements or charges for specific entities. An example of a non-standard rate is an industrial user paying a flat fee in a system where the other users pay a rate based on usage.

23. Does any Non-Governmental Entity have, or do you anticipate any Non-Governmental Entity having, special priority rights or other preferential rights to use the Project or the services of the Project pursuant to any contractual or other arrangement?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity, and describe the special priority or preferential right(s).

24. Are the functions and services of the entire Project available, and do you expect the functions and services of the entire Project will be available, for use by the general public on a first-come, first-served basis?

Yes No Not Applicable

If no, please explain and describe the portion of the Project that is not, or will not, be available for use by the general public. For example, municipal water and wastewater systems used for residential, commercial, governmental and business purposes are available for use by the general public; a specialized pollution control facility immediately adjacent to a private business that is the sole user of the facility is not available for use by the general public.

25. Have you entered, or do you anticipate entering, into a "take" or "take-or-pay" contract with any Non-Governmental Entity for use of any portion of the Project or the services of the Project?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity, and describe the arrangement therewith. If a take or a take-or-pay contract currently exists, please attach a copy.

26. Will any Non-Governmental Entity guarantee or otherwise be directly obligated to repay the financial assistance provided under the Financing Agreement?

Yes No Not Applicable

If yes, please identify the Non-Governmental Entity, and describe the guarantee arrangement therewith.

27. Have you received, or do you expect to receive, any grant or other form of assistance for financing of any portion of the Project from the State of California, the federal government or any other entity or person?

Yes No Not Applicable

If yes, please explain.

28. Will any portion of the financing projected under the Financing Agreement be used as a substitute for other funds which were otherwise to be used as a source of financing and which have been used or will be used to acquire, directly or indirectly, other investment property?

Yes No Not Applicable

If yes, please explain.

APPLICANT ACKNOWLEDGEMENT AND SIGNATURE

I hereby certify that I am an authorized representative of the Applicant, and that I am authorized by the Applicant to execute this Tax Questionnaire. I am charged with the responsibility to perform such acts as are necessary and proper for the financing, construction, acquisition and/or improvement of the Project, and am acting for and on behalf of the Applicant in executing this Tax Questionnaire. I certify that I am familiar with the Project and that all information contained herein is true, correct and complete to the best of my knowledge. I am not aware of any facts or circumstances that would cause me to question the accuracy or reasonableness of any information contained in these responses or attached documentation. I understand that the foregoing information and attached documentation will be relied upon by the State Water Board and their counsel, in providing financing with respect to the Project.

**AUTHORIZED REPRESENTATIVE
SIGNATURE**

PRINT NAME AND TITLE

DATE

REIMBURSEMENT RESOLUTION

WHEREAS, the City of Mendota (the "Agency") desires to finance the costs of

constructing and/or reconstructing certain public facilities and improvements relating to its water system, including certain treatment facilities, pipelines and other infrastructure (the "Project"); and

WHEREAS, the Agency intends to finance the construction and/or reconstruction of the Project or portions of the Project with moneys ("Project Funds") provided by the State of California, acting by and through the State Water Resources Control Board (State Water Board); and

WHEREAS, the State Water Board may fund the Project Funds with proceeds from the sale of obligations the interest upon which is excluded from gross income for federal income tax purposes (the "Obligations"), and

WHEREAS, prior to either the issuance of the Obligations or the approval by the State Water Board of the Project Funds the Agency desires to incur certain capital expenditures (the "Expenditures") with respect to the Project from available moneys of the Agency; and

WHEREAS, the Agency has determined that those moneys to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the Agency for the Expenditures from the proceeds of the Obligations.

NOW, THEREFORE, THE AGENCY DOES HEREBY RESOLVE, ORDER AND DETERMINE AS FOLLOWS:

SECTION 1. The Agency hereby states its intention and reasonably expects to reimburse Expenditures paid prior to the issuance of the Obligations or the approval by the State Water Board of the Project Funds.

SECTION 2. The reasonably expected maximum principal amount of the Project Funds is \$3,466,888.00.

SECTION 3. This resolution is being adopted no later than 60 days after the date on which the Agency will expend moneys for the construction portion of the Project costs to be reimbursed with Project Funds.

SECTION 4. Each Agency expenditure will be of a type properly chargeable to a capital account under general federal income tax principles.

SECTION 5. To the best of our knowledge, this Agency is not aware of the previous adoption of official intents by the Agency that have been made as a matter of course for the purpose of reimbursing expenditures and for which tax-exempt obligations have not been issued.

SECTION 6. This resolution is adopted as official intent of the Agency in order to comply with Treasury Regulation

§1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Project costs.

SECTION 7. All the recitals in this Resolution are true and correct and this Agency so finds, determines and represents.

AYES: _____

NOES: _____

ABSENT: _____

CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the City Council of the City of Mendota held on February 28, 2017.

(Date)

(Name, Signature, and Seal of the Clerk or Authorized Record Keeper of the Governing Board of the Agency)

AUTHORIZING RESOLUTION/ORDINANCE

RESOLUTION NO: _____

WHEREAS _____
(insert appropriate findings)
RESOLVED BY THE _____ OF THE
(insert name of Governing Board of the Entity)
_____ (the "Entity"), AS FOLLOWS:
(insert Entity name)

The _____ (the "Authorized Representative") or designee is
(insert Title of Authorized Representative)
hereby authorized and directed to sign and file, for and on behalf of the Entity, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of _____ (the "Project").
(insert Project Name)

This Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.

The Authorized Representative, or his/her designee, is designated to represent the Entity in carrying out the Entity's responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Entity and compliance with applicable state and federal laws.

CERTIFICATION

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the _____ held
(insert name of Governing Board of the Entity)
on _____
(Date)

(Name, Signature, and Seal of the Clerk or Authorized Record Keeper of the Governing Board of the Agency)

**SAMPLE
CORPORATE RESOLUTION
TO APPLY, BORROW AND TO GRANT SECURITY**

I, _____, do hereby certify that I am the duly elected and qualified Secretary and the keeper of the records and corporate seal of _____, a corporation organized and existing under the laws of the State of California (the "Corporation"), and that the following is a true and correct copy of certain resolutions duly adopted by the Board of Directors thereof, in accordance with law and the by-laws of the Corporation, and that such resolutions are now in full force and effect, unamended, unaltered and unrepealed:

WHEREAS, the Corporation seeks financing from the State Water Resources Control Board under the Drinking Water State Revolving Fund ("DWSRF") for a project commonly known as _____ ("Project");

WHEREAS, the Board of Directors adopted a Project budget; and

WHEREAS, prior to the State Water Resources Control Board executing a financing agreement, the Board of Directors is required to establish a dedicated source of revenue to repay the DWSRF loan and authorizing an officer to execute all financing agreements, amendments, certifications, and claims for reimbursement.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the _____ ("the Authorized Representative") is
(insert title of Authorized Representative)

hereby authorized to sign and file, for and on behalf of the Corporation, an application for financial assistance from the State Water Board for the planning, design, and/or construction of the Project;

BE IT FURTHER RESOLVED AND ORDERED, that the Authorized Representative is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto;

BE IT FURTHER RESOLVED AND ORDERED, that the Authorized Representative is hereby authorized to incur Indebtedness not to exceed \$_____ pursuant to the DWSRF financing agreement (The term "Indebtedness" as used herein means all debts, obligations and liabilities, currently existing or now or hereafter made, incurred or created in connection with the financing);

BE IT FURTHER RESOLVED AND ORDERED, that the Authorized Representative is hereby authorized to grant security interests in, pledge, assign, transfer, endorse, mortgage or otherwise hypothecate to the State Water Resources Control Board, and execute security or pledge agreements, financial statements and other security interest perfection documentation, mortgages and deeds of trust on, and give trust receipts for, any or all property or assets of the Corporation as may be agreed upon by the Authorized Representative, or his/her designee, as collateral security for any or all of the Indebtedness, and to grant and execute renewals, extensions or modifications thereof, and to authorize the State Water Resources Control Board to perform any act necessary to perfect security, including but not limited to filing a Uniform Commercial Code (UCC-1) lien with the Secretary of State;

BE IT FURTHER RESOLVED AND ORDERED, that the Authorized Representative is authorized to represent the Corporation in carrying out the Corporation's responsibilities under

the financing agreement, including certifying disbursement requests on behalf of the Corporation and compliance with applicable state and federal laws;

BE IT FURTHER RESOLVED, that the Secretary or any other officer of this Corporation is authorized to certify to the State Water Resources Control Board a copy of these resolutions and the name and signature of the Authorized Representative hereby authorized to act hereunder, and the State Water Resources Control Board is hereby authorized to rely upon such certificate until formally advised by a like certificate of any change therein, and is hereby authorized to rely on any such additional certificates; and

BE IT FURTHER RESOLVED AND ORDERED, the authority granted hereunder shall be deemed retroactive. All acts authorized hereunder and performed prior to the date of this Resolution are hereby ratified and affirmed. The State Water Resources Control Board is authorized to rely upon this Resolution until written notice to the contrary, executed by each of the undersigned, is received by the State Water Resources Control Board. The State Water Resources Control Board shall be entitled to act in reliance upon the matters contained herein, notwithstanding anything to the contrary contained in the formation documents of the _____ or in any other document.
(Applicant entity's legal name)

I FURTHER CERTIFY THAT the following person has been appointed or elected and is now acting as officer or employee of the Corporation in the capacity set beside his name:

_____ (Print Name) _____ (Date) _____ (Signature)

IN WITNESS WHEREOF, I have subscribed my name as Secretary as of _____, 20____.
(Date)

Secretary

_____, a California corporation

PLEGGED REVENUES AND FUND(s) RESOLUTION (PRF)

See Appendix G of the DWSRF Policy for a Sample PRF Resolution Template. All publicly owned entities must submit a draft PRF resolution with the application to Division of Financial Assistance (DFA) for review. Once DFA has reviewed the draft PRF resolution, an adopted PRF resolution will then be required.

RELATED DEBT

The following related debts are senior to the proposed DWSRF financing:

Name of Lender and Title of Debt or Loan Number	Debt Security or Source of Revenue	Debt Service Coverage Requirement	Rating	Original Debt Amount	Current Balance	Payment Amount	Interest Rate	Debt Term & Maturity Date
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/

The following related debts are on parity to the proposed Financing Agreement:

Name of Lender and Title of Debt or Loan Number	Debt Security or Source of Revenue	Debt Service Coverage Requirement	Rating	Original Debt Amount	Current Balance	Payment Amount	Interest Rate	Debt Term & Maturity Date
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/

The following related debts are subordinate to the proposed Financing Agreement:

Name of Lender and Title of Debt or Loan Number	Debt Security or Source of Revenue	Debt Service Coverage Requirement	Rating	Original Debt Amount	Current Balance	Payment Amount	Interest Rate	Debt Term & Maturity Date
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/
				\$	\$	\$		/

Attach copies of the debt documents associated with the above debts.



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291



APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: Albert Escobedo

Address (as listed on the registrar of voters):
807 Kate Street, Mendota, CA 93640

Telephone number: (559) 473-3833

Present occupation: Retired/Disabled

Number of years as a Mendota resident: 58+ years

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?
 Yes No.

If yes please provide list: Planning commission, MHS site council, District Advisory committee (budget decisions), Measure M president, Campaign for 51 & 55.

Education:

Please state the highest year of school completed 1 yr. of College

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

(*see attached.)

Please give a brief statement on why you would like to serve as a member of the City Council.

(* See attached.)

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant: Albert Escobedo Date: 2-17-17

Accepted:

Signature of City Clerk: Celsalinda Deputy Time: 10:41 am

Date: 2/17/2017

Albert Escobedo

Educational Background:

Graduated from Tranquillity High School – June 1975
West Hills College – Coalinga Campus – completed one year

Experience in Public and/or private education:

I was very involved in my children's schools and made sure to attend their conferences and school events.

**Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

Experience in Community Service Organizations, Boards, Committees, etc.:

- Mendota Unified School Site Council parent and member since 2012 to present
- DAC (District Advisory Committee) from 2015 to present
- President of Measure M in 2012 – Measure M was voted on and passed with an 80% voter approval
- Ran the local campaign for Proposition 51 and 55 – both measures passed
- Have worked for the Mendota Youth Organization for 2010 to 2012
- Have worked for Westside Youth Organization from 2012 to present
- Have worked for the City of Mendota Planning Commission from 2014 to present

**Please give a brief statement on why you would like to serve as a member of the City Council:

I feel that I am a good “people” person. I have grown to know the fine people of Mendota and have made contacts and have built relationships with the community. By knowing the people you serve, you can make decisions that will benefit all concerned.

I have been on the City Planning Commission for the past two years and have become aware of the needs of our city and its people.

It would be an honor to work with the city mayor and the council members and the city staff in ensuring the needs of the city are met and addressed appropriately by listening to the voices of the community.

I will continue to stay involved by attending council meetings and voicing my own opinions when asked. I enjoy the great things that are currently happening in Mendota and I am proud to be a part of a great community.



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291

APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: Ramiro Espinoza

Address (as listed on the registrar of voters):

837 Stamoules Street, Mendota, CA 93640

Telephone number: (559)273-7983

Present occupation: Unit Director, Mendota Boys & Girls Club / SSgt, California Air National Guard

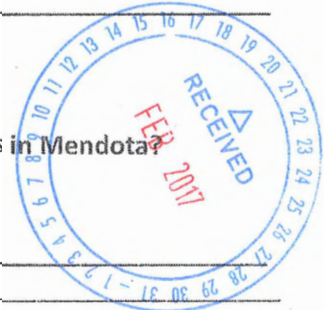
Number of years as a Mendota resident: 34

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

 Yes X No.

If yes please provide list: _____



Education:

Please state the highest year of school completed College.

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

I have previously served our community of Mendota as a Planning Commisioner, board member of the Mendota Chamber of Commerce and on the Westside Youth Inc. board. While serving on these boards I have gained crucial experience in working together with other like-minded residents to meet various organizational goals by making the necessary board desicions. While in college my studies gave me a good understanding about economics and business administration. My extensive military career has instilled invaluable traits like leadership, discipline, judgement, intergrity, decisiveness, dependability and others. These traits have and will continue to guide me in making good sound decisions that will benefit our residents.

Please give a brief statement on why you would like to serve as a member of the City Council.

I have been serving our great country honorably for over 15 years in the armed forces. Since my return back home, I been involved throughout the community. I believe that we as a city need to continue to grow economically while keeping in mind our residents and their safety. I have a passion to give back to our great community of Mendota. My passion does not end in merely giving back, but to help guide our community into a prosperous growing city. I am a servant and would be humbled if given the opportunity to serve our city as a Council member.

Thank you and God bless our community.

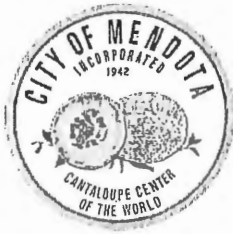
By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant:  Date: 02/20/2017

Accepted:

Signature of City Clerk:  Time: 5:00pm

Date: 2/21/17



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291



APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: John C. Flores

Address (as listed on the registrar of voters):

615 J St Mendota Ca 93640

Telephone number: 559-217-4393

Present occupation: Pastor of Pastor of Living Waters of Mendota

Number of years as a Mendota resident: 55

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

 Yes No.

If yes please provide list: 8 yrs City Council, 1-Term Recreation Board

Education:

Please state the highest year of school completed 12th

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

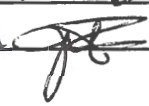
Pastor of 12 yrs

Previous Business Owner 1999-2003

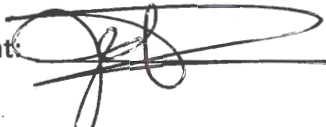
8 yrs of City Council Exp.

Over 25 yrs of Construction - Demolition - Heavy Equipment experience of Knowledge of those areas

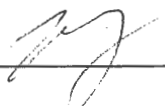
Please give a brief statement on why you would like to serve as a member of the City Council.

8 yrs of City Council experience in which I assisted in re-establishing our Police Dept, Balanced budget all 8 yrs with surplus in General Fund, repaving many roads, sidewalks and parks on both East - West Side of Community. Also assisted in upgrading the present Public Works yard on 2nd - Main along with new Heavy Equipment which saved us 1000's of dollars we would have had to rent. I am an Independent thinker, I make all my decisions based on facts and stats along with past history if necessary. I in life time resident have always wanted and still want what's best for our community and its residents. I believe I proved in my 8 yrs on City Council that we did the we could, through facing it drought and financial hardships. We were and are elected to serve those who put us in these position and not here to serve ourselves or any certain group or party. It's about the people. Thank you. 

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant:  Date: 2-2-17

Accepted:

Signature of City Clerk:  Time: ~~2/3/17~~ 2:00pm
Date: 2/3/17



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291

APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: MARTIN GAMEZ III

Address (as listed on the registrar of voters):

680 Divisadero Ave. Mendota CA 93640

Telephone number: (559) 715-6499

Present occupation: General Labor

Number of years as a Mendota resident: 26 yrs.

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

Yes No.

If yes please provide list: Planning Commission



Education:

Please state the highest year of school completed Some College.

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

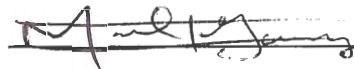
Past work experience that have made me valuable to my Community is coaching. Coaching has taught me a great deal of patience, I know with my leadership skills and my skills in planning commission we will bring Mendota to the right path. I also believe that with patience and with the proper actions we'll move like a community. I hope to be an asset to my community. My background places me in a unique position to understand the issues facing our town. I am an integral part of this community through various clubs and groups.

Please give a brief statement on why you would like to serve as a member of the City Council.

For years, I have been working to improve our community from the ground up by walking our streets, talking to neighbors and collaborating with our leaders. If I become a Council member of Mendota, I will use my experience in public policy, planning commission and community service to shape a better future for our town. To accomplish this, I believe all of our neighbors deserve a seat at the table to solve our complex problems. I will honor the legacy of those who have come before me by standing up for our values and working tirelessly to improve public safety.

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

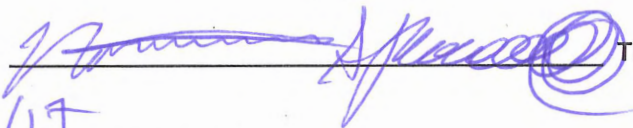
Signature of Applicant:



Date: 02/21/2017

Accepted:

Signature of City Clerk:



Time:

5:00pm

Date:

2/21/17



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291

APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: JOSHUA GARCIA

Address (as listed on the registrar of voters):

237 PUCKER ST

Telephone number: 559) 289-8716

Present occupation: Campus Monitor / Custodian

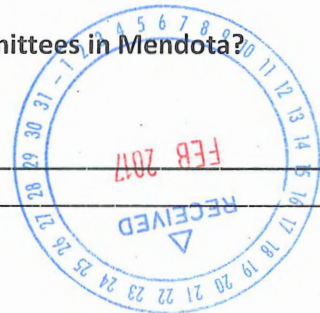
Number of years as a Mendota resident: 29 yrs

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

Yes No.

If yes please provide list: _____



Education:

Please state the highest year of school completed 12th

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

I previously served on the planning Commission
FOR A FEW YEARS.

Please give a brief statement on why you would like to serve as a member of the City Council.

It's ALWAYS BEEN A DREAM OF MINE TO SERVE MY COMMUNITY IN ANY POSSIBLE WAY. AND MY GOALS WOULD BE TO WORK AS A TEAM WITH MY FELLOW PEER'S TO DO EVERYTHING POSSIBLE TO MAKE MENDOTA A SAFE, GROWING TOWN WITH OPPORTUNITY'S IN BRING MORE JOBS. ALSO I HAVE A PASSION IN DOING EVERYTHING POSSIBLE TO CLEAN OUR TOWN, WORKING HARD TO SHOW THAT I AM HERE TO PUT IN WORK TO FIX OUR STREETS, CLEAN OUR TOWN UP.

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant:  Date: 2/21/17

Accepted:

Signature of City Clerk:  Time: 5:00pm

Date: 2/21/17



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291

APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: Jonathan Leiva - Castillo

Address (as listed on the registrar of voters):

638 N. Juanita st. Mendota, CA 93640

Telephone number: 559-382-8026

Present occupation: Medical Assitant (laid off)

Number of years as a Mendota resident: 20+

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

Yes No.

If yes please provide list: Planning Commission

Education:

Please state the highest year of school completed 12.

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

I do have a background in Education in Study area of Liberal Arts (History, Pol. Sci. etc)



Please give a brief statement on why you would like to serve as a member of the City Council.

I would like to serve as a member of the City Council because I would like to serve the community at a higher level. I feel I can contribute with the appropriate leadership ethic the council is currently building and feel the desire to put good leadership ethic within me to great use within and out at my community.

Sincerely Thank You

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant: J. Li Date: 2/21/17

Accepted:

Signature of City Clerk: [Signature] Time: 2:40 pm
Date: 2/21/17



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291



APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: Libertad Lopez

Address (as listed on the registrar of voters):

431 Lolita St Mendota CA, 93640

Telephone number: (559) - 389 - 6399

Present occupation: Full time student

Number of years as a Mendota resident: 35+ years

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

Yes No.

If yes please provide list: _____

Education:

Please state the highest year of school completed Associates Degree

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

* please see attachment *

Please give a brief statement on why you would like to serve as a member of the City Council.

Please see attached

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant: Libertad Lopez Date: 02-21-2017

Accepted:

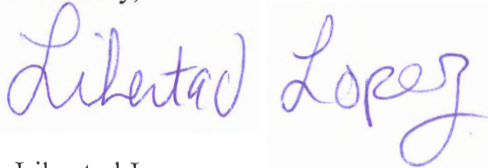
Signature of City Clerk: [Signature] Time: 10:15am
Date: 2/21/17

I worked as an advocate for 12 years with RCS (rape counseling services) through this job I gained good communication skills, computer skills, I was exposed to how grants work, learned the importance of confidentiality, I also learned how to network, and use the resources around me. I am also bilingual. I feel like all of these skills I've gained will be helpful to our community.

Please give a brief statement on why you would like to serve as a member of the City Council.

The reason I would like to be considered to serve as a council member is because I have the passion and drive to see my community prosper. I have been a community member for over 35 years. My children have graduated from Mendota High School, while my two younger boys attend McCabe Elementary. I consider myself to be community oriented. Although, I know my community is not perfect but nevertheless, I have pride in my community. Being part of the team in place would be a great honor. I have ideas to bring to the table and willing to lobby, greet meet other potential funders to bring more funds to this community.

Sincerely,



Libertad Lopez



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291



APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: Jesus Jesse Mendoza

Address (as listed on the registrar of voters):

631 Duchon Street

Telephone number: (559) 210-2842

Present occupation: Production Lead

Number of years as a Mendota resident: Lifelong resident of 43 years

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

Yes No.

If yes please provide list: _____

Education:

Please state the highest year of school completed 2 years of college

Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

I am a dedicated family man who wishes to contribute to the community. I am applying for the City Council to utilize my leadership skills and my interpersonal relationship skills to help our community thrive. I also possess excellent reading and writing skills. I bring integrity and always embrace challenges.

Please give a brief statement on why you would like to serve as a member of the City Council.

Serving on the City Council I will bring a unique unbiased perspective with insights on community needs and growth.

My priorities for City Council:

Public Safety

Fiscal Responsibility

Good business environment

Youth Sports and Academics

Community awareness

Diverse living environment

Work with other Council members in a reasonable

and responsible manner

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant:

Date:

2/21/17

Accepted:

Signature of City Clerk:

Time:

5:00pm

Date:

2/21/17



CITY OF MENDOTA
643 QUINCE STREET
MENDOTA, CA 93640
(559) 655-3291



APPLICATION TO FILL A VACANCY ON THE CITY COUNCIL

Applicants' name: JOSEPH R. RIOFRIO

Address (as listed on the registrar of voters):

730 STAMOULES # B MENDOTA CA 93640

Telephone number: (559) 210 - 1321

Present occupation: SELF EMPLOYED (SHOPKEEPER/PROPERTY MANAGER)

Number of years as a Mendota resident: 54

Memberships:

Are you a member of any other community boards, commissions or committees in Mendota?

 Yes X No.

If yes please provide list: _____

Education:

Please state the highest year of school completed 12 - U.S. AIRFORCE (HONORABLE DISCHARGE)

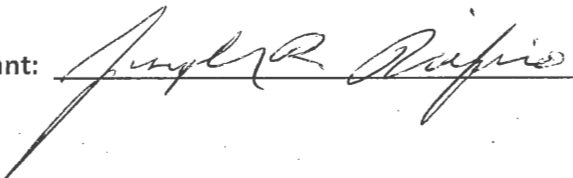
Please state any special areas of study, work experience or expertise that may be of value to the community if you were to serve as a member of the City Council:

I HAVE 20 YEARS OF EXPERIENCE AS A CITY COUNCIL MEMBER. I UNDERSTAND HOW OUR LOCAL GOVERNMENT RUNS. I HAVE A STRONG RELATIONSHIP WITH THE COMMUNITY. I GREW UP IN A RETAIL SHOP WHICH ENABLED ME TO HAVE STRONG COMMUNICATIVE SKILLS AND TIES. I AM BILINGUAL AND I EMBRACE THE VARIOUS HISPANIC CULTURES IN MENDOTA. I EMBRACE ALL CULTURES AND ETHNICITIES. I BELIEVE I CAN WORK TOGETHER TO IMPROVE OUR COMMUNITY, WITH ALL CURRENT COUNCIL MEMBERS AND MAYOR.


Please give a brief statement on why you would like to serve as a member of the City Council.

AS I STATED IN THE PREVIOUS QUESTION, I AM CONFIDENT THAT I CAN BE AN ASSET TO THE COUNCIL. I STATE THIS BECAUSE OF MY LOVE FOR MY COMMUNITY, ALSO MY EXPERIENCE AND KNOWLEDGE. MENDOTA WILL SOON FACE THE REALITY OF UTILITY RATE INCREASES, MAKING A PLAN TO CONTINUE THE STRONG FUNDING OF M.P.D. AND MANY OTHER ISSUES BIG AND SMALL. THE COUNCIL NEEDS A PERSON LIKE MYSELF WHO UNDERSTANDS THIS.

By signing below I affirm that I am a United States citizen, a resident of Mendota, and am registered to vote under the address listed on the first page of this application.

Signature of Applicant:  Date: 2/21/2017

Accepted:

Signature of City Clerk:  Time: 2:40pm
Date: 2/21/17

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA
APPOINTING AN INDIVIDUAL TO
FILL ITS VACANT SEAT**

RESOLUTION NO. 17-19

WHEREAS, Joseph Amador resigned from the Mendota City Council effective January 24, 2017; and

WHEREAS, pursuant to California Government Code Section 36512(a), the City Council is to appoint an individual to serve the remainder of the unexpired term; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota, that _____ is appointed to serve on the City Council for the remainder of the unexpired term.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at the Mendota City Hall on the 28th day of February, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk

A G E N D A I T E M - S T A F F R E P O R T

DATE: February 24, 2017
TO: Honorable Mayor and City Council Members
FROM: Vince DiMaggio, City Manager
John P. Kinsey, City Attorney
SUBJECT: Proposed Approval of Mendota Designated Local Authority Promissory Note:
Resolution 17-21

RECOMMENDATION:

Approve Mendota Designated Local Authority Promissory Note

BACKGROUND:

On August 12, 2008, the City of Mendota (the "City") approved an inter-fund transfer in the amount of Two Hundred Seventy-nine Thousand Two Hundred Ninety and No/100 Dollars (\$279,290.00) from the Mendota Redevelopment Agency (the "RDA") Project Area #2 account (the "RDA Account") into the City's General Fund (the "\$279,290 Loan"). The terms for the repayment of the \$279,290 Loan to the RDA account were memorialized in an Inter-Fund Financial Agreement (the "Inter-fund Note"), which, among other terms, provided for the City to repay the \$279,290 Loan over a period of thirty (30) years with interest payable at the current rate of interest earned on the California Local Agency Investment Fund (the "LAIF Rate"), with the first payment deferred for six years, or until August 12, 2015.

On April 14, 2009, the Council approved a second inter-fund transfer in the amount of Twenty Five Thousand and No/100 Dollars (\$25,000.00) from the RDA Account into the City's General Fund (the "\$25,000 Loan" and together with the \$279,290 collectively referred to as the "Loan"), increasing the amount due under the Inter-Fund Note from \$279,290 to \$304,290, with payment to be made by the City pursuant to the terms of the Inter-fund Note, except that the first payment on the \$25,000 Loan would be deferred until April 14, 2016.

The City has not made any payments of principal and interest on the Loan and, as of fiscal year end June 30, 2016, the City owed principal payments totaling \$71,000.93 and accrued interest totaling \$13,619.71.

After the City received the Loan, the State required the dissolution of development agencies as of February 1, 2012, under ABX1-26. The City opted not to accept the role of Successor Agency of the Mendota Redevelopment Agency. As a result, Section 34173(d)(3)(A) of the California Health & Safety Code required the formation of a "designated local authority." At that time, the

Mendota Designated Local Authority to satisfy the requirements of this section, to insure that enforceable obligations of the former RDA are met, and to wind down the activities and dispose of the RDA's property and/or assets.

DISCUSSION:

The City is considering a Promissory Note that extends the City's obligations under the Loan. This action is necessary to allow the City fulfill its legal obligations relating to the loan and Department of Finance regulations. Staff understands the Department of Finance has made several inquiries regarding the status of this debt (including the MDLA's efforts to collect the debt) since 2012.

Under the proposed Mendota Designated Local Authority Promissory Note, the City's obligations under the Loan would be extended. The outstanding balance of the Loan is presently \$304,290.00, which would be paid in installments through January 1, 2046. The interest rate is based on the California Local Agency Investment Fund index, and is therefore very low (presently 0.60%). Upon the execution of the agreement, the City would make a one-time payment in the amount of **\$13,619.71**. The City would also make principal reduction payments of **\$10,142.99** (i) upon execution of the agreement, and (ii) thereafter on January 1 of each year, through the maturity date (January 1, 2046).

Attachments

Ex. "A": Proposed Mendota Designated Local Authority Promissory Note

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
MENDOTA DESIGNATED LOCAL
AUTHORITY PROMISSORY NOTE**

RESOLUTION NO. 17-21

WHEREAS, on or about August 12, 2008, the City of Mendota (the "City") approved an inter-fund transfer in the amount of Two Hundred Seventy-nine Thousand Two Hundred Ninety and No/100 Dollars (\$279,290.00) from the Mendota Redevelopment Agency (the "RDA") Project Area #2 account (the "RDA Account") into the City's General Fund (the "\$279,290 Loan");

WHEREAS, the terms for the repayment of the \$279,290 Loan to the RDA account were memorialized in an Inter-Fund Financial Agreement (the "Inter-fund Note"), which, among other terms, provided for the City to repay the \$279,290 Loan over a period of thirty (30) years with interest payable at the current rate of interest earned on the California Local Agency Investment Fund (the "LAIF Rate"), with the first payment deferred for six years, or until August 12, 2015;

WHEREAS, on or about April 14, 2009, the Council approved a second inter-fund transfer in the amount of Twenty Five Thousand and No/100 Dollars (\$25,000.00) from the RDA Account into the City's General Fund (the "\$25,000 Loan" and together with the \$279,290 collectively referred to as the "Loan"), increasing the amount due under the Inter-Fund Note from \$279,290 to \$304,290, with payment to be made by the City pursuant to the terms of the Inter-fund Note, except that the first payment on the \$25,000 Loan would be deferred until April 14, 2016;

WHEREAS, the City has not made any payments of principal and interest on the Loan;

WHEREAS, as of fiscal year end June 30, 2016, the City owed principal payments totaling \$71,000.93 and accrued interest totaling \$13,619.71;

WHEREAS, pursuant to the authority of ABX1 26, redevelopment agencies were required to be dissolved as of February 1, 2012;

WHEREAS, the City opted not to accept the role of Successor Agency of the Mendota Redevelopment Agency;

WHEREAS, under California Health & Safety Code 34173(d)(3)(A), if no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to as the "designated local authority" shall be immediately formed;

WHEREAS, the Authority was formed to serve as the Successor Agency to the former RDA to insure that enforceable obligations of the former RDA are met and to wind down the activities and dispose of an property and/or assets; and

WHEREAS, the Authority and the City desire to enter into a Promissory Note to restate and amend the terms under which the City shall be obligated to repay the \$279,290 Loan and \$25,000 Loan to the Authority, a copy of which is attached as Exhibit "A";

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Mendota, that the facts contained in the recitals above are true and correct, and that the City Council approves the Promissory Note in the substantial form presented as Exhibit "A," subject to such reasonable modifications, revisions, additions and deletions as he may approve prior to execution, said execution to provide conclusive evidence of such approval.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at the Mendota City Hall on the 28th day of February 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk

PROMISSORY NOTE

Borrower: City of Mendota, a political subdivision of the State of California (the "City")

Lender: Mendota Designated Local Authority, Successor Agency of the Mendota Redevelopment Agency (the "Authority")

Principal: \$304,290.00

Date of Note: June 30, 2016 ("Note Date")

I.

RECITALS

A. WHEREAS, on or about August 12, 2008, the City of Mendota's City Council (the "Council") approved an inter-fund transfer in the amount of Two Hundred Seventy-nine Thousand Two Hundred Ninety and No/100 Dollars (\$279,290.00) from the Mendota Redevelopment Agency (the "RDA") Project Area #2 account (the "RDA Account") into the City's General Fund (the "\$279,290 Loan");

B. WHEREAS, pursuant to a Council Resolution, the terms for the repayment of the \$279,290 Loan to the RDA account were memorialized in an Inter-Fund Financial Agreement (the "Inter-fund Note"), which, among other terms, provided for the City to repay the \$279,290 Loan over a period of thirty (30) years with interest payable at the current rate of interest earned on the California Local Agency Investment Fund (the "LAIF Rate"), with the first payment deferred for six years, or until August 12, 2015;

C. WHEREAS, on or about April 14, 2009, the Council approved a second inter-fund transfer in the amount of Twenty Five Thousand and No/100 Dollars (\$25,000.00) from the RDA Account into the City's General Fund (the "\$25,000 Loan" and together with the \$279,290 collectively referred to as the "Loan"), increasing the amount due under the Inter-Fund Note from \$279,290 to \$304,290, with payment to be made by the City pursuant to the terms of the Inter-fund Note, except that the first payment on the \$25,000 Loan would be deferred until April 14, 2016;

D. WHEREAS, the City has not made any payments of principal and interest on the Loan;

E. WHEREAS, as of fiscal year end June 30, 2016, the City owed principal payments totaling \$71,000.93 and accrued interest totaling \$13,619.71;

F. WHEREAS, pursuant to the authority of ABX1 26, redevelopment agencies were required to be dissolved as of February 1, 2012;

G. WHEREAS, the City opted not to accept the role of Successor Agency of the Mendota Redevelopment Agency;

H. WHEREAS, under California Health & Safety Code 34173(d)(3)(A), if no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to as the "designated local authority" shall be immediately formed;

///

I. WHEREAS, the Authority was formed to serve as the Successor Agency to the former RDA to insure that enforceable obligations of the former RDA are met and to wind down the activities and dispose of an property and/or assets;

J. WHEREAS, the Authority and the City desire to enter into this Promissory Note to restate and amend the terms under which the City shall be obligated to repay the \$279,290 Loan and \$25,000 Loan to the Authority.

II.

TERMS.

1. **PROMISE TO PAY.** The City (“Borrower”) promises to pay to the Authority (“Lender”), or order, in lawful money of the United States of America, the principal amount of Three Hundred Four Thousand Two Hundred Ninety and No/100 Dollars (\$304,290.00 US), together with interest as set forth below on the unpaid principal balance from the Note Date, until paid in full.

2. **INTEREST; PAYMENTS.**

(a) The interest rate (“Interest Rate”) on this Note is subject to change from time to time based on changes in an independent index which is the CALIFORNIA LOCAL AGENCY INVESTMENT FUND INTEREST RATE (the “Index”) as published by the California State Treasurer’s Office. Lender will tell Borrower the current rate upon request. The interest rate will change on a quarterly basis (3/31/, 6/30/ 9/30 and 12/31) beginning with the first quarter after the Note Date and each quarter thereafter. **The Index is currently .60%.**

(b) Absent a continuing Event of Default hereunder or under any of the Loan Documents, the Loan made hereunder shall bear interest on the unpaid principal amount at the Interest Rate. Throughout the term of this Note, interest shall be calculated on a 30/360 simple interest basis, that is, with the exception of odd days in the first payment period, monthly interest is calculated by applying the ratio of the annual interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by a month of 30 days. Interest for the odd days is calculated on the basis of the actual days to the next full month and a 360-day year.

(c) All payments of principal and interest due hereunder shall be made (i) without deduction of any present and future taxes, levies, imposts, deductions, charges or withholdings, which amounts shall be paid by Borrowers, and (ii) without any other set off, claim or defense of any kind or nature.

(d) Borrower shall make principal reduction payments in equal annual installments of **Ten Thousand One Hundred Forty-two and 99/100 Dollars (\$10,142.99)**, or more, plus accrued interest, in arrears, on the same day each and every year, beginning on January 1, 2017, and continuing until January 1, 2046 (the “Maturity Date”), at which time the entire unpaid principal and any accrued interest is all due and payable in full.

(e) In addition to the foregoing, Borrower shall make a one-time payment in the amount of **Thirteen Thousand Six Hundred Nineteen Dollars and Seventy One Cents (\$13,619.71)**, on or before January 1, 2017, representing interest accrued under the Loan from the inception of the Loan to the Note Date.

(f) If any payment to be made by Borrowers hereunder shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day.

3. PREPAYMENT. Borrower may pay without penalty all or a portion of the amount owed earlier than it is due.

4. LATE CHARGE. If any payment is ten (10) calendar days or more late, Borrower may be charged a late fee of \$50.00 at the discretion of Lender.

5. DEFAULT. Each of the following shall constitute an event of default (“Event of Default”) under this Note:

a. *Payment Default*. Borrower fails to make payments when due under this Note within fifteen (15) days of the date such payment is due.

b. *Other Defaults*. Borrower fails to comply with or to perform any other term, obligation, covenant or condition contained in this Note.

c. *Insolvency*. The dissolution or termination of Borrower’s existence, the insolvency of Borrower, the appointment of a receiver for any part of Borrower’s property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Borrower.

d. *Cure Provisions*. If any default, other than a default in payment, is curable and if Borrower has not been given a notice of a breach of the same provision of this Note within the preceding twelve (12) months, it may be cured if Borrower, after receiving written notice from Lender demanding cure of such default; (1) cures the default within fifteen (15) days; or (2) if the cure requires more than fifteen (15) days, immediately initiates steps which Lender deems in Lender’s sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical.

6. LENDER’S RIGHTS. Upon an uncured Event of Default, Lender may declare the entire unpaid balance under this Note and all accrued unpaid interest immediately due, and Borrower will pay that amount.

7. ATTORNEYS’ FEES; EXPENSES. Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower will pay Lender that amount. This includes, subject to any limits under applicable law, Lender’s attorneys’ fees and Lender’s legal expenses, whether or not there is a lawsuit, including attorneys’ fees, expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. Borrower also will pay any court costs, in addition to all other sums provided by law.

8. GOVERNING LAW. This Note will be governed by the laws of the State of California without regard to its conflicts of law provisions. This Note has been entered into and will be performed in the County of Fresno.

9. SUCCESSOR INTERESTS. The terms of this Note shall be binding upon Borrower, and upon Borrower’s heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

10. GENERAL PROVISIONS. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, challenge to sufficiency of consideration, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made.

PRIOR TO SIGNING THIS NOTE, BORROWER READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE.

THE CITY OF MENDOTA, a political
Subdivision of the State of California

By: _____

Name: _____

Its: _____

A G E N D A I T E M - S T A F F R E P O R T

DATE: February 23, 2016

TO: Honorable Mayor and City Council Members

FROM: Vince DiMaggio, City Manager
John P. Kinsey, City Attorney

SUBJECT: Proposed Approval of Second Amendment to Solar Power Services Agreement between the City of Mendota and Mendota Solar 1, LLC: Resolution 17-22

RECOMMENDATION:

Approve Second Amendment to Solar Power Services Agreement between the City of Mendota and Mendota Solar 1, LLC.

BACKGROUND:

The City owns certain land within the City that is utilized for the generation of solar energy to defray the City's energy costs. On October 13, 2015, the City Council approved Resolution No. 15-72, which authorized the execution of a Solar Power Services Agreement (the "Original Agreement") between the City and Mendota Solar 1, LLC, an entity affiliated with Borrego Solar ("Borrego"). A copy of the Original Agreement is attached as Exhibit "A."

On June 28, 2016, the City Council adopted Resolution 16-46, which approved the First Amendment to Solar Power Services Agreement between City of Mendota and Mendota Solar 1, LLC (the "First Amendment"). A copy of the First Amendment is attached as Exhibit "B."

Since June 28, 2016, Borrego requested the modification of certain provisions of the Original Agreement and the First Amendment to add indemnification language to Section 6.8 of the agreement. The requested indemnification provision states:

Customer shall fully indemnify, save harmless and defend Provider from and against any and all costs, claims, and expenses incurred by Provider in connection with or arising from any claim resulting from or arising out of various agreements, the interests under which may have been transferred among various known and unknown parties, governing oil, gas and/or mineral rights relating to the Property (the "Mineral Rights"), including, without limitation, all costs (including, without limitation, Lost Provider Revenues), claims and expenses resulting therefrom, including those

resulting from any modification, reconfiguration, removal or relocation of the System (as it relates to relocation, subject to Provider's right to approve another location as set forth Section 6.13) and Customer shall pay Lost Provider Revenues during any period of the Term where all or a portion of the System is not in operation or prevented from delivering energy. In the event that Customer is required to provide access to the Property as a result of a claim by a holder (a "Claimant") of any Mineral Rights (including, without limitation, the right to dig or take any invasive measures), to the maximum extent possible, Customer shall provide access to the Property in a manner that minimizes any interference with, or disruption to, the Site, the Easement and the operation and maintenance of the System, and will provide Claimant with access to portions of the Property other than the Site. Customer will also take such other reasonable steps required by Provider to minimize interference with or disruption to the System resulting from a Claimants enforcement of any Mineral Rights. Notwithstanding anything herein to the contrary, Customer's failure to comply with this paragraph within thirty (30) days after Provider's notice to Customer will be a Customer Default and Provider may avail itself of any of the remedies set forth in Section 9.2(b).

DISCUSSION:

Borrego has requested the above amendment because the City does not own sub-surface rights for the property at issue, and the sub-surface rights owner recorded memoranda of lease agreements in the chain of title in 1986, with unknown terms. As a result of these unknown terms, there is risk for both the City and Borrego, which Borrego seeks to shift to the City.

Neither the City nor Borrego know what the lease agreements state, or what their terms may be. Many sub-surface leases agreements allow exploration and extraction (and there are similar rights under California law), which may be superior to the rights of a solar farm and could interfere with solar uses.

Borrego believes the risk from a practical perspective is low. Presuming the sub-surfaces leases are still valid, and mineral rights are economically viable to exercise, there are adjacent properties that are similarly situated, meaning that someone would likely have some alternative access to subsurface minerals without interfering with the solar facility. The adjacent solar facility is on a similarly-situated property (which has been operating without complaint).

While the risk could be low, potential damages could be significant, and could include (i) the value of the entire solar facility, (ii) lost profits, and (iii) attorneys' fees and costs.

Based on the foregoing, the City Council has three options:

- A. Approve the Second Amendment with the understanding that the City would bear the risk associated with the potential exercise of sub-surface lease rights.
- B. Engage in further negotiations with Borrego and/or attempt to require Borrego to secure releases of sub-surface rights.

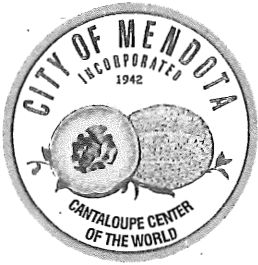
C. Decline to approve the Second Amendment.

Attachments

Ex. “A”: Solar Power Services Agreement

Ex. “B”: First Amendment to Solar Power Services Agreement

Ex. “C”: Proposed Second Amendment to Solar Power Services Agreement



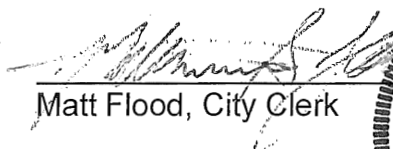
CITY OF MENDOTA

"Cantaloupe Center Of The World"

CLERK'S CERTIFICATE

I, Matt Flood, City Clerk of the City of Mendota, State of California, do hereby certify that the foregoing is a full, true and correct copy of Resolution No. 15-72 duly approved and adopted by the City Council of the City of Mendota on the dates therein stated and as appears on file in my office.

IN WITNESS WHEREOF, I hereunto set my hand and affix the seal of the City of Mendota on October 16, 2015.


Matt Flood, City Clerk



**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
SOLAR POWER SERVICES AGREEMENT
WITH MENDOTA SOLAR 1, LLC., PURSUANT
TO GOVERNMENT CODE SECTION
4217.10-18, MAKING CERTAIN FINDINGS
REQUIRED THEREFORE, AND AUTHORIZING
RELATED ACTIONS**

RESOLUTION NO. 15-72

WHEREAS, the City of Mendota ("City") finds it to be in the best interests of the City to implement projects to promote energy efficiency to achieve energy cost reductions; and

WHEREAS, Government Code sections 4217.10 through 4217.18 authorize the City Council, without advertising for bids, to enter into one or more energy service contracts with any person or entity, pursuant to which that person or entity will provide electrical or thermal energy or conservation services to the City, which may comprise or include an energy conservation facility, if the anticipated cost to the City for thermal or electrical energy or conservation services provided under the contract(s) is less than the anticipated marginal cost to the City of thermal, electrical, or other energy that would have been consumed by the City in the absence of those energy service contracts; and

WHEREAS, City staff reviewed the qualifications presented by Mendota Solar 1, LLC., a limited liability company ("Provider") to conduct and provide assessment of City energy usage, energy needs and opportunities to reduce energy expenses, found Provider's qualifications to appear bona fide and adequate; and

WHEREAS, Provider assessed the feasibility of solar photovoltaic energy as an energy conservation measure, based on certain baseline assumptions such as anticipated future increases in public utility energy rates, which assumptions have been duly considered by Provider to reduce the City's electrical utility energy consumption and expenditures thereon and recommended specific energy conservation measures based thereon ("Analysis," on file with the Clerk of the Board), upon which the City administration and staff have relied; and

WHEREAS, Provider has offered to enter into a Solar Power Services Agreement ("Contract," on file with the Clerk of the Board) to provide energy conservation services to implement the recommended energy conservation facilities comprising a detached, ground mounted, fully fence-enclosed solar photovoltaic energy plant ("Facility") for the power price stated therein; and

WHEREAS, the Analysis demonstrates that the cost of the Contract to the City for the thermal or electrical energy or conservation services provided thereunder is less than the anticipated marginal cost to the City of thermal, electrical, or other energy that would have been consumed by the City in the absence of the Contract ("Savings"); and

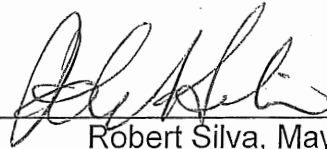
WHEREAS, the City intends that the Facility shall not be used for City purposes, and no individuals will be permitted to use or enter the Facility for any purpose or be subjected to a hazard resulting from its collapse.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Mendota approves:

Section 1. Recitals. All of the recitals herein contained are true and correct.

Section 2. Solar Power Services Agreement Contract Findings. The City Council of the City of Mendota finds that the cost of the Contract to the City for the thermal or electrical energy or conservation services provided thereunder is less than the anticipated marginal cost to the City of thermal, electrical, or other energy that would have been consumed by the City in the absence of the Contract and that the difference, if any, between the fair rental value for the real property subject to the facility ground lease and the agreed rent, is anticipated to be offset by below-market energy purchases or other benefits provided under the energy service contract that it is in the best interest of the City to approve and enter into the Contract.

Section 3. Solar Power Services Agreement Contract Approval. The form of the Contract by and between the City and Mendota Solar 1, LLC ("Provider") presented herewith is hereby approved. The City Manager is hereby authorized and directed, for and in the name of and on behalf of the City, to execute and deliver to Provider the Contract and related documents as necessary to carry out the Contract, subject to such minor changes thereto as such officer or person may require, with the approval of City Attorney as to legal form.

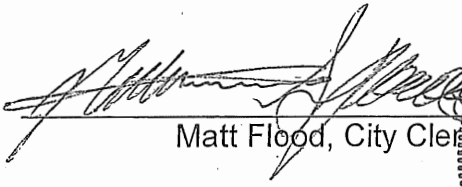



Robert Silva, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a regular meeting of said Council, held at the Mendota City Hall on the 13th of October, 2015 by the following vote:

AYES: 4 – Mayor Silva, Councilors Amador, Castro, and Riofrio.
NOES: 1 – Mayor Pro Tem Valdez.
ABSENT: 0
ABSTAIN: 0


Matt Flood, City Clerk



SOLAR POWER SERVICES AGREEMENT

between

Mendota Solar 1, LLC
A Delaware limited liability company
("Provider"),

And

City of Mendota
a California municipality ("Customer")

October 16th, 2015
(the "Effective Date")

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SCHEDULES AND EXHIBITS

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- Schedule 2 – Site Plan and System
- Schedule 3 – kWh Rate
- Schedule 4 – Early Termination Fee Component
- Schedule 5 – Memorandum of Solar Power Services Agreement
- Schedule 6 – Reserved
- Schedule 7 – Estimated Annual Production and Guaranteed Production

SOLAR POWER SERVICES AGREEMENT

THIS SOLAR POWER SERVICES AGREEMENT (this "Agreement") is made effective as of [month day], 20__ (the "Effective Date"), between/among Mendota Solar 1, LLC, a Delaware limited liability company ("Provider"), and City of Mendota, a California municipality ("Customer"). Provider and Customer are sometimes referred to individually as a Party and collectively as the Parties.

BACKGROUND

WHEREAS, Customer owns, directly or indirectly, the Property (as hereafter defined);

WHEREAS, Provider has an easement at the Property;

WHEREAS, the governing body of Customer has made findings that: (1) The anticipated cost to Customer for electrical energy services provided by the solar panel system under this Agreement will be less than the anticipated marginal cost to Customer of electrical energy that would have been consumed by Customer in the absence of those purchases and (2) The difference, if any, between the fair market value to access and occupy the real property subject to this Agreement and related payments under this Agreement, if any, is anticipated to be offset by below-market energy purchases or other benefits provided under this Agreement;

WHEREAS, Customer desires that Provider install, maintain, own and operate at the Property a solar photovoltaic system (the "System") for the purpose of providing Solar Services (as hereafter defined) to Customer, and Provider is willing to undertake and to provide the same;

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Article I DEFINITIONS

1.1 Definitions

In addition to other terms specifically defined elsewhere in this Agreement, where capitalized, the following words and phrases shall be defined as follows:

"Actual Annual Production" means the Actual Production recorded by the Meter during a given Contract Year.

"Actual Production" means for any period, the actual net electrical production, in kWh, of the System.

"Adjusted Annual Production" has the meaning set forth in Section 2.2(b).

"Affiliate" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with such first Person.

"Agreement" means this Solar Power Services Agreement, including the Schedules and Exhibits attached hereto.

"Applicable Law" means, with respect to any Person, 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 any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority.

"Assignment" has the meaning set forth in Section 12.3.

"Business Day" means any day other than Saturday, Sunday or any other day on which banking institutions in San Francisco, California are required or authorized by Applicable Law to be closed for business.

"Claim Notice" has the meaning set forth in Section 13.3.

"Commercial Operation Date" means the date on which the System is ready for commercial operation after required testing.

"Confidential Information" has the meaning set forth in Section 14.2.

"Contract Year" means each calendar twelve (12) month period during the term following the Commercial Operation Date.

"Customer" has the meaning set forth in the preamble hereof.

"Customer Default" has the meaning set forth in Section 9.2(a).

"Customer Hazardous Materials" has the meaning set forth in Section 5.7(a).

"Delivery Point" means the point of delivery of the Solar Services, which shall be at the Meter.

"Dispute" has the meaning set forth in Section 10.1.

"Early Termination Date" has the meaning set forth in Section 7.1.

"Early Termination Fee" shall mean the sum of (i) the amount specified for the applicable year of commercial operation on Schedule 4, (ii) the value, if any, of any tax benefits subject to

loss or recapture because of the early termination prior to the end of the sixth year of commercial operation, (iii) all reasonably incurred costs, if any, (including liquidated damages, termination fees or penalties, to the extent such liquidated damages, termination fees or penalties are commercially reasonable under the circumstances) associated with the termination of any other agreements associated with the System (such as third-party contractor agreements, arrangements with the Local Electric Utility or Environmental Attribute sale agreements), and (iv) the costs, if any, of dismantling, packing, removing and transporting the System and restoring the Site to its original condition, ordinary wear and tear excepted.

"Easement" has the meaning set forth in Section 4.1 (a).

"Effective Date" has the meaning set forth in the preamble hereof.

"Environmental Attributes" means all products of the System other than electricity, including but not limited to carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, tax credits, emissions allowances, green tags, tradable renewable credits and Green-e® products.

"Environmental Law" means all laws of any Governmental Authority having jurisdiction over any Property addressing pollution or protection of the environment and all amendments to such laws and all regulations implementing any of the foregoing.

"Expiration Date" has the meaning set forth in Section 7.1.

"Fair Market Value" means the price that would be paid in an arm's length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the System and advances in solar technology and the commercial benefits that Provider may be able to derive from the System, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

"Financing Party" means any third-party entity providing debt or equity financing to Provider with respect to a System, including any investor pursuant to a sale/leaseback transaction.

"Force Majeure Event" has the meaning set forth in Section 9.3.

"Governmental Approval" means any approval, consent, franchise, permit, certificate, resolution, concession, license or authorization issued by or on behalf of any applicable Governmental Authority.

"Governmental Authority" means 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 including, without limitation,

any governmental or quasi-governmental entity

"Guaranteed Production" has the meaning set forth in Section 2.2(a).

"Guaranteed Production Adjustment Causes" means an adjustment to the Actual Annual Production of the System resulting from any of the following: (a) System failure, damage or downtime attributable to third parties, (b) inverter failure or delayed repair of an inverter due to manufacturing defects, (c) general utility outage or any failure of any electrical grid, (d) unauthorized or unexpected usage of the Property, or buildings at or near the Property, which may affect building permits, site permits and related requirements for the operation of the System, or that impact insolation striking the System; (e) a Force Majeure Event; (f) acts or omissions of Buyer or the Local Electric Utility; (g) manufacturing failure of any component of the System or failure by any manufacturer of any component of the System to timely honor its warranty obligations; (h) soiling conditions exceeding standard soiling conditions; or (i) variations between Standard Insolation Conditions and the actual Solar Insolation at the Property in any applicable Contract Year.

"Guaranteed Production Period" has the meaning set forth in Section 2.2(a).

"Hazardous Materials" means any pollutant, contaminant, hazardous substance, hazardous waste, medical waste, special waste, toxic substance, petroleum or petroleum-derived substance, waste or additive, asbestos, polychlorinated biphenyl (PCB), radioactive material, or other compound, element or substance in any form (including products) regulated, restricted or addressed by or under any Applicable Law.

"Indemnified Party" has the meaning set forth in Section 13.3.

"Indemnifying Party" has the meaning set forth in Section 13.3.

"Initial Term" has the meaning set forth in Section 7.1.

"Insolation" means the amount of kWhs per square meter falling on a particular location, as published by the National Renewable Energy Laboratory.

"Interconnection Point" has the meaning set forth in Section 6.5.

"kWh Rate" has the meaning set forth in Section 3.1.

"Liens" has the meaning set forth in Section 6.6.

"Local Electric Utility" means the local electric distribution system providing interconnection services for a System or electric service to Customer at a specific Property.

"Lost Provider Revenues" means, for any period during which the System is not in operation or prevented from delivering energy to the Delivery Point, an amount equal to the sum of: (i) payments that Customer would have made to Provider hereunder for electric energy that

would have been produced by the System during such period (based upon historical production data or as otherwise reasonably calculated by Provider); and (ii) revenues from Environmental Attributes, Tax Attributes and/or under the Rebate program that Provider would have received with respect to electric energy that would have been produced by the System during such period.

"Meter" has the meaning set forth in Section 5.5.

"Option Price" has the meaning set forth in Section 7.4.

"Party" or "Parties" means Provider or Customer.

"Person" means an individual, partnership, corporation, limited liability company, business trust, joint stock company, trust, unincorporated association, joint venture, firm or other entity, or a Governmental Authority.

"Property" means the premises described in Schedule 1.

"Provider" has the meaning set forth in the preamble hereof.

"Provider Default" has the meaning set forth in Section 9.1(a).

"Provider Hazardous Materials" has the meaning set forth in Section 5.7(c).

"Purchase Option Date" shall mean each of the seventh (7th), tenth (10th), and fifteenth (15th) anniversary of the "Commercial Operation Date".

"Quarterly Period" means the period beginning on the first day of each of January, April, July and October of each year during the Term.

"Rebates" shall mean any and all rebates, incentives, payments, credits or other funding offered for the development of photovoltaic systems by utility, Governmental Authority or other Person.

"Renewal Term" has the meaning set forth in Section 7.1.

"Site" has the meaning set forth in Section 4.1(a).

"Site Plan" means, for each System, a plan depicting the locations within and upon the Property of System components, including interconnection arrangements and access points, as revised by final as-built drawing(s) and subsequent revisions depicting any System alterations, and incorporated in Schedule 2 hereto.

"Solar Insolation" means the amount of solar energy, measured in kWh per square meter, falling on a particular geographic location, as published by the National Renewable Energy Laboratory.

"Solar Services" means the supply of on-site net electrical output in kWh (AC) from the System to Customer.

"Solar Services Payment" has the meaning set forth in Section 3.1.

"Standard Insolation Conditions" means the aggregate solar irradiation for the Site set forth in the National Renewable Energy Laboratory's TMY3 dataset in any applicable Contract Year.

"Stated Rate" means a rate per annum equal to the lesser of (a) ten percent (10%) or (b) the maximum rate allowed by Applicable Law.

"System" means an integrated ground-mount assembly of photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring and interconnections with the Local Electric Utility, as more specifically described in Schedule 2.

"Tax Attributes" means the investment tax credits (including any grants or payments in lieu thereof) and any other tax deductions or benefits under the Internal Revenue Code or Applicable Law available as a result of the ownership and operation of the System or the output generated by the System (including, without limitation, tax credits, any grants or payments in lieu thereof and accelerated and/or bonus depreciation.)

"Term" has the meaning set forth in Section 7.1.

"True-Up Period" means the expiration of Contract Years 3, 6 and 10 during the Term.

Article II DELIVERY OF SOLAR SERVICES

2.1 Purchase Requirement

Customer agrees to purchase one hundred percent (100%) of the Solar Services of the System during the Term at the kWh Rate whether or not Customer is able to use all such Solar Services. The purchase of Solar Services hereunder does not include Environmental Attributes, Rebates or any other attributes of ownership of the System, title to which shall rest solely with Provider.

2.2 Performance Guaranty

- (a) During the first ten (10) Contract Years of the Initial Term (the "Guaranteed Production Period"), Provider shall guarantee minimum Actual Annual Production from the System, as adjusted for Guaranteed Production Adjustment Causes, equal to eighty percent (95%) of the estimated annual production set forth in Schedule 7, for the Contract Year in question ("Guaranteed Production"). The Guaranteed

Production for each Contract Year during the Guaranteed Production Period is set forth in Schedule 7.

- (b) During the Guaranteed Production Period, within ninety (90) days following each True-Up Period, the Parties shall compare the total Actual Annual Production from the System for such immediately preceding True-Up Period, as adjusted for Guaranteed Production Adjustment Causes (the "Adjusted Annual Production") with the total Guaranteed Production for that same True-Up Period, as specified in Schedule 7. To the extent that total Adjusted Annual Production for the applicable True-Up Period is less than the total Guaranteed Production for that same True-Up Period during the Guaranteed Production Period, then Provider shall credit Customer with a dollar amount equal to the product of (i) the Performance Guarantee Rate multiplied by (ii) the difference in kWh between the total Guaranteed Production for such True-Up Period minus the total Adjusted Annual Production for such True-Up Period. If the total Adjusted Annual Production in any True-Up Period exceeds the total Guaranteed Production for such True-Up Period, any excess may be applied by Provider prospectively to other True-Up Periods; provided, that any excess remaining at the end of the Guaranteed Production Period may be applied retroactively by Provider to any shortfall in Guaranteed Production previously credited by Provider during the Guaranteed Production Period. In the event Provider applies such excess retroactively, Customer shall reimburse Provider for any credits given by Provider in previous True-Up Periods. Any excess in Adjusted Annual Production which remains unused at the end of the Guaranteed Production Period shall inure to the benefit of Customer and no payment shall be due from Customer to Provider in connection therewith.

Article III PRICE AND PAYMENT

3.1 Consideration

Customer shall pay to Provider a quarterly payment (the "Solar Services Payment") for the Solar Services delivered to Customer from each System during each "Quarterly Period". For any such Quarterly Period, the Solar Services Payment shall be equal to the sum of (a) and (b), where (a) is the product of the Actual Production and relevant kWh Rate, as specified in Schedule 3, and (b) is any Lost Provider Revenues due pursuant to the terms of this Agreement, together with all reimbursements due pursuant to Section 6.2 and Section 6.4 hereof. Provider shall invoice Customer on a calendar quarter basis following each Quarterly Period. The first invoice shall include any production that occurred prior to the initial invoice date, including any test energy as provided in Section 5.3 below. The last invoice shall include production only through the Expiration Date. Customer shall pay any Solar Services Payment invoice within thirty (30) days of receipt thereof.

3.2 Method of Payment

Customer shall make all payments under this Agreement by electronic funds transfer to the

account designated by Provider. All payments that are not paid when due shall bear interest accruing from the date becoming past due until paid in full at a rate equal to the Stated Rate.

3.3 Payment Disputes

If Customer objects to all or a portion of an invoice, it shall, on or before the date payment is due, provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Customer does not object prior to the date a payment is due, it shall be obligated to pay the full payment amount without prejudice to its right to subsequently dispute such amount; provided, however, that Customer may not object to any invoice more than twelve (12) months after the date on which such invoice was provided to Customer.

3.4 Change in Law

If there is any change in Applicable Law subsequent to the Effective Date but prior to the Commercial Operation Date that results in a direct and material change in Provider's costs to provide the Solar Services, Provider shall promptly submit to Customer a written notice setting forth (i) the citation of the change in Applicable Law and (ii) the manner in which such change materially increases Provider's costs to provide the Solar Services. Within thirty (30) days of receipt by Customer of such written notice, the Parties shall meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Provider shall have the right to either continue performing under this Agreement in accordance with the terms and conditions hereof or to terminate this Agreement without further liability by either Party to the other Party under this Agreement (including any liability of Customer for payment of the Early Termination Fee).

Article IV EASEMENT AND ACCESS RIGHTS

Article IV applicable to Systems located on property controlled by the Customer. For Systems located on property owned by an entity other than the Customer or the Provider, a separate lease agreement will be entered into.

4.1 Easement and Related Rights

- (a) Easement. Customer hereby grants to Provider, and Provider hereby accepts from Customer in accordance with the terms hereof an exclusive easement (the "Easement") over those portions of the Property useful for locating solar electric generation facilities, including interconnection and metering facilities (each, a "Site") for the sole purposes of installing, operating and maintaining the System and uses ancillary thereto. The initial Site Plan for each System is attached hereto within Schedule 2, and such initial Site Plan for each System will be replaced with an updated Site Plan that reflects final as-built arrangements, to be provided by Provider after completion of each System. At such time, Schedule 2 will also be updated to include a legal description, including metes and bounds, of the Easement. The grant of the Easement shall be effective upon Provider's acceptance of the Easement by written notice to Customer after having conducted

the Phase I or other environmental studies referenced in the first sentence of subsection (viii) below, which studies Customer permits Provider to conduct at any reasonable time upon reasonable notice after the Effective Date. The Easement granted herein (i) includes an easement to receive unobstructed sunlight and (ii) shall survive for a period of one hundred eighty (180) days following the expiration or termination of this Agreement. Without limiting the generality of the foregoing, and subject to the Provider covenants set forth herein, Provider shall have, subject to the limitations contained in this Agreement, the exclusive right to access and utilize each Site, and otherwise shall hold the following exclusive rights and privileges:

- (i) The right to develop, erect, construct, install, replace, repair, relocate, remove, maintain, operate, and use, from time to time, the System, underground and above-ground electrical transmission and communication s lines related to the operation of the System, electric transformers , telecommunications equipment, meteorological towers and weather/solar measurement equipment and related and reasonably necessary facilities and equipment;
- (ii) The right to capture and to convert any or all of the solar resources of each Site;
- (iii) The right to investigate the potential of solar energy conversion including, but not limited to, conducting environmental and paleontological studies, soil tests, and studies of solar intensity and other meteorological data and geological studies, and other studies as may be required in connection with permitting the System;
- (iv) The right to develop, erect, construct, install, replace, repair, relocate, remove, maintain, operate, and use the following from time to time in connection with the System, as is reasonably necessary for the operation and maintenance of improvements on the Site and other properties used in connection with improvements: a line or lines of poles or towers, together with such wires and cables as from time to time are suspended from, and/or underground wires and cables, for the transmission of electrical energy and/or for communication purposes, and all necessary and proper anchors, support structures, foundations, footings, crossarms and other appliances and fixtures for use in connection with said towers, wires and cables;
- (v) The right of pedestrian and vehicular ingress, egress, and access over and across of the Site by means of roads and lanes thereon if existing, or otherwise by such roads, structure, route or routes as Provider may construct or improve from time to time, said construction or improvement to be subject to the written consent of Customer, which consent shall not be unreasonably withheld, conditioned or delayed;
- (vi) The right of subjacent and lateral support to whatever is reasonably necessary for the operation and maintenance of improvements on the Site and other properties used in connection with improvements, including,

without limitation, guy wires and supports;

- (vii) The right to grade, level, fill, clear and replant ground; and to use on-site sand, gravel, caliche or other materials suitable for road cover solely to construct the System and related facilities on the Site, all to the extent permitted by law;
 - (viii) The right to enter upon the Site and to conduct Phase I and other environmental studies or audits of the Site, including the air, soil, and water in and about the Site, at reasonable times and upon reasonable notice; and
 - (ix) The right to undertake any other activities, whether accomplished by Provider or a third party authorized by Provider, that are reasonably necessary to accomplish any of the purposes or uses of the Agreement set forth above.
- (b) Access to Site. Customer hereby grants to Provider, together with its agents, employees and contractors, a non-exclusive easement and right of way (appurtenant to the exclusive Site access rights) to access each Site across or through the Property and any surrounding or nearby lands or buildings owned or leased by Customer, as may be reasonably required from time to time for (i) Site preparation and System construction, installation, operation, maintenance, repair, replacement and removal of the System; and (ii) compliance by Provider of its obligations hereunder. Customer shall provide sufficient space on each Property from time to time (and to the extent available) for the temporary storage, laydown and staging of tools, materials and equipment, the parking of construction crew vehicles and temporary construction trailers and facilities, and rigging. Customer shall compensate Provider for any Lost Provider Revenues associated with any period *in* which Provider *is* denied access in accordance with the provisions of this Article 4.
- (c) Use of Rights. Provider shall utilize the rights granted hereunder in a manner that minimizes inconvenience to and interference with Customer and use of the Property by Customer's guests and invitees, tenants, licensees or other visitors to the extent commercially practical.

4.2 Rent

Apart from the provision of Solar Services and the sum of One Dollar (\$1.00) declared in hand, no other rent shall be due from Provider hereunder.

4.3 Removal of System

Except as otherwise provided in Section 7.3, Section 7.4, and Section 9.2, upon the Expiration Date or an Early Termination Date under Section 7.2, Provider shall, at Provider's expense, remove all of its tangible property comprising the System from the Property on mutually convenient dates. Each Site shall be returned to its condition immediately prior to the installation of the System, except for System mounting pads or other support structures (which

may be left in place with the written consent of Customer) and ordinary wear and tear and without any obligation to replant trees or shrubs. If Provider fails to remove or commence substantial efforts to remove the System by the agreed upon date, Customer shall have the right, at its option, to remove the System to a public warehouse and restore the Property to its original condition (other than ordinary wear and tear), all at Provider's cost.

4.4 Third Party Consents/Recording

At Provider's request from time to time, Customer will deliver, and cause any Property owner, tenant, mortgagee or other Property interest holder to deliver, such acknowledgments, consents, estoppels, fixtures, non-disturbance agreements and other agreements as Provider or its Financing Party may reasonably require to confirm and insure satisfactory title and priority of security in and to the System and the rights granted hereunder. Customer covenants that it will notify Provider in writing if any third party obtains an interest in the Property or the Site including, without limitation, any lenders to Customer or holders of any liens or encumbrances on the Property. Either Party may record a memorandum of this Agreement, substantially in the form attached hereto as Schedule 5 and using the legal description of the Easement to be set forth in the amended Schedule 2, in the registry or title records of the county or counties where the Property is located or other applicable government office. Provider may file one or more precautionary financing statements or fixture filings in such jurisdictions as it deems appropriate in order to protect its rights in each System or in connection with the grant of security interest in the System.

Article V CONSTRUCTION AND OPERATION

5.1 Development

Customer consents to the construction, installation, maintenance and periodic alteration and replacement of System by Provider on the Property, including without limitation solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and utility interconnections. Customer shall provide Provider with available electric and structural plans of the Property, and otherwise assist and cooperate with Provider on a timely basis to obtain all permits, approvals (including Local Electric Utility approvals and interconnection and metering arrangements) and authorizations required to install, interconnect, operate and maintain the System. Local Electric Utility approval and interconnection costs are the responsibility of Provider.

5.2 Installation

Provider shall cause each System to be designed, engineered, installed and constructed substantially in accordance with the terms of this Agreement and Applicable Law. Prior to a System installation, Customer shall have the right to review and approve the Site Plan for such System. Such Customer review and approval shall not be unreasonably withheld, denied, conditioned or delayed. Customer shall approve or disapprove such Site Plan within ten (10) business days of receipt from Provider. Provider will provide at least ten (10) days prior written

notice to Customer of the commencement of any Site preparation work.

5.3 Testing

Provider shall conduct such testing of each System as may be required by the Local Electric Utility and Applicable Law. Provider shall notify Customer of the results of any such testing, and the date that each System achieves its Commercial Operation Date. Customer will purchase under the terms of this Agreement all test energy that is produced after the Commercial Operation Date. If the System produces test energy prior to the Commercial Operation Date, Provider will purchase test energy under the terms of this Agreement for only the first seven (7) days and will not be obligated to purchase any test energy thereafter until achievement of the Commercial Operation Date.

5.4 Operations

Each System shall be owned, operated, maintained and repaired by or for Provider at its sole cost and expense, and in a manner consistent with Applicable Law and good industry practices. Customer shall properly maintain, pay for and provide access to the necessary phone, computer, or other communication lines necessary to perm it Provider to record the electrical output of the System for the entire Term. Provider and Customer shall each designate personnel and establish procedures such that each Party may provide timely notice of any emergency conditions that might reasonably be expected to affect the other Party's property. For routine and emergency repairs, the Parties shall contact the persons set forth below:

For Customer:
Vince DiMaggio, City Manager
643 Quince Street
Mendota, CA 93640
(559) 655-4298
vincedimaggio@cityofmendota.com

With copy to:
Cristian Gonzalez, Public Works Director
643 Quince Street
Mendota, CA 93640
(559) 655-4298
Cristian@cityofmendota.com

For Provider:
Mendota Solar 1, LLC
c/o
William Bush
360 22nd Street, Suite 600
Oakland, CA 94612
(888) 898-6273
wbush@borregosolar.com

5.5 Metering

Provider shall install, own and maintain a revenue-grade kilowatt-hour meter ("Meter") on the Property for the measurement of Actual Production provided to Customer from the System on a continuous basis. Provider shall test the Meter in compliance with the manufacturer's recommendations. Once per calendar year, Customer shall have the right to audit all such Meter data upon reasonable notice, and any such audit shall be at Customer's sole cost. Customer shall have a right of access to the Meter at reasonable times and with reasonable prior notice for the purpose of verifying readings and calibrations. If testing of the Meter pursuant to the foregoing indicates that the Meter is in error by more than two percent (2%), then Provider shall promptly repair or replace the Meter. Provider shall make a corresponding adjustment to the records of the amount of Actual Production 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 the actual period cannot be so determine, then an estimated 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 or (ii) the date the Meter was placed into service.

5.6 Outages

Provider shall be entitled to suspend delivery of Actual Production to the Property for the purpose of testing, maintaining, replacing and repairing the System and such suspension of service shall not constitute a breach of this Agreement ; provided that Provider shall use commercially reasonable efforts to minimize any interruption in service to Customer. Provider shall not have any obligation to reimburse Customer for costs of purchasing energy that would have been produced by the System but for such suspension

5.7 Hazardous Materials

- (a) Customer Hazardous Materials. Provider shall not be responsible for any Hazardous Materials encountered at the Site, which were not introduced to the Site by Provider ("Customer Hazardous Materials"). Customer shall indemnify and hold harmless Provider from any costs or expenses (including reasonable attorneys' fees) incurred by Provider due to the presence of Customer Hazardous Materials on the Site. Upon encountering any materials that Provider suspects may constitute Customer Hazardous Materials, Provider may suspend work in the affected area until such materials are properly remediated by Customer as provided below, and any such suspension shall act to toll day for day any deadline applicable to Provider hereunder.
- (b) Customer Remediation. Customer may opt to remediate the Customer Hazardous Materials that violate Applicable Law so that the System may be installed on the Site, or determine that it is not economically justifiable or is otherwise impractical to remediate the Customer Hazardous Materials, in which case (a) this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other with respect to the System except as provided in this Section, and (b) Customer shall reimburse Provider for all expenses reasonably incurred by Provider in the design and installation of the System prior to the discovery of the Customer Hazardous Materials and in demobilizing and

decommissioning the System after the discovery of the Customer Hazardous Materials.

- (c) Provider Hazardous Materials. Notwithstanding anything herein to the contrary, Customer is not responsible for any Hazardous Materials introduced to the Site by Provider ("Provider Hazardous Materials"). Provider shall indemnify and hold harmless Customer from any costs or expenses (including but not limited to costs and expenses of remediation and reasonable attorneys' fees) incurred by Customer due to the presence of Provider Hazardous Materials on the Site. Upon encountering any materials that Customer suspects may constitute Provider Hazardous Materials, Customer may suspend any and all payments to Provider until such materials are properly remediated by Provider, and any such suspension shall act to toll day for day any deadline applicable to Customer hereunder.

5.8 Customer Electricity

During the Term, Customer shall make available to Provider at no charge electricity from the Local Electric Utility service at the Property for the purposes of constructing, installing, repairing, maintaining and removing the System, and otherwise to meet parasitic load during System non-generation periods.

5.9 Site Security

Customer will provide security for the System to the extent of its normal security procedures, practices, and policies that apply to the Property. Customer will advise Provider immediately upon observing any damage to the System. Upon request by Provider, such as Provider receiving data indicating irregularities or interruptions in the operation of the System, Customer shall, as quickly as reasonably practicable, send a person to observe the condition of the System and report back to Provider on such observations.

5.10 Limits on Obligation to Deliver

Except as expressly provided in Section 2.2 of this Agreement, Provider does not warrant or guarantee the amount of electric energy to be produced by the System for any hourly, daily, monthly, annual or other period. Provider is not an electric utility or public service company and does not assume any obligations of an electric utility or public service company to supply Customers' electric requirements. Provider is not subject to rate review by any Governmental Authority.

5.11 Back-up and Supplemental Electricity

Customer shall be responsible for obtaining and paying for all of its requirements for back-up energy or supplemental energy in excess of the amounts produced by the System. Provider shall have no obligation to obtain or pay for such back-up or supplemental energy.

5.12 Net Metering & Utility Credits

At any time that electric production from the System is greater than Customer's requirements at such time, Customer shall nevertheless pay Provider for all of the electricity produced by the System at the rates and in the manner provided in this Agreement. Customer may make arrangements so that electricity in excess of Customer's requirements may be delivered to the Local Electric Utility at the Interconnection Point and Customer shall be permitted to retain any credits or payments from the Local Electric Utility that may be available under net metering or similar programs excluding any such credits or payments to which Provider is entitled pursuant to this Agreement. Provider shall reasonably cooperate with Customer to facilitate Customer's receipt of payments or benefits under such net metering or similar programs and if Provider is deemed to be the owner of any such credits or payments under net metering or similar programs, Provider shall assign the same (or the proceeds thereof) to Customer. If Provider receives any payments in respect of such net metering or similar programs, it shall promptly pay them over to Customer to the extent such payment is permitted under Applicable Law.

5.13 No Resale of Electricity

The energy purchased by Customer from Provider under this Agreement shall not be resold, assigned or otherwise transferred to any other person without prior approval of the Provider, which approval shall not be unreasonably withheld, and Customer shall not take any action which would cause Customer or Provider to become an electric utility or public service company.

Article VI TITLE TO SYSTEMS

6.1 Title to Systems

Provider shall retain title to and be the legal and beneficial owner of each System at all times. Absent further written election by Provider, each System shall (i) remain the personal property of Provider and shall not attach to or be deemed a part of, or fixture to, the Property, and (ii) at all times retain the legal status of personal property as defined under Article 9 of the applicable Uniform Commercial Code. Customer warrants and represents that it shall keep the System free from all Liens (other than those created by Provider or its creditors). Provider shall be entitled to, and is hereby authorized to, file one or more precautionary UCC Financing Statements or fixture filings, as applicable, in such jurisdictions as it deems appropriate with respect to the System in order to protect its title to and rights in the System. The Parties intend that neither Customer nor any party related to Customer shall acquire the right to operate the System or be deemed to operate the System for purposes of Section 7701 (e)(4)(A)(i) of the Internal Revenue Code, as amended, and the terms of this Agreement shall be construed consistently with the intention of the Parties. Customer shall provide timely notice of Provider's title and sole ownership of each System to all Persons that have, or may come to have, an interest in or lien upon the real property comprising the Property. If Provider determines to treat any component of the System as real property, it will seek Customer's consent in writing along with

the reasons therefore, and any required third party consents arising by reason of such characterization. Customer shall not unreasonably withhold its consent. Notwithstanding the foregoing, Financing Party may hold title to the System pursuant to a sale/leaseback transaction.

6.2 Ownership of Attributes

As between the Parties, Provider shall retain the exclusive right to take or sell all System products, including electricity, capacity and all Environmental Attributes and Tax Attributes. Customer shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Environmental Attributes and Tax Attributes, and if is deemed to be the owner of any such Environmental Attributes or Tax Attributes, Customer shall assign the same (or the proceeds thereof) to Provider. Provider shall reimburse Customer for any actual out-of-pocket costs or expenses reasonably incurred in connection with such actions. If Customer receives any payments in respect of such Environmental Attributes or Tax Attributes, it shall promptly pay them over to Provider.

6.3 Ownership of Rebates; Customer Rebate Assistance

All Rebates available in connection with the System are owned by Provider. Customer shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Rebates, and if Customer is deemed to be the owner of such Rebates, Customer shall assign the same to Provider. Provider shall reimburse Customer for any actual out-of-pocket costs or expenses reasonably incurred in connection with such actions. If Customer receives any payments in respect of Rebates it shall promptly pay them over to Provider.

6.4 Capacity & Ancillary Services

Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the System. Customer shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Customer is deemed to be the owner or provider of such capacity or services, Customer shall assign the same to Provider. Provider shall reimburse Customer for any actual out-of-pocket costs or expenses reasonably incurred in connection with such actions. If Customer receives any payments in respect of capacity or such services it shall promptly pay them over to Provider.

6.5 Risk of Loss; Exclusive Control

As between the Parties, Provider will be deemed to be in exclusive control (and responsible for any property damage or injuries to persons caused thereby) of the Actual Production up to but excluding the point where each System is interconnected to Customer's electrical system (the "Interconnection Point") and Customer will be deemed to be in exclusive control (and responsible for any property damage or injuries to persons caused thereby) of the Actual Production at and from the Interconnection Point. Risk of loss related to Actual Production will transfer from Provider to Customer at the Interconnection Point.

6.6 Provider Liens

Provider shall not cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature ("Liens") on or with respect to Customer's interests in the Property or any interest therein other than the rights granted Provider hereunder. Provider will indemnify Customer for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Property. Provider also shall pay promptly any taxes, charges or fees for which Provider is responsible pursuant to Section 6.07 before a fine or penalty may attach to the Property.

6.7 Taxes and Assessments

Provider will pay and be responsible for any sales or use tax imposed with respect to Provider's acquisition and installation of the System. Provider shall not be obligated for any taxes payable by or assessed against Customer based on or related to Customer's income or revenues. Provider shall pay and be responsible for any sales, use, excise, transfer and other similar taxes or assessments levied on the sale or deliveries of the Solar Services hereunder (regardless of whether such taxes or assessments are imposed on Provider or Customer), together with any interest, penalties or additions to tax payable with respect to such taxes or assessments. Customer shall provide Provider with applicable tax exemption documents and shall cooperate with Provider to minimize the impact of any such taxes and assessments. Provider shall be liable for any real property taxes or assessments associated with the Property caused solely as a result of the presence of the System on the Property.

6.8 Quiet Enjoyment

Customer covenants that Provider shall enjoy quiet and peaceful use, enjoyment and possession of the rights granted hereunder for the Term. Customer agrees that this Agreement and any leaseholds, easements and rights of way granted hereunder run with the Property and survive any transfer of any portion of the Property. In furtherance of the foregoing, Customer shall cause any owner, tenant, purchaser, lessee, assignee, mortgagee, pledgee or other Person to whom a lien on the Property has been granted to execute and deliver to Provider an acknowledgment and consent of and to the Provider's rights hereunder in a form reasonably satisfactory to Provider, including, without limitation, an acknowledgment of no interest in the System. Customer shall compensate Provider for any Lost Provider Revenues associated with any period in which Provider is denied quiet enjoyment or access in accordance with the provisions hereof or Article 4.

6.9 Insolation

Customer acknowledges that access to sunlight is essential to the value of the rights granted hereunder. Accordingly, Customer shall not voluntarily permit any interference with Insolation on and at the Property. Customer will not construct or permit to be constructed any structure on the Property that would adversely affect Insolation levels, or permit the growth of foliage that could adversely affect Insolation levels. Customer shall compensate Provider for any Lost Provider Revenues associated with any interference with Insolation attributable to Customer

hereunder, provided Provider is able to measure and verify said adverse effects pursuant to acceptable industry standards.

6.10 Other Customer Activities

Customer shall not initiate, conduct or permit activities on, in or about the Site that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting a System. Customer shall implement and maintain reasonable and appropriate security measures on the Property to prevent Customer's employees, invitees, agents and representatives and other unrelated third parties from having access to the System. If Customer determines to undertake activities on the Property that require temporary displacement of any portion of the Site, then it shall provide reasonable prior notice (not less than six months) to Provider, and at Customer's expense, Provider shall disassemble, store and re-assemble the affected portions of the System at a time and in a manner reasonably calculated to accommodate such work. Storage of the System in accordance with the previous sentence shall be on the Property in a location to be designated by Customer, but in the estimation of Provider reasonably suitable for storage of the component pieces of the System. Customer will pay Provider all Lost Provider Revenues with respect to the period of such shutdown.

6.11 Customer Requested Shutdown

Customer from time to time may request Provider to temporarily stop operation of the System, such request to be reasonably related to Customer's activities in maintaining and improving the Site; provided, however, that such requested shutdown does not result in Provider's failure to comply with the Applicable Laws. During any such shutdown period (but not including periods of Force Majeure), Customer will pay Provider all Lost Provider Revenues with respect to the period of such shutdown.

6.12 Provider Safety Shutdown

In addition to the right of Provider to shut down the System for maintenance or emergency repairs as provided in Section 5.6, Provider may shutdown the System if in the exercise of its reasonable judgment, Provider believes Site conditions or activities of persons on the Site which are not under the control of Provider, whether or not under the control of Customer, may interfere with the safe operation of the System. Provider shall give Customer notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider and Customer shall cooperate and coordinate their respective efforts to restore Site conditions so as to not interfere with the safe operation of the System and to reduce the duration of any shutdown. In the event of such a shutdown, and if said shutdown is caused by the negligence, willful misconduct or breach of this agreement by Customer, Customer shall be deemed to have shut down the System, and shall pay Provider all Lost Provider Revenues with respect to the period of the shutdown. If a shutdown pursuant to this Section 6.12 continues for one hundred and eighty (180) days or longer, and if said shutdown is caused by the negligence, willful misconduct or breach of this agreement by Customer, Provider may terminate this Agreement and require Customer to pay the Early Termination Fee.

6.13 System Relocation

Customer may request to move the System to another location on the Site or to another site owned by Customer, but any such relocation shall be subject to the approval of Provider in its sole discretion. In connection with such relocation, Customer shall execute an amendment to this Agreement reflecting the new location of the System but otherwise continuing all the terms and conditions of this Agreement for the remaining term of this Agreement. Customer shall also provide any consents or releases required by Provider in connection with the new location. Customer shall pay all costs associated with the removal and relocation of the System, including installation and testing costs and interconnection costs. In addition, Customer will pay Provider all Lost Provider Revenues with respect to any relocation period.

6.14 Interconnection Deactivated

If an interconnection with the Local Electric Utility becomes deactivated such that the System is no longer able to produce energy or deliver energy to the Local Electric Utility for reasons that are both: (a) not: (i) a Force Majeure Event; or (ii) caused by or related to any unexcused action or inaction of Provider, and (b) if said deactivation is caused by the negligence, willful misconduct or breach of this agreement by Customer, Customer will pay Provider any Lost Provider Revenues associated with the period of such deactivation.

6.15 Sale of Site

In the event Customer transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, Customer shall remain primarily liable to Provider for the performance of the obligations of Customer hereunder notwithstanding such transfer. However, if no Customer Default has occurred and is continuing and the transferee is acceptable to Provider in its sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to Provider in its sole discretion, Customer may be released from further obligations under this Agreement.

Article VII TERM

7.1 Term

The initial term of this Agreement shall commence on the Effective Date and shall continue to apply for each Property for a period ending on the first December 31 following the twentieth (20th) anniversary of the Commercial Operation Date of the System located on such Property (the "Initial Term"), unless terminated earlier pursuant to this Agreement. After the Initial Term, this Agreement may be renewed for up to two (2) successive five (5)-year terms (each, a "Renewal Term"), if either Party provides written notice to the other Party at least one hundred and twenty (120) days prior to the expiration of the Initial Term or the then-applicable Renewal Term, and the other Party agrees to the renewal within thirty (30) days of receipt of the notice. The Initial Term and all subsequent Renewal Terms, if any, are referred to collectively as the "Term." The date on which this Agreement terminates by reason of expiration of the Initial Term or of a Renewal Term, if applicable, is hereafter referred to as the "Expiration Date." Any

other date on which this Agreement terminates is hereafter referred to as the "Early Termination Date".

7.2 Early Termination by Provider

If a System has not begun to produce electricity within nine (9) months of receiving all Governmental Approvals required to build and operate the System, Provider may terminate this Agreement, immediately upon provision of written notice thereof to Customer. Provider will not have any liability for such termination, except that no such termination shall act to relieve Provider from any obligation hereunder regarding the removal of the System and the restoration of the Site.

7.3 Early Termination by Customer

Customer shall have the right to unilaterally terminate this Agreement with respect to the System and its related Site and Property only upon (i) Customer's purchase of such System as provided in Section 7.4, or (ii) at any time after the end of the sixth year of commercial operation of the System, not less than ninety (90) days prior written notice and, with respect to (ii), upon meeting the following conditions:

- (a) Customer pays Provider or its designee applicable Early Termination Fee as of the Early Termination Date, including all costs (including liquidated damages and penalties) required to terminate such System's arrangements with the Local Electric Utility, purchasers of Environmental Attributes and other related System contractors, and Customer obtains a full waiver of claims from such entities in form satisfactory to Provider and directed to Provider; and
- (b) Customer pays all costs to dismantle, decommission and remove such System and restore such Site to its original condition.

7.4 Customer Purchase Option

So long as a Customer Default shall not have occurred and be continuing, Provider grants to Customer an option to purchase the System (the "Purchase Option") as of the Expiration Date or any Purchase Option Date for a purchase price (the "Option Price") equal to the greater of (a) the Fair Market Value of such System, as determined pursuant to Section 7.5(b) the Early Termination Fee, or (c) the amount owed to any Financing Party upon termination pursuant to the applicable financing documents (including a sale/leaseback transaction). If Customer elects to exercise the Purchase Option, then, not less than one hundred eighty (180) days prior to the Expiration Date or Purchase Option Date, as applicable, Customer shall provide written notice to Provider of Customer's intent to exercise the Purchase Option, which election shall be irrevocable. Following its receipt of Customer's notice, Provider shall determine and notify Customer of the Fair Market Value. In the event Customer disagrees with any determination of Fair Market Value (to the extent in excess of the Early Termination Fee) it shall notify Provider in writing and the Parties shall determine the Fair Market Value in accordance with Section 7.5. Upon final determination of the Fair Market Value, but in any event on or before the Purchase Option Date, (i) the Parties shall promptly execute all documents necessary to (a) cause title to such System to pass to Customer, free and clear of any Liens, immediately subsequent to the Expiration Date or the Purchase Option Date (as applicable), and (b) assign any warranties for

such System to Customer, and (ii) Customer shall pay the Option Price to Provider in immediately available funds. Customer shall also execute such documents reasonably necessary for Customer to accept, assume and perform all then-existing agreements relating to such System or the Solar Services, including but not limited to operations and maintenance agreements, and agreements for the sale of Environmental Attributes.

7.5 Determination of Fair Market Value

If the Customer does not agree with Provider's determination of Fair Market Value pursuant to Section 7.4, then the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry. Such appraiser shall act reasonably and in good faith to determine Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties within twenty (20) days of the initial request for appraisal. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally.

Article VIII REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other as of the Effective Date:

8.1 Organization; Existence; Good Standing

Such Party is duly organized, validly existing and in good standing in the jurisdiction of its organization. Such Party has the full right and authority to enter into, execute, deliver and perform its obligations under this Agreement, and such Party has taken all requisite corporate, body politic or other action to approve the execution, delivery and performance of this Agreement.

8.2 Binding Obligation

This Agreement constitutes its legal, valid and binding obligation enforceable against such Party in accordance with its terms, except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws relating to creditors' rights generally.

8.3 No Litigation

There is no litigation, action, proceeding or investigation pending or, to such Party's knowledge, threatened before any court or other Governmental Authority by, against, affecting or involving any of its business or assets that would affect its ability to carry out the transactions contemplated herein.

8.4 Execution and Performance

Such Party's execution and performance of this Agreement and the transactions contemplated hereby do not constitute a breach of any term or provision of, or a default under, (i) any contract or agreement to which it or any of its Affiliates is a party or by which it or any of its

Affiliates or its or their property is bound, (ii) its organizational laws or documents, or (iii) any Applicable Laws. To the knowledge of each Party, there are no commitments to third parties that may impair or otherwise adversely affect the performance of such Party under this Agreement, or the construction, installation or function of a System on the Property.

8.5 Service Contract

This Agreement is a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code.

Additional Representation of Customer

- (a) Electric Usage. Customer has provided to Provider complete and correct records of its electric usage at the Site for the preceding three (3) years.
- (b) Condition of Property. Customer has provided to Provider complete and accurate records and information of the physical condition of the Property. If it is discovered that the actual site conditions on part of or on the entire Property upon which all or part of the System is to be installed, are materially different from the information presented by Customer, then Provider shall have the right to terminate this Agreement without penalty or other liability to Customer. If Customer had knowledge of such differing site conditions at the time of entry into this Agreement, then at Provider's option the rates payable by Customer hereunder shall be negotiated by the Parties to reasonably compensate Provider for the cost of design and construction changes and delays incurred to adapt the System to the unknown conditions.
- (c) Financial Information. The financial statements Customer has provided to Provider present fairly in all material respects the financial condition and results of operations of Customer.
- (d) Title. The title to the Site is not impaired by any outstanding contract, covenant, interest, lien, or mortgage in conflict with this Agreement. Customer has full authority to grant the Provider license to access the Property.
- (e) Customer as Governmental Entity. If Customer is a municipality or other governmental entity, (i) Customer covenants that, in the event any payment hereunder (including payment of the Early Termination Fee) is or becomes subject to any necessary appropriation, Customer shall use its best faith efforts to appropriate necessary fund to satisfy such obligations, and not to discriminate between such obligations and its other obligations with respect to payments for necessary services, (ii) any failure of Customer to make payment as a result of any non-appropriation shall constitute a Customer Default, and (iii) Customer waives, to the fullest extent permitted by Applicable Law, any claim for sovereign immunity associated with any liability hereunder.

8.6 Representation of Provider Regarding System Design

The System, as described in Schedule 2, meets the current guidelines for qualification for non-demand metered service under the Pacific Gas & Electric RES-BCT rate tariff, effective as of May 1st, 2014.

Article IX
DEFAULT AND FORCE MAJEURE

9.1 Provider Defaults

- (a) Provider Default Defined. If Provider breaches any material term of this Agreement and (i) if such breach can be cured within thirty (30) days after Customer's notice of such breach and Provider fails to so cure, or (ii) Provider otherwise fails to commence and diligently pursue and complete said cure within ninety (90) days, or (iii) Provider admits in writing its inability to pay its debts generally as they become due; (iv) Provider files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state, district or territory thereof; (v) Provider makes an assignment for the benefit of creditors; (vi) Provider consents to the appointment of a receiver of the whole or any substantial part of its assets; (vii) Provider has a petition in bankruptcy filed against it, and such petition is not dismissed within ninety (90) days after the filing thereof; (viii) a court of competent jurisdiction enters an order, judgment, or decree appointing a receiver of the whole or any substantial part of Provider's assets, and such order, judgment or decree is not vacated or set aside or stayed within ninety (90) days from the date of entry thereof; or (ix) under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the whole or any substantial part of Provider's assets and such custody or control is not terminated or stayed within ninety (90) days from the date of assumption of such custody or control.
- (b) Customer's Remedies. If a Provider Default described in Section 9.1(a) has occurred and is continuing, Customer may terminate this Agreement immediately upon the expiration of the respective grace periods set forth in such provisions without the obligation to pay the Early Termination Fee, and otherwise exercise any other remedy it may have at law or equity or under this Agreement.
- (c) Actions to Prevent Injury. If any Provider Default creates an imminent risk of damage or injury to any Person or any Person's property, then, in addition to any other right or remedy that Customer may have, Customer may (but shall not be obligated to) take such action as Customer deems appropriate to prevent such damage or injury.

9.2 Customer Defaults

- (a) Customer Default Defined. The following events shall be defaults with respect to Customer (each, a "Customer Default"):
- (i) Customer fails to pay Provider any undisputed amount due Provider under this Agreement within five (5) Business Days from receipt of notice from Provider of such past due amount;
 - (ii) Customer breaches any material term of this Agreement if (a) such breach can be cured within thirty (30) days after Provider's notice of such breach and Customer fails to so cure, or (b) Customer otherwise

- fails to commence and diligently pursue and complete said cure within ninety (90) days; or
- (iii) Customer admits in writing its inability to pay its debts generally as they become due;
 - (iv) Customer files a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state, district or territory thereof;
 - (v) Customer makes an assignment for the benefit of creditors;
 - (vi) Customer consents to the appointment of a receiver of the whole or any substantial part of its assets;
 - (vii) Customer has a petition in bankruptcy filed against it, and such petition is not dismissed within ninety (90) days after the filing thereof;
 - (viii) A court of competent jurisdiction enters an order, judgment, or decree appointing a receiver of the whole or any substantial part of Customer's assets, and such order, judgment or decree is not vacated or set aside or stayed within ninety (90) days from the date of entry thereof;
 - (ix) Or under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the whole or any substantial part of Customer's assets and such custody or control is not terminated or stayed within ninety (90) days from the date of assumption of such custody or control.

- (b) Provider's Remedies. If a Customer Default described in Section 9.02Ca) has occurred and is continuing, then in addition to (and not in lieu of) any other remedy it may have in law or equity, may do any or all of the following: (i) require Customer to pay to Provider the Early Termination Fee and/or (ii) remove any of the System from the Property at Customer's expense and terminate this Agreement immediately.
- (c) Actions to Prevent Injury. If any Customer 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 to prevent such damage or injury.

9.3 Force Majeure

A "Force Majeure Event" means any event which wholly or partly prevents or delays the performance of any obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party affected, (ii) such event, despite the exercise of reasonable diligence, cannot be prevented, avoided or overcome by such Party, (iii) the Party affected has taken all reasonable precautions and measures in order to avoid the effect of such event on such Party's ability to perform its obligations under this Agreement and to mitigate the consequences thereof; and (iv) such event is not the direct or indirect result of a Party's negligence or the failure of such Party to perform any of its obligations

under this Agreement or to comply with Applicable Law. Notwithstanding any other term hereof, no payment obligation of Customer under this Agreement may be excused or delayed as a result of a Force Majeure Event, unless such Force Majeure directly causes Customer to be unable to make payments due under this Agreement. A Party claiming a Force Majeure Event shall not be considered in breach of this Agreement or liable for any delay or failure to comply with the Agreement, if and to the extent that such delay or failure is attributable to the occurrence of such Force Majeure Event; provided that the Party claiming relief shall immediately notify the other Party in writing of the existence of the Force Majeure Event, exercise all reasonable efforts necessary to minimize delay caused by such Force Majeure Event, and resume performance of its obligations hereunder as soon as practicable thereafter.

9.4 Limitation on Liability

EXCEPT WITH RESPECT TO PAYMENT OF THE EARLY TERMINATION FEE OR IN CONNECTION WITH THIRD-PARTY INDEMNIFICATION CLAIMS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT.

Article X DISPUTE RESOLUTION

10.1 Resolution by Parties

In the event of any dispute, controversy or claim between the Parties arising out of or relating to this Agreement (collectively, a "Dispute"), the Parties shall attempt in the first instance to resolve such Dispute through friendly consultations between the Parties. If such consultations do not result in a resolution of the Dispute within thirty (30) days after notice of the Dispute has been delivered to either party, then such Dispute shall be referred to the senior management of the Parties for resolution. If the Dispute has not been resolved within thirty (30) days after such referral to the senior management of the Parties, then either Party may pursue all of its remedies available hereunder. The Parties agree to attempt to resolve all Disputes promptly, equitably and in a good faith manner. In the event a dispute hereunder is resolved pursuant to arbitration or judicial proceedings, the Party, whose petition does not prevail in such proceedings, shall reimburse all of the other Party's third party costs (including reasonable attorney's fees) incurred to prosecute or defend (as the case may be) such proceedings.

Article XI INSURANCE, CASUALTY AND CONDEMNATION

11.1 Provider's Insurance

Provider shall maintain the following insurance coverages in full force and effect from the date that any preparatory installation activities begin at the Property throughout the Term: (a) Workers' Compensation Insurance as may be from time to time required under Applicable Laws, and (b) Commercial General Liability Insurance with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence, which insurance shall cover the following: (i) premises and operations liability; (ii) contractual liability; (iii) products/completed operations; (iv) personal and advertising liability; (v) independent contractor liability and (vi) xcu (explosion,

collapse and underground); and (c) Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum liability of \$1,000,000; and (d) Umbrella or Excess liability insurance with a limit of \$2,000,000 per occurrence and a general aggregate of \$2,000,000. Additionally, Provider shall carry commercially adequate property loss insurance on each System. Provider's liability insurance policies shall be written on an occurrence basis and shall include Customer as an additional insured on a primary basis to said policies.

11.2 Customer's Insurance

Customer shall maintain the following insurance coverages in full force and effect from the date that any preparatory installation activities begin at the Property throughout the Term: (a) Workers' Compensation Insurance as may be from time to time required under Applicable Laws, and (b) Commercial General Liability Insurance with limits of not less than \$2,000,000 general aggregate, \$1,000,000 per occurrence. Additionally, Customer shall carry commercially adequate property loss insurance for the Site. Customer's liability insurance policies shall be written on an occurrence basis and shall include Provider as an additional insured on a primary basis to said policies.

11.3 Generally

Upon each Party's request annually, each Party shall deliver to the other Party certificates of insurance evidencing such respective coverage referenced above, which shall specify that the other Party shall be given at least thirty (30) days' prior written notice by the applicable insurer in the event of any material modification, cancellation or termination of coverage. Such insurance shall be on an occurrence basis and shall be primary coverage without right of contribution from any insurance of the other Party and shall permit waivers of subrogation against the other Party. All insurance maintained hereunder shall be maintained with companies either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1. Provider's insurer may be an Affiliate of Provider.

11.4 Casualty

If at any time during the Term any part of the Property is so severely damaged by fire or other casualty that substantial alteration, reconstruction or restoration is required on the Property, but the System is capable of producing Actual Production, then Customer shall take and pay for all of the Actual Production that the System is capable of producing. In such case, this Agreement shall remain in full force and effect, without change, for the remainder of the Term.

If at any time during the Term the System is so severely damaged by fire or other casualty that substantial alteration, reconstruction or restoration is required, then Provider shall have the right, but not the obligation, to reconstruct or restore the System if Provider elects to do so, then the Agreement shall remain in full force and effect, without change, for the remainder of the Term. If Provider fails to provide notice of its intention to reconstruct or restore the System within ninety (90) days of any such casualty, this Agreement shall terminate and Provider shall remove the System from the Site in accordance with the provisions of Section 4.3.

11.5 Condemnation

If at any time during the Term, any part of the Property or System is taken for any public or quasi-public use under Applicable Law, ordinance of or regulation by a Governmental Authority by condemnation or right of eminent domain, then each Party shall be entitled to separately pursue an award for its respective property interest appropriated as well as any damages suffered thereby, and each Party hereby waives any right to any award that may be prosecuted by the other Party.

Article XII ASSIGNMENT

12.1 Generally

This Agreement and the rights and obligations under this Agreement shall be binding upon and shall inure to the benefit of Provider and Customer and their respective successors and permitted assigns. Any purported assignment in violation of this Article XII shall be null and void *ab initio*.

12.2 Assignment by Customer

Customer shall not assign its interests in this Agreement, nor any part thereof, without Provider's prior written consent, which consent shall not be unreasonably withheld.

12.3 Assignment by Provider

(a) Except as expressly provided in Section 12.3(b), Provider shall not sell, transfer or assign this Agreement or any right, interest or obligation therein (each, an "Assignment"), without the prior written consent of Customer. In no event will Customer unreasonably withhold, condition or delay its written consent to an Assignment if Customer has been given reasonable proof that the proposed assignee: (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System; and (y) has the financial capability to maintain the System and perform hereunder.

(b) Provider may, without Customer's consent, (i) make an Assignment to an Affiliate of Provider; (ii) collaterally assign or pledge its interests hereunder and/or in the System or any monies due under this Agreement; and/or (iii) make an Assignment to a Financing Party as part of a sale/leaseback financing. In each such case, Provider will give Customer prompt written notice of the Assignment.

(c) In the case any Assignment pursuant to this Section 12.3, the assignee shall assume in writing, in form and content reasonably satisfactory to Customer, the due performance of all Provider's obligations under this Agreement. If such condition is met, Customer agrees to provide such confirmations, releases and novations as are reasonably requested by Provider in connection with any such assignment.

12.4 Financing Accommodations Assignment to Financing Party

Provider may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons providing financing for the System. Customer acknowledges that Provider may obtain construction financing for the System from a third party and that Provider may either obtain term financing secured by the System or sell or assign the System to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Customer acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the System. In order to facilitate such necessary sale, conveyance, or financing and with respect to any Financing Party, Customer agrees as follows:

- (a) Consent to Collateral Assignment. Customer hereby consents to both of the sale of the System to a Financing Party and the collateral assignment to the Financing of the Provider's right, title and interest in and to this Agreement.
- (b) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:
 - (i) Step-In Rights. The Financing Party, as owner of the System, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the System;
 - (ii) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or to perform any act, duty or obligation of Provider under this Agreement (unless the Financing Party has succeeded to Provider's interests under this Agreement), but Customer hereby gives it the option to do so;
 - (iii) Exercise of Remedies. Upon the exercise of remedies, including any sale of the System by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Customer of the transfer or assignment of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;
 - (iv) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or

rejection, Customer shall enter into a new agreement with Financing Party or its assignee having substantially the same terms and conditions as this Agreement.

(c) Right to Cure.

(i) Cure Period. Customer will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party 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 Agreement; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party 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 ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(ii) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Section 12.04(a)(iii) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(d) Financing Party a Third Party Beneficiary. Customer agrees and acknowledges that Financing Party is a third party beneficiary of the provisions of this Section 12.4.

(e) Entry to Consent to Assignment. Customer agrees to (i) execute any consents to assignment or acknowledgements and (ii) provide such opinions of counsel as may be reasonably requested by Provider and/or Financing Party in connection with such financing or sale of the System.

Article XIII INDEMNIFICATION

13.1 Indemnification by Provider

Subject to Section 11.1, Provider shall fully indemnify, save harmless and defend Customer, its contractors, subcontractors, directors, officers, employees, agents and invitees from and against any and all costs, claims, and expenses incurred by Customer in connection with or

arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any Person, but only to the extent caused by (a) the negligence or willful misconduct of Provider or its agents or employees or others under Provider's control or (b) any work performed by Provider, its agents, servants, subcontractors or employees of the Property or any premises or facilities, or part thereof, owned by Customer or (c) a Provider Default; *provided, however*, that Provider's obligations pursuant to this Section 13.1 shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable of Customer; *provided further, however*, that nothing in this Section is intended to modify the limitation of Provider's liability set forth in Section 9.4. This agreement to indemnify specifically includes full indemnity in the event of liability imposed against Customer solely by reason of statute, operation to the negligence or willful misconduct of law or otherwise.

13.2 Indemnification by Customer

Subject to Section 11.2, Customer shall fully indemnify, save harmless and defend Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, contractors and invitees and any Financing Party ("Provider Indemnified Parties") from and against any and all costs, claims, and expenses incurred by Provider in connection with or arising from any claim by a third party for physical damage to or physical destruction of property, or death of or bodily injury to any Person, but only to the extent caused by (a) the negligence or willful misconduct of Customer or its agents or employees or others under Customer's control or (b) a Customer Default; *provided, however*, that Customer's obligations pursuant to this Section 13.2 shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the negligence or willful misconduct of Provider; *provided further, however*, that nothing in this Section is intended to modify the limitation of Customer's liability set forth in Section 9.4.

13.3 Notice of Claims

Any Party seeking indemnification hereunder (the "Indemnified Party") shall deliver to the other Party (the "Indemnifying Party") a notice describing the facts underlying its indemnification claim and the amount of such claim (each such notice a "Claim Notice"). Such Claim Notice shall be delivered promptly to the Indemnifying Party after the Indemnified Party receives notice that an action at law or a suit in equity has commenced; *provided, however*, that failure to deliver the Claim Notice as aforesaid shall not relieve the Indemnifying Party of its obligations under this Section, except to the extent that such Indemnifying Party has been prejudiced by such failure.

13.4 Defense of Action

If requested by an Indemnified Party, the Indemnifying Party shall assume on behalf of the Indemnified Party, and conduct with due diligence and in good faith, the defense of such Indemnified Party with counsel reasonably satisfactory to the Indemnified Party; *provided, however*, that if the Indemnifying Party is a defendant in any such action and the Indemnified Party believes that there may be legal defenses available to it that are inconsistent with those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to participate in its defense of such action at the Indemnifying Party's expense. If any claim, action, proceeding or investigation arises as to which the indemnity provided for in this

Section applies, and the Indemnifying Party fails to assume the defense of such claim, action, proceeding or investigation after having been requested to do so by the Indemnified Party, then the Indemnified Party may, at the Indemnifying Party's expense, contest or, with the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, settle such claim, action, proceeding or investigation. All costs and expenses incurred by the Indemnified Party in connection with any such contest or settlement shall be paid upon demand by the Indemnifying Party.

13.5 Survival of Provisions

The provisions of this Article 13 shall survive the expiration or termination of this Agreement.

Article XIV MISCELLANEOUS

14.1 Additional Documents

Upon the receipt of a written request from another Party, each Party shall execute such additional documents, instruments, estoppels, consents, confirmations and assurances, and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. No Party shall unreasonably withhold condition or delay its compliance with any reasonable request made pursuant to this Section.

14.2 Confidentiality

If either Party or its representatives provides to the other Party or its representatives confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of a Party's business ("Confidential Information"), the receiving Party shall protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, but in any event not less than a commercially reasonable degree of care, and refrain from using such Confidential Information except in the negotiation and performance of this Agreement. Notwithstanding any other provision herein, neither Party shall be required to hold confidential any information that: (i) becomes publicly available other than through the receiving Party; (ii) is required to be disclosed by a Governmental Authority, under Applicable Law or pursuant to a validly issued subpoena; (iii) is independently developed by the receiving Party; (iv) becomes available to the receiving Party from a source which is not known to the receiving Party to be prohibited from disclosing such information pursuant to a legal, contractual or fiduciary obligation to the disclosing Party; or (v) information which the receiving Party can demonstrate was legally in its possession prior to disclosure by the disclosing Party. In the event that the receiving Party is requested or required by legal or regulatory authority to disclose any Confidential Information, the receiving Party shall promptly notify the disclosing Party of such request or requirement prior to disclosure, if permitted by Applicable Law, so that the disclosing Party may seek an appropriate protective order. In the event that a protective order or other

remedy is not obtained, the receiving Party agrees to furnish only that portion of the Confidential Information that it reasonably determines, in consultation with its counsel, is consistent with the scope of the subpoena or demand, and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such Confidential Information.

14.3 Public Announcements

To avoid any conflicts regarding claims of solar or renewable energy use or production, Customer shall submit to Provider for prior written approval any public announcements, including without limitation, press releases, regarding the matters contemplated hereunder, the System or Customer's use of solar or renewable energy, such approval not to be unreasonably withheld.

14.4 Integration; Attachments

This Agreement, together with the Schedules and any Exhibits attached hereto, constitutes the entire agreement and understanding between Provider and Customer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof.

14.5 Industry Standards

Except as otherwise set forth herein, for the purpose of this Agreement accepted standards of performance within the solar photovoltaic power generation industry in the relevant market shall be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings shall be so construed.

14.6 Amendments

This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Provider and Customer.

14.7 Waiver

No waiver of any provision of this Agreement shall be effective unless set forth in writing signed by the Party granting such waiver, and any such waiver shall be effective only to the extent it is set forth in such writing. The failure of Provider or Customer to enforce any of the provisions of this Agreement, or the waiver thereof, shall not be construed as a general waiver or relinquishment on its part of any such provision in any other instance, or of any other provision in any instance. No single or partial exercise of any right under this Agreement shall preclude any other or further exercise thereof or the exercise of any other right; and no waiver of any breach of or default under any provision of this Agreement shall constitute or be construed as a waiver of any subsequent breach of or default under that or any other provision of this Agreement.

14.8 Cumulative Remedies

Except as set forth herein, any right or remedy of Provider or Customer shall be

cumulative and without prejudice to any other right or remedy, whether contained herein or not.

14.9 Survival

The obligations hereunder that, by their sense and context, are intended to survive termination of this Agreement shall survive the expiration or termination of this Agreement to the extent necessary to give them full effect.

14.10 Governing Law; Jurisdiction; Forum

This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without reference to any choice of law principles. Any legal action or proceeding with respect to or arising out of this Agreement shall be brought in or removed to the courts of the State of California and of the United States of America in and for the State of California. By execution and delivery of this Agreement, Provider and Customer accept, generally and unconditionally, the jurisdiction of the aforesaid courts. Provider and Customer hereby waive any right to stay or dismiss any action or proceeding under or in connection with this Agreement brought before the foregoing courts on the basis of *forum non-conveniens*.

14.11 Waiver of Jury Trial

TO THE EXTENT ENFORCEABLE UNDER APPLICABLE LAW, EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH, THIS AGREEMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PROVIDER TO ENTER INTO THIS AGREEMENT.

14.12 Severability

Any term, covenant or condition in this Agreement that to any extent is invalid or unenforceable in any respect in any jurisdiction shall, as to such jurisdiction, be ineffective and severable from the rest of this Agreement to the extent of such invalidity or prohibition, without impairing or affecting in any way the validity of any other provision of this Agreement, or of such provision in other jurisdictions. The Parties shall use good faith effort to replace any provision that is ineffective by operation of this Section with an effective provision that as closely as possible corresponds to the spirit and purpose of such ineffective provision.

14.13 Headings

The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement.

14.14 Relation of the Parties

The relationship between Provider and Customer shall not be that of partners, agents or joint venturers for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. Provider and Customer, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

14.15 Injunctive Relief

The Parties acknowledge and agree that any violation or breach of the provisions of this Agreement may result in irreparable injury to a Party for which a remedy at law may be inadequate. In addition to any relief at law that may be available to a non-breaching Party for such a violation or breach, and regardless of any other provision contained in this Agreement, such Party shall be entitled to seek injunctive and other equitable relief and shall not be required to post any bond in connection therewith.

14.16 No Third-Party Beneficiaries

This Agreement is solely for the benefit of the Parties and their respective permitted successors and permitted assigns, and this Agreement shall not otherwise be deemed to confer upon or give to any other third party any remedy, claim, liability, reimbursement, cause of action or other right.

14.17 Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which constitute but one agreement. Any counterpart may be delivered by facsimile transmission or by electronic communication in portable document format (.pdf) or tagged image format (.tif), and the Parties agree that their electronically transmitted signatures shall have the same effect as manually transmitted signatures.

14.18 No Public Utility

Neither Party shall assert that Provider is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any Governmental Authority as a result of Provider's obligations or performance under this Agreement. If at any time as a result of any Change in Law, Provider would be subject to regulation as an electric utility or public service company (or its equivalent) by any Governmental Authority by virtue of this Agreement, Customer will use its best efforts to restructure this Agreement so that Provider will not be subject to such regulation (while preserving for both Parties the substantive economic benefits conferred hereunder).

14.19 No Recourse of Affiliates

This Agreement 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.

Notices

Unless otherwise provided in this Agreement, all notices and communications concerning this Agreement shall be in writing and addressed to the other Party as follows:

If to Provider:

Mendota Solar 1, LLC
c/o
William Bush
360 22nd Street, Suite 600
Oakland, CA 94612
(888) 898-6273
wbush@borregosolar.com

If to Customer:

Vince DiMaggio, City Manager
643 Quince Street
Mendota, CA 93640
(559) 655-4298
vincedimaggio@cityofmendota.com

With copy to:

Cristian Gonzalez, Public Works Director
643 Quince Street
Mendota, CA 93640
(559) 655-4298
Cristian@cityofmendota.com

or at such other address as may be designated in writing to the other Party. Unless otherwise provided herein, any notice provided for in this Agreement shall be hand-delivered, or sent by (a) registered or certified U.S. Mail, postage prepaid, (b) commercial overnight delivery service, or (c) facsimile or email attachment, and shall be deemed delivered to the addressee or its office when received at the address for notice specified above when hand-delivered, or upon confirmation of sending when sent by facsimile or email (if sent during normal business hours or the next Business Day if sent at any other time), on the Business Day after being sent when sent by overnight delivery service (Saturdays, Sundays and legal holidays excluded), or five (5) Business Days after deposit in the mail when sent by U.S. Mail. Customer shall deliver to any Financing Party, concurrently with delivery thereof to Provider, a copy of each notice of default given by Customer under this Agreement, inclusive of a reasonable description of Provider Default, and no such notice shall be effective absent delivery to the Financing Party. Customer shall not mutually agree with Provider to terminate this Agreement without the written consent of the Financing Party.

[Signature pages follow]

IN WITNESS WHEREOF intending to be legally bound hereby, the Parties have executed this Solar Power Services Agreement as of the Effective Date.

~~PROVIDER: Mendota Solar 1, LLC, ITS SOLE MEMBER~~

~~By: 1115 SOLAR DEVELOPMENT, LLC, its sole member and manager,~~

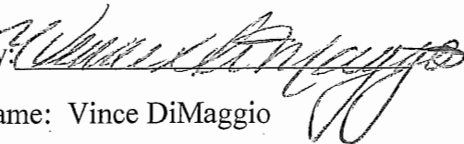
~~By: BORREGO SOLAR SYSTEMS, INC., its sole member and manager~~

~~By: _____~~

~~Name: William Bush~~

~~Title: Chief Financial Officer~~

BUYER: City of Mendota

By: 

Name: Vince DiMaggio

Title: City Manager

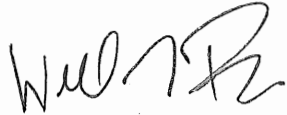
SIGNATURE PAGE TO SOLAR POWER SERVICES AGREEMENT

IN WITNESS WHEREOF intending to be legally bound hereby, the Parties have executed this Solar Power Services Agreement as of the Effective Date.

PROVIDER: Mendota Solar 1, LLC

By: 1115 SOLAR DEVELOPMENT, LLC, its sole member and manager,

By: BORREGO SOLAR SYSTEMS, INC., its sole member and manager

By: 

Name: William Bush

Title: Chief Financial Officer

~~BUYER: City of Mendota~~

~~By: _____~~

~~Name: Vince DiMaggio~~

~~Title: City Manager~~

SIGNATURE PAGE TO SOLAR POWER SERVICES AGREEMENT

SCHEDULES AND EXHIBITS

Schedule 1 – page 1
DESCRIPTION OF PROPERTY

The Property is located at **3699 Bass Avenue, Mendota CA 93640** and includes the real property at **APN 013-03-068**

Schedule 1 – page 2

[INSERT PROPERTY DEED; TBD]

Schedule 2 – page 1
SITE PLANS AND SYSTEM

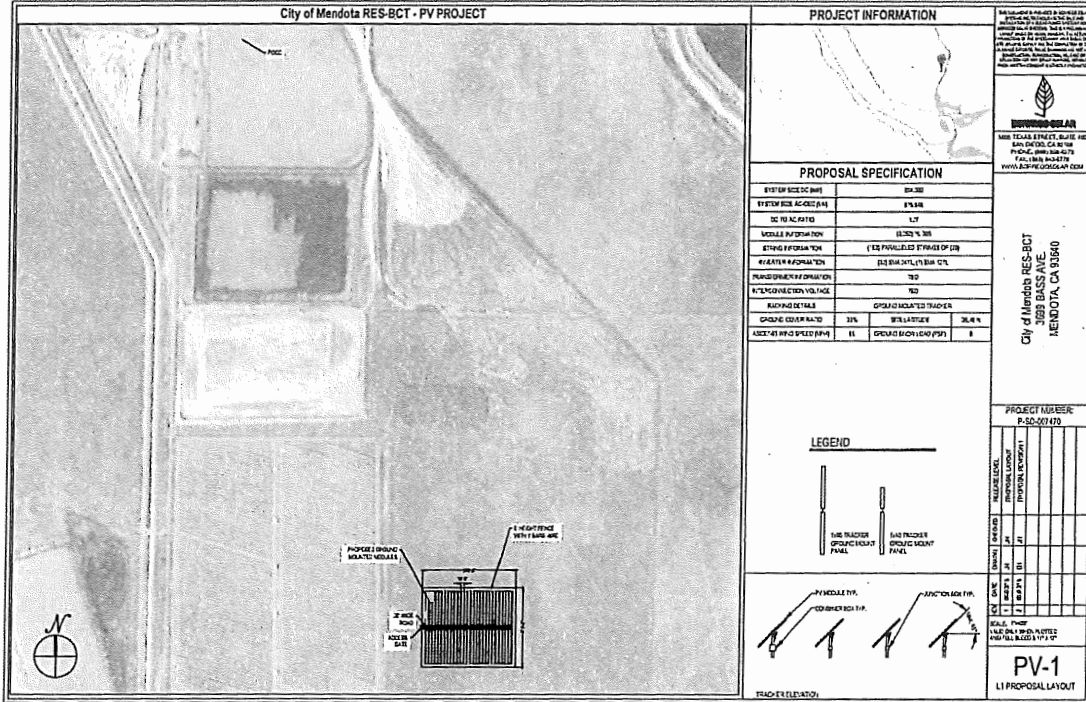
Site Plan:

Attach preliminary drawings of Engineer's approved Site Plans for grid-connected, ground-mount solar electric PV systems. As-built drawings to be provided upon completion and Commercial Operation Date, and amended to this Schedule, in accordance with Section 4.01.

System Details:

[SYSTEM EQUIPMENT AND EQUIPMENT COUNTS SUBJECT TO CHANGE AS DESIGN PROGRESSES]

Solar System Size:	994.3 kW DC
Estimated Year 1 Production:	2,085,300 kWh
Estimated Annual Degradation:	0.5%
Estimated Commercial Operation Date:	TBD: depending upon interconnection application, incentive requirements and permitting timeline
Modules:	Yingli 305 watt modules, or equivalent
Inverters:	SMA 24000TL-US string inverters, or equivalent
Racking:	Single-axis tracker (ATI or equivalent)
Warranty:	25-year power warranty on solar modules, including minimum annual production amount.
System Includes:	System components include: Solar panels, racking system, inverter system, wire kits, and data monitoring system. Design including: site visits, system drawings, engineering review and stamps (not including building structural review, if required). System commissioning. Interconnection application and permitting.



Schedule 3
kWh RATE

The kWh Rate with respect to the System contemplated in the Agreement shall be in accordance with the following schedule:

Year	PPA Rate (\$/kWh)
1	\$0.0930
2	\$0.0958
3	\$0.0987
4	\$0.1016
5	\$0.1047
6	\$0.1078
7	\$0.1110
8	\$0.1144
9	\$0.1178
10	\$0.1213
11	\$0.1250
12	\$0.1287
13	\$0.1326
14	\$0.1366
15	\$0.1407
16	\$0.1449
17	\$0.1492
18	\$0.1537
19	\$0.1583
20	\$0.1631

After year 20, during any Renewal Terms, the \$/kWh rate will escalate at the rate of 3% per annum.

Schedule 4
EARLY TERMINATION FEE COMPONENT

The Early Termination Fee with respect to a System under the Agreement shall include a lump sum payment calculated in accordance with the following schedule.

Early Termination Occurs in Year:	ETF Component Payment
1	\$3,321,929
2	\$3,169,650
3	\$3,016,389
4	\$2,858,961
5	\$2,696,928
6	\$2,529,811
7	\$2,510,102
8	\$2,484,226
9	\$2,451,572
10	\$2,411,477
11	\$2,363,220
12	\$2,306,021
13	\$2,239,035
14	\$2,161,343
15	\$2,071,953
16	\$1,969,787
17	\$1,853,678
18	\$1,722,362
19	\$1,574,472
20	\$1,408,525

FORM OF MEMORANDUM OF SOLAR POWER SERVICES AGREEMENT

MEMORANDUM OF SOLAR POWER SERVICES AGREEMENT

THIS MEMORANDUM OF SOLAR POWER SERVICES AGREEMENT (the “Memorandum”) is made effective as of [INSERT DAY/MONTH] 20__ (the “Effective Date”), between/among [INSERT SOLAR LLC], a Delaware limited liability company (“Provider”), and [INSERT CUSTOMER NAME], a California [INSERT ENTITY TYPE] (“Customer”). Provider and Customer are sometimes referred to individually as a Party and collectively as the Parties.

RECITALS

Customer is the fee simple owner of a certain tract of land more particularly described in Schedule 1, which is attached hereto and hereby incorporated herein (the “Property”), located in the County of Fresno, State of California; and Customer has entered into that certain Solar Power Services Agreement dated _____, ____ (the “Agreement”), with Provider, relating to the Property, which Agreement is for a term of twenty (20) years commencing on _____ and ending _____ which Agreement includes the right of Provider to install, operate and maintain on the Property an electric grid-connected photovoltaic solar power plant with a total generating capacity rated at approximately 994.3 kW DC owned by Provider (the “System”); and

The Agreement includes a grant of certain easements and other rights on and over portions of the Property including but not limited to an exclusive easement for the installation, operation and maintenance of the System on and over that portion of the Property described on Schedule 1 attached hereto and hereby incorporated herein as well as an easement to receive unobstructed sunlight; and

Customer and Provider desire to execute this Memorandum to give public record notice of the Agreement, Provider’s easement and other rights in and to the Property and Provider’s ownership of the System and appurtenances thereto.

NOTICE

This Memorandum is hereby executed for the purpose of recording in the office of the [Register of Deeds] [County Recorder] for _____ County, California in order to give public record notice of:

The Agreement and the terms and provisions set forth therein;

Schedule 5 – page 2

The existence of all easements and other rights granted to Provider in the Agreement relating to the Property;

Provider's ownership of and exclusive title to the System and appurtenances thereto; and

The prohibition on Customer or any person other than Provider granting or creating a lien or encumbrance on the System or any appurtenances thereto.

The provisions of this Memorandum do not in any way change or affect the terms, covenants and conditions of the Agreement, all of which terms, covenants and conditions shall remain in full force and effect.

[Signature page follows.]

CUSTOMER:

IN WITNESS WHEREOF, this Memorandum has been executed and delivered as of the day, month and year first above written.

CUSTOMER:

City of Mendota

[Handwritten Signature]
By: *[Handwritten Signature]*
Name Printed: Vince DiMaggio
Title: City Manager

PROVIDER:

[INSERT SOLAR LLC]

By:

Name Printed: William Bush

Title: Chief Financial Officer

State of California)

County of _____)

see attached

On _____ before me, _____

Date

insert name and title of the officer

personally appeared _____, who

Name of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Place Notary Seal Above

This instrument was drafted by and after recording should be returned to _____ of -----!

CUSTOMER:

IN WITNESS WHEREOF, this Memorandum has been executed and delivered as of the day, month and year first above written.

CUSTOMER:

City of Mendota

By:

Name Printed: Vince DiMaggio

Title: City Manager

PROVIDER:

[INSERT SOLAR LLC]

By:

Name Printed: William Bush

Title: Chief Financial Officer

State of California)

County of _____)

On _____ before me, _____

Date

insert name and title of the officer

personally appeared _____, who

Name of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Signature of Notary Public

Place Notary Seal Above

This instrument was drafted by and after recording should be returned to _____ of -----'

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


State of California
County of Fresno

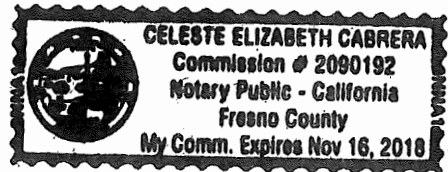
On October 16, 2015 before me, Celeste Elizabeth Cabrera, Notary Public
(insert name and title of the officer)

personally appeared Vincent Frank DiMaggio
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



Schedule 6
RESERVED

Schedule 7
ESTIMATED ANNUAL PRODUCTION AND GUARANTEED PRODUCTION

Year	Estimated Annual Production (kWh)	Guaranteed Production (%)	Guaranteed Production (kWh)
1	2,085,330	95%	1,981,043
2	2,074,903	95%	1,971,158
3	2,064,529	95%	1,961,302
4	2,054,206	95%	1,951,496
5	2,043,935	95%	1,941,738
6	2,033,715	95%	1,932,029
7	2,023,547	95%	1,922,369
8	2,013,429	95%	1,912,758
9	2,003,362	95%	1,903,194
10	1,993,345	95%	1,893,678
11			
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20			

BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
FIRST AMENDMENT TO SOLAR POWER
SERVICES AGREEMENT

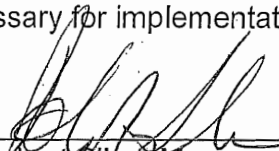
RESOLUTION NO. 16-46

WHEREAS, on October 13, 2015, the City Council for the City of Mendota adopted Resolution No. 15-72, which, *inter alia*, approved a Solar Power Services Agreement between the City of Mendota and Mendota Solar 1, LLC (the "Agreement"), and made certain findings in connection therewith; and

WHEREAS, following the adoption of Resolution 15-72, City of Mendota staff and Mendota Solar 1, LLC determined that certain provisions contained within the Agreement required modification and/or clarification, and have engaged in discussions concerning potential modifications to the Agreement; and

WHEREAS, following such discussions, City of Mendota staff and Mendota Solar 1, LLC prepared the proposed First Amendment to Solar Power Services Agreement, a copy of which is attached hereto as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Mendota approves the First Amendment to Solar Power Services Agreement, and authorizes the City Manager or his designee to execute the First Amendment to Solar Power Services Agreement, in the substantial for presented as Exhibit A, subject to such reasonable modifications, revisions, additions and deletions as he may approve prior to execution, and all other documents necessary for implementation of such services.

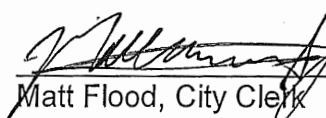


Robert Silva, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at the Mendota City Hall on the 28th day of June, 2016, by the following vote:

AYES: 3 – Mayor Silva, Councilors Castro and Riofrio.
NOES: 1 – Mayor Pro Tem Valdez.
ABSENT: 1 – Councilor Amador.
ABSTAIN: 0



Matt Flood, City Clerk



FIRST AMENDMENT TO SOLAR POWER SERVICES AGREEMENT

This First Amendment to Solar Power Services Agreement (this "Amendment"), dated as of June 28, 2016, is made by and between Mendota Solar 1, LLC, a Delaware limited liability company ("Provider") and the City of Mendota, a California municipality ("Customer").

RECITALS

A. Customer and Provider are party to that certain Solar Power Services Agreement effective as of October 16, 2015 (the "Agreement") under which Provider intends to install, maintain, own and operate a solar photovoltaic system for the purpose of providing solar services to Customer.

B. Customer and Provider desire to amend certain provisions of the Agreement as set forth herein.

WHEREFORE, in consideration of the premises and the terms and conditions set forth herein, the parties hereto, intending to be legally bound, agree as follows:

1. Terms. Capitalized terms that are not otherwise defined herein shall be deemed to have the same meanings as are ascribed to such terms in the Agreement.

2. Amendment. The following provisions of the Agreement are hereby amended:

(a) The definition of "Guaranteed Production Adjustment Causes" is hereby deleted in its entirety, and the following sentence is hereby substituted in its place: "**Guaranteed Production Adjustment Causes** means an adjustment to the Actual Annual Production of the System resulting from any of the following: (a) System failure or downtime attributable to damage to the System caused by third parties; (b) general utility outage or any failure of any electrical grid; (c) unauthorized or unexpected usage of the Property, or buildings at or near the Property, which may affect building permits, site permits and related requirements for the operation of the System, or that impact insolation striking the System; (d) a Force Majeure Event; (e) acts or omissions of Buyer or the Local Electric Utility; or (f) variations between Standard Insolation Conditions and the actual Solar Insulation at the Property in any applicable Contract Year. Notwithstanding the foregoing, in no event shall the Actual Annual Production of the System be adjusted for any reason resulting from any negligent or willful act by Provider or as a result of Provider's breach or failure to perform any obligation under this Agreement."

(b) The definition of "Lost Provider Revenues" is hereby deleted in its entirety, and the following sentence is hereby substituted in its place: "**Lost Provider Revenues** means, for any period during which the System is not in operation due to any Guaranteed Production Adjustment Causes or prevented from delivery due to any Guaranteed Production Adjustment Causes or prevented from delivering energy to the Delivery Point due to no fault of Provider, an amount equal to the sum of: (i) payments that Customer would have made to Provider hereunder for electric energy that would have been produced by the System during such period (based upon historical production data or as otherwise reasonably calculated by Provider); and (ii) revenues from Environmental Attributes, Tax

Attributes and/or under the Rebate program that Provider would have received with respect to electric energy that would have been produced by the System during such period.”

(c) Section 2.2(a) is hereby deleted in its entirety, and the following is hereby substituted in its place: **“During the first ten (10) Contract Years of the Initial Term (the “Guaranteed Production Period”), Provider shall guarantee minimum Actual Annual Production from the System, as adjusted for Guaranteed Production Adjustment Causes, equal to ~~eighty-ninety-five~~ percent (95%) of the estimated annual production set forth in Schedule 7, for the Contract Year in question (“Guaranteed Production”). The Guaranteed Production for each Contract Year during the Guaranteed Production Period is set forth in Schedule 7.”**

(d) Section 2.2(b) is modified by deleting the second sentence in its entirety, and the following sentence is hereby substituted in its place: **“To the extent that total Adjusted Annual Production for the applicable True-Up Period is less than the total Guaranteed Production for that same True-Up Period during the Guaranteed Production Period, then Provider shall credit Customer with a dollar amount equal to the product of the following formula:**

(i) **the difference between the applicable kWh Rate set forth in Schedule 3 hereto and the applicable PG&E RES-BCT Credit Value (which is \$0.152 per kWh for Contract Year 1)**

times

(ii) **the difference in kWh between the total Guaranteed Production for such True-Up Period minus the total Adjusted Annual Production for such True-Up Period;**

for the avoidance of doubt, for each year after Contract Year 1, the then current PG&E RES-BCT Credit Value (expressed in kWh) shall be used in subsection (i) of the formula.”

(e) Section 4.4 is modified to insert the following language between the third and fourth sentences in that section: **“Within fifteen (15) days of the termination of this Agreement for any cause, Provider, if a memorandum of this Agreement has been recorded, shall deliver a Quitclaim Deed or Release acceptable to Customer that relinquishes any and all right, title, and interest that Provider may have in and to the Property to Customer.”**

(f) Section 6.6 is modified by replacing the term “Section 6.07” with “Section 6.7.”

(g) Section 7.1. The first sentence of Section 7.1 is hereby deleted in its entirety and the following sentence is hereby substituted in its place: **“The initial term of this Agreement**

shall commence on the Effective Date and shall continue to apply for each Property for a period ending on the first December 31 following the twenty-fifth (25th) anniversary of the Commercial Operation Date of the System located on such Property (the "Initial Term"), unless terminated earlier pursuant to this Agreement."

(h) Section 11.4 is modified to insert the following language between the third and fourth sentences in that section: "Except as otherwise provided in this Agreement, Customer shall not be required to pay any amount, including, without limitation, payment for any Lost Provider Revenues, to Provider during the period of time that the System is not producing Solar Services, including during the time that the System is being substantially altered, reconstructed or restored by Provider under this Section 11.4."

(i) Section 14.14 is modified by replacing the word "parties" with "parties."

(j) Schedule 3. The original Schedule 3 is hereby deleted in its entirety and a revised Schedule 3 is hereby substituted in its place. A copy of the revised Schedule 3 is attached hereto as **Attachment 1**.

(k) Schedule 4. The original Schedule 4 is hereby deleted in its entirety and a revised Schedule 4 is hereby substituted in its place. A copy of the revised Schedule 4 is attached hereto as **Attachment 2**.

(l) Schedule 5. On page 1, in the Recitals section, the phrase "term of twenty (20) years" is hereby deleted and the following phrase is hereby substituted in its place: "**term of twenty-five (25) years**".

(m) Schedule 7. The original Schedule 7 is hereby deleted in its entirety and a revised Schedule 7 is hereby substituted in its place. A copy of the revised Schedule 7 is attached hereto as **Attachment 3**.

3. Governing Law. This Amendment and the rights and obligations of the parties shall be governed by, and construed and interpreted in accordance with, the laws of the State of California.

4. Counterparts. This Amendment may be executed in any number of counterparts, facsimile signature or an e-mail of a PDF signature, each of which shall be deemed an original, but all of the separate counterparts shall constitute the same agreement.

5. All Other Provisions Remain Unchanged. Except as specifically set forth in this Amendment, all other provisions of the Agreement shall remain unchanged and in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives and acknowledge that this Amendment is effective as of the date first above written.

CUSTOMER:

CITY OF MENDOTA

By: _____
Name:
Title:

PROVIDER:

MENDOTA SOLAR 1, LLC

By: 1115 Solar Development, LLC, its sole member and manager
By: Borrego Solar Systems, Inc., its sole member and manager

By: _____
Name: William J. Bush
Title: Chief Financial Officer

ATTACHMENT 1

Revised Schedule 3

Schedule 3

kWh RATE

The kWh Rate with respect to the System contemplated in the Agreement shall be in accordance with the following schedule:

Year	PPA Rate (\$/kWh)
1	\$0.105
2	\$0.108
3	\$0.111
4	\$0.115
5	\$0.118
6	\$0.122
7	\$0.125
8	\$0.129
9	\$0.133
10	\$0.137
11	\$0.141
12	\$0.145
13	\$0.150
14	\$0.154
15	\$0.159
16	\$0.164
17	\$0.168
18	\$0.174
19	\$0.179
20	\$0.184
21	\$0.190
22	\$0.195
23	\$0.201
24	\$0.207
25	\$0.213

After Year 25, during any Renewal Terms, the \$/kWh rate will escalate at the rate of 3% per annum.

ATTACHMENT 2

Revised Schedule 4

Schedule 4

EARLY TERMINATION FEE COMPONENT

The Early Termination Fee with respect to a System under the Agreement shall include a lump sum payment calculated in accordance with the following schedule.

Early Termination Occurs in Year:	ETF Component Payment
1	\$3,671,403
2	\$3,544,892
3	\$3,418,472
4	\$3,289,037
5	\$3,156,231
6	\$3,019,666
7	\$3,023,823
8	\$3,023,340
9	\$3,017,716
10	\$3,006,410
11	\$2,988,833
12	\$2,964,346
13	\$2,932,253
14	\$2,891,802
15	\$2,842,175
16	\$2,782,486
17	\$2,711,773
18	\$2,628,995
19	\$2,533,022
20	\$2,422,629
21	\$2,296,490
22	\$2,153,167
23	\$1,991,106
24	\$1,808,619
25	\$1,603,883

ATTACHMENT 3

Revised Schedule 7

Schedule 7

ESTIMATED ANNUAL PRODUCTION AND GUARANTEED PRODUCTION

Year	Estimated Annual Production (kWh)	Guaranteed Production (%)	Guaranteed Production (kWh)
1	1,981,035	95%	1,881,983
2	1,971,130	95%	1,872,573
3	1,961,274	95%	1,863,210
4	1,951,468	95%	1,853,894
5	1,941,710	95%	1,844,625
6	1,932,002	95%	1,835,402
7	1,922,342	95%	1,826,225
8	1,912,730	95%	1,817,094
9	1,903,167	95%	1,808,008
10	1,893,651	95%	1,798,968
11	1,884,182		
12	1,874,762		
13	1,865,388		
14	1,856,061		
15	1,846,780		
16	1,837,547		
17	1,828,359		
18	1,819,217		
19	1,810,121		
20	1,801,070		
21	1,792,065		
22	1,783,105		
23	1,774,189		
24	1,765,318		
25	1,756,492		

**BEFORE THE CITY COUNCIL
OF THE
CITY OF MENDOTA, COUNTY OF FRESNO**

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MENDOTA APPROVING
SECOND AMENDMENT TO SOLAR POWER
SERVICES AGREEMENT**

RESOLUTION NO. 17-22

WHEREAS, on October 13, 2015, the City Council for the City of Mendota adopted Resolution No. 15-72, which, *inter alia*, approved a Solar Power Services Agreement between the City of Mendota and Mendota Solar 1, LLC (the "Agreement"), and made certain findings in connection therewith; and

WHEREAS, on June 28, 2016, the City Council adopted Resolution 16-46, which approved the First Amendment to Solar Power Services Agreement between City of Mendota and Mendota Solar 1, LLC (the "First Amendment"), and made certain findings in connection therewith; and

WHEREAS, following the adoption of Resolution 16-46, City of Mendota staff and Mendota Solar 1, LLC determined that certain provisions contained within the Agreement required modification and/or clarification, and have engaged in discussions concerning potential modifications to the Agreement; and

WHEREAS, following such discussions, City of Mendota staff and Mendota Solar 1, LLC prepared the proposed Second Amendment to Solar Power Services Agreement, a copy of which is attached hereto as Exhibit "A"; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Mendota approves the Second Amendment to Solar Power Services Agreement, and authorizes the City Manager or his designee to execute the Second Amendment to Solar Power Services Agreement, in the substantial for presented as Exhibit "A," subject to such reasonable modifications, revisions, additions and deletions as he may approve prior to execution, and all other documents necessary for implementation of such services.

Rolando Castro, Mayor

ATTEST:

I, Matt Flood, City Clerk of the City of Mendota, do hereby certify that the foregoing resolution was duly adopted and passed by the City Council at a special meeting of said Council, held at the Mendota City Hall on the 28th day of February, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Matt Flood, City Clerk

SECOND AMENDMENT TO SOLAR POWER SERVICES AGREEMENT

THIS SECOND AMENDMENT TO SOLAR POWER SERVICES AGREEMENT (this “Amendment”) is entered into by and between Mendota Solar 1, LLC, a Delaware limited liability company (“Provider”) and City of Mendota, a California municipality (“Customer”) and is effective as of February __, 2017 (the “Effective Date”). Provider and Customer are sometimes referred to herein individually as, a “Party”, or collectively as, the “Parties”.

RECITALS

WHEREAS, Provider and Customer entered into that certain Solar Power Services Agreement dated as of October 16, 2015 and amended by the first amendment on June 28, 2016 (the “Agreement”).

WHEREAS, the Property is subject to various agreements, the interests under which may have been transferred among various known and unknown parties, governing oil, gas and/or mineral rights relating to the Property.

WHEREAS, the Parties now desire to amend the Agreement to provide that Customer will indemnify Provider for any liability arising out of such oil, gas and/or mineral rights.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree to amend the Agreement as follows:

1. Recitals; Terms. The Parties hereby agree that the Recitals above are true and accurate and are incorporated herein. All capitalized terms set forth herein shall have the same meaning as in the Agreement unless otherwise specifically set forth herein.
2. Amendment. The Parties agree that Section 6.8 of the Agreement is amended by adding the following language to the end of the section:

“Customer shall fully indemnify, save harmless and defend Provider from and against any and all costs, claims, and expenses incurred by Provider in connection with or arising from any claim resulting from or arising out of various agreements, the interests under which may have been transferred among various known and unknown parties, governing oil, gas and/or mineral rights relating to the Property (the “Mineral Rights”), including, without limitation, all costs (including, without limitation, Lost Provider Revenues), claims and expenses resulting therefrom, including those resulting from any modification, reconfiguration, removal or relocation of the System (as it relates to relocation, subject to Provider’s right to approve another location as set forth Section 6.13) and Customer shall pay Lost Provider Revenues during any period of the Term where all or a portion of the System is not in operation or prevented from delivering energy. In the event that Customer is required to provide access to the Property as a result of a claim by a holder (a “Claimant”) of any Mineral Rights (including, without limitation, the right to dig or take any invasive measures), to the maximum extent possible, Customer shall provide access to the Property in a manner that minimizes any interference with, or disruption to, the Site, the Easement and the operation and maintenance of the System, and will provide Claimant with access to portions of the Property other than the Site. Customer will also take such other reasonable steps required by Provider to minimize interference with or disruption to the System resulting from a Claimants enforcement of any Mineral Rights. Notwithstanding anything herein to the contrary, Customer’s failure to comply with this paragraph within thirty (30) days after Provider’s notice to Customer will be a Customer Default and Provider may avail itself of any of the remedies set forth in Section 9.2(b).”

3. Conflicts. Except as expressly modified herein, the terms and provisions of the Agreement shall remain in full force and effect. In case of any inconsistencies between the terms and conditions contained in the Agreement and the terms and conditions of this Amendment, the terms and conditions of this Amendment shall control.
4. Governing Law. This Amendment shall be governed by the laws of the State of California.
5. Authorization. The persons who have executed this Amendment represent and warrant that they are duly authorized to execute this Amendment in their individual or representative capacity as indicated.
6. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
7. Drafting Presumption. This Amendment has been and shall be construed to have been drafted by all Parties to it so that the rule of construing ambiguities against the drafter shall have no force or effect.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the Effective Date.

CUSTOMER:

CITY OF MENDOTA

By: _____

Name: _____

Its: _____

PROVIDER:

MENDOTA SOLAR 1, LLC

By: 1115 Solar Development, LLC, its sole member and manager

By: Borrego Solar Systems, Inc., its sole member and manager

By: _____

Name: _____

Its: _____

PUBLIC WORKS REPORT

TO: HONORABLE MAYOR AND COUNCILMEMBERS
FROM: CRISTIAN GONZALEZ, PUBLIC WORKS DIRECTOR
VIA: VINCE DIMAGGIO, CITY MANAGER
SUBJECT: PUBLIC WORKS MONTHLY REPORT
DATE: FEBRUARY 28, 2017

STREETS AND ROADS

- Street sweeping continues as usual. Contract sweeper also assisted in sweeping areas where heavy mud/silt build up from storm and flooding was becoming more prevalent. This will help minimize wear and tear to the city's sole street sweeper while addressing heavy duty sweeping conditions.
- Crews continue to address flooding around town. Monitoring of the Fresno Slough water levels continue, since it runs close to the community. Crews will be taking advantage of a break in the rain to prepare for the next storm system.
- Engineering is working on completing bid package for the 7th and Derrick Realignment Project. This work is scheduled to commence in the Spring.

PARKS AND PUBLIC BUILDINGS

- Public Works continues to maintain the parks for the community. Currently, due to the winter season, crews that normally maintain grounds are focusing on storm drain and flood prevention but will trim the taller grass and weeds when conditions allow.

DRINKING WATER

- Meter reads are complete.
- Maintenance on water treatment plant continues. A new VFD was installed, replacing an existing worn unit that was malfunctioning.
- Work continues on filter #2. The existing concrete base must be demolished, then after the concrete and structural steel are reinstalled the media will be carefully refilled.
- The city's Automated Water Meter conversion project continues to move forward. Staff is working with DWR to finalize the financial package.

WASTE WATER

- Monthly samples have been submitted.
- Crews continue to transfer water from semi-full ponds to shallow empty ponds to build up capacity.
- Waste Water Treatment Plant access roads will be graded. The storms have caused the access roads to weaken in some areas.

ANIMAL CONTROL

- Animals impounded: 28
- Animals euthanized: 25
- Animals redeemed by owner: 3
- Graffiti abated: 2
- Citations issued: 3

ADULT OFFENDER WORK PROGRAM

- AOWP continue working on public right of ways and alley weed abatement, including all tree-wells and City owned lots and the Pool Park.

BUILDING PERMITS ISSUED

- A list of new permits is attached to the report.

PLANNING

- No significant planning updates.

STAFFING FOR PUBLIC WORKS

- 14 full time employees
- 4 part time employees
- 2 Proteus employees

FUEL STOCK

- Unleaded: 2,251 gallons
- Diesel: 1,783 gallons

Permits Issued

Report Date Range : 01/21/2017 to 02/24/2017

Permit #	Type of Permit	Date Issued	Job Address
20170039	434(a) MAIN ELECTRICAL PANEL UPGRADE TO 100 AMPS(LIKE FOR LIKE)	1/23/2017	251 Black Ave
20170040	434(a) NEW PATIO 840 SQFT PER APPROVE PLAN	1/23/2017	400 Black Ave
20170041	437(b) 60 WATER HEATER CHANGE OUT (SEE ATTACHED LIST)	1/25/2017	242 TUFT ST
20170042	434(a) NEW PATIO 320 SQFT PER APPROVE PLANS	1/25/2017	990 Lolita St
20170043	434(a) PUTTING 5 FT OF PIPE	1/31/2017	412 Pucheu St
20170044	329(b) INSTALL PV SYSTEMS ROOF MOUNT 5.6KW 20 MODULES, 20 INVERTORS, MAIN PANEL UPGRADE	1/31/2017	418 L St
20170045	329(b) SOLAR INSTALLATION ON TILE ROOF PANEL UPGRADE 100-125	1/31/2017	257 Santa Cruz St
20170046	434(a) NEW PATIO 242 SQFT PER APPROVE PLAN	2/1/2017	412 MARTINEZ CT
20170047	437(a) MINI STORAGE 4 UNITS, ABCD PER APPROVED PLAN PER SETTLEMENT	2/1/2017	825 NAPLES ST
20170048	329(b) INSTALL "22" MODS/ "6.2" KW ROOF TYPE - CALP	2/2/2017	742 S Kate St
20170049	434(a) NEW PATIO 288 SQFT PER APPROVE PLAN	2/2/2017	124 Rowe Ave
20170050	434(a) ROOM EXTENSION 270 SQ FT PER APPROVED PLAN	2/2/2017	201 San Pedro St
20170051	434(a) UPGRADE ELECTRICAL METER PANEL FROM A 100 AMP TO A 200 AMP	2/8/2017	742 S Kate St
20170052	329(b) ROOFTOP P.V. INSTALLATION ON COMP SHINGLE 5.6 KW	2/8/2017	307 Blanco St
20170053	434(a) INSTALL THERMALSOLAR WATER HEATER	2/8/2017	691 PEACH Ave.
20170054	434(a) RE-ROOF TEAR-OFF EXISTING ROOF COMP 50 % FEE ADDED FOR WORK NO PERMIT	2/9/2017	812 S Kate St

Permits Issued

Report Date Range : 01/21/2017 to 02/24/2017

Permit #	Type of Permit	Date Issued	Job Address
20170055	329(b) SOLAR// 7.42 KW SYSTEM, 27 PANELS- ADDENDUM #3	2/15/2017	261 Pucheu St
20170056	437(a) INSTALLING ANTENNAS AND RADIO UNITS ON EXISTING LATTICE TOWER	2/15/2017	450 Oller St
20170057	437(b) INSTALL WATER HEATER (MOTEL OFFICE)	2/16/2017	1890 7th St
20170058	329(b) ROOF, SOLAR INSTALLATION 1610 SQFT PER APPROVED PLAN	2/16/2017	895 Belmont Ave
20170059	434(a) REPLACING POSTS FOR EXISTING PATIO	2/16/2017	1206 Oller St
20170060	434(a) CARPORT- REPLACING EXISTING 800 SQFT PER APPROVED PLAN PLUS 50% FEE- NO PERMIT	2/21/2017	791 Lolita St
20170061	434(a) RE-ROOF OVERLAY H&H WOOD SHINGLES- STANDING SEEM METAL ROOF 4200 SQFT	2/21/2017	1567 4th St
Total Number of Permits List		23	