



RANCHO MURIETA COMMUNITY SERVICES DISTRICT

15160 JACKSON ROAD
RANCHO MURIETA, CA 95683
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AGENDA

*“Your Independent Local Government Agency Providing
Water, Wastewater, Drainage, Security, and Solid Waste Services”*

REGULAR BOARD OF DIRECTORS MEETINGS ARE HELD
3rd Wednesday of Each Month

REGULAR BOARD MEETING

SEPTEMBER 16, 2015

Closed Session 4:30 p.m. ~ Open Session 5:00 p.m.

RMCS D Administration Building – Board Room

15160 Jackson Road

Rancho Murieta, CA 95683

BOARD MEMBERS

Gerald Pasek	President
Betty Ferraro	Vice President
Vacant	Director
Michael Martel	Director
Mark Pecotich	Director

STAFF

Darlene J. Gillum	General Manager
Greg Remson	Security Chief
Paul Siebensohn	Director of Field Operations
Eric Thompson	Controller
Suzanne Lindenfeld	District Secretary



**RANCHO MURIETA COMMUNITY SERVICES DISTRICT
REGULAR BOARD MEETING
SEPTEMBER 16, 2015**

Closed Session 4:30 p.m. ~ Open Session 5:00 p.m.

All persons present at District meetings will place their cellular devices in silent and/or vibrate mode (no ringing of any kind). During meetings, these devices will be used only for emergency purposes and, if used, the party called/calling will exit the meeting room for conversation. Other electronic and internet enabled devices are to be used in the "silent" mode. Under no circumstances will recording devices or problems associated with them be permitted to interrupt or delay District meetings.

AGENDA

RUNNING TIME

1. **CALL TO ORDER** - Determination of Quorum - President Pasek (**Roll Call**) 4:30
2. **ADOPT AGENDA** (**Motion**)
3. **SPECIAL ANNOUNCEMENTS AND ACTIVITIES**
4. **CLOSED SESSION** 4:35
Under Government Code 54956.9(d)(2): conference with legal counsel regarding anticipated litigation -- significant exposure to litigation involving one potential case.
5. **OPEN SESSION/REPORT BACK FROM CLOSED SESSION** 5:00
The Board will discuss items on this agenda, and may take action on those items, including informational items and continued items. The Board may also discuss other items that do not appear on this agenda, but will not act on those items unless action is urgent, and a resolution is passed by a two-thirds (2/3) vote declaring that the need for action arose after posting of this agenda.

*The running times listed on this agenda are only estimates and may be discussed earlier or later than shown. At the discretion of the Board, an item may be moved on the agenda and/or taken out of order. **TIMED ITEMS** as specifically noted, such as Hearings or Formal Presentations of community-wide interest, will not be taken up earlier than listed.*
6. **COMMENTS FROM THE PUBLIC** 5:05
Members of the public may comment on any item of interest within the subject matter jurisdiction of the District and any item specifically agendaized. Members of the public wishing to address a specific agendaized item are encouraged to offer their public comment during consideration of that item. With certain exceptions, the Board may not discuss or take action on items that are not on the agenda.

If you wish to address the Board at this time or at the time of an agenda item, as a courtesy, please state your name and address. Speakers presenting individual opinions shall have 3 minutes to speak. Speakers presenting opinions of groups or organizations shall have 5 minutes per group.

- 7. CONSENT CALENDAR (Motion) (Roll Call Vote) (5 min.)** 5:10
All the following items in Agenda Item 7 will be approved as one item if they are not excluded from the motion adopting the consent calendar.

 - a. Approval of September 2, 2015 Board Meeting Minutes
 - b. Bills Paid Listing
- 8. STAFF REPORTS (Receive and File) (5 min.)**

 - a. General Manager's Report
 - b. Administration/Financial Report
 - c. Security Report
 - d. Water/Wastewater/Drainage Report
- 9. CORRESPONDENCE**
- 10. PUBLIC HEARING – CONSIDER ADOPTING RESOLUTION APPROVING SOLAR POWER PURCHASE AGREEMENTS AND PERFORMANCE GUARANTEE AGREEMENTS WITH SOLARCITY CORPORATION AND MAKING RELATED FINDINGS REQUIRED BY GOVERNMENT CODE SECTION 4217.12 REGARDING THE INSTALLATION OF SOLAR GENERATING FACILITIES AT CERTAIN DISTRICT SITES** 5:15
(Time is approximate but will not be conducted before 5:00 p.m.)

 - a. Presentation by Michael Carpol, SolarCity and District Staff.
 - b. The Board President will open a public hearing for public comment on entering into the proposed Solar Power Purchase Agreements for the installation of solar generating facilities at certain District sites.
 - c. The Board President will close the public hearing.
 - d. Board Discussion/Approval of Resolution R2015-13, a Resolution Approving Solar Power Purchase Agreements and Performance Guarantee Agreements with SolarCity Corporation and making related Findings Required by Government Code Section 4217.12 for the Installation of Solar Generating Facilities at Certain District Sites. (Motion) (Roll Call Vote) (10 min.)
- 11. CONSIDER APPROVAL OF AN EXTENSION OF TERM OF THE 1995 REIMBURSEMENT AGREEMENT BETWEEN RANCHO MURIETA COMMUNITY SERVICES DISTRICT AND SHF ACQUISITION CORPORATION (Discussion/Action)** 5:25
(Motion) (Roll Call Vote) (10 min.)
- 12. CONSIDER APPROVAL OF RECYCLED WATER PROGRAM IMPLEMENTATION PLAN PROPOSAL (Discussion/Action) (Motion) (5 min.)** 5:35

- 13. CONSIDER SACRAMENTO LOCAL AGENCY FORMATION COMMISSION NOMINATIONS FOR SPECIAL DISTRICT REPRESENTATION FOR SPECIAL DISTRICT COMMISSIONER OFFICE NO. 6** (Discussion/Action) **(Motion)** (5 min.) 5:40
- 14. RECEIVE WATER TREATMENT PLANT EXPANSION PROJECT UPDATE** (Discussion/Action) (5 min.) 5:45
- 15. RECEIVE WATER CONSERVATION UPDATE** (Discussion/Action) (5 min.) 5:50
- 16. RECEIVE 2015 BOARD GOALS UPDATE** (Discussion/Action) (10 min.) 5:55
- 17. RECEIVE BRIEFING ON RANCHO MURIETA PARKS COMMITTEE MEETING** (Discussion/Action) (5 min.) 6:05
- 18. REVIEW AND SELECT CONFERENCE/EDUCATION OPPORTUNITIES** (Discussion/Action) **(Motion)** (5 min.) 6:10
- 19. REVIEW MEETING DATES/TIMES:**
Special Board Meeting: October 7, 2015 - open session at 6:00 p.m.
Regular Board Meeting: October 21, 2015 - open session at 5:00 p.m.
- 20. COMMENTS/SUGGESTIONS – BOARD MEMBERS AND STAFF** 6:15
In accordance with Government Code 54954.2(a), Directors and staff may make brief announcements or brief reports of their own activities. They may ask questions for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda.
- 21. ADJOURNMENT** **(Motion)** 6:20

"In accordance with California Government Code Section 54957.5, any writing or document that is a public record, relates to an open session agenda item and is distributed less than 72 hours prior to a regular meeting, will be made available for public inspection in the District offices during normal business hours. If, however, the document is not distributed until the regular meeting to which it relates, then the document or writing will be made available to the public at the location of the meeting."

Note: This agenda is posted pursuant to the provisions of the Government Code commencing at Section 54950. The date of this posting is September 11, 2015. Posting locations are: 1) District Office; 2) Plaza Foods; 3) Rancho Murieta Association; 4) Murieta Village Association.



RANCHO MURIETA COMMUNITY SERVICES DISTRICT

Board of Directors Special Meeting

MINUTES

September 2, 2015

5:30 p.m. Closed Session ~ 6:00 p.m. Open Session

1. CALL TO ORDER/ROLL CALL

President Gerald Pasek called the special meeting of the Board of Directors of Rancho Murieta Community Services District to order at 5:30 p.m. in the District meeting room, 15160 Jackson Road, Rancho Murieta. Directors present were Gerald Pasek, Betty Ferraro, Mark Pecotich, and Michael Martel. Also present were Darlene J. Gillum, General Manager; Greg Remson, Security Chief; Eric Thompson, Controller; Paul Siebensohn, Director of Field Operations; Suzanne Lindenfeld, District Secretary; and Richard Shanahan, General Counsel.

2. ADOPT AGENDA

Motion/Ferraro to adopt the agenda. **Second/Pecotich. Ayes: Pasek, Ferraro, Martel, Pecotich. Noes: None. Absent: None. Abstain: None.**

3. SPECIAL ANNOUNCEMENTS AND ACTIVITIES

None.

4. BOARD ADJOURNED TO CLOSED SESSION AT 5:31 P.M. TO DISCUSS THE FOLLOWING ITEMS

Under Government Code 54956.9(d)(2): conference with legal counsel regarding anticipated litigation - significant exposure to litigation involving one potential case.

5. BOARD RECONVENED TO OPEN SESSION AT 5:02 P.M. AND REPORTED THE FOLLOWING:

Under Government Code 54956.9(d)(2): conference with legal counsel regarding anticipated litigation - significant exposure to litigation involving one potential case. Nothing to report back.

6. COMMENTS FROM THE PUBLIC

Myrna Solomon, Lago Drive, commented on her concern with what the developers meant when they used the word "Ranchettes"; does that mean there will be horses on the properties?

7. CONSENT CALENDAR

Motion/Ferraro to adopt the consent calendar. **Second/Pecotich. Roll Call Vote: Ayes: Pasek, Ferraro, Martel, Pecotich. Noes: None. Abstain: None.**

8. CORRESPONDENCE

Director Pecotich suggested an official response to the correspondences from SOLOS and Mr. & Mrs. Summersett be sent. By consensus, the Board agreed.

9. DISCUSS AUGUST 21, 2015 DEVELOPER PRESENTATION TO THE BOARD CONCERNING THE PROPOSED RANCHO MURIETA NORTH DEVELOPMENT PROJECT

President Pasek stated that the responses to the questions submitted by the public at the August 21, 2015 Board meeting will be posted on the District's website and will be updated as more questions come in. Ad hoc committees will be formed when needed and each one will address a

specific topic. Darlene Gillum stated that ad hoc committees are subject to Brown Act requirements. Steve Murphy suggested the District get input from Rancho Murieta Association (RMA) regarding forming any ad hoc committee.

Cheryl McElhany requested an ad hoc committee be formed to discuss using the Water Augmentation Funds for purchasing land around the reservoirs instead of drilling wells or deepening the current reservoirs. President Pasek stated that the community could get together and buy the land.

President Pasek stated the first thing would be for Richard Shanahan, District Legal Counsel, to provide a legal opinion on whether or not the District can legally use the Augmentation Funds for purchasing land.

Linda Kline commented on the developer presentation and her concern with the developers letting in so many people before the doors were opened for the public. Darlene Gillum stated that no one from the District staff was appointed to monitor who the developers let in.

Darlene explained that August 21, 2015 was the first date that everyone involved in the presentation was available. An attempt to have the meeting held at Rancho Murieta Country Club (RMCC) was made but RMCC did not have anything available on the date and time needed.

Director Martel commented on the developer presentation was to the District Board of Directors, not a town hall meeting.

Linda Kline commented on her concerns with testing being done regarding asbestos. Darlene stated that testing for asbestos is part of the CEQA process.

Director Martel commented on his personal opinion that the District was not being truthful with Brad Sample back in 2006/2007 regarding his concerns about the asbestos.

President Pasek stated that the new filtration system will remove any asbestos that may possibly be in the water. Cheryl stated that Brad Sample will disagree with that and this matter will be brought up again.

Director Pecotich thanked everyone for their input on the responses.

10. CONSIDER APPROVAL OF AN EXTENSION OF TERM OF THE 1995 REIMBURSEMENT AGREEMENT BETWEEN RANCHO MURIETA COMMUNITY SERVICES DISTRICT AND SHF ACQUISITION CORPORATION

Richard Shanahan, District Legal Counsel, stated that this item is being deferred to the September 16, 2015 Board meeting to allow time for review of the letter received today from Sedgewick, LLP on behalf of MAR Investment One Company, Inc.

11. DISCUSS MIDGE FLIES AT LAGUNA JOAQUIN

Mary Brennan commented on her concern with the midge flies this year, the normal treatments are not working, and her concern that they could spread to the other reservoirs. She suggested

dredging Laguna Joaquin. Paul Siebensohn stated that due to the drought, the heat and stagnant water, the midge fly population is worse this year. Dredging will not solve the problem as the midges will simply repopulate on the surrounding soil or sediment remaining.

Darlene Gillum stated she has reached out to UC Davis' Entomology Department to inquire if there may be any interest in using the Laguna Joaquin midge fly issue as a student research project but has received no response back. She will follow up with a letter to them.

President Pasek commented on RMA addressing this issue as it is above the water, which is their responsibility. President Pasek asked about spraying pesticide to help with the problem. Paul stated pesticides are not recommended due to environmental concerns and are not allowed per regulations.

Paul Siebensohn stated the best option may be to remove the fish population in Laguna Joaquin and replace them with mosquito fish. This is currently being done at the wastewater treatment ponds; it works well, and creates no regulatory issues. This would take outreach and buy in with the community.

Dean Byer commented on how the midge flies impact daily lives of residents, the fish don't. He also commented on how there should be only one Board over all of the community.

12. CONSIDER APPROVAL OF THE 2016 WATERSMART - TITLE XVI WATER RECLAMATION PROPOSAL FOR PROFESSIONAL SERVICES

Paul Siebensohn gave a brief summary of the recommendation to approve the proposal from AECOM to pursue grant funding from the US Bureau of Reclamation's WaterSMART: Title XVI Water Reclamation and Reuse Program Funding (Tile XVI) as a potential source to supplement the implementation of the District's recycled water service program.

Tom Guinn, from AECOM, stated that the grants provide 25% matching grant funds for quality recycled water project. Since the District received grant money for the Feasibility Study, the Bureau of Reclamation stated they have a vested interest in the District. Tom stated he feels there is a 75% chance of the District receiving funds.

Director Martel commented on how this item was voted down last month and he feels he does not have enough information at this time to vote for it.

Motion/Pecotich to approve proposal from AECOM to provide professional services for the 2016 WaterSMART - Title XV1 Water Reclamation Funding, in an amount not to exceed \$24,084. Funding to come from Water Supply Augmentation Reserves. **Second/Pasek. Ayes: Pasek, Ferraro, Pecotich. Noes: Martel. Absent: None. Abstain: None.**

13. CONSIDER APPROVAL OF RECYCLED WATER PROGRAM IMPLEMENTATION PROPOSAL

Paul Siebensohn gave a brief summary of the recommendation to approve the proposal from AECOM for development of a recycled water program implementation plan. Tom Guinn, from AECOM, stated that he and Paul have been meeting with the developers on a regular basis to determine needed recycled water use for wastewater disposal needs.

Director Martel stated that since there was no committee meetings this month, he has not had enough time to review the item. Director Martel asked when the Board packet was sent out to the Directors. Suzanne stated it was sent out Friday afternoon.

President Pasek stated that this Special Board meeting is in place of the committee meetings so the entire Board can have input and ask questions about any of the items on the agenda.

Director Ferraro suggested this item be continued to the September 16, 2015 Board meeting to allow the Board more time to review the item.

Motion/Pecotich to approve proposal from AECOM for development of a recycled water program implementation plan, in an amount not to exceed \$52,889, which includes a 5% contingency. Funding for Tasks 1, 2, 4, and 5, in the amount of \$42,638, to come from Sewer Reserves and Task 3, in the amount of \$10,251, to come from Developer Facility Extension funds. **Second/Pasek. Ayes: Pasek, Pecotich. Noes: Ferraro, Martel. Absent: None. Abstain: None.**

This item will be deferred to the September 16, 2015 Board meeting.

14. CONSIDER APPROVAL OF PAYMENT MADE TO TNT INDUSTRIAL CONTRACTORS FOR ADDITIONAL COSTS OF DRAIN VALVE INSTALLATION

Motion/Martel to approve payment of the additional invoices paid to TNT Industrial Contractors, Inc., related to the Chesbro Reservoir Drain Valve Replacement Project, in an amount not to exceed \$7,097.22. Funding to come from Water Replacement Reserves. **Second/Pecotich. Ayes: Pasek, Ferraro, Martel, Pecotich. Noes: None. Absent: None. Abstain: None.**

15. RECEIVE UPDATE CONCERNING PROPOSED SOLAR POWER PURCHASE AGREEMENT

Darlene Gillum stated that she and Richard Shanahan have reviewed the draft Purchase Agreement and provided comments back to Michael Carpol. The goal is to have the final agreement to the Board at the September 16, 2015 Board meeting for review and approval.

Director Ferraro commented on her concerns with SolarCity due to their many lawsuits in Arizona regarding residential leases. Richard Shanahan stated that the District is not entering into a lease but a purchase agreement. SolarCity will be responsible for the maintenance of their equipment.

16. RECEIVE TEMPORARY WATER FILTRATION DECOMMISSIONING UPDATE

Paul Siebensohn gave a brief update on the temporary water filtration decommissioning. The temporary filtration system is scheduled to go offline September 11, 2015. Once offline, the electrical contractor can conduct the necessary work on the electrical. Decommissioning leaves the District with the sole capacity of Plant #2, rated at a nominal capacity of 2 million gallons per day.

17. REVIEW MEETING DATES AND TIMES

Director Pecotich stated that a Parks Committee meeting has been scheduled for September 8, 2015. Darlene Gillum stated that a Security ad hoc committee meeting has been scheduled for September 3, 2015.

18. COMMENTS FROM THE PUBLIC

Chief Remson commented on the fatality car accident and reminded everyone to wear seatbelts and pay attention to the road.

Eric Thompson stated that the audit is going well.

Director Martel commented on wanting to applaud Chief Remson on the savings on gas by having staff not leave vehicles running when they are not in them and his concern that patrol needs to be increased in the evenings to better catch, stop, and prevent vandalism in the community.

John Sullivan stated that on September 9, 2014, activity at the hotel site will begin at 4:00 a.m. Coffee and donuts will be available.

President Pasek commented on the need to not quibble over little things and to take into account the reward when contemplating the risk.

Director Ferraro commented on staff working on the pipes and that someone put a cone out without CSD written on it.

Director Pecotich asked about the candidates for the Director position. Darlene stated that two (2) letters of interest have been received so far.

19. ADJOURNMENT

Motion/Ferraro to adjourn at 8:12 p.m. **Second/Pecotich. Ayes: Pasek, Ferraro, Martel, Pecotich. Noes: None. Absent: None. Abstain: None.**

Respectfully submitted,

Suzanne Lindenfeld
District Secretary

MEMORANDUM

Date: September 10, 2015
To: Board of Directors
From: Eric Thompson, Controller
Subject: Bills Paid Listing

Enclosed is the Bills Paid Listing Report for **August 2015**. Please feel free to call me before the Board meeting regarding any questions you may have relating to this report. This information is provided to the Board to assist in answering possible questions regarding large expenditures.

The following major expense items (excluding payroll-related items) are listed *in order as they appear* on the Bills Paid Listing Report:

Vendor	Project/Purpose	Amount	Funding
Bartkiewicz, Kronick & Shanahan	Legal Services	\$7,973.39	Operating Expense
California Waste Recovery Systems	Solid Waste Monthly Contract	\$45,912.45	Operating Expense
County of Sacramento	Quarterly Waste Disposal Fee	\$8,756.02	Operating Expense
County of Sacramento	Annual WTP Permit	\$6,405.00	Operating Expense
Groeniger & Company	Water & Sewer Repair Supplies	\$7,037.18	Operating Expense
Roebbelen Construction Management	WTP Expansion	\$370,812.69	Construction Acct Funding, Bonds, Letter of Credit
GE Mobile Water Inc	WTP Expansion Temp Filtration	\$39,690.00	Operating Expense
HDR Engineering, Inc	WTP Expansion	\$7,573.34	Construction Acct Funding, Bonds, Letter of Credit
S. M. U. D.	Monthly Bill	\$28,633.34	Operating Expense

Rancho Murieta Community Services District

Bills Paid Listing for August 2015

Ck Number	Date	Vendor	Amount	Purpose
CM29843	8/3/2015	California Public Employees' Retirement Sys	\$33,131.88	Payroll
CM29844	8/3/2015	Guardian Life Insurance	\$4,910.13	Payroll
CM29845	8/3/2015	Vision Service Plan (CA)	\$482.36	Payroll
EFT	8/3/2015	EFTPS	\$9,820.87	Payroll
CM29846	8/14/2015	A Leap Ahead IT	\$3,585.07	Monthly IT Service
CM29847	8/14/2015	Aestiva Software, Inc.	\$1,146.75	Annual Support
CM29848	8/14/2015	American Family Life Assurance Co.	\$544.11	Payroll
CM29849	8/14/2015	Shirley Anderson	\$100.00	HWRP Rebate
CM29850	8/14/2015	Aramark Uniform & Career Apparel, LLC	\$244.26	Uniform Service - Water
CM29851	8/14/2015	ASR - Sacramento Uniform	\$296.95	Uniform - Security
CM29852	8/14/2015	Bartkiewicz, Kronick & Shanahan	\$7,973.39	Legal Services
CM29853	8/14/2015	Bay Area Coating Consultant Services. Inc.,	\$2,940.00	WTP #1 Expansion
CM29854	8/14/2015	Borges & Mahoney	\$842.67	Maint & Rpr supplies
CM29855	8/14/2015	Michael Burnett	\$100.00	WPRV Rebate
CM29856	8/14/2015	California Public Employees' Retirement Sys	\$8,579.00	Payroll
CM29857	8/14/2015	California Public Employees' Retirement Sys	\$20,334.93	Payroll
CM29858	8/14/2015	California Special Districts Association	\$575.00	Board Secretary/ Clerk Conf SL
CM29859	8/14/2015	California Waste Recovery Systems	\$45,912.45	Solid Waste Monthly Contract
CM29860	8/14/2015	Loretta Chamberlain	\$100.00	WPRV Rebate
CM29861	8/14/2015	Capital One Commercial	\$996.75	Monthly Supplies
CM29862	8/14/2015	County of Sacramento	\$2,574.80	Off-Duty Sheriff's Program
CM29863	8/14/2015	County of Sacramento	\$8,756.02	Qtr Waste Disposal
CM29864	8/14/2015	County of Sacramento	\$6,405.00	Annual Permit WTP
CM29865	8/14/2015	Employment Development Department	\$2,548.37	Payroll
CM29866	8/14/2015	Folsom Lake Fleet Services	\$257.58	Vehicle Service
CM29867	8/14/2015	Groeniger & Company	\$7,037.18	Maint & Rpr Supplies
CM29868	8/14/2015	Hach Company	\$77.23	Chemicals
CM29869	8/14/2015	Hastie's Capitol Sand and Gravel Co.	\$756.01	AB road base/Fill Sand
CM29870	8/14/2015	Scott Keplinger	\$100.00	Toilet Rebate
CM29871	8/14/2015	Legal Shield	\$55.63	Payroll
CM29872	8/14/2015	Lund Construction	\$950.00	Fire Hydrant Refund
CM29873	8/14/2015	Nationwide Retirement Solution	\$861.00	Payroll
CM29874	8/14/2015	Operating Engineers Local Union No. 3	\$576.00	Payroll
CM29875	8/14/2015	William Overhauser	\$100.00	HWRP Rebate
CM29876	8/14/2015	Professional Lock & Safe, Inc.	\$697.12	Service Call - Door Repair
CM29877	8/14/2015	Rancho Murieta Ace Hardware	\$449.64	Monthly Supplies
CM29878	8/14/2015	Rancho Murieta Association	\$417.17	SMUD - N Gate
CM29879	8/14/2015	Scott Rau	\$100.00	WBSC Rebate
CM29880	8/14/2015	Regional Water Authority	\$4,555.00	GM Workshop
CM29881	8/14/2015	Roebbelen Construction Management Services	\$370,812.69	WTP #1 Expansion

Rancho Murieta Community Services District

Bills Paid Listing for August 2015

Ck Number	Date	Vendor	Amount	Purpose
CM29882	8/14/2015	Victor Rogers	\$200.00	Toilet Rebate
CM29883	8/14/2015	Sacramento Bee	\$525.16	Ad Utility Worker I
CM29884	8/14/2015	Sierra Chemical Co.	\$1,551.08	Chlorine
CM29885	8/14/2015	George Sims	\$100.00	WPRV Rebate
CM29886	8/14/2015	Somach, Simmons & Dunn	\$1,903.50	Legal Consulting - Solar
CM29887	8/14/2015	Sprint	\$1,322.25	Monthly Cell Phone Bill
CM29888	8/14/2015	State of California	\$32.00	Fingerprint - New Employee
CM29889	8/14/2015	TASC	\$122.69	Payroll
CM29890	8/14/2015	TelePacific Communications	\$524.74	Monthly Phone Bill
CM29891	8/14/2015	Eric Thompson	\$100.00	Toilet Rebate
CM29892	8/14/2015	U.S. Bank Corp. Payment System	\$4,276.10	Monthly Gasoline Bill
EFT	8/17/2015	EFTPS	\$9,976.79	Payroll
EFT	8/25/2015	Pitney Bowes	\$1,500.00	Postage Machine Refill
CM29893	8/28/2015	Action Cleaning Systems	\$1,172.00	Monthly Cleaning Service
CM29894	8/28/2015	American Family Life Assurance Co.	\$544.11	Payroll
CM29895	8/28/2015	Aramark Uniform & Career Apparel, LLC	\$83.13	Uniform Service - Water
CM29896	8/28/2015	Aramark Uniform & Career Apparel, LLC	\$194.22	Uniform Service - Water
CM29897	8/28/2015	AT&T	\$100.00	Monthly Internet Bill - Admin
CM29898	8/28/2015	AT&T	\$90.79	Monthly Phone Bill
CM29899	8/28/2015	AT&T	\$1,111.54	Monthly Phone Bill
CM29900	8/28/2015	Borges & Mahoney	\$860.06	Maint & Rpr: Supplies
CM29901	8/28/2015	California Laboratory Services	\$2,675.40	Monthly Lab Tests
CM29902	8/28/2015	Caltronics Business Systems	\$1,988.87	Copier - Admin.
CM29903	8/28/2015	Chemtrade Chemicals US LLC	\$2,340.97	Liquid Aluminum
CM29904	8/28/2015	County of Sacramento	\$27.00	Live Scan - New Employee
CM29905	8/28/2015	Daily Journal Corporation	\$222.00	Public Notice: Teeter
CM29906	8/28/2015	Employment Development Department	\$2,401.19	Payroll
CM29907	8/28/2015	Express Office Products, Inc.	\$725.27	Office Supplies
CM29908	8/28/2015	Ford Motor Credit Company LLC	\$234.78	2012 Ford Escape Lease Pmt.
CM29909	8/28/2015	Galls/Quartermaster	\$43.50	Accumold Universal Radio Holder
CM29910	8/28/2015	GE Mobile Water Inc.	\$39,690.00	WTP1 Expansion Temporary Filtration
CM29911	8/28/2015	GM Crane Services, Inc	\$450.00	Quarterly Crane Inspection
CM29912	8/28/2015	Greenfield Communications	\$142.97	Internet/TV
CM29913	8/28/2015	Groeniger & Company	\$4,561.92	Maint & Rpr: Supplies
CM29914	8/28/2015	Hach Company	\$942.44	Maint & Rpr: Supplies
CM29915	8/28/2015	HDR Engineering, Inc	\$7,573.34	WTP1 Expansion
CM29916	8/28/2015	Legal Shield	\$55.63	Payroll
CM29917	8/28/2015	Marquee Fire Protection	\$1,815.00	5 yr Inspection/Repair
CM29918	8/28/2015	Nationwide Retirement Solution	\$861.00	Payroll
CM29919	8/28/2015	Operating Engineers Local Union No. 3	\$576.00	Payroll

Rancho Murieta Community Services District

Bills Paid Listing for August 2015

Ck Number	Date	Vendor	Amount	Purpose
CM29920	8/28/2015	Public Agency Retirement Services	\$300.00	Payroll
CM29921	8/28/2015	Rancho Murieta Association	\$150.00	Landscaping
CM29922	8/28/2015	S. M. U. D.	\$28,633.34	Monthly Bill
CM29923	8/28/2015	S. M. U. D.	\$4,250.00	Prepayment RWA HECW Rebates
CM29924	8/28/2015	Sacramento Local Agency Formation Commissio	\$1,004.00	LAFCO Assessment 2015-16
CM29925	8/28/2015	Sierra Office Supplies	\$438.48	Dispatch Forms
CM29926	8/28/2015	Somach, Simmons & Dunn	\$2,673.50	Legal Consulting for solar
CM29927	8/28/2015	TASC	\$63.25	Payroll
CM29928	8/28/2015	TASC	\$122.69	Payroll
CM29929	8/28/2015	USA Blue Book	\$2,323.89	D-Chlor Tablets
CM29930	8/28/2015	W.W. Grainger Inc.	\$822.02	Maint & Rpr: Supplies
CM29931	8/28/2015	Western Exterminator Co.	\$527.00	Mthly Srv & Rodent Control
CM29932	8/28/2015	Wilbur-Ellis Company	\$3,493.58	Vectobar/SeClear
EFT	8/31/2015	EFTPS	\$9,788.03	Payroll
		TOTAL	\$698,910.23	
		<u>CFD#1 Bank of America Checking</u>		
		<i>NO TRANSACTIONS IN AUGUST</i>		
		TOTAL	\$0.00	
		<u>CFD 2014-1 Bank of America Checking</u>		
CM2007	8/14/2015	Corelogic Solutions, LLC	\$165.00	CFD 2014-1 Adm Cost
CM2008	8/14/2015	NBS	\$757.92	CFD 2014-1 Admin Costs
		TOTAL	\$922.92	
		<u>EL DORADO PAYROLL</u>		
Checks: # CM11338 to CM11346 and Direct Deposits: DD08253 to DD08316			\$ 113,664.02	Payroll
EFT	8/31/2015	National Payment Corp	\$133.82	Payroll
		TOTAL	\$113,797.84	

MEMORANDUM

Date: September 11, 2015
To: Board of Directors
From: Darlene J. Gillum, General Manager
Subject: General Manager's Report

Following are highlights since our last Board Meeting:

BOARD VACANCY

We received four (4) letters of interest in the Director vacancy. One of the four may be disqualified because their letter of interest was incomplete (the list of questions were not answered and attached to their letter). The candidates will be interviewed by the Board at the October 7, 2015 Special Board Meeting.

FINANCE/IT

The District's auditor, Larry Bain, was on-site performing fieldwork from September 1, 2015 through September 4, 2015. Eric worked closely with Larry during the week answering follow-up questions and providing supporting reconciliation schedules. All reports are that the audit is progressing smoothly with no red flags of note. Larry expressed that Eric has a very good handle on fund accounting and praised Eric's Excel skills in preparing audit schedules and documentation.

SECURITY

The Security Ad Hoc committee met on September 10, 2015 to discuss the Gate Policy, Security Impact Fee Policy, and the Surveillance Camera Plan. The recommendations from the committee will be presented at the October 7, 2015 meeting since Director Martel will not be attending the September 16, 2015 Board meeting.

WATER

In August, the community's residential gallons per capita per day (R-GPCD) usage was 239 gallons; an increase of 12.2% over July's R-GPCD. However, year to date conservation through August as compared to the same period in 2013 is 31%.

WASTEWATER

We are continuing to provide reclaimed water to the Country Club for golf course irrigation. In addition, staff is preparing to provide recycled water to the Van Vleck ranch to maintain our easement agreement and to draw down secondary storage levels to accommodate winter inflows.

DRAINAGE

Paul is working on the proposal to replace the fish in Laguna Joaquin with Mosquito Fish in an attempt to control the Midge population. This method of control has proven successful at the Waste Water Treatment ponds.

DEVELOPMENT

Maddaus Water Management is working on the Water Supply Assessment requested by the County and required by SB610. Lisa Maddaus and I have a status meeting scheduled for Tuesday, September 15, 2015.

Sacramento County has released notification of the initial distribution of the Rancho Murieta North development proposal, project number PLNP2014-00206. Comments are due by October 10, 2015.

MEMORANDUM

Date: September 11, 2015
 To: Board of Directors
 From: Eric Thompson, Controller
 Subject: Administration / Financial Reports

Enclosed is a combined financial summary report for **August 2015**. Following are highlights from various internal financial reports. Please feel free to call me before the Board meeting regarding any questions you may have relating to these reports.

This information is provided to the Board to assist in answering possible questions regarding under or over-budget items. In addition, other informational items of interest are included.

Water Consumption - Listed below are year-to-date water consumption numbers using weighted averages:

		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
	12 month rolling % increase												
Residences	0.1%	2,517	2,517										
Weighted average		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Cubic Feet	1,961	1,854	2,068										
Gallons per day	489	462	516										
Planning Usage GPD	583												

Lock-Offs – For the month of August, there were 15 lock-offs.

Aging Report – Delinquent accounts totaled \$50,321 which was 8.84% of the total accounts receivable balance of \$569,158. Past due receivables decreased approximately 24.74% or \$16,543. This decrease was largely due to the removal of delinquent accounts and the submission of these accounts to Sacramento County for collection under the Teeter Plan.

Summary of Reserve Accounts as of August 31, 2015 – The District’s reserve accounts have decreased (\$312,422) since the beginning of the fiscal year. The WTP#1 Construction Fund had a negative (\$169K) balance as of August 31, 2015. Staff submitted a demand request in July to the developer for \$1,036,793 to cover their share of project expenses. This demand was received by the District on September 1, 2015. Had this demand been received during the month of August the WTP#1 Construction Fund would have had a balance of \$867,844. The total amount of reserves held by the District on August 31, 2015 was \$4,240,345. See the Reserve Fund Balances table below for information by specific reserve account.

Reserve Fund Balances (beginning balances adjusted for WTP Construction Fund)

<i>Reserve Descriptions</i>	<i>Fiscal Yr Beg Balance July 1, 2015</i>	<i>YTD Collected & Interest Earned</i>	<i>YTD Spent</i>	<i>Period End Balance Aug 31, 2015</i>
Water Capital Replacement (200-2505)	671,239	35,340	(0)	706,579
Sewer Capital Replacement (250-2505)	1,475,914	58,140	(0)	1,534,054
Drainage Capital Replacement (260-2505)	46,370	0	(0)	46,370
Security Capital Replacement (500-2505)	20,602	7,968	(3,952)	24,618
Admin Capital Replacement (xxx-2505-99)	38,386	0	(0)	38,386
Sewer Capital Improvement Connection (250-2500)	4,028	0	(0)	4,028
Capital Improvement (xxx-2510)	291,453	5,010	(0)	296,463
Water Supply Augmentation (200-2511)	1,751,059	7,737	(0)	1,758,796
WTP Construction Fund Reserve (200-2513)	253,716	31,159	(453,824)	(168,949)
<i>Total Reserves</i>	<i>4,552,767</i>	<i>145,354</i>	<i>(457,776)</i>	<i>4,240,345</i>

Inter-fund Borrowing Balances

<i>Inter-fund Borrowing</i>	<i>Fiscal Yr Beg Balance July 1, 2015</i>	<i>YTD Interest</i>	<i>YTD Repayment</i>	<i>Period End Balance Aug 31, 2015</i>
Sewer Loan to WTP Construction Fund	1,418,143	765	(24,141)	1,394,767
WSA Loan to WTP Construction Fund	472,714	255	(8,047)	464,922
N. Gate Security Loan from Drainage Fund	108,875	58	(3,864)	105,069
<i>Total Inter-fund Borrowing</i>	<i>1,999,732</i>	<i>1,078</i>	<i>(36,052)</i>	<i>1,964,758</i>

PARS GASB 45 Trust - The PARS GASB 45 Trust, which is the investment trust established to fund Other Post Employment Benefits, had the following returns:

Period ended June 30, 2015		
1-Month	3-Months	1-Year
-1.42%	-0.76%	2.58%

Financial Summary Report (year-to-date through August 31, 2015)

Revenues:

Water Charges, year-to-date, are **below** budget \$59,360 or (13.7%)

Sewer Charges, year-to-date, are **above** budget \$162 or 0.1%

Drainage Charges, year-to-date, are **below** budget \$46 or (0.1%)

Security Charges, year-to-date, are **above** budget \$296 or 0.1%

Solid Waste Charges, year-to-date, are **below budget \$114 or (0.1%)**

Total Revenues, which includes other income, property taxes, and interest income year-to-date, are **below budget \$44,760 or (4.0%)** (Water Conservation Efforts - YTD residential water usage is down 17.4% compared to budget).

Expenses: Year-to-date total operating expenses are **below budget \$115,188 or (12.4%)**.

There have been no operational reserve expenditures so far this year. Operational reserve expenditures cover projects funded from reserves which are also recorded as operational expenses through the income statement as required by Generally Accepted Accounting Principles (GAAP).

Water Expenses, year-to-date, are **below budget \$25,922 or (8.9%)**. Salaries, wages and employee-related costs were over for the month but were more than offset by the capitalized labor related to the WTP Expansion project. The District paid its second invoice to GE Mobile Water in August for the WTP temporary filtration trailer. This expense is included in the "Equipment Rental" line of the financial statements.

Sewer Expenses, year-to-date, are **below budget by \$58,419 or (35.0%)**. Savings were seen across all sewer expense categories except Lab Testing, which was over budget \$2,843 year-to-date at the end of August.

Drainage Expenses, year-to-date, are **below budget by \$3,852 or (19.1%)**. Savings were seen across all drainage expense categories except Chemicals, which was over budget \$1,607 year-to-date at the end of August.

Security Expenses, year-to-date, are **below budget by \$16,944 or (9.6%)**. Savings were seen across almost all security expense categories with roughly \$20K savings coming from Employee Wages and Employer-Related costs. The only expenses that were over budget as of August 31, 2015 were related to PDF Tactical, which provided contract patrol personnel during a department vacancy.

Solid Waste Expenses, year-to-date, are **above budget by \$4 or 0.0%**.

General Expenses, year-to-date, are **below budget by \$2,350 or (1.3%)**. Savings in IT Systems expenses and Employer-Related costs were offset by over-budget legal expenditures.

Net Income: Year-to-date unadjusted net income, before depreciation, is \$253,339 versus a budget of \$176,716. Net income/(Loss) adjusted for estimated depreciation expense is \$73,733.

The full-year expected net operating income before depreciation, per the 2015-2016 budget is \$44,782.

Rancho Murieta Community Services District
Summary Budget Performance Report
YTD THROUGH AUGUST 2015

	% of Total	Annual Budget	% of Total	YTD Budget	YTD Actuals	% of Total	YTD VARIANCE	
							Amount	%
REVENUES								
Water Charges	33.1%	\$2,009,940	39.3%	\$434,537	\$375,177	34.9%	(\$59,360)	(13.7%)
Sewer Charges	22.0%	1,331,590	19.9%	220,544	220,706	20.5%	162	0.1%
Drainage Charges	3.1%	187,130	2.8%	31,190	31,144	2.9%	(46)	(0.1%)
Security Charges	20.7%	1,253,900	18.9%	208,982	209,278	19.5%	296	0.1%
Solid Waste Charges	10.5%	636,658	9.6%	106,110	105,996	9.9%	(114)	(0.1%)
Other Income	1.9%	116,750	1.5%	17,040	45,462	4.2%	28,422	166.8%
Interest Earnings	0.0%	1,090	0.0%	260	41	0.0%	(219)	(84.2%)
Property Taxes	8.7%	528,480	8.0%	88,080	88,080	8.2%		0.0%
Total Revenues	100.0%	6,065,538	100.0%	1,106,743	1,075,884	100.0%	(30,859)	(2.8%)
OPERATING EXPENSES								
Water/Sewer/Drainage								
Wages	14.7%	887,710	13.7%	127,800	127,253	15.5%	(547)	(0.4%)
Employer Costs	7.2%	430,690	7.3%	67,500	64,782	7.9%	(2,718)	(4.0%)
Capital Project Labor Alloc	0.0%		0.0%		(25,673)	-3.1%	(25,673)	0.0%
Power	7.5%	453,900	4.7%	43,263	39,007	4.7%	(4,256)	(9.8%)
Chemicals	3.4%	204,400	4.7%	43,635	22,940	2.8%	(20,695)	(47.4%)
Maint & Repair	6.0%	359,220	5.3%	48,860	20,849	2.5%	(28,011)	(57.3%)
Meters/Boxes	0.9%	54,000	0.9%	8,250	5,101	0.6%	(3,149)	(38.2%)
Lab Tests	0.7%	44,200	0.7%	6,700	7,632	0.9%	932	13.9%
Permits	1.2%	73,100	1.1%	10,215	7,723	0.9%	(2,492)	(24.4%)
Training/Safety	0.4%	21,500	0.7%	6,250	566	0.1%	(5,684)	(90.9%)
Equipment Rental	1.0%	57,500	1.1%	9,900	42,638	5.2%	32,738	330.7%
Other	7.5%	454,166	11.5%	107,248	78,610	9.6%	(28,638)	(26.7%)
Subtotal Water/Sewer/Drainage	50.5%	3,040,386	51.6%	479,621	391,428	47.6%	(88,193)	(18.4%)
Security								
Wages	11.1%	671,100	10.4%	96,300	84,089	10.2%	(12,211)	(12.7%)
Employer Costs	6.4%	386,400	6.5%	60,400	52,951	6.4%	(7,449)	(12.3%)
Off Duty Sheriff Patrol	0.1%	4,000	0.3%	2,700	2,575	0.3%	(125)	(4.6%)
Other	1.9%	113,360	1.7%	16,252	19,093	2.3%	2,841	17.5%
Subtotal Security	19.5%	1,174,860	18.9%	175,652	158,708	19.3%	(16,944)	(9.6%)
Solid Waste								
CWRS Contract	9.2%	556,740	10.0%	92,790	92,751	11.3%	(39)	0.0%
Sacramento County Admin Fee	0.6%	34,740	0.6%	5,790	5,833	0.7%	43	0.7%
HHW Event	0.1%	9,000	0.0%			0.0%		0.0%
Subtotal Solid Waste	10.0%	600,480	10.6%	98,580	98,584	12.0%	4	0.0%
General / Admin								
Wages	8.4%	505,100	7.5%	70,100	70,872	8.6%	772	1.1%
Employer Costs	5.0%	302,200	5.1%	47,000	41,829	5.1%	(5,171)	(11.0%)
Insurance	1.4%	86,400	1.5%	14,400	14,506	1.8%	106	0.7%
Legal	0.7%	42,000	0.8%	7,000	18,513	2.3%	11,513	164.5%
Office Supplies	0.4%	22,800	0.4%	3,800	2,015	0.2%	(1,785)	(47.0%)
Director Meetings	0.3%	18,000	0.3%	3,000	800	0.1%	(2,200)	(73.3%)
Telephones	0.1%	6,000	0.1%	1,000	926	0.1%	(74)	(7.4%)
Information Systems	1.3%	79,400	1.2%	10,716	6,392	0.8%	(4,324)	(40.4%)
Community Communications	0.1%	5,900	0.1%	900	222	0.0%	(678)	(75.3%)
Postage	0.4%	22,200	0.4%	3,700	3,046	0.4%	(654)	(17.7%)
Janitorial/Landscape Maint	0.3%	17,820	0.3%	2,970	3,740	0.5%	770	25.9%
Other	1.6%	97,210	1.2%	11,588	10,964	1.3%	(624)	(5.4%)
Subtotal General / Admin	20.0%	1,205,030	18.9%	176,174	173,825	21.1%	(2,349)	(1.3%)
Total Operating Expenses	100.0%	6,020,756	100.0%	930,027	822,545	100.0%	(107,482)	(11.6%)
Operating Income (Loss)	100.0%	44,782	100.0%	176,716	253,339	100.0%	76,623	43.4%
Non-Operating Expenses								
Net Income (Loss)	100.0%	44,782	100.0%	176,716	253,339	100.0%	76,623	43.4%

Rancho Murieta Community Services District
Budget Performance Report by FUND
YTD THROUGH AUGUST 2015

	% of Total	Annual Budget	% of Total	YTD Budget	YTD Actuals	% of Total	YTD VARIANCE	
							Amount	%
WATER								
REVENUES								
Water Charges	98.3%	\$2,009,940	99.0%	\$434,537	\$375,177	92.4%	(\$59,360)	(13.7%)
Interest Earnings	0.0%	80	0.0%	20	9	0.0%	(11)	(55.0%)
Other Income	1.7%	34,850	1.0%	4,184	30,701	7.6%	26,517	633.8%
Total Water Revenues	100.0%	2,044,870	100.0%	438,741	405,887	100.0%	(32,854)	(7.5%)
EXPENSES (excluding depreciation)								
Wages	27.2%	479,360	23.6%	69,012	81,903	30.7%	12,891	18.7%
Employer Costs	13.2%	232,890	12.5%	36,450	40,056	15.0%	3,606	9.9%
Capital Project Labor Alloc	0.0%		0.0%		(25,673)	-9.6%	(25,673)	0.0%
Power	17.2%	303,400	8.5%	24,763	22,095	8.3%	(2,668)	(10.8%)
Chemicals	7.1%	124,500	7.5%	21,885	9,020	3.4%	(12,865)	(58.8%)
T&O - Chemicals/Treatment	0.4%	7,200	0.8%	2,400	4,358	1.6%	1,958	81.6%
Maint & Repair	9.1%	161,070	8.5%	24,860	15,922	6.0%	(8,938)	(36.0%)
Meters/Boxes	3.1%	54,000	2.8%	8,250	5,101	1.9%	(3,149)	(38.2%)
Lab Tests	1.6%	28,000	1.4%	4,000	2,089	0.8%	(1,911)	(47.8%)
Permits	1.8%	32,000	1.7%	5,000	3,238	1.2%	(1,762)	(35.2%)
Training/Safety	0.5%	9,300	0.5%	1,350	367	0.1%	(983)	(72.8%)
Equipment Rental	2.1%	37,000	2.1%	6,200	41,164	15.4%	34,964	563.9%
Other Direct Costs	16.6%	292,906	30.2%	88,240	66,848	25.1%	(21,392)	(24.2%)
Operational Expenses	100.0%	1,761,626	100.0%	292,410	266,488	100.0%	(25,922)	(8.9%)
Water Income (Loss)	16.1%	283,244	50.0%	146,331	139,399	52.3%	(6,932)	(4.7%)
38.9% Net Admin Alloc	16.1%	283,529	12.9%	37,722	36,820	13.8%	(902)	(2.4%)
Total Net Income (Loss)	0.0%	(285)	37.1%	108,609	102,579	38.5%	(6,030)	(5.6%)
SEWER								
REVENUES								
Sewer Charges	98.5%	1,331,590	98.7%	220,544	220,706	98.7%	162	0.1%
Interest Earnings	0.0%	140	0.0%	30	26	0.0%	(4)	(13.3%)
Other Income	1.5%	20,140	1.3%	2,864	2,937	1.3%	73	2.5%
Total Sewer Revenues	100.0%	1,351,870	100.0%	223,438	223,669	100.0%	231	0.1%
EXPENSES (excluding depreciation)								
Wages	30.5%	346,210	29.8%	49,842	36,390	33.5%	(13,452)	(27.0%)
Employer Costs	14.8%	167,700	15.8%	26,325	20,133	18.5%	(6,192)	(23.5%)
Power	12.4%	140,700	10.5%	17,500	16,147	14.9%	(1,353)	(7.7%)
Chemicals	6.2%	70,300	11.3%	18,950	7,555	7.0%	(11,395)	(60.1%)
Maint & Repair	16.4%	186,250	13.2%	22,000	4,927	4.5%	(17,073)	(77.6%)
Lab Tests	1.4%	16,200	1.6%	2,700	5,543	5.1%	2,843	105.3%
Permits	3.1%	35,100	3.1%	5,215	4,485	4.1%	(730)	(14.0%)
Training/Safety	1.1%	12,200	2.9%	4,900	199	0.2%	(4,701)	(95.9%)
Equipment Rental	1.4%	16,000	1.9%	3,200	1,474	1.4%	(1,726)	(53.9%)
Other Direct Costs	12.8%	145,270	9.8%	16,393	11,753	10.8%	(4,640)	(28.3%)
Operational Expenses	100.0%	1,135,930	100.0%	167,025	108,606	100.0%	(58,419)	(35.0%)
Sewer Income (Loss)	19.0%	215,940	33.8%	56,413	115,063	105.9%	58,650	104.0%
29.7% Net Admin Alloc	19.1%	216,475	17.2%	28,801	28,112	25.9%	(689)	(2.4%)
Total Net Income (Loss)	0.0%	(535)	16.5%	27,612	86,951	80.1%	59,339	214.9%
DRAINAGE								
REVENUES								
Drainage Charges	100.0%	187,130	100.0%	31,190	31,144	100.0%	(46)	(0.1%)
Interest Earnings	0.0%	50	0.0%	15		0.0%	(15)	(100.0%)
Total Drainage Revenues	100.0%	187,180	100.0%	31,205	31,144	100.0%	(61)	(0.2%)
EXPENSES (excluding depreciation)								
Wages	43.5%	62,140	44.3%	8,946	8,960	54.9%	14	0.2%
Employer Costs	21.1%	30,100	23.4%	4,725	4,593	28.1%	(132)	(2.8%)
Power	6.9%	9,800	5.0%	1,000	765	4.7%	(235)	(23.5%)
Chemicals	1.7%	2,400	2.0%	400	2,007	12.3%	1,607	401.8%
Maint & Repair	8.3%	11,900	9.9%	2,000		0.0%	(2,000)	(100.0%)
Permits	4.2%	6,000	0.0%			0.0%		0.0%
Equipment Rental	3.2%	4,500	2.5%	500		0.0%	(500)	(100.0%)
Other Direct Costs	11.2%	15,990	13.0%	2,615	9	0.1%	(2,606)	(99.7%)
Operational Expenses	100.0%	142,830	100.0%	20,186	16,334	100.0%	(3,852)	(19.1%)
Drainage Income (Loss)	31.1%	44,350	54.6%	11,019	14,810	90.7%	3,791	34.4%
6.1% Net Admin Alloc	31.1%	44,461	29.3%	5,915	5,774	35.3%	(141)	(2.4%)
Total Net Income (Loss)	-0.1%	(111)	25.3%	5,104	9,036	55.3%	3,932	77.0%
SECURITY								
REVENUES								
Security Charges	91.6%	1,253,900	91.6%	208,982	209,278	91.0%	296	0.1%
Interest Earnings	0.0%	400	0.0%	100	(6)	0.0%	(106)	(106.0%)
Property Tax	4.8%	65,040	4.8%	10,840	10,840	4.7%		0.0%
Other Income	3.6%	49,160	3.6%	8,192	9,907	4.3%	1,715	20.9%

Rancho Murieta Community Services District
Budget Performance Report by FUND
YTD THROUGH AUGUST 2015

	% of Annual		% of YTD		YTD		YTD VARIANCE	
	Total	Budget	Total	Budget	Actuals	Total	Amount	%
Total Security Revenues	100.0%	\$1,368,500	100.0%	\$228,114	\$230,019	100.0%	\$1,905	0.8%
EXPENSES (excluding depreciation)								
Wages	57.1%	671,100	54.8%	96,300	84,089	53.0%	(12,211)	(12.7%)
Employer Costs	32.9%	386,400	34.4%	60,400	52,951	33.4%	(7,449)	(12.3%)
Equipment Repairs	0.4%	4,900	0.4%	734	408	0.3%	(326)	(44.4%)
Vehicle Maintenance	0.8%	9,600	0.9%	1,600		0.0%	(1,600)	(100.0%)
Vehicle Fuel	1.7%	19,390	2.0%	3,600	3,257	2.1%	(343)	(9.5%)
Off Duty Sheriff Patrol	0.3%	4,000	1.5%	2,700	2,575	1.6%	(125)	(4.6%)
Other	6.8%	79,470	5.9%	10,318	15,428	9.7%	5,110	49.5%
Operational Expenses	100.0%	1,174,860	100.0%	175,652	158,708	100.0%	(16,944)	(9.6%)
Security Income (Loss)	16.5%	193,640	29.9%	52,462	71,311	44.9%	18,849	35.9%
20.3% Net Admin Alloc	12.6%	147,961	11.3%	19,827	19,215	12.1%	(612)	(3.1%)
Total Net Income (Loss)	3.9%	45,679	18.6%	32,635	52,096	32.8%	19,461	59.6%
SOLID WASTE REVENUES								
Solid Waste Charges	100.0%	636,658	99.9%	106,110	105,996	100.0%	(114)	(0.1%)
Interest Earnings	0.0%	300	0.1%	75	(2)	0.0%	(77)	(102.7%)
Total Solid Waste Revenues	100.0%	636,958	100.0%	106,185	105,994	100.0%	(191)	(0.2%)
EXPENSES (excluding depreciation)								
CWRS Contract	92.7%	556,740	94.1%	92,790	92,751	94.1%	(39)	0.0%
Sacramento County Admin Fee	5.8%	34,740	5.9%	5,790	5,833	5.9%	43	0.7%
HHW Event	1.5%	9,000	0.0%			0.0%		0.0%
Operational Expenses	100.0%	600,480	100.0%	98,580	98,584	100.0%	4	0.0%
Solid Waste Income (Loss)	6.1%	36,478	7.7%	7,605	7,410	7.5%	(195)	(2.6%)
5.0% Net Admin Alloc	6.1%	36,444	4.9%	4,849	4,733	4.8%	(116)	(2.4%)
Total Net Income (Loss)	0.0%	34	2.8%	2,756	2,677	2.7%	(79)	(2.9%)
OVERALL NET INCOME(LOSS)	100.0%	44,782	100.0%	176,716	253,339	100.0%	76,623	43.4%

RANCHO MURIETA COMMUNITY SERVICES DISTRICT

INVESTMENT REPORT

<i>INSTITUTION</i>	<i>YIELD</i>	<i>BALANCE</i>
CASH BALANCE AS OF AUGUST 31, 2015		
CSD FUNDS		
EL DORADO SAVINGS BANK		
SAVINGS	0.03%	\$ 166,201.70
CHECKING	0.02%	\$ 38,208.60
PAYROLL	0.02%	\$ 1,216.14
AMERICAN WEST BANK		
EFT	0.05%	\$ 9,756.29
LOCAL AGENCY INVESTMENT FUND (LAIF)		
UNRESTRICTED		\$ 2,042,456.36
RESTRICTED RESERVES	0.33%	\$ 3,615,406.69
CALIFORNIA ASSET MGMT (CAMP)		
OPERATION ACCOUNT	0.12%	\$ 598,629.99
UNION BANK		
PARS GASB45 TRUST (balance as of 7/31/15)		\$ 930,036.01
TOTAL		\$ 7,401,911.78
BOND FUNDS		
COMMUNITY FACILITIES DISTRICT NO. 1 (CFD)		
BANK OF AMERICA		
CHECKING	0.00%	\$ 1,058,512.11
CALIFORNIA ASSET MGMT (CAMP)		
SPECIAL TAX	0.12%	\$ 8,310.55
COMMUNITY FACILITIES DISTRICT NO. 2014-1 (CFD)		
BANK OF AMERICA		
CHECKING	0.00%	\$ 901,414.05
WILMINGTON TRUST (balances as of 7/31/15)		
BOND RESERVE FUND	0.02%	\$ 391,597.49
BOND ADMIN EXPENSE	0.02%	\$ 40,403.49
BOND SPECIAL TAX FUND	0.02%	\$ 523,169.76
BOND ACQ & CONSTRUCTION	0.02%	\$ 800.47
BOND REDEMPTION ACCOUNT	0.00%	\$ -
BOND COI	0.00%	\$ -
BOND SURPLUS	0.00%	\$ -
		\$ 2,924,207.92
TOTAL ALL FUNDS		\$ 10,326,119.70

The investments comply with the CSD adopted investment policy.

PREPARED BY: Eric Thompson, Controller

MEMORANDUM

Date: September 11, 2015
To: Board of Directors
From: Greg Remson, Security Chief
Subject: Security Report for the Month of August 2015

OPERATIONS

On August 5, 2015, I attended the Fishing Club meeting. We discussed the new boat rules among other topics. The members will continue to notify Security regarding possible non-resident fishing.

Our new Patrol Officer, Kyle Karr, has begun training. His initial training will be at the North and South Gates, and then he will begin patrol training. The second Patrol Officer is in the pre-employment phase and should be ready for training in a couple of weeks.

INCIDENTS OF NOTE

August 8, Saturday, reported at 9:35 p.m. at Clementia Park. Public intoxication. Report of an intoxicated female adult using profanity and disturbing others. The subject left with a sober friend.

August 12, Wednesday, reported at 9:48 a.m. at Lake Chesbro. Vandalism. Unknown subjects used markers and knife-type instruments to damage the picnic table.

August 12, Wednesday, reported at 7:15 p.m. on Via Sereno. Public intoxication. Report of a highly intoxicated male visiting the reporting person's home. An adult resident was given a ride to his home, but his father did not want him there due to the intoxication. Sacramento Sheriff's Department (SSD) and Sacramento Metro Fire Department (SMFD) responded, and SMFD transported the subject to the hospital due to the high level of intoxication.

August 13, Thursday, reported at 8:48 p.m. on Pescado Circle. Public intoxication. Report of an intoxicated resident passed out in his former home (now vacant). Subject left with a responsible person.

August 16, Sunday, reported at 7:49 a.m. at Riverview Park. DUI arrest. Report of a female involved in a single cart collision, resulting in minor injuries. California Highway Patrol (CHP) and SMFD responded, and the resident driver was arrested for DUI.

August 26, Wednesday, reported at 8:16 p.m. at Murieta Plaza. Public intoxication. Report of a highly intoxicated male. Area checked clear.

August 28, Friday, reported at 2:49 p.m. at the Country Store. DUI arrest. Murieta South Parkway to the Country Store. Suspect vehicle almost collided with CHP motor officer who was responding to the complaint. A 19 year old resident was arrested for DUI.

During the month of August officers responded to complaints of trespassing, marijuana use, loud parties, and rocks placed in the roadway.

RANCHO MURIETA ASSOCIATION COMPLIANCE/GRIEVANCE/SAFETY COMMITTEE MEETING

The meeting was held on August 3, 2015 at the Rancho Murieta Association (RMA) office. There were hearings regarding stop sign, barking dogs, boat/guests, property maintenance, and basketball standard. The next meeting is scheduled for September 14, 2015.

MEMORANDUM

Date: September 9, 2015
To: Board of Directors
From: Paul Siebensohn, Director of Field Operations
Subject: Water/Wastewater/Drainage Report

The following is District Field Operations information and projects staff has worked on since the last Board meeting.

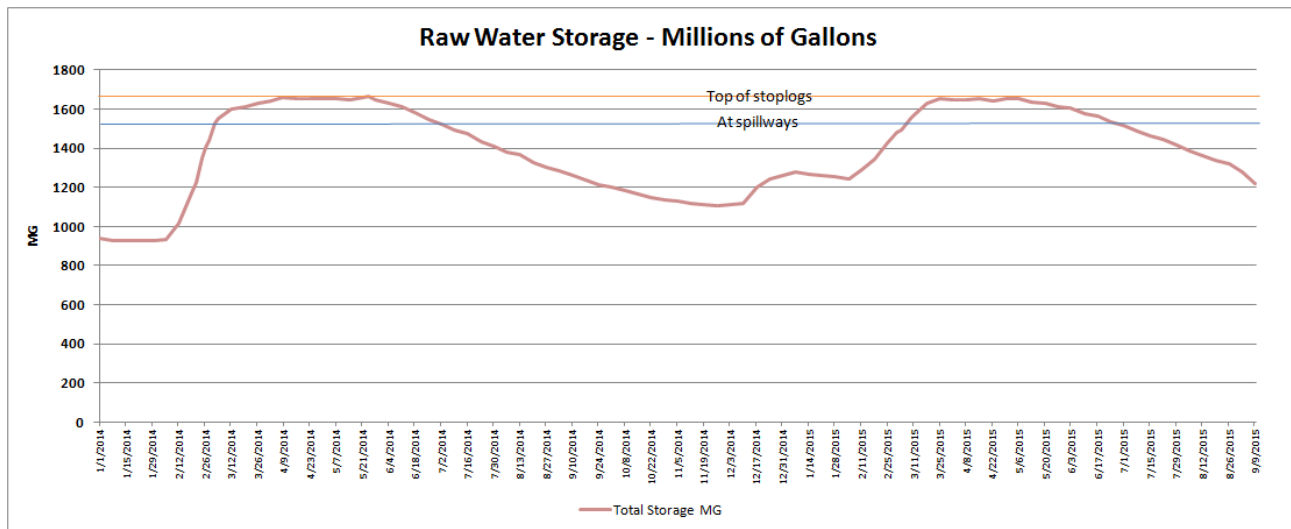
WATER

The temporary filtration system replacing Plant #1 is currently set at 0.72 million gallons per day (mgd), producing an average of 0.46 mgd. Plant #2 is set at 1.8 mgd, producing an average of 1.29 mgd, for a total production flow average of 1.75 mgd. Water treatment plant production for August was 54,353,000 gallons. Mondays and Fridays continue to have the biggest water system demands. The temporary filtration system will be coming offline September 14, 2015.

Potable water consumption in August was 51,553,656 gallons, down approximately 25.5% from 2013. An estimate of residential gallons per capita per day for was 239 gallons.

WATER SOURCE OF SUPPLY

On August 12, 2015, the combined raw water storage for Calero, Chesbro, and Clementia Reservoirs measured approximately 1,218.5 MG (3,739.8 AF) of which 1,054.6 MG (3,236.7 AF) is usable due to dead storage. For Calero and Chesbro Reservoirs alone, the storage measured 946.3 MG (2,90.3 AF), or 896.9 MG (2,451 AF) usable. For reference, a recent average year's production has been 580.1 MG (1,781 AF). The reservoirs are at 80.2 percent capacity as measured to their spillways. Below is a graphical representation of the storage reservoir levels this year to date.

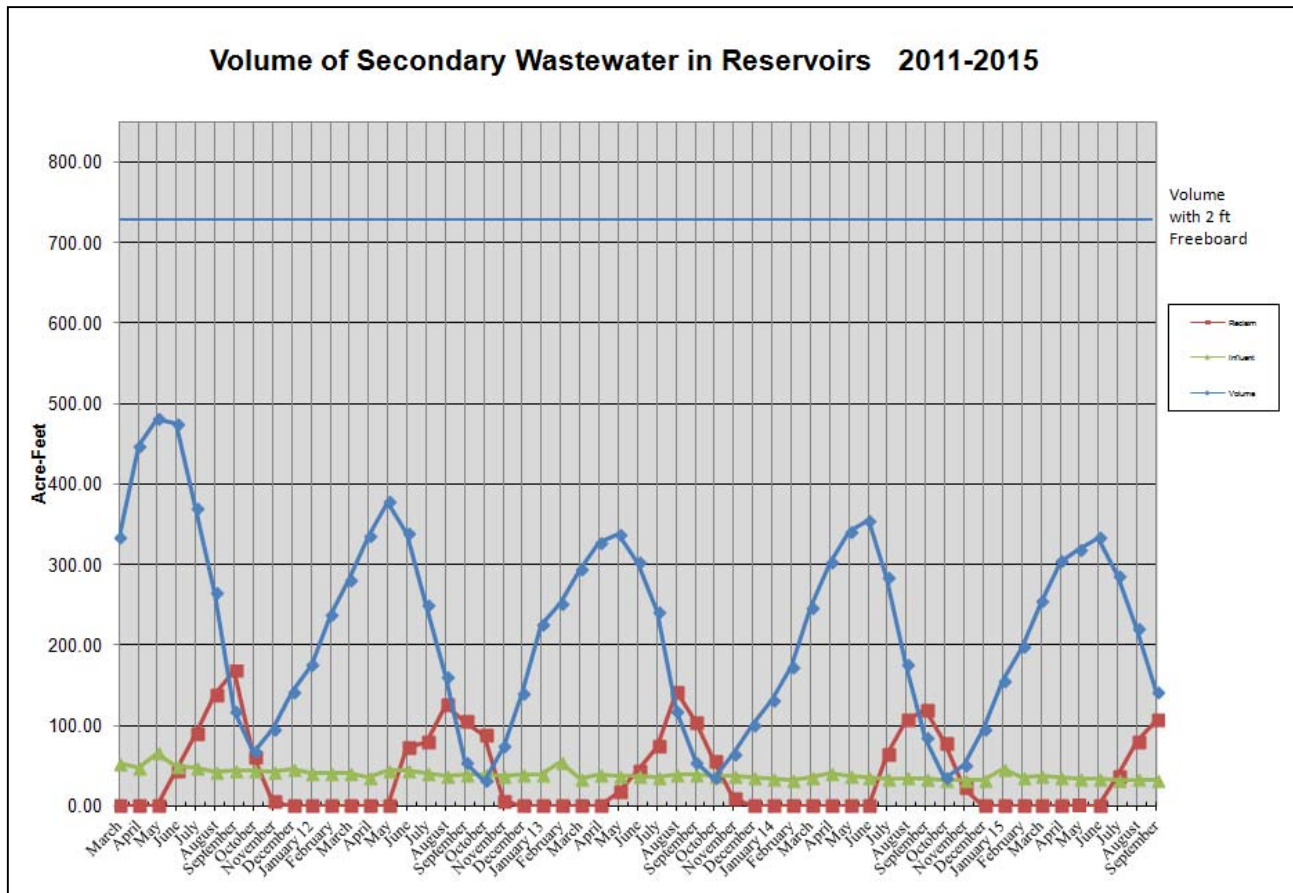


WASTEWATER TREATMENT, COLLECTION AND RECLAMATION

Influent wastewater flow averaged 0.353 million gallons a day, for a total around 10.59 MG, (32.5 AF). This is approximately 135 gpd per sewer connection. Secondary wastewater storage measured 46.1 MG (141.43 AF) on August 1, 2015 of which 41.2 MG (126.5 acre-feet) is usable volume. Last year at this time we had 84.1 AF of secondary water in storage. Having more secondary storage now is attributable to a relatively mild summer, utilizing raw water when it was available and irrigation cutbacks from the Rancho Murieta Country Club (RMCC). We delivered 34,771,000 gallons of recycled water to RMCC in August at their requested flow rate. Beginning in September, we will also be supplying recycled water to the Van Vleck ranch as part of the easement agreement with the Ranch and to draw down our secondary storage levels to accommodate winter inflows.

We had one (1) sewer backup this past month in the area of Lindero Lane and Lago Drive, which was the result of asphalt and cement that had gotten into the sewer lines. Staff removed three (3) five gallon buckets worth of debris. We believe it may be debris from the roadwork that occurred after SMUD's work on Lago Drive earlier this year.

The graph below shows where our secondary storage is comparable to previous years, measured on the first Wednesday of each month.



DRAINAGE / CIA DITCH

Utility staff worked on two (2) storm drain basins in the South, using a backhoe to reestablish flow lines and remove cattails that have grown there, and Units 2, 3, and 4 in the North. Staff is currently performing some excavation work where needed in preparation for a potentially wet winter.

At the request of the Rancho Murieta Association (RMA), we ran approximately 13 mg of water from Clementia through the CIA ditch to Laguna Joaquin to supplement the water there, which is metered and charged to them as it is used in their raw water irrigation system. We also sprayed the aquatic primrose along the shoreline for vegetation control and treated the water around the RMA's irrigation pump intake for algae control in Laguna Joaquin.

WATER METERING AND UTILITY STAFF WORK

Utility staff replaced eight (8) $\frac{3}{4}$ " and one (1) 1" water meters. Staff repaired eleven (11) water service line leaks; completed twelve (12) underground service alerts (USAs), one (1) water restore, eleven (11) final reads, two (2) toilet rebate inspections, two (2) hot water recirculator rebate inspections, three (3) pressure reducer rebate inspections, one (1) irrigation rebate inspection, and one (1) fire hydrant on Pescado Circle that had been broken off due to a vehicle accident.

MEMORANDUM

Date: September 11, 2015
To: Board of Directors
From: Darlene J. Gillum, General Manager
Subject: Consider Adopting Resolution Approving Solar Power Purchase Agreements and Performance Guarantee Agreements with SolarCity Corporation and Making Related Findings Required by Government Code Section 4217.12 Regarding the Installation of Solar Generating Facilities at Certain District Sites

RECOMMENDED ACTION

Adopt Resolution R2015-13, a resolution approving Solar Power Purchase Agreements and Performance Guarantee Agreements with SolarCity Corporation and making related findings required by Government Code Section 4217.12 regarding the installation of solar generating facilities at certain District sites.

BACKGROUND

District staff and District General Counsel have been working with SolarCity on finalizing the terms, conditions, and pricing of the proposed Power Purchase Agreements for solar power systems at the Waste Water Recovery Plant and the Water Treatment Plant. The attached Power Purchase Agreements and Performance Guarantee Agreements have been negotiated and mutually agreed to by SolarCity and the District. There are minor items yet to be finalized, which are identified with comments or red-line markings on the attached.

Michael Carpol, SolarCity, will present a short review and update of the SolarCity Proposal at the September 16, 2015 Board of Directors meeting. Also at this meeting, a Public Hearing will be held as required by Government Code 4217.12.

General terms of the Power Purchase Agreements are:

	Waste Water Treatment Plant	Water Treatment Plant
kWh Produced in Year 1	1,207,658	579,671
Offset of Baseline Energy	94%	92%
Offset of Baseline Bill	86%	73%
Price per kWh (guaranteed for 20 years)	\$0.073	\$0.078
First Year Savings (estimated)	\$34,818	\$14,998
20 Year Savings (estimated)	\$1,461,049	\$658,447
SMUD Panel Upgrade	Most likely needed (District to pay outside of PPA)	Need to be determined at site evaluation

RESOLUTION NO. 2015-13

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE RANCHO MURIETA COMMUNITY SERVICES DISTRICT
APPROVING SOLAR POWER PURCHASE AGREEMENTS AND PERFORMANCE
GUARANTEE AGREEMENTS WITH SOLARCITY CORPORATION AND MAKING
RELATED FINDINGS REQUIRED BY GOVERNMENT CODE SECTION 4217.12**

BE IT RESOLVED by the Board of Directors of the Rancho Murieta Community Services District as follows:

1. **Recitals.** This Resolution is made with reference to the following background recitals:

- (a) Due to increases in energy costs, the District's expenditures for energy have increased, adding to the burden on its ratepayers and reducing the amount of funds available for other public purposes. Consequently, the District desires to develop alternate energy supply sources if feasible. The District has substantial land available to it at the District water and wastewater facilities that can be used for solar power generation systems.
- (b) Government Code sections 4217.10 to 4217.18 authorize the District to develop alternate energy supplies and to enter into solar power purchase agreements with a qualified company. Section 4217.12 requires the Board to hold a noticed public hearing and make certain written findings before entering into such an agreement.
- (c) The District has negotiated two (2) Solar Power Purchase Agreements with SolarCity Corporation, one agreement for available land at the wastewater treatment plant site and another for available land at the water treatment plant site. Under the Agreements, SolarCity would install and operate solar energy systems on the District sites and the District would commit to purchase the electrical energy generated by the systems during the agreement term. The solar power purchased from SolarCity would offset the electricity that otherwise would need to be purchased from the Sacramento Municipal Utility District. The District also has negotiated two related Performance Guarantee Agreements to secure SolarCity's performance under the Solar Power Purchase Agreements.
- (d) District staff has evaluated the Agreements and the power prices that the District would pay under the Agreements and it has compared those prices to current and anticipated future prices that it would pay to SMUD. Staff has concluded that the purchase of solar power from SolarCity would be less than the anticipated cost to the District of electrical energy that would need to be purchased from SMUD.
- (e) The Board has conducted a duly noticed public hearing as required by law.

2. Findings. In accordance with Government Code section 4217.12, the Board finds and determines as follows:

- (a) The terms of the proposed Solar Power Purchase Agreements with SolarCity are in the best interests of the District and its ratepayers.
- (b) The anticipated price to the District for the purchase of solar power under the Solar Power Purchase Agreements will be less than the anticipated marginal cost to the District of electrical energy that would have been purchased and consumed by the District from SMUD in the absence of the agreements.
- (c) The Solar Power Purchase Agreements are power purchase contracts and not leases or rental contracts. The agreements would include the grant of a license to SolarCity to use certain District land for the term of the agreements to allow it to install, operate and maintain the solar energy systems. SolarCity would not pay any rent or license fee. The rent-free use of the land is offset by the below-market energy that will be sold to the District under the agreements.

3. Approval of Agreements. The Board of Directors approves the two (2) Solar Power Purchase Agreements and two (2) Performance Guarantee Agreements with SolarCity Corporation in substantially the forms as presented at this meeting and authorizes the District General Manager to finalize, approve, and sign the final agreements together with any minor additions or changes deemed necessary or advisable by the General Manager in consultation with the Board President and General Counsel.

PASSED AND ADOPTED this 16th day of September 2015 by the following vote:

Ayes:
Noes:
Abstain:
Absent:

Gerald Pasek, President of the Board
Rancho Murieta Community Services District

Attest:

Suzanne Lindenfeld
District Secretary



Solar Power Purchase Agreement (Commercial CA)

This Solar Power Purchase Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Purchaser:		Seller:	
Name and Address	Rancho Murieta Community Service District 15160 Jackson Rd. P.O. Box 1050 Rancho Murieta, CA 95683 Attention: Darlene Gillum, General Manager	Name and Address	SolarCity Corporation 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(916) 354-3709	Phone	(650) 638-1028
E-mail	dgillum@rmcsd.com	E-mail	Contracts@solarcity.com
Facility/Premises Ownership	Purchaser owns the Facility and Premises		Contractor’s License Numbers CA: CSLB 888104
Tax Status			
Project Name	Rancho Murieta Community Service District WWTP		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the “**System**”) and to be installed adjacent to the Purchaser’s facility described in **Exhibit 2** (the “**Facility**”).

Comment [A1]: District to provide a detailed description of the installation location

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

- Exhibit 1 Pricing Attachment
- Exhibit 2 System Description, Delivery Point and Premises
- Exhibit 3 General Terms and Conditions

Rancho Murieta Community Service District

SolarCity Corporation

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit 1
Pricing Attachment

1. **Term:** Twenty (20) years, beginning on the Commercial Operation Date.
2. **Additional Terms:** Up to three (3) Additional Terms of five (5) years each.
3. **Environmental Incentives and Environment Attributes Accrue to Seller.**
4. **Contract Price:**

Contract Year	\$/kWh
1	\$0.0730
2	\$0.0730
3	\$0.0730
4	\$0.0730
5	\$0.0730
6	\$0.0730
7	\$0.0730
8	\$0.0730
9	\$0.0730
10	\$0.0730
11	\$0.0730
12	\$0.0730
13	\$0.0730
14	\$0.0730
15	\$0.0730
16	\$0.0730
17	\$0.0730
18	\$0.0730
19	\$0.0730
20	\$0.0730

Includes ACH invoicing. If manual invoicing is required, a \$25 handling charge will be added to each invoice.

5. **Condition Satisfaction Date:** 180 days after the Effective Date
6. **Anticipated Commercial Operation Date:** 365 days after the Effective Date
7. **Outside Commercial Operation Date:** 545 days after the Effective Date

8. **Purchase Option Price Schedule:**

<u>End of Contract Year</u>	<u>Option Price*:</u>
<u>6</u>	<u>\$1,400,063</u>
<u>10</u>	<u>\$1,273,187</u>
<u>15</u>	<u>\$1,164,125</u>
<u>20</u>	<u>Fair Market Value</u>

* Higher of Fair Market Value of System or amount specified.

Comment [A2]: Schedule pending final Solar City review/approval

9. Termination Value Schedule:

Comment [A3]: Schedule pending final Solar City review/approval

<u>Contract Year</u>	<u>Termination Value</u>
<u>1</u>	<u>\$2,778,602</u>
<u>2</u>	<u>\$2,415,731</u>
<u>3</u>	<u>\$1,934,572</u>
<u>4</u>	<u>\$1,556,155</u>
<u>5</u>	<u>\$1,238,762</u>
<u>6</u>	<u>\$915,161</u>
<u>7</u>	<u>\$822,310</u>
<u>8</u>	<u>\$777,956</u>
<u>9</u>	<u>\$731,811</u>
<u>10</u>	<u>\$683,785</u>
<u>11</u>	<u>\$633,781</u>
<u>12</u>	<u>\$581,697</u>
<u>13</u>	<u>\$527,428</u>
<u>14</u>	<u>\$470,862</u>
<u>15</u>	<u>\$411,883</u>
<u>16</u>	<u>\$350,367</u>
<u>17</u>	<u>\$286,186</u>
<u>18</u>	<u>\$219,204</u>
<u>19</u>	<u>\$149,280</u>
<u>20</u>	<u>\$76,264</u>

Exhibit 2

System Description, Delivery Point and Premises

1. **System Location:** Property in Rancho Murieta, CA adjacent to the Purchaser wastewater treatment plant as shown on the attached diagram.

Comment [A4]: District to provide more specific property description for location of solar power system.

2. **System Size (DC kW):** ~~577,227.42~~

3. **Expected First Year Energy Production (kWh):** ~~927,3001,207.000~~

4. **Expected Structure:** Ground Mount

5. **System Installation Includes:**

Installation of a solar energy system (includes: design, engineering, permitting, performance bonds (at Purchaser's expense), installation, monitoring, rebate application and paperwork processing for solar energy system), **prevailing wage construction.**

6. **System Installation Excludes:**

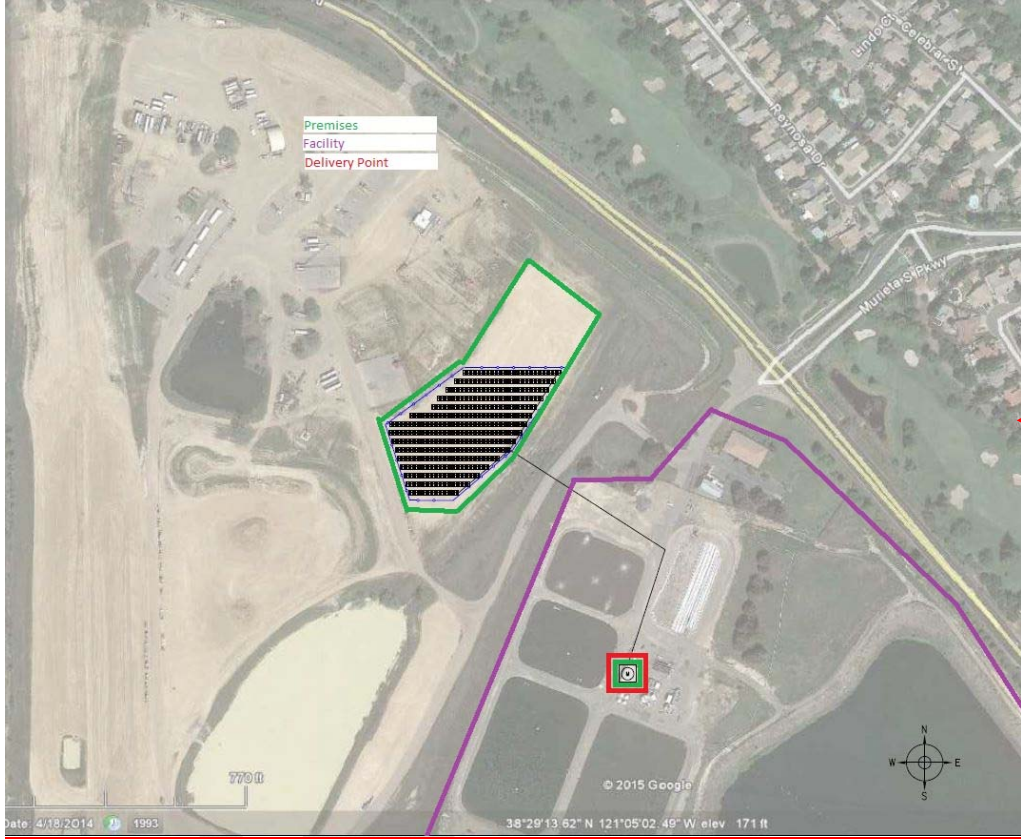
Additional or extra construction-related work caused by subsurface, latent or unknown physical conditions at the Premises that differ materially from those ordinarily encountered and generally expected as inherent in System installation at this type of site (including, but not limited to, excavation/circumvention of underground obstacles); upgrades or repair to customer or utility electrical infrastructure; payment bonds; tree removal and tree trimming; and Purchaser's evaluation of the project under the California Environmental Quality Act ("CEQA Evaluation") and the mitigation of any significant environmental impacts disclosed by the CEQA Evaluation (the mitigation costs are referred to as the "CEQA Costs").

If any CEQA Costs should arise, then the Parties will attempt in good faith to negotiate the pricing to address such costs. If: (1) resolution of the CEQA Costs cannot be reached; or (2) the CEQA Evaluation discloses any significant environmental impacts that cannot be feasibly mitigated or avoided, then either Party may terminate this Agreement prior to commencement of installation of the System without liability or triggering a default under this Agreement. Either Party's rights under this paragraph shall, unless previously exercised, terminate on the date that is the earlier of (i) 180 days after the Effective Date or (ii) the date on which the conditions to Seller's obligations set forth in Section 6(a) of Exhibit 3 are satisfied.

7. **Facility.** The "Facility" is the District wastewater treatment plant located at 15160 Jackson Rd, ~~Sloughhouse~~**Rancho Murieta**, California 95683.

8. **Diagram of Key Components:** The following image shows the:

- (i) Facility;
- (ii) System/array;
- (iii) Delivery Point;
- (iv) Premises; and
- (v) access points needed for Seller to install and service the System (bldg access, electrical room, stairs etc.)



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Exhibit 3

General Terms and Conditions

1. **Definitions and Interpretation:** Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the “**Term**”). Electric energy generated by the System will be delivered to Purchaser at the delivery point identified on **Exhibit 2** (the “**Delivery Point**”). Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser’s electric requirements at the Facility exceed the output of the System.
3. **Term and Termination.**
 - a. **Initial Term.** This Agreement is effective as of the Effective Date. The initial term (“**Initial Term**”) of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1**, unless earlier terminated as provided for in this Agreement. The “**Commercial Operation Date**” is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Upon Purchaser’s request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller’s contractor and the interconnection or similar agreement with the Sacramento Municipal Utility District (“**SMUD**”). Purchaser’s failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser’s obligations to make payments that otherwise would have been due under this Agreement.
 - b. **Additional Terms.** If Purchaser has not exercised its option to purchase the System under Section 15(b) by the end of the Initial Term, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each an “**Additional Term**”). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall respond positively or negatively to that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If both Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term on the same terms and conditions as set forth in this Agreement and at a Contract Price to be determined. Notwithstanding the foregoing, if the Parties are unable to agree on a Contract Price, then this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term. If the Party receiving the request for an Additional Term rejects or is deemed to reject the first Party’s offer, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.
4. **Billing and Payment.**
 - a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electric energy generated by the System and delivered to the Delivery Point at the \$/kWh rate shown in **Exhibit 1** (the “**Contract Price**”). The monthly payment for such energy will be equal to the applicable \$/kWh rate multiplied by the number of kWh of energy generated during the applicable month, as measured by the System meter.
 - b. **Monthly Invoices.** Seller shall invoice Purchaser monthly, either manually or through ACH. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii)

the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.

- c. **Taxes.** Purchaser shall either pay or reimburse Seller for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the utility's electric distribution system, including property taxes on the System; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Purchaser due to the action or omission of Seller. For purposes of this Section 4(c), "**Taxes**" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility.
- d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall accrue interest at the annual rate of one and one-half percent (1.5%) over the Wall Street Journal-specified Prime Rate (but not to exceed the rate permitted by California Civil Code section 3289(b)).

5. **Environmental Attributes and Environmental Incentives.**

Unless otherwise specified on **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradeable renewable credits and Green-e® products.

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

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

“**Tax Credits**” means any and all (i) investment tax credits, (ii) production tax credits and (iii) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

6. Conditions to Obligations.

a. Conditions to Seller’s Obligations.

Seller’s obligations under this Agreement are conditioned on the completion of the following conditions to Seller’s reasonable satisfaction on or before the Condition Satisfaction Date:

- i. Completion of a physical inspection of the Facility and the Premises (as shown on Ex. 2) where the System will be located (the “**Premises**”) including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;
- ii. Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller’s Financing Parties. “**Construction Agreement**” as used in this subsection means an agreement between SolarCity and a subcontractor to install the System;
- iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;
- iv. Receipt of all necessary zoning and land use approvals and building permits;
- v. Execution of all necessary agreements with SMUD for interconnection of the System to the utility’s electric distribution system; and
- vi. Prior to Seller commencing construction and installation of the System, Purchaser shall give Seller proof of insurance for all insurance required to be maintained by Purchaser under this Agreement.

b. Conditions to Purchaser’s Obligations.

Purchaser’s obligations under this Agreement are conditioned on the completion of the following conditions to Purchaser’s reasonable satisfaction:

- i. The occurrence of the Commercial Operation Date for the System on or before the Outside Commercial Operation Date (See **Exhibit 1**); provided that the Outside Commercial Operation Date shall be automatically extended on a day for day basis for each day of Force Majeure or any other delay caused by the Purchaser or any third party;

c. Failure of Conditions.

If any of the conditions listed in subsections (a) or (b) above are not satisfied by the applicable dates specified in those subsections, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the parties are unable to negotiate new dates and the failed condition does not result from Force Majeure or the actions/omissions of the terminating Party or any third party, including the utility, then the Party that has not failed to meet an obligation may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement.

7. Seller’s Rights and Obligations.

a. Permits and Approvals. Seller, with Purchaser’s reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

- i. any zoning and land use approvals and building permits required to construct, install and operate the System; and
- ii. any agreements and approvals from SMUD necessary in order to interconnect the System to the utility’s electric distribution system.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals.

- b. **System Installation.** Seller shall procure, construct and install the System on the Premises. Seller will design and prepare plans for the installation of the System, and will submit them to Purchaser for approval. The plans must comply with applicable federal and state laws and regulations and Purchaser ordinances and policies. Purchaser will not unreasonably withhold or delay approval of the plans. The construction and materials must be in accordance with this Agreement, approved plans, building permit, and applicable laws and regulations. The contractor installing the System must be licensed by the California Contractors State License Board to do the work. Seller and its contractor, and any Construction Agreement, must comply with California Labor Code provisions concerning contractor registration, payment of prevailing wage rates, penalties, employment of apprentices, hours of work and overtime, keeping and retention of payroll records, and other requirements applicable to public works projects within the meaning of the Labor Code. (See California Labor Code division 2, part 7, chapter 1 (sections 1720-1861).)
- c. **Standard System Repair and Maintenance.** During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement. Seller shall (A) have the appropriate experience and ability to operate and maintain photovoltaic solar systems and the financial capability to do same (an "Operator"); or (B) enter into a contract with an Operator, pursuant to which (1) such Operator shall be responsible for System operation and maintenance under this Agreement and (2) Operator shall administer and perform all rights (including access rights to the Premises) and obligations of Seller on behalf of Seller under this Agreement. Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller's contractors. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Premises to make standard repairs.
- d. **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to (1) unexpected or unusual conditions at the Premises that adversely impair the functioning of the System, or (2) the material inaccuracy of any information provided by Purchaser and relied upon by Seller, then the pricing, schedule and other terms of this Agreement will be equitably adjusted through good faith negotiations between the Parties to compensate for any work in excess of normally expected work required to be performed by Seller.
- e. **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.
- f. **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.
- g. **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement. However, (1) Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors, and (2) for construction work, the contractors and subcontractors must be licensed by the California Contractors State License Board to do the work.
- h. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying construction work, goods or services to Seller under this Agreement and shall keep the Facility and Premises free and clear of any liens related to such charges, except for those enforcement of judgment liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection

with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.

8. Purchaser's Rights and Obligations.

- a. **Facility and Premises Access Rights.** Purchaser grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for the purposes of (a) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (b) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (c) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to Purchaser's electric system at the Facility and/or to SMUD's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility or Premises except in situations where there is imminent risk of damage to persons or property. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the "**License Term**"). During the License Term, Purchaser shall ensure that Seller's rights under the License and Seller's access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this Agreement by either Party (but not beyond the end of the License Term). Purchaser agrees that Seller, upon request to Purchaser, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the Parties.

The grant of the License does not create any legal title, possessory interest, or leasehold interest in or to the Premises. The Premises may be used only by Seller and its employees and contractors. Seller will not (a) use or permit the Premises to be used in any manner or for any purpose that violates any federal, state or local law, (b) maintain, commit or permit the maintenance or commission of any nuisance or waste on the Premises, (c) use, place or store any hazardous or toxic material or substance on the Premises (except as directly related to the construction, operation, maintenance or repair of the System). Seller will clean-up any litter and other debris on the Premises.

- b. **OSHA Compliance.** Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws and codes are adhered to in their performance under this Agreement.
- c. **Maintenance of Facility.** Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the local utility grid at all times and will not permit cessation of electric service to the Facility from the local utility. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.
- d. **No Alteration of Facility.** Purchaser shall not make any alterations or repairs to the Facility which may adversely affect the operation and maintenance of the System without Seller's prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs shall be done by Seller or its contractors at Purchaser's cost. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.
- e. **Outages.** Purchaser shall be permitted to be off line for a total of forty-eight (48) day light hours as defined by the United States National Weather Service in the area where the System is located (each, a "**Scheduled Outage**") per calendar year during the Term, during which time Purchaser shall not be obligated to accept or pay for electricity

from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of forty-eight (48) day light hours as defined by the United States National Weather Service in the area where the System is located per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. For avoidance of doubt, the forty-eight (48) hour period shall include all Scheduled Outage hours allowed under any of the terms of this Agreement, including those undertaken pursuant to Section 8(d).

- f. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim.
- g. **Security.** Purchaser shall be responsible for using commercially reasonable efforts to maintain the physical security of the Facility, Premises and the System against known risks and risks that reasonably should have been known by Purchaser. Purchaser will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.
- h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 8(h) against Purchaser.
- i. **Data Line.** Purchaser shall provide Seller a high speed internet data line during the Term to enable Seller to record the electric energy generated by the System. If Purchaser fails to provide such high speed internet data line, or if such line ceases to function and is not repaired, Seller may reasonably estimate the amount of electric energy that was generated and invoice Purchaser for such amount in accordance with Section 4.
- j. **Breakdown Notice.** Purchaser shall promptly notify Seller following the discovery by Purchaser of any material System malfunction or damage, any occurrence adversely affecting the System, any interruption in the supply of electrical energy from the System, or an emergency condition affecting the System.

9. **Relocation of System.**

If (i) Purchaser ceases to conduct business operations at and/or vacates the Facility or (ii) Seller is prevented from operating the System at the Premises (through no fault of Seller) or (iii) the System is otherwise prevented from delivering electricity (through no fault of Seller), in each case prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same utility district as the terminated System or in a location with similar utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System relocated to; and (iii) Term, which will be the remainder of the Term of this Agreement and such amended agreement shall be deemed to be a continuation of this Agreement without termination. Purchaser shall also provide any new Purchaser, owner, lessor or mortgagee consents or releases required by Seller or Seller's Financing Parties in connection with the substitute facility. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Premises and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title

search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller's Financing Parties in the System. Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during the period of time the System is not in operation due to the relocation and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. Seller shall remove the System from the vacated Premises prior to the termination of Purchaser's ownership, lease or other rights to use such Premises. Seller will not be required to restore the Premises to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Premises, Seller shall have the right to make an adjustment to **Exhibit 1** such that Purchaser's payments to Seller are the same as if the System were located at the original Premises. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

10. Removal of System at Expiration.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Premises shall be returned to its original condition including the removal of System mounting pads or other support structures. Seller shall leave the Premises in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

11. Measurement.

Electricity delivered to the Facility shall be measured by the SolarGuard monitoring system installed and maintained by Seller as part of the System.

12. Default, Remedies and Damages.

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

- (1) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("**Payment Default**");
- (2) failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
- (3) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- (4) Purchaser loses its rights to occupy and enjoy the Premises;
- (5) a Party, or its guarantor (if any) becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if

any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days); or

- (6) Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. Remedies.

- (1) **Remedies for Payment Default.** If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the Payment Default.
- (2) **Remedies for Other Defaults.** On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the occurrence of the Default Event. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. If Purchaser terminates this contract without cause prior to System installation a \$5,000 design cancellation fee shall also apply in addition to any other remedy available to Seller.
- (3) **Damages Upon Termination by Default.** Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):
 - A. **Purchaser.** If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (i) reasonable compensation, on a net after tax basis assuming a tax rate of 35%, for the loss or recapture of (A) the investment tax credit equal to thirty percent (30%) of the System value; and (B) MACRS accelerated depreciation equal to eighty five percent (85%) of the System value, (C) loss of any Environmental Attributes or Environmental Incentives that accrue or are otherwise assigned to Seller pursuant to the terms of this Agreement (Seller shall furnish Purchaser with a detailed calculation of such compensation if such a claim is made), (D) other financing and associated costs not included in (A), (B) and (C); (ii) the net present value (using a discount rate of 5%) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (iii) commercially reasonable removal costs as provided in Section 12(b)(3)(C) and (iv) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.
 - B. **Seller.** If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (i) the present value (using a discount rate of 9.5%) of the excess, if any, of the reasonably expected cost of electric energy from SMUD over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from SMUD; (iii) any removal costs incurred by Purchaser; and (iv) any and all other amounts previously accrued under this Agreement

Comment [A5]: Will reference TV schedule instead of formula here

and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.

- C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 12(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

13. Representations and Warranties.

a. General Representations and Warranties. Each Party represents and warrants to the other the following:

- (1) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
- (2) Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

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

- (1) License. Purchaser has title to or a leasehold or other property interest in the Premises. Purchaser has the full right, power and authority to grant the License contained in Section 8(a). Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility. If Purchaser does not own the Premises or Facility, Purchaser has obtained all required consents from the owner of the Premises and/or Facility to grant the License and enter into and perform its obligations under this Agreement.
- (2) Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.
- (3) Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Premises, and Purchaser's estimated electricity requirements, is accurate in all material respects.
- (4) Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.
- (5) No Pool Use. No electricity generated by the System will be used to heat a swimming pool.

c. Seller's Warranties.

- (1) Under normal use and service conditions, the System will be free from defects in workmanship or defects in, or a breakdown of, materials or components during the Term.
- (2) During the Term, Seller will repair or replace any defective part, material or component or correct any defective workmanship, at no cost or expense to Purchaser (including all labor costs), when

Purchaser submits a valid claim to Seller under this Agreement. If Seller damages the Facility or other Purchaser property, Seller will repair the damage Seller causes or pay Purchaser for the cost to repair the damage caused by Seller. Seller may use new or reconditioned parts when making repairs or replacements. Seller may also, at no additional cost to Purchaser, upgrade or add to any part of the System.

(3) Seller's total liability arising out of or relating to this Section 13(c) shall in no event:

A. *For System Failure or Replacement*: exceed the total of the Purchaser's payments under this Agreement during the previous twelve (12) month period; and

B. *For damages to the Facility or property*: exceed three million dollars (\$3,000,000).

d. **NO OTHER WARRANTY.** OTHER THAN AS EXPRESSLY SET FORTH IN SECTIONS 13(A), 13(C) and THE PERFORMANCE GUARANTEE (the "PeGu") Dated _____ BY AND BETWEEN SELLER AND PURCHASER, WHICH, FOR THE AVOIDANCE OF DOUBT, IS A SEPARATE AGREEMENT, NO WARRANTY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL BE PURCHASER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY CLAIM OR LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

14. **System Damage and Insurance.**

a. **System Damage.** If the System is damaged or destroyed other than by Purchaser's negligence, willful misconduct or breach of this Agreement, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last two (2) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement without liability, unless Purchaser agrees to pay for the cost of restoration of the System.

b. **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:

i. **Seller's Insurance.** Seller shall maintain (i) property insurance on the System for the replacement cost thereof, (ii) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate, (iii) employer's liability insurance with coverage of at least \$1,000,000 and (iv) workers' compensation insurance as required by law; provided, however, that notwithstanding the foregoing, Seller may self-insure.

ii. **Purchaser's Insurance.** Purchaser shall maintain commercial general liability insurance or self-insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

c. **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance thirty (30) days (ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled or terminated, (ii) be written on an occurrence basis, (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other party. Seller will arrange for its general liability policy to be endorsed to name Purchaser and its officers, employees and agents as additional insureds regarding liability arising out of the construction and operation of the System.

d. **Certificates.** Upon the other Party's request each Party shall deliver to the other Party certificates of insurance or self-insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

15. **Ownership; Option to Purchase.**

- a. **Ownership of System.** Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of the Seller and Purchaser agree that the Seller is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the California Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. For the avoidance of doubt, in either circumstance Seller shall file such disclaimer. Upon request, Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises.
- b. **Option to Purchase.** At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to the Fair Market Value of the System. The “**Fair Market Value**” of the System shall be determined by mutual agreement of Purchaser and Seller; provided, however, if Purchaser and Seller cannot agree to a Fair Market Value within thirty (30) days after Purchaser has exercised its option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination in a written opinion delivered to the Parties; provided that in no event shall the amount paid to purchase the System be less than the aggregate of the amounts calculated under Section 12(b)(3)(A)(ii) and (iv) as of the date of System title transfer. The valuation made by the appraiser shall be binding upon the Parties in the absence of grounds that would allow for vacating an arbitration award under California Code of Civil Procedure section 1286.2. The costs of the appraisal shall be borne by the Parties equally. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Seller shall transfer good title to the System to Purchaser upon Seller’s receipt of the Fair Market Value, but Seller otherwise disclaims all warranties of any kind, express or implied, concerning the System, “as is, where is, with all faults”; provided that Seller shall assign to Purchaser any manufacturers warranties that are in effect as of the purchase, and which are assignable pursuant to their terms. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

16. **Indemnification and Limitations of Liability.**

- a. **General.** Each Party (the “**Indemnifying Party**”) shall defend, indemnify and hold harmless the other Party, its affiliates and the other Party’s and its affiliates’ respective directors, officers, shareholders, partners, members, agents and employees (collectively, the “**Indemnified Parties**”), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys’ fees (collectively, “**Liabilities**”) resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 13 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 16(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 16(c).

b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a “**Claim**”), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys’ fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 16(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 16(b) for any Claim for which such notice is not provided if the failure to give notice prejudices the Indemnifying Party.

c. **Environmental Indemnification.** Seller shall indemnify, defend and hold harmless all of Purchaser’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 16(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees. Purchaser shall indemnify, defend and hold harmless all of Seller’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.

i. **“Hazardous Substance”** means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability.**

i. **No Consequential Damages.** Except with respect to indemnification of third party claims pursuant to Section 16, neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such.

ii. **Actual Damages.** Except with respect to indemnification of third party claims pursuant to Section 16 and except as otherwise limited in Section 13(c), Seller’s aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments made (or, as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section 16(d)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise.

17. **Force Majeure.**

a. **“Force Majeure”** means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any

Governmental Authority (provided that such action has been timely requested and diligently pursued); any Change in Law that makes it unlawful, impossible or materially impracticable for a Party to perform under this Agreement; inability to deliver electricity to the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

- b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event. A Party's performance will be suspended only during the continuance of the Force Majeure condition and the Party will perform all other obligations not affected by the Force Majeure condition. Upon the occurrence of an event of Force Majeure, the Party claiming Force Majeure to the extent reasonably practical must use its best efforts to promptly implement a plan to ensure the continued ability to perform its obligations and promptly bring to an end the Force Majeure condition.
- c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that impacts Purchaser's ability to make payment.
- d. If a Force Majeure event continues for a period of one hundred (100) days (thirty days in the instance of a Change in Law that is a Force Majeure event) or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, then the Parties shall, within thirty (30) days following receipt by the other Party of notice of such Force Majeure event, meet and attempt in good faith to negotiate amendments to this Agreement. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then the Party not claiming Force Majeure (except to the extent that the Force Event is a Change in Law, under which circumstances, Seller) shall have the right to terminate this Agreement without either Party having further liability under this Agreement except with respect to payment of amounts accrued prior to termination and actions or omissions that occur prior to termination.
- e. "**Change in Law**" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation); or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller's obligations hereunder; provided, that a change in federal, state, county or any other tax law after the Effective Date shall not be a Change in Law pursuant to this Agreement.

18. Assignment and Financing.

a. Assignment.

(i) This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. If Purchaser has been provided with reasonable proof that the proposed assignee has comparable experience in operating and maintaining solar photovoltaic systems and the financial capability to do the same, Purchaser's withholding of consent shall be deemed unreasonable.

(ii) Notwithstanding Section 18(a)(i), Seller may, without the prior written consent of Purchaser, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to any Financing Party, any entity through which Seller is obtaining financing from a Financing Party, any affiliate of Seller or any person

succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee).

(iii) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

- b. **Financing.** The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from lenders or third parties (including tax equity or similar investors) ("**Financing Parties**") in connection with the installation, construction, ownership, operation and maintenance of the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. The Parties also agree that Seller may assign this Agreement to the Financing Parties as collateral, and in connection with any such assignment, Purchaser agrees to execute a consent to assignment in customary form and reasonably acceptable to the Financing Parties.

19. **Confidentiality.**

- a. **Confidentiality.** Unless the California Public Records Act requires otherwise, if either Party provides 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 Purchaser's business ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its affiliates and to its and its affiliates' respective officers, directors, members, managers, employees, agents, contractors, consultants, lenders and Financing Parties (collectively, "**Representatives**"), and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the negotiation and performance of this Agreement. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 19(a), except as set forth in Section 19(b). All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 19(a) by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 19(a). To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 19(a), but shall be in addition to all other remedies available at law or in equity.
- b. **Permitted Disclosures.** Unless the California Public Records Act requires otherwise, notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party's or its Representatives' breach of this Agreement, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

c.

20. **Goodwill and Publicity.**

- a. Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party except for staff reports, board minutes, and board agendas. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or public announcement by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law, including staff reports, board minutes, and board agendas) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.
- b. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser, if engaged in commerce and/or trade, shall submit to Seller for approval any press releases regarding Purchaser's purchase or use of solar or renewable energy in connection with this Agreement and shall not submit for publication any such releases without the written approval of Seller. Approval shall not be unreasonably withheld, and Seller's review and approval shall be made in a timely manner to permit Purchaser's timely publication.

21. **General Provisions**

- a. **Choice of Law.** The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.
- b. **Arbitration and Attorneys' Fees.** Any dispute arising from or relating to this Agreement shall be arbitrated in San Francisco, California. The arbitration shall be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures, and judgment on any award may be entered in any court of competent jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.
- c. **Notices.** All notices under this Agreement shall be in writing and shall be by personal delivery, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document emailed or electronically sent in PDF form to it as an original document.
- d. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 8(a) (Facility and Premises Access Rights), Section 10 (Removal of System at Expiration), Section 13 (Representations and Warranties), Section 14(b) (Insurance Coverage), Section 16 (Indemnification and Limitations of Liability), Section 19 (Confidentiality and Publicity), Section 21(a) (Choice of Law), Section 21(b) (Arbitration and Attorneys' Fees), Section 21(c) (Notices), Section 21(g) (Comparative Negligence), Section 21(h) (Non-Dedication of Facilities), Section 21(j) (Service Contract), Section 21(k) (No Partnership) Section 21(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 21(n) (No Third Party Beneficiaries).
- e. **Further Assurances.** Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- f. **Right of Waiver.** Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing

and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

- g. Comparative Negligence.** It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
- h. Non-Dedication of Facilities.** Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 10 of this Agreement.
- i. Estoppel.** Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
- j. Service Contract.** The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.
- k. No Partnership.** No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.
- l. Full Agreement, Modification, Invalidity, Counterparts, Captions.** This Agreement, together with any Exhibits, completely and exclusively states the agreement of the parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

- m. **Forward Contract**. The transaction contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.
- n. **No Third Party Beneficiaries**. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.
- o. **Bonds**. Notwithstanding any language to the contrary in this Agreement and solely to the extent a performance and/or payment bond is being issued to Purchaser:
 - i. **Performance bond liability**. Any performance bond issued for a site or system will cease one (1) year from the completion of construction. If a warranty or guarantee is provided under the terms of this Agreement, the balance of any warranty or guarantee beyond the one (1) year term of the applicable performance bond shall continue to be guaranteed solely by Seller under the terms of this Agreement. The performance bond does not guarantee any property restorative requirements.
 - ii. **Payment bond liability**. Any payment bond issued will cease at the termination of any time required by law.
 - iii. **Performance Guarantee**. Neither payment bonds, whether for labor or materials, nor performance bonds are applicable to any specified performance guarantee.

End of Exhibit 3



Performance Guarantee Agreement (PPA)

This Performance Guarantee Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Purchaser:		Seller:	
Name and Address	Rancho Murieta Community Service District 15160 Jackson Rd. P.O. Box 1050 Rancho Murieta, CA 95683 Attention: Darlene Gillum, General Manager	Name and Address	SolarCity Corporation 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(916) 354-3709	Phone	(650) 638-1028
Fax		Fax	(650) 560-6460
E-mail	dgillum@rmcsd.com	E-mail	contracts@solarcity.com
Project Name	Rancho Murieta Community Service District WWTP		

This Agreement sets forth the terms and conditions of a performance guarantee provided by Seller in conjunction with that certain Solar Power Purchase Agreement by and between Seller and Purchaser dated the same date as this Agreement (the “**PPA**”). All capitalized terms used hereunder shall have the meanings given such terms in the PPA. The term of this Agreement shall be concurrent with the term of the PPA. This Agreement will be updated as necessary by mutual written agreement of the Parties to reflect the as-built specifications of the System.

1. **Warranty.** Seller guarantees that during the term of the PPA the System will generate the guaranteed kilowatt-hours (kWh) (“**Guaranteed kWh**”) of energy set forth as follows:

A. If at the end of each successive sixty (60) month anniversary of the Commercial Operation Date the cumulative Actual kWh (defined below) generated by the System is *less* than the Guaranteed kWh (defined below), then Seller will send Purchaser a refund check equal to the difference between the Guaranteed kWh and the cumulative Actual kWh multiplied by the Guaranteed Energy Price per kWh (defined below). Seller will make that payment within thirty (30) days after the end of the relevant calendar year.

B. If at the end of each successive sixty (60) month anniversary of the Commercial Operation Date the Actual kWh is *greater* than the Guaranteed kWh during any sixty (60) month period, this surplus will be carried over and will be used to offset any deficits that may occur in the next true up period.

C. **“Guaranteed kWh”:**

True Up Term Years	Guaranteed kWh
Years 1-5	5,974,951
Years 6-10	5,827,064
Years 11-15	5,682,836
Years 16 -20	5,542,179

D. **“Actual kWh”** means the AC electricity produced by the System and delivered to Purchaser at the Delivery Point in kilowatt-hours measured and recorded by Seller during each successive sixty (60) month anniversary of the Commercial Operation Date. To measure the Actual kWh we will use the SolarGuard™ Monitoring Service or to the extent such services are not available, Seller will estimate the Actual kWh by reasonable means.

E. **“Guaranteed Energy Price per kWh”** means the dollar value per kWh as calculated in the table below:

True Up Term	Guaranteed Energy Price per kWh
Years 1-5	\$0.032
Years 6-10	\$0.046
Years 11-15	\$0.062
Years 16 - 20	\$0.077

2. **Exclusions.** The Warranty does not apply to any period of time during which System generation is shutdown or adversely affected by a repair, replacement or correction required due to the following:

- A. someone other than Seller or its approved service providers installed, removed, re-installed or repaired the System;
- B. Destruction or damage to the System or its ability to safely produce energy not caused by Seller or its approved service providers while servicing the System (e.g., a tree falls on the System);
- C. Purchaser’s failure to perform, or breach of, Purchaser’s obligations under the PPA (such as if Purchaser modifies or alters the System);
- D. Purchaser’s breach of the PPA including being unavailable to provide access or assistance to Seller in diagnosing or repairing a problem or failing to maintain the System as stated in the Solar Operation and Maintenance Guide;
- E. any Force Majeure Event (as defined below);
- F. a power or voltage surge caused by someone other than Seller including a grid supply voltage outside of the standard range specified by the Utility;
- G. Any System failure not caused by a System defect (e.g., such as making roof repairs); or
- H. Theft of the System.

Seller hereby disclaims, and any beneficiary of this Agreement hereby waives, any warranty with respect to any cost savings from using the System.

3. **Force Majeure.** If Seller is unable to perform all or some of its obligations under this Agreement because of a Force Majeure Event, Seller will be excused from whatever performance is affected by the Force Majeure Event, provided that:

- A. Seller, as soon as is reasonably practical, gives Purchaser notice describing the Force Majeure Event;
- B. Seller’s suspension of its obligations is of no greater scope and of no longer duration than is required by the Force Majeure Event; and
- C. No Seller obligation that arose before the Force Majeure Event that could and should have been fully performed before such Force Majeure Event is excused as a result of such Force Majeure Event.

Seller’s performance will be suspended only during the continuance of the Force Majeure condition and Seller will perform all other obligations not affected by the Force Majeure condition. Upon the occurrence of an event of Force Majeure, Seller to the extent reasonably practical must use its best efforts to promptly implement a plan to ensure the continued ability to perform its obligations and promptly bring to an end the Force Majeure condition.

“Force Majeure Event” means any event, condition or circumstance beyond the control of and not caused by Seller’s fault or negligence. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any governmental authority (provided that such order has been resisted in good faith by all reasonable legal means) the failure to act on the part of any governmental authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products; and failure of equipment not utilized by Seller or under its control.

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

5. **Applicable Law, Arbitration.** The laws of the state where the Facility is located shall govern this Agreement without giving effect to conflict of laws principles. All claims, disputes and other matters in question, arising out of, or relating to, this Agreement or the breach thereof shall be decided by binding arbitration. Each arbitration, including the selecting of the arbitrator will be administered by JAMS under its Comprehensive Arbitration Rules and Procedures. Arbitration will be governed by the Federal Arbitration Act (Title 9 of the U.S. Code). Either party can initiate an arbitration proceeding by filing the necessary forms with JAMS. Venue for any arbitration brought under this Agreement shall be proper in the State of California, County of Sacramento. Each party shall bear its own costs and expenses, including attorneys’ fees, with respect to any arbitration. The arbitrator shall have the authority to award any legal or equitable remedy or relief that a court could order or grant. The arbitrator, however, is not authorized to change or alter the terms of this Agreement or to make any award that would extend to any transaction other than this Agreement.

6. **Assignment and Transfer of this Agreement.** Seller may assign its rights or obligations under this Agreement to a third party without your consent, provided that any assignment of Seller’s obligations under this Agreement shall be to a party qualified to perform such obligation. This Agreement protects only the party that hosts the System. Purchaser’s rights and obligations under this Agreement will be automatically transferred to any party to whom Purchaser properly transfers the PPA.

7. **Entire Agreement, Changes.** This Agreement contains the parties’ entire agreement regarding the matters set forth herein. Seller’s obligations under this Agreement are separate and distinct from the obligations of the Seller or its assigns under the PPA. No breach of this Agreement shall affect Purchaser’s obligations under the PPA. The PPA may be assigned to a third party without assignment of Seller’s obligations under this Agreement. Any change to this Agreement must be in writing and signed by both Parties. If any portion of this Agreement is determined to be unenforceable, the remaining provisions shall be enforced in accordance with their terms or shall be interpreted or re-written so as to make them enforceable. Provisions that should reasonably be considered to survive termination of this Agreement shall survive.

Rancho Murieta Community Service District

SolarCity Corporation

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Solar Power Purchase Agreement (Commercial CA)

This Solar Power Purchase Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Purchaser:		Seller:	
Name and Address	Rancho Murieta Community Service District 15160 Jackson Rd. P.O. Box 1050 Rancho Murieta, CA 95683 Attention: Darlene Gillum, General Manager	Name and Address	SolarCity Corporation 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(916) 354-3709	Phone	(650) 638-1028
E-mail	dgillum@rmcsd.com	E-mail	Contracts@solarcity.com
Facility/Premises Ownership	Purchaser owns the Facility and Premises		Contractor’s License Numbers CA: CSLB 888104
Tax Status			
Project Name	Rancho Murieta Community Service District W WTP		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the “**System**”) and to be installed adjacent to the Purchaser’s facility described in **Exhibit 2** (the “**Facility**”).

Comment [A1]: District to provide a detailed description of the installation location

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

- Exhibit 1 Pricing Attachment
- Exhibit 2 System Description, Delivery Point and Premises
- Exhibit 3 General Terms and Conditions

Rancho Murieta Community Service District

SolarCity Corporation

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit 1
Pricing Attachment

1. **Term:** Twenty (20) years, beginning on the Commercial Operation Date.
2. **Additional Terms:** Up to three (3) Additional Terms of five (5) years each.
3. **Environmental Incentives and Environment Attributes Accrue to Seller.**
4. **Contract Price:**

Contract Year	\$/kWh
1	\$0.0780
2	\$0.0780
3	\$0.0780
4	\$0.0780
5	\$0.0780
6	\$0.0780
7	\$0.0780
8	\$0.0780
9	\$0.0780
10	\$0.0780
11	\$0.0780
12	\$0.0780
13	\$0.0780
14	\$0.0780
15	\$0.0780
16	\$0.0780
17	\$0.0780
18	\$0.0780
19	\$0.0780
20	\$0.0780

Includes ACH invoicing. If manual invoicing is required, a \$25 handling charge will be added to each invoice.

5. **Condition Satisfaction Date:** 180 days after the Effective Date
6. **Anticipated Commercial Operation Date:** 365 days after the Effective Date
7. **Outside Commercial Operation Date:** 545 days after the Effective Date

8. **Purchase Option Price Schedule:**

<u>End of Contract Year</u>	<u>Option Price*:</u>
<u>6</u>	<u>\$715,220</u>
<u>10</u>	<u>\$645,247</u>
<u>15</u>	<u>\$579,269</u>
<u>20</u>	<u>Fair Market Value</u>

* Higher of Fair Market Value of System or amount specified.

Comment [A2]: Schedule pending final Solar City review/approval

9. Termination Value Schedule:

Comment [A3]: Schedule pending final Solar City review/approval

<u>Contract Year</u>	<u>Termination Value</u>
<u>1</u>	<u>\$1,386,263</u>
<u>2</u>	<u>\$1,210,370</u>
<u>3</u>	<u>\$977,650</u>
<u>4</u>	<u>\$794,161</u>
<u>5</u>	<u>\$639,880</u>
<u>6</u>	<u>\$482,542</u>
<u>7</u>	<u>\$435,848</u>
<u>8</u>	<u>\$412,339</u>
<u>9</u>	<u>\$387,881</u>
<u>10</u>	<u>\$362,426</u>
<u>11</u>	<u>\$335,922</u>
<u>12</u>	<u>\$308,316</u>
<u>13</u>	<u>\$279,552</u>
<u>14</u>	<u>\$249,571</u>
<u>15</u>	<u>\$218,310</u>
<u>16</u>	<u>\$185,705</u>
<u>17</u>	<u>\$151,687</u>
<u>18</u>	<u>\$116,185</u>
<u>19</u>	<u>\$79,123</u>
<u>20</u>	<u>\$40,422</u>

Exhibit 2

System Description, Delivery Point and Premises

1. **System Location:** Property in Rancho Murieta, CA adjacent to the Purchaser ~~wastewater~~ treatment plant as shown on the attached diagram.

Comment [A4]: District to provide more specific property description for location of solar power system

2. **System Size (DC kW):** ~~368.9577.22~~

3. **Expected First Year Energy Production (kWh):** ~~927,300598.500~~

4. **Expected Structure:** Ground Mount

5. **System Installation Includes:**

Installation of a solar energy system (includes: design, engineering, permitting, performance bonds (at Purchaser's ~~expens~~), installation, monitoring, rebate application and paperwork processing for solar energy system), **prevailing wage construction**.

6. **System Installation Excludes:**

Additional or extra construction-related work caused by subsurface, latent or unknown physical conditions at the Premises that differ materially from those ordinarily encountered and generally expected as inherent in System installation at this type of site (including, but not limited to, excavation/circumvention of underground obstacles); upgrades or repair to customer or utility electrical infrastructure; payment bonds; tree removal and tree trimming; and Purchaser's evaluation of the project under the California Environmental Quality Act ("**CEQA Evaluation**") and the mitigation of any significant environmental impacts disclosed by the CEQA ~~E~~evaluation (the mitigation costs are referred to as the "CEQA Costs").

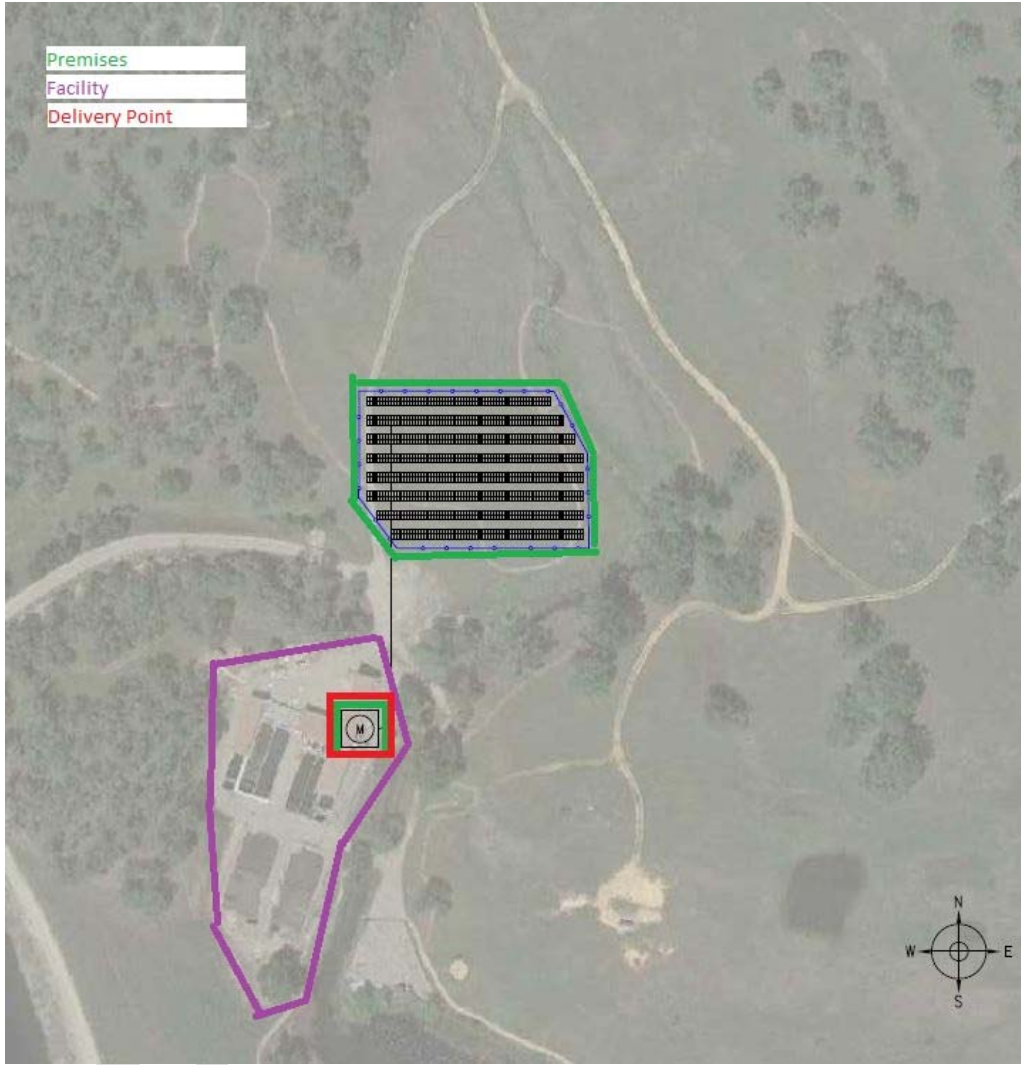
If any CEQA Costs should arise, then the Parties will attempt in good faith to negotiate the pricing to address such costs. If: (1) resolution of the CEQA costs cannot be reached; or (2) ~~if~~ the CEQA ~~E~~evaluation discloses any significant environmental impacts that cannot be feasibly mitigated or avoided, then either Party may terminate this Agreement prior to commencement of installation of the System without liability or triggering a default under this Agreement. Either Party's rights under this paragraph shall, unless previously exercised, terminate on the date that is the earlier of (i) 180 days after the Effective Date or (ii) the date on which the conditions to Seller's obligations set forth in Section 6(a) of Exhibit 3 are satisfied.

7. **Facility.** The "Facility" is the District ~~wastewater~~ treatment plant located ~~at 15160 Jackson Rd. in Sloughhouse,~~ California 95683.

Comment [A5]: Need to insert Tax Parcel ID or some other identification/address

8. **Diagram of Key Components:** The following image shows the:

- (i) Facility;
- (ii) System/array;
- (iii) Delivery Point;
- (iv) Premises; and
- (v) access points needed for Seller to install and service the System (bldg access, electrical room, stairs etc.)





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Exhibit 3

General Terms and Conditions

1. **Definitions and Interpretation:** Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words “herein,” “hereof” and “hereunder” refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the “**Term**”). Electric energy generated by the System will be delivered to Purchaser at the delivery point identified on **Exhibit 2** (the “**Delivery Point**”). Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser’s electric requirements at the Facility exceed the output of the System.
3. **Term and Termination.**
 - a. **Initial Term.** This Agreement is effective as of the Effective Date. The initial term (“**Initial Term**”) of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1**, unless earlier terminated as provided for in this Agreement. The “**Commercial Operation Date**” is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Upon Purchaser’s request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller’s contractor and the interconnection or similar agreement with the Sacramento Municipal Utility District (“**SMUD**”). Purchaser’s failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser’s obligations to make payments that otherwise would have been due under this Agreement.
 - b. **Additional Terms.** If Purchaser has not exercised its option to purchase the System under Section 15(b) by the end of the Initial Term, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each an “**Additional Term**”). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall respond positively or negatively to that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If both Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term on the same terms and conditions as set forth in this Agreement and at a Contract Price to be determined. Notwithstanding the foregoing, if the Parties are unable to agree on a Contract Price, then this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term. If the Party receiving the request for an Additional Term rejects or is deemed to reject the first Party’s offer, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.
4. **Billing and Payment.**
 - a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electric energy generated by the System and delivered to the Delivery Point at the \$/kWh rate shown in **Exhibit 1** (the “**Contract Price**”). The monthly payment for such energy will be equal to the applicable \$/kWh rate multiplied by the number of kWh of energy generated during the applicable month, as measured by the System meter.
 - b. **Monthly Invoices.** Seller shall invoice Purchaser monthly, either manually or through ACH. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii)

the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.

- c. **Taxes.** Purchaser shall either pay or reimburse Seller for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the utility's electric distribution system, including property taxes on the System; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Purchaser due to the action or omission of Seller. For purposes of this Section 4(c), "Taxes" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility.
- d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net thirty (30) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the thirty (30) day period shall accrue interest at the annual rate of one and one-half percent (1.5%) over the Wall Street Journal-specified Prime Rate (but not to exceed the rate permitted by California Civil Code section 3289(b)).

5. **Environmental Attributes and Environmental Incentives.**

Unless otherwise specified on **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradeable renewable credits and Green-e® products.

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

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

“**Tax Credits**” means any and all (i) investment tax credits, (ii) production tax credits and (iii) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

6. Conditions to Obligations.

a. Conditions to Seller’s Obligations.

Seller’s obligations under this Agreement are conditioned on the completion of the following conditions to Seller’s reasonable satisfaction on or before the Condition Satisfaction Date:

- i. Completion of a physical inspection of the Facility and the Premises (as shown on Ex. 2) where the System will be located (the “**Premises**”) including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;
- ii. Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller’s Financing Parties. “**Construction Agreement**” as used in this subsection means an agreement between SolarCity and a subcontractor to install the System;
- iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;
- iv. Receipt of all necessary zoning and land use approvals and building permits;
- v. Execution of all necessary agreements with SMUD for interconnection of the System to the utility’s electric distribution system; and
- vi. Prior to Seller commencing construction and installation of the System, Purchaser shall give Seller proof of insurance for all insurance required to be maintained by Purchaser under this Agreement.

b. Conditions to Purchaser’s Obligations.

Purchaser’s obligations under this Agreement are conditioned on the completion of the following conditions to Purchaser’s reasonable satisfaction:

- i. The occurrence of the Commercial Operation Date for the System on or before the Outside Commercial Operation Date (See **Exhibit 1**); provided that the Outside Commercial Operation Date shall be automatically extended on a day for day basis for each day of Force Majeure or any other delay caused by the Purchaser or any third party;

c. Failure of Conditions.

If any of the conditions listed in subsections (a) or (b) above are not satisfied by the applicable dates specified in those subsections, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the parties are unable to negotiate new dates and the failed condition does not result from Force Majeure or the actions/omissions of the terminating Party or any third party, including the utility, then the Party that has not failed to meet an obligation may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement.

7. Seller’s Rights and Obligations.

a. Permits and Approvals. Seller, with Purchaser’s reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

- i. any zoning and land use approvals and building permits required to construct, install and operate the System; and
- ii. any agreements and approvals from SMUD necessary in order to interconnect the System to the utility’s electric distribution system.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals.

- b. **System Installation.** Seller shall procure, construct and install the System on the Premises. Seller will design and prepare plans for the installation of the System, and will submit them to Purchaser for approval. The plans must comply with applicable federal and state laws and regulations and Purchaser ordinances and policies. Purchaser will not unreasonably withhold or delay approval of the plans. The construction and materials must be in accordance with this Agreement, approved plans, building permit, and applicable laws and regulations. The contractor installing the System must be licensed by the California Contractors State License Board to do the work. Seller and its contractor, and any Construction Agreement, must comply with California Labor Code provisions concerning contractor registration, payment of prevailing wage rates, penalties, employment of apprentices, hours of work and overtime, keeping and retention of payroll records, and other requirements applicable to public works projects within the meaning of the Labor Code. (See California Labor Code division 2, part 7, chapter 1 (sections 1720-1861).)
- c. **Standard System Repair and Maintenance.** During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement. Seller shall (A) have the appropriate experience and ability to operate and maintain photovoltaic solar systems and the financial capability to do same (an "Operator"); or (B) enter into a contract with an Operator, pursuant to which (1) such Operator shall be responsible for System operation and maintenance under this Agreement and (2) Operator shall administer and perform all rights (including access rights to the Premises) and obligations of Seller on behalf of Seller under this Agreement. Seller shall not be responsible for any work done by others on any part of the System unless Seller authorizes that work in advance in writing. Seller shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Seller or Seller's contractors. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Premises to make standard repairs.
- d. **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to (1) unexpected or unusual conditions at the Premises that adversely impair the functioning of the System, or (2) the material inaccuracy of any information provided by Purchaser and relied upon by Seller, then the pricing, schedule and other terms of this Agreement will be equitably adjusted through good faith negotiations between the Parties to compensate for any work in excess of normally expected work required to be performed by Seller.
- e. **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.
- f. **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.
- g. **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement. However, (1) Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors, and (2) for construction work, the contractors and subcontractors must be licensed by the California Contractors State License Board to do the work.
- h. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying construction work, goods or services to Seller under this Agreement and shall keep the Facility and Premises free and clear of any liens related to such charges, except for those enforcement of judgment liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection

with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.

8. Purchaser's Rights and Obligations.

- a. **Facility and Premises Access Rights.** Purchaser grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for the purposes of (a) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (b) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (c) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to Purchaser's electric system at the Facility and/or to SMUD's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility or Premises except in situations where there is imminent risk of damage to persons or property. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the "**License Term**"). During the License Term, Purchaser shall ensure that Seller's rights under the License and Seller's access to the Premises are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this Agreement by either Party (but not beyond the end of the License Term). Purchaser agrees that Seller, upon request to Purchaser, may record a memorandum of license in the land records respecting the License in form and substance reasonably acceptable to the Parties.

The grant of the License does not create any legal title, possessory interest, or leasehold interest in or to the Premises. The Premises may be used only by Seller and its employees and contractors. Seller will not (a) use or permit the Premises to be used in any manner or for any purpose that violates any federal, state or local law, (b) maintain, commit or permit the maintenance or commission of any nuisance or waste on the Premises, (c) use, place or store any hazardous or toxic material or substance on the Premises (except as directly related to the construction, operation, maintenance or repair of the System). Seller will clean-up any litter and other debris on the Premises.

- b. **OSHA Compliance.** Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws and codes are adhered to in their performance under this Agreement.
- c. **Maintenance of Facility.** Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the local utility grid at all times and will not permit cessation of electric service to the Facility from the local utility. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.
- d. **No Alteration of Facility.** Purchaser shall not make any alterations or repairs to the Facility which may adversely affect the operation and maintenance of the System without Seller's prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs shall be done by Seller or its contractors at Purchaser's cost. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.
- e. **Outages.** Purchaser shall be permitted to be off line for a total of forty-eight (48) day light hours as defined by the United States National Weather Service in the area where the System is located (each, a "**Scheduled Outage**") per calendar year during the Term, during which time Purchaser shall not be obligated to accept or pay for electricity

from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of forty-eight (48) day light hours as defined by the United States National Weather Service in the area where the System is located per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. For avoidance of doubt, the forty-eight (48) hour period shall include all Scheduled Outage hours allowed under any of the terms of this Agreement, including those undertaken pursuant to Section 8(d).

- f. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim.
- g. **Security.** Purchaser shall be responsible for using commercially reasonable efforts to maintain the physical security of the Facility, Premises and the System against known risks and risks that reasonably should have been known by Purchaser. Purchaser will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.
- h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 8(h) against Purchaser.
- i. **Data Line.** Purchaser shall provide Seller a high speed internet data line during the Term to enable Seller to record the electric energy generated by the System. If Purchaser fails to provide such high speed internet data line, or if such line ceases to function and is not repaired, Seller may reasonably estimate the amount of electric energy that was generated and invoice Purchaser for such amount in accordance with Section 4.
- j. **Breakdown Notice.** Purchaser shall promptly notify Seller following the discovery by Purchaser of any material System malfunction or damage, any occurrence adversely affecting the System, any interruption in the supply of electrical energy from the System, or an emergency condition affecting the System.

9. **Relocation of System.**

If (i) Purchaser ceases to conduct business operations at and/or vacates the Facility or (ii) Seller is prevented from operating the System at the Premises (through no fault of Seller) or (iii) the System is otherwise prevented from delivering electricity (through no fault of Seller), in each case prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same utility district as the terminated System or in a location with similar utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System relocated to; and (iii) Term, which will be the remainder of the Term of this Agreement and such amended agreement shall be deemed to be a continuation of this Agreement without termination. Purchaser shall also provide any new Purchaser, owner, lessor or mortgagee consents or releases required by Seller or Seller's Financing Parties in connection with the substitute facility. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Premises and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title

search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller's Financing Parties in the System. Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during the period of time the System is not in operation due to the relocation and shall invoice Purchaser for such amount and any associated lost or recaptured Environmental Incentives and lost sales (and penalties payments associated with the same) of associated Environmental Attributes in accordance with Section 4. Seller shall remove the System from the vacated Premises prior to the termination of Purchaser's ownership, lease or other rights to use such Premises. Seller will not be required to restore the Premises to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Premises, Seller shall have the right to make an adjustment to **Exhibit 1** such that Purchaser's payments to Seller are the same as if the System were located at the original Premises. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

10. Removal of System at Expiration.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Premises on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Premises shall be returned to its original condition including the removal of System mounting pads or other support structures. Seller shall leave the Premises in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Premises to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

11. Measurement.

Electricity delivered to the Facility shall be measured by the SolarGuard monitoring system installed and maintained by Seller as part of the System.

12. Default, Remedies and Damages.

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

- (1) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("**Payment Default**");
- (2) failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure within the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;
- (3) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- (4) Purchaser loses its rights to occupy and enjoy the Premises;
- (5) a Party, or its guarantor (if any) becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if

any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days); or

- (6) Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. Remedies.

- (1) **Remedies for Payment Default.** If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the Payment Default.

- (2) **Remedies for Other Defaults.** On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the occurrence of the Default Event. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. If Purchaser terminates this contract without cause prior to System installation a \$5,000 design cancellation fee shall also apply in addition to any other remedy available to Seller.

- (3) **Damages Upon Termination by Default.** Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):

A. **Purchaser.** If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (i) reasonable compensation, on a net after tax basis assuming a tax rate of 35%, for the loss or recapture of (A) the investment tax credit equal to thirty percent (30%) of the System value; and (B) MACRS accelerated depreciation equal to eighty five percent (85%) of the System value, (C) loss of any Environmental Attributes or Environmental Incentives that accrue or are otherwise assigned to Seller pursuant to the terms of this Agreement (Seller shall furnish Purchaser with a detailed calculation of such compensation if such a claim is made), (D) other financing and associated costs not included in (A), (B) and (C); (ii) the net present value (using a discount rate of 5%) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (iii) commercially reasonable removal costs as provided in Section 12(b)(3)(C) and (iv) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

B. **Seller.** If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (i) the present value (using a discount rate of 9.5%) of the excess, if any, of the reasonably expected cost of electric energy from SMUD over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from SMUD; (iii) any removal costs incurred by Purchaser; and (iv) any and all other amounts previously accrued under this Agreement

Comment [A6]: Will reference TV schedule instead of formula here

and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.

- C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 12(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

13. **Representations and Warranties.**

a. **General Representations and Warranties.** Each Party represents and warrants to the other the following:

- (1) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
- (2) Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

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

- (1) License. Purchaser has title to or a leasehold or other property interest in the Premises. Purchaser has the full right, power and authority to grant the License contained in Section 8(a). Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility. If Purchaser does not own the Premises or Facility, Purchaser has obtained all required consents from the owner of the Premises and/or Facility to grant the License and enter into and perform its obligations under this Agreement.
- (2) Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.
- (3) Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Premises, and Purchaser's estimated electricity requirements, is accurate in all material respects.
- (4) Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.
- (5) No Pool Use. No electricity generated by the System will be used to heat a swimming pool.

c. **Seller's Warranties.**

- (1) Under normal use and service conditions, the System will be free from defects in workmanship or defects in, or a breakdown of, materials or components during the Term.
- (2) During the Term, Seller will repair or replace any defective part, material or component or correct any defective workmanship, at no cost or expense to Purchaser (including all labor costs), when

Purchaser submits a valid claim to Seller under this Agreement. If Seller damages the Facility or other Purchaser property, Seller will repair the damage Seller causes or pay Purchaser for the cost to repair the damage caused by Seller. Seller may use new or reconditioned parts when making repairs or replacements. Seller may also, at no additional cost to Purchaser, upgrade or add to any part of the System.

(3) Seller's total liability arising out of or relating to this Section 13(c) shall in no event:

A. *For System Failure or Replacement*: exceed the total of the Purchaser's payments under this Agreement during the previous twelve (12) month period; and

B. *For damages to the Facility or property*: exceed three million dollars (\$3,000,000).

d. **NO OTHER WARRANTY.** OTHER THAN AS EXPRESSLY SET FORTH IN SECTIONS 13(A), 13(C) and THE PERFORMANCE GUARANTEE (the "PeGu") Dated _____ BY AND BETWEEN SELLER AND PURCHASER, WHICH, FOR THE AVOIDANCE OF DOUBT, IS A SEPARATE AGREEMENT, NO WARRANTY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL BE PURCHASER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY CLAIM OR LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

14. **System Damage and Insurance.**

a. **System Damage.** If the System is damaged or destroyed other than by Purchaser's negligence, willful misconduct or breach of this Agreement, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last two (2) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement without liability, unless Purchaser agrees to pay for the cost of restoration of the System.

b. **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:

i. **Seller's Insurance.** Seller shall maintain (i) property insurance on the System for the replacement cost thereof, (ii) commercial general liability insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate, (iii) employer's liability insurance with coverage of at least \$1,000,000 and (iv) workers' compensation insurance as required by law; provided, however, that notwithstanding the foregoing, Seller may self-insure.

ii. **Purchaser's Insurance.** Purchaser shall maintain commercial general liability insurance or self-insurance with coverage of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

c. **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance thirty (30) days (ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled or terminated, (ii) be written on an occurrence basis, (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other party. Seller will arrange for its general liability policy to be endorsed to name Purchaser and its officers, employees and agents as additional insureds regarding liability arising out of the construction and operation of the System.

d. **Certificates.** Upon the other Party's request each Party shall deliver to the other Party certificates of insurance or self-insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

15. **Ownership; Option to Purchase.**

- a. **Ownership of System.** Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of the Seller and Purchaser agree that the Seller is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the California Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. For the avoidance of doubt, in either circumstance Seller shall file such disclaimer. Upon request, Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises.
- b. **Option to Purchase.** At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to the Fair Market Value of the System. The “**Fair Market Value**” of the System shall be determined by mutual agreement of Purchaser and Seller; provided, however, if Purchaser and Seller cannot agree to a Fair Market Value within thirty (30) days after Purchaser has exercised its option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination in a written opinion delivered to the Parties; provided that in no event shall the amount paid to purchase the System be less than the aggregate of the amounts calculated under Section 12(b)(3)(A)(ii) and (iv) as of the date of System title transfer. The valuation made by the appraiser shall be binding upon the Parties in the absence of grounds that would allow for vacating an arbitration award under California Code of Civil Procedure section 1286.2. The costs of the appraisal shall be borne by the Parties equally. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Seller shall transfer good title to the System to Purchaser upon Seller’s receipt of the Fair Market Value, but Seller otherwise disclaims all warranties of any kind, express or implied, concerning the System, “as is, where is, with all faults”; provided that Seller shall assign to Purchaser any manufacturers warranties that are in effect as of the purchase, and which are assignable pursuant to their terms. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

16. **Indemnification and Limitations of Liability.**

- a. **General.** Each Party (the “**Indemnifying Party**”) shall defend, indemnify and hold harmless the other Party, its affiliates and the other Party’s and its affiliates’ respective directors, officers, shareholders, partners, members, agents and employees (collectively, the “**Indemnified Parties**”), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys’ fees (collectively, “**Liabilities**”) resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 13 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 16(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 16(c).

b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a “**Claim**”), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys’ fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 16(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 16(b) for any Claim for which such notice is not provided if the failure to give notice prejudices the Indemnifying Party.

c. **Environmental Indemnification.** Seller shall indemnify, defend and hold harmless all of Purchaser’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 16(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees. Purchaser shall indemnify, defend and hold harmless all of Seller’s Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance.

i. **“Hazardous Substance”** means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollution,” “pollutants,” “regulated substances,” or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability.**

i. **No Consequential Damages.** Except with respect to indemnification of third party claims pursuant to Section 16, neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such.

ii. **Actual Damages.** Except with respect to indemnification of third party claims pursuant to Section 16 and except as otherwise limited in Section 13(c), Seller’s aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total payments made (or, as applicable, projected to be made) by Purchaser under this Agreement. The provisions of this Section 16(d)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise.

17. **Force Majeure.**

a. **“Force Majeure”** means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any

Governmental Authority (provided that such action has been timely requested and diligently pursued); any Change in Law that makes it unlawful, impossible or materially impracticable for a Party to perform under this Agreement; inability to deliver electricity to the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

- b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event. A Party's performance will be suspended only during the continuance of the Force Majeure condition and the Party will perform all other obligations not affected by the Force Majeure condition. Upon the occurrence of an event of Force Majeure, the Party claiming Force Majeure to the extent reasonably practical must use its best efforts to promptly implement a plan to ensure the continued ability to perform its obligations and promptly bring to an end the Force Majeure condition.
- c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that impacts Purchaser's ability to make payment.
- d. If a Force Majeure event continues for a period of one hundred (100) days (thirty days in the instance of a Change in Law that is a Force Majeure event) or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, then the Parties shall, within thirty (30) days following receipt by the other Party of notice of such Force Majeure event, meet and attempt in good faith to negotiate amendments to this Agreement. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then the Party not claiming Force Majeure (except to the extent that the Force Event is a Change in Law, under which circumstances, Seller) shall have the right to terminate this Agreement without either Party having further liability under this Agreement except with respect to payment of amounts accrued prior to termination and actions or omissions that occur prior to termination.
- e. "**Change in Law**" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation); or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller's obligations hereunder; provided, that a change in federal, state, county or any other tax law after the Effective Date shall not be a Change in Law pursuant to this Agreement.

18. Assignment and Financing.

a. Assignment.

(i) This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. If Purchaser has been provided with reasonable proof that the proposed assignee has comparable experience in operating and maintaining solar photovoltaic systems and the financial capability to do the same, Purchaser's withholding of consent shall be deemed unreasonable.

(ii) Notwithstanding Section 18(a)(i), Seller may, without the prior written consent of Purchaser, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to any Financing Party, any entity through which Seller is obtaining financing from a Financing Party, any affiliate of Seller or any person

succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee).

(iii) This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

- b. **Financing.** The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from lenders or third parties (including tax equity or similar investors) ("**Financing Parties**") in connection with the installation, construction, ownership, operation and maintenance of the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. The Parties also agree that Seller may assign this Agreement to the Financing Parties as collateral, and in connection with any such assignment, Purchaser agrees to execute a consent to assignment in customary form and reasonably acceptable to the Financing Parties.

19. **Confidentiality.**

- a. **Confidentiality.** Unless the California Public Records Act requires otherwise, if either Party provides 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 Purchaser's business ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its affiliates and to its and its affiliates' respective officers, directors, members, managers, employees, agents, contractors, consultants, lenders and Financing Parties (collectively, "**Representatives**"), and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the negotiation and performance of this Agreement. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 19(a), except as set forth in Section 19(b). All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 19(a) by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 19(a). To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 19(a), but shall be in addition to all other remedies available at law or in equity.
- b. **Permitted Disclosures.** Unless the California Public Records Act requires otherwise, notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party's or its Representatives' breach of this Agreement, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

c.

20. **Goodwill and Publicity.**

- a. Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party except for staff reports, board minutes, and board agendas. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or public announcement by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law, including staff reports, board minutes, and board agendas) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.
- b. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser, if engaged in commerce and/or trade, shall submit to Seller for approval any press releases regarding Purchaser's purchase or use of solar or renewable energy in connection with this Agreement and shall not submit for publication any such releases without the written approval of Seller. Approval shall not be unreasonably withheld, and Seller's review and approval shall be made in a timely manner to permit Purchaser's timely publication.

21. **General Provisions**

- a. **Choice of Law.** The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.
- b. **Arbitration and Attorneys' Fees.** Any dispute arising from or relating to this Agreement shall be arbitrated in San Francisco, California. The arbitration shall be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures, and judgment on any award may be entered in any court of competent jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.
- c. **Notices.** All notices under this Agreement shall be in writing and shall be by personal delivery, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document emailed or electronically sent in PDF form to it as an original document.
- d. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 8(a) (Facility and Premises Access Rights), Section 10 (Removal of System at Expiration), Section 13 (Representations and Warranties), Section 14(b) (Insurance Coverage), Section 16 (Indemnification and Limitations of Liability), Section 19 (Confidentiality and Publicity), Section 21(a) (Choice of Law), Section 21(b) (Arbitration and Attorneys' Fees), Section 21(c) (Notices), Section 21(g) (Comparative Negligence), Section 21(h) (Non-Dedication of Facilities), Section 21(j) (Service Contract), Section 21(k) (No Partnership) Section 21(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 21(n) (No Third Party Beneficiaries).
- e. **Further Assurances.** Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
- f. **Right of Waiver.** Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing

and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

- g. Comparative Negligence.** It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.
- h. Non-Dedication of Facilities.** Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 10 of this Agreement.
- i. Estoppel.** Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.
- j. Service Contract.** The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.
- k. No Partnership.** No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.
- l. Full Agreement, Modification, Invalidity, Counterparts, Captions.** This Agreement, together with any Exhibits, completely and exclusively states the agreement of the parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

- m. **Forward Contract**. The transaction contemplated under this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a “forward contract merchant” within the meaning of the United States Bankruptcy Code.
- n. **No Third Party Beneficiaries**. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.
- o. **Bonds**. Notwithstanding any language to the contrary in this Agreement and solely to the extent a performance and/or payment bond is being issued to Purchaser:
 - i. **Performance bond liability**. Any performance bond issued for a site or system will cease one (1) year from the completion of construction. If a warranty or guarantee is provided under the terms of this Agreement, the balance of any warranty or guarantee beyond the one (1) year term of the applicable performance bond shall continue to be guaranteed solely by Seller under the terms of this Agreement. The performance bond does not guarantee any property restorative requirements.
 - ii. **Payment bond liability**. Any payment bond issued will cease at the termination of any time required by law.
 - iii. **Performance Guarantee**. Neither payment bonds, whether for labor or materials, nor performance bonds are applicable to any specified performance guarantee.

End of Exhibit 3



Performance Guarantee Agreement (PPA)

This Performance Guarantee Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Purchaser:		Seller:	
Name and Address	Rancho Murieta Community Service District 15160 Jackson Rd. P.O. Box 1050 Rancho Murieta, CA 95683 Attention: Darlene Gillum, General Manager	Name and Address	SolarCity Corporation 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(916) 354-3709	Phone	(650) 638-1028
Fax		Fax	(650) 560-6460
E-mail	dgillum@rmcsd.com	E-mail	contracts@solarcity.com
Project Name	Rancho Murieta Community Service District WTP		

This Agreement sets forth the terms and conditions of a performance guarantee provided by Seller in conjunction with that certain Solar Power Purchase Agreement by and between Seller and Purchaser dated the same date as this Agreement (the “**PPA**”). All capitalized terms used hereunder shall have the meanings given such terms in the PPA. The term of this Agreement shall be concurrent with the term of the PPA. This Agreement will be updated as necessary by mutual written agreement of the Parties to reflect the as-built specifications of the System.

1. **Warranty.** Seller guarantees that during the term of the PPA the System will generate the guaranteed kilowatt-hours (kWh) (“**Guaranteed kWh**”) of energy set forth as follows:

A. If at the end of each successive sixty (60) month anniversary of the Commercial Operation Date the cumulative Actual kWh (defined below) generated by the System is *less* than the Guaranteed kWh (defined below), then Seller will send Purchaser a refund check equal to the difference between the Guaranteed kWh and the cumulative Actual kWh multiplied by the Guaranteed Energy Price per kWh (defined below). Seller will make that payment within thirty (30) days after the end of the relevant calendar year.

B. If at the end of each successive sixty (60) month anniversary of the Commercial Operation Date the Actual kWh is *greater* than the Guaranteed kWh during any sixty (60) month period, this surplus will be carried over and will be used to offset any deficits that may occur in the next true up period.

C. **“Guaranteed kWh”:**

True Up Term Years	Guaranteed kWh
Years 1-5	2,962,724
Years 6-10	2,889,393
Years 11-15	2,817,877
Years 16 -20	2,748,131

D. **“Actual kWh”** means the AC electricity produced by the System and delivered to Purchaser at the Delivery Point in kilowatt-hours measured and recorded by Seller during each successive sixty (60) month anniversary of the Commercial Operation Date. To measure the Actual kWh we will use the SolarGuard™ Monitoring Service or to the extent such services are not available, Seller will estimate the Actual kWh by reasonable means.

E. **“Guaranteed Energy Price per kWh”** means the dollar value per kWh as calculated in the table below:

True Up Term	Guaranteed Energy Price per kWh
Years 1-5	\$0.027
Years 6-10	\$0.041
Years 11-15	\$0.057
Years 16 - 20	\$0.074

2. **Exclusions.** The Warranty does not apply to any period of time during which System generation is shutdown or adversely affected by a repair, replacement or correction required due to the following:

A. someone other than Seller or its approved service providers installed, removed, re-installed or repaired the System;

B. Destruction or damage to the System or its ability to safely produce energy not caused by Seller or its approved service providers while servicing the System (e.g., a tree falls on the System);

C. Purchaser’s failure to perform, or breach of, Purchaser’s obligations under the PPA (such as if Purchaser modifies or alters the System);

D. Purchaser’s breach of the PPA including being unavailable to provide access or assistance to Seller in diagnosing or repairing a problem or failing to maintain the System as stated in the Solar Operation and Maintenance Guide;

E. any Force Majeure Event (as defined below);

F. a power or voltage surge caused by someone other than Seller including a grid supply voltage outside of the standard range specified by the Utility;

G. Any System failure not caused by a System defect (e.g., such as making roof repairs); or

H. Theft of the System.

Seller hereby disclaims, and any beneficiary of this Agreement hereby waives, any warranty with respect to any cost savings from using the System.

3. **Force Majeure.** If Seller is unable to perform all or some of its obligations under this Agreement because of a Force Majeure Event, Seller will be excused from whatever performance is affected by the Force Majeure Event, provided that:

A. Seller, as soon as is reasonably practical, gives Purchaser notice describing the Force Majeure Event;

B. Seller’s suspension of its obligations is of no greater scope and of no longer duration than is required by the Force Majeure Event; and

C. No Seller obligation that arose before the Force Majeure Event that could and should have been fully performed before such Force Majeure Event is excused as a result of such Force Majeure Event.

Seller’s performance will be suspended only during the continuance of the Force Majeure condition and Seller will perform all other obligations not affected by the Force Majeure condition. Upon the occurrence of an event of Force Majeure, Seller to the extent reasonably practical must use its best efforts to promptly implement a plan to ensure the continued ability to perform its obligations and promptly bring to an end the Force Majeure condition.

“Force Majeure Event” means any event, condition or circumstance beyond the control of and not caused by Seller’s fault or negligence. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any governmental authority (provided that such order has been resisted in good faith by all reasonable legal means) the failure to act on the part of any governmental authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products; and failure of equipment not utilized by Seller or under its control.

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

5. **Applicable Law, Arbitration.** The laws of the state where the Facility is located shall govern this Agreement without giving effect to conflict of laws principles. All claims, disputes and other matters in question, arising out of, or relating to, this Agreement or the breach thereof shall be decided by binding arbitration. Each arbitration, including the selecting of the arbitrator will be administered by JAMS under its Comprehensive Arbitration Rules and Procedures. Arbitration will be governed by the Federal Arbitration Act (Title 9 of the U.S. Code). Either party can initiate an arbitration proceeding by filing the necessary forms with JAMS. Venue for any arbitration brought under this Agreement shall be proper in the State of California, County of Sacramento. Each party shall bear its own costs and expenses, including attorneys’ fees, with respect to any arbitration. The arbitrator shall have the authority to award any legal or equitable remedy or relief that a court could order or grant. The arbitrator, however, is not authorized to change or alter the terms of this Agreement or to make any award that would extend to any transaction other than this Agreement.

6. **Assignment and Transfer of this Agreement.** Seller may assign its rights or obligations under this Agreement to a third party without your consent, provided that any assignment of Seller’s obligations under this Agreement shall be to a party qualified to perform such obligation. This Agreement protects only the party that hosts the System. Purchaser’s rights and obligations under this Agreement will be automatically transferred to any party to whom Purchaser properly transfers the PPA.

7. **Entire Agreement, Changes.** This Agreement contains the parties’ entire agreement regarding the matters set forth herein. Seller’s obligations under this Agreement are separate and distinct from the obligations of the Seller or its assigns under the PPA. No breach of this Agreement shall affect Purchaser’s obligations under the PPA. The PPA may be assigned to a third party without assignment of Seller’s obligations under this Agreement. Any change to this Agreement must be in writing and signed by both Parties. If any portion of this Agreement is determined to be unenforceable, the remaining provisions shall be enforced in accordance with their terms or shall be interpreted or re-written so as to make them enforceable. Provisions that should reasonably be considered to survive termination of this Agreement shall survive.

Rancho Murieta Community Service District

SolarCity Corporation

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

MEMORANDUM

Date: September 9, 2015
To: Board of Directors
From: Paul Siebensohn, Director of Field Operations
Subject: Consider Approval of Recycled Water Program Implementation Plan Proposal

RECOMMENDED ACTION

Approve proposal from AECOM for development of a Recycled Water Program Implementation Plan, in an amount not to exceed \$52,889, which includes a 5% contingency. Funding for Tasks 1, 2, 4, and 5 in the amount of \$42,638 to come from Water Supply Augmentation Reserves and Task 3 in the amount of \$10,251 to be paid from Developer Facility Extension funds.

BACKGROUND

This proposal was taken to the September 2, 2015 Special Board meeting. At that time, Directors Ferraro and Martel requested more time to review the proposal and that this matter be continued to the September 16, 2015 Board meeting. By consensus, the Board agreed.

District staff requested this proposal for the provision of engineering services to assist the District in meeting the necessary requirements for future planning and implementation of the expanded use of recycled water (as identified and approved by the Board in the Title 22 Engineering Report of December 2013). The expanded use of recycled water will off-set potable water use for outside irrigation and provides for wastewater disposal.

The development of the proposed Recycled Water Program Implementation Plan (RWPIP) will facilitate items necessary to meet the requirements of the Regional Water Quality Control Board's Waste Discharge Requirements (WDR) and District needs by planning for and outlining the necessary next steps for:

- 1) Updating the schedule for the phasing of recommended recycled water facilities (phases 1 and 2) based on the current phasing of development projects;
- 2) Outreach and coordination with Rancho Murieta Country Club (RMCC) for incorporating existing recycled water infrastructure into the Recycled Water Program;
- 3) Engineering review of development plans to ensure they meet District and County Standards for water, sewer, and drainage;
- 4) Providing analysis of necessary wastewater/recycled water improvements (such as the chlorine contact basin and storage reservoir expansion);

- 5) Development of residential and contractor reference material for recycled water irrigation system installations to be incorporated into the District's design standards.

The complete implementation of a Recycled Water Program will occur over a relatively long period of time. Therefore, the proposal is based on time and materials.

Task 3 level of effort will be charged to developer deposit funds as the task relates to review of specific developer project plans.

A general description of each task is listed in the attached AECOM proposal. A copy of the Notice of Adoption of the WDR is attached for reference as well, noting required reporting.

Aug. 3, 2015

Paul Siebensohn
Director of Field Operations
Rancho Murieta Community Services District
15160 Jackson Road
P.O. Box 1050
Rancho Murieta, CA 95683

**Re: Recycled Water Program Implementation
Proposal for Professional Services**

Dear Paul,

AECOM is pleased to provide you with this proposal for Professional Services to support the implementation of the Rancho Murieta Community Services District's (District's) Recycled Water Program (RWP) as permitted, and part of the District's Waste Discharge Requirements R5-2014-0149 (WDR) and described in the District's Recycled Water Standards.

SCOPE OF WORK

Task 1. Improvements Schedule

AECOM will provide the RMCS D an updated schedule for the phasing of recommended recycled water facilities (Phases 1 and 2) as outlined in the Title XVI Recycled Water Feasibility Study, dated July 2013 and WDR. Trigger points for each improvement will be time-phased to correspond with current, planned development; taking into account periods required for facility planning, environmental compliance and permitting, financing, engineering and construction. An update to the proposed development plan will be prepared by AECOM based on discussion and information obtained from local developers and the District.

Deliverables: (1) Draft copy (electronic MS Word format), for District review and comment (electronic MW Word format, and (1) final hard copy to the RMCS D for their files.

Assumptions: AECOM will prepare the improvements schedule based off the current, projected development schedule submitted by the Developer/Engineer and approved by the RMCS D.

Task 2. Stakeholder Outreach Support

AECOM will provide coordination with the Rancho Murieta Country Club (RMCC) and the District to determine the specific details associated with incorporating the existing golf course recycled water conveyance system into the RWP. Specific details may include, but not be limited, to ownership, operation, maintenance, replacement, etc.

Assumptions: AECOM assumes an Operations and Maintenance agreement will be required between the RMA and the District. The agreement format is undefined at this time (e.g., it may be in the form of an update/addendum to an existing agreement or a new agreement).

Potential Deliverables (per District request): (1) Meeting scheduling, coordination, material preparation and material (agenda, presentation, etc.) in electronic MS Word format, for District review and comment and (1) final meeting material to the District in electronic pdf format.

Task 3. Development Discharge Requirement Support

AECOM will provide coordination with the Developer and the District and review the Developers compliance with the Regional Water Quality Control Boards waste discharge requirements; including the review and approval of improvements completion reports, capacity increase reports and use area expansion reports. AECOM will provide Quality Assurance/Quality Control (QA/QC) to the District for all proposed design criteria, approaches/configurations, improvements and supporting calculations submitted by the Developer; validating proposed improvements conform to the District overall RWP.

Assumptions: Developer to prepare complete submittals in the approved format described in adopted District standards, requirements, etc. In some cases, Sacramento County standards and requirements may be referenced.

Task 4. Improvement Alternative Analysis

AECOM will provide facility planning for the chlorine contact basin and reservoir expansion including; develop hydraulic models of the existing and expanded recycled water delivery system, optimize and finalize facility locations and alignments, refine design criteria and sizing, identify land requirements, and provide cost estimates reflecting construction and capital (total cost including soft costs) costs.

Deliverables: (1) Draft copy of alternative analysis technical memorandum (electronic MS Word format), for District review and comment (to be provided in electronic MW Word format), and (1) final hard copy to the District for their files in pdf format.

Task 5. Recycled Water System Implementation Process

AECOM will develop residential and contractor reference material for recycled water irrigation system installations to be incorporated into the District's design standards. It is understood that some of this information has already been identified and compiled by the District. It is understood that ultimately, the District will likely post this information of their website.

Deliverables: (1) Draft copy (electronic MS Word format), for District review and comment (electronic MW Word format, (1) electronic copy for the District website upload, and (1) final hard copy to the District for their files and website maintenance (provided in electronic and editable format).

SCHEDULE

A minimum of one month from Notice to Proceed is anticipated to be required for the development of the draft implementation schedule (Task 1). The implementation schedule will also describe the timeline proposed for the three remaining tasks.

PROPOSED FEE

RWP implementation will occur over a relatively long duration and could require up to a decade or more to complete. Our proposed fee for the initial 6 to 9 month period is \$50,371. This level of effort is based on the following:

Task 1: Complete development of a District-approved RWP implementation schedule that will be used and updated throughout the project.

Task 2: It is understood that it may be a few months before the District re-re-initiates RMCC discussions. The proposed fee assumes development of draft meeting agenda and presentation materials.

Task 3: Developer co-ordination meeting preparation, attendance and follow-up (up to two meetings per month). Review of Developer proposed District-wide design criteria, approaches/configurations, etc. AECOM Level of effort and costs for review of development-specific proposals (e.g., Murieta Gardens and The Retreats) are accounted for elsewhere.

Task 4: Proposed alternative analysis table of contents to be prepared and reviewed by the District. It is anticipated that a portion of this technical memorandum can be initiated or completed within the proposed fee.

Task 5: Initial draft of residential and contractor reference material for District review. Initial draft of material for website upload.

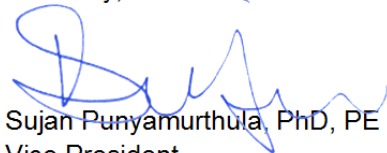
The actual duration this budget supports shall be based on District assignments (which shall be described and approved by Paul Siebensohn via email ahead of time) and AECOM costs. The level of effort associated with the proposed fee is detailed in the attached Table 1 - Estimated Work Effort and Cost.

Prior to any addendums to this contract, AECOM will reevaluate level of effort and activities with the District and make modifications to the proposed fee accordingly. We propose to conduct this project on a time and material basis.

If this proposal is acceptable, please sign the attached contract. Any additional services requested but not covered by this Scope of Work can be provided as an amendment to this proposal. The attached Standard Provisions of Agreement are a part of this proposal.

Thank you and the District again for allowing AECOM the opportunity to provide you with this proposal and support the District with the RWP implementation. If you have any questions or desire any additional information, please feel free to contact Kevin Kennedy at (916) 414-1641 (office) or (530) 363-8800 (cell).

Sincerely,



Sujan Punyamurthula, PhD, PE
Vice President



for Kevin Kennedy, PE
Senior Project Manager

TABLE 1 - EFFORT AND COST

Implementation Plan										7/15/2015
Rancho Murieta Community Services Distrct										
	\$220	\$185	\$170	\$145	\$130	\$100	\$70			
	GROUP MANAGER/QC	SENIOR II MANAGER	SENIOR I ENGINEER	ASSOCIATE ENGINEER	ASSISTANT ENGINEER	ENGINEERING TECH	CLERICAL	EXPENSES	TOTAL LABOR	DIRECT COSTS TOTAL
Task Description										
Task 1. Improvement Schedule	10	24		40				\$995	\$12,440	\$995
Task 2. Outreach support (future)	16							\$282	\$3,520	\$282
Task 3. Collection System Development Support	8	8		40				\$723	\$9,040	\$723
Task 4. Improvement Alternative Analysis	16	32		56				\$1,405	\$17,560	\$1,405
Task 5. Reclaimed Water System Implementation Process	8			16				\$326	\$4,080	\$326
Sub Total Hrs.	58	64	0	152	0	0	0	N/A	\$46,640	
Sub Total \$	\$12,760	\$11,840	\$0	\$22,040	\$0	\$0	\$0	\$3,731	\$46,640	\$3,731
									TOTAL	\$50,371



Sacramento Office
Fees for Professional Services
Hourly Rate Schedule
Effective August 1, 2015

CLASSIFICATION	RATE
Engineering	
Group Manager.....	\$228.00 per hour
Senior II Engineer.....	\$175.00 per hour
Senior I Engineer.....	\$96.00 per hour
Associate.....	\$81.00 per hour
Technical Support Staff	
Clerical/General Office.....	\$ 70.00 per hour
General Project Expenses	8% of Labor Fee
Includes mail, telephone, cell phones, fax, office photocopies, office printing, office plotting, personal computer use, and miscellaneous mileage, and meals (except as noted)	
Direct Project Expenses	
Off-Site Printing and Blueprinting	Actual cost + 15%
Travel (other than automobile)	Actual cost + 15%
Lodging	Actual cost + 15%
Materials Testing and In-Plant Inspection.....	Actual cost + 15%
Aerial Photogrammetry Service and Surveys	Actual cost + 15%
Soils Investigation and Field Tests	Actual cost + 15%
Subconsultant Services.....	Actual cost + 15%

Hourly rates include a standard multiplier of 3.0 to 3.1.

It is understood and agreed that these rates and charges include normal equipment and materials used in connection with the production of the required engineering and/or architectural services. If authorized by the client, an overtime premium multiplier of 1.5 will be applied to the direct wage cost of hourly personnel who work overtime in order to meet a deadline which cannot be met during normal hours. Applicable sales taxes, if any, will be added to these rates.

AECOM will typically furnish monthly billings for all services rendered and supplies furnished in accordance with the above compensation provisions. Payments shall be due and payable to AECOM upon presentation. A late payment finance charge of 1.5 percent per month (but not exceeding the maximum rate allowable by law) will be applied to any unpaid balance commencing thirty (30) days after the date of the original invoice.

Fee schedule is subject to general revision. New equipment categories and charges may be added or revised from time to time.

Central Valley Regional Water Quality Control Board

11 December 2014

Paul Siebensohn
Rancho Murieta Community Services District
15160 Jackson Road
P.O. Box 1050
Rancho Murieta, CA 95683

CERTIFIED MAIL
7012 2210 0002 1419 5762

**NOTICE OF ADOPTION
OF
ORDER R5-2014-0149
WASTE DISCHARGE REQUIREMENTS
AND
MASTER RECYCLING PERMIT FOR
RANCHO MURIETA COMMUNITY SERVICES DISTRICT
WASTEWATER TREATMENT AND RECLAMATION PLANT
SACRAMENTO COUNTY**

Waste Discharge Requirements (WDRs) and Master Recycling Permit Order R5-2014-0149 for the Rancho Murieta Community Services District Wastewater Treatment and Reclamation Plant was adopted by the Central Valley Water Quality Control Board on 4 December 2014.

Although the WDRs allow wastewater discharge to land, the discharge is a privilege not a right and may be revoked at any time. A copy of the Order must be maintained at the facility and must be accessible to anyone operating the wastewater system. Please note that the Provisions section of the WDRs requires submittal of certain technical reports by the dates provided in the Order. The required submittals include the items in the following table.

Required Reports	Due Date
Improvements Completion Report	Upon completion of any improvements construction work and at least 60 days prior to operational use of such facilities or systems.
Capacity Increase Report	At least 60 days prior to increasing the WWRP influent flow to more than 0.5 mgd as an average dry weather flow limit.
Capacity Increase Report	At least 60 days prior to increasing the WWRP influent flow beyond the flow limit in effect at the time.
Use Area Expansion Report	At least 60 days prior to conveying recycled water to any Use Area not defined in this Order.

In addition to technical reports required by the WDRs, the WDRs include a Monitoring and Reporting Program (MRP), which specifies monitoring and reporting requirements for you to

implement. Please review the MRP closely so that you may establish appropriate sampling schedules and reporting protocols. The required monitoring report submittal dates are in the table below.

Required Monitoring Reports	Due Date
Monthly Monitoring Report	1st day of second month following the sampling (the January Report is due by 1 March)
Annual Monitoring Report	1 February of each year

Please be advised that the monitoring reports must be submitted on time and complete. Monitoring reports must include all of the items described in the Reporting Section of the MRP. **The first monitoring report required under this Order is due on 1 February 2015 and is to cover the month of December 2014 monitoring. The Annual Monitoring Report is also due on 1 February 2015, and is to cover the 2014 calendar year.**

All monitoring and technical reports required by the Provisions of the WDRs and the Monitoring and Reporting Program must be submitted by email to our Electronic Content Management (ECM) system. Monitoring reports must be accompanied by a completed Monitoring Report Transmittal Sheet (blank copy enclosed).

To use the ECM system, convert each letter, report, etc. to a searchable Portable Document Format (PDF) file and email it to centralvalleysacramento@waterboards.ca.gov. To ensure that your submittal is routed to the appropriate staff person, please include the following information in the body of the email: Attention Guy Childs, Non15 Program Enforcement/Compliance Unit. In addition, please include the Discharger name, facility name, county, and CIWQS place ID in the body of the email (this information was provided to you in the Executive Officer's 26 September 2014 letter).

To conserve paper and reduce mailing costs, a paper copy of the Order has been sent only to the Discharger. Interested parties are advised that the full text of this Order is available at: http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/. Anyone without access to the Internet who needs a paper copy of the Order can obtain one by contacting Central Valley Water Board staff.

Now that the permit has been adopted, the Board's Compliance and Enforcement Section will take over management of your case. Guy Childs is your new point of contact for any questions about the Order. If you find it necessary to make a change to your permitted operations, Guy will direct you to the appropriate Permitting staff. You may contact Guy at (916) 464-4648 or at gchilds@waterboards.ca.gov.



ANNE OLSON, P.E.
Senior Water Resource Control Engineer
Waste Discharge to Land Permitting Unit



SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
1112 I Street, Suite 100 • Sacramento, CA 95814 • (916) 874-6458 • Fax (916) 874-2939
www.saclafco.org

DATE: September 9, 2015

TO: Independent Special Districts

FROM: Peter Brundage, Executive Officer
Sacramento Local Agency Formation Commission

RE: **Sacramento LAFCo Nominations for Special District Representation
Election for: Special District Commissioner Office No. 6**

Pursuant to the provisions of Cortese-Knox-Hertzberg (CKH), Section 56332 of the Government Code, the Executive Officer has determined that a meeting of the Special District Selection Committee is not feasible for the purpose of selecting a Special District Commissioner (Office No. 6) to serve on the Sacramento Local Agency Formation Commission (LAFCo). Based on past experience, due to the size of the Special District Selection Committee, it has been difficult to establish a quorum. Therefore, the business of the Special District Selection Committee will be conducted in writing, as provided in the cited section code.

LAFCo generally meets on the **first Wednesday of the month at 5:30 P.M.**, Board Chambers, County Administration Center, 700 H Street, Sacramento, California. The Commission meeting is on recess January and July.

SPECIAL DISTRICT COMMISSIONER (Office No. 6)

This office is currently held by Ron Greenwood and expires on the 31st day of December, 2015. The term of this office is four years.

Please be advised that nominations for the Office listed above will be accepted starting September 10, 2015 until **October 16, 2015 at 4:00 P.M.** (37 days). You are invited to submit nominations to this LAFCo office. Nominations not received by 4:00 P.M. on October 16, 2015, will be disregarded and returned to your district.

To be valid, a nomination must be made by a majority vote of the governing board of an Independent Special District in an official meeting of that board and certified by the Secretary or Clerk of the Board. A nominee must be an elected or appointed Independent Special District Officer residing within the County of Sacramento but shall not be members of the legislative body of a city or county [(CKH Section 56332 (c)).

At the end of the nominating period, the Executive Officer will prepare and send, to each Independent Special District, one ballot listing candidates and voting instructions. The ballot will include the names of all nominees submitted for Office No. 6. The Districts must return the ballots to the Executive Officer by the date specified in the voting instructions, which date will be at least 30 days from the date on which the Executive Officer sent the ballots to the districts. Any ballot received by the Executive Officer after the specified date shall not be valid. The candidate who receives the most votes will be



determined the winner outright. In the event of a tie, there will be a run-off election held in the same format as the initial election. The Executive Officer will announce the results of the election within seven days of the specified date.

If you have questions regarding the election procedure, please contact LAFCo Commission Clerk, Diane Thorpe, at (916) 874-6458.

Very truly yours,

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION



Donald J. Lockhart, AICP
Assistant Executive Officer

cc: LAFCo Commissioners





SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
 1112 I Street, Suite 100 • Sacramento, CA 95814 • (916) 874-6458 • Fax (916) 874-2939

SACRAMENTO LOCAL AGENCY FORMATION COMMISSION
 Special District Representation

Nomination

In accordance with the bylaws of the Special District Selection Committee,
 the Governing Board of the _____ District
 nominates _____ (Board Member) for the
 Sacramento Local Agency Formation Commission - Special District Representation:

Four year term (ends 12/31/19)

Signature: _____
 Board Chairperson

Meeting Date: _____

ATTEST:

 District Manager or District Secretary

 Please Print E-mail Address

Please attach Nominee's resume with contact information.

Please send completed nominations to Diane Thorpe, Commission Clerk.

MEMORANDUM

Date: September 10, 2015
To: Board of Directors
From: Paul Siebensohn, Director of Field Operations
Subject: Receive Water Treatment Plant Expansion Project Update

WATER TREATMENT PLANT EXPANSION PROJECT UPDATE

The project continues with recently completed and continuing work including: ongoing wire pulling and terminations for power and control systems; installation of the pneumatic control system; installation of the disinfection control system; completion of the membrane tank coating; completion of Plant #1 canopy; siding replacement; painting of equipment and siding; high speed internet installation to accommodate GE's requirements and for SCADA system; delivery and set up of the computer server system; etc.

As of this update, there has been no change to the schedule from Roebbelen Construction Management, showing that production of water from the new facility should occur during the week of November 6, 2015. The electrical contractor, Bockman & Woody Electric Co., has been working long days and Saturdays in an effort to keep the project on schedule. TESCO Controls is now onsite beginning initial equipment interconnection verifications in preparation for GE being onsite next week to begin their commissioning activities. We received a quote to provide bird netting under the membrane canopy at an estimated cost around \$23,000, which is currently being reviewed. I have also provided updated information to DDW for our future permitting of the new facility.

Recent project photos are shown below.



Site overview showing Plant #1 work continuing with Canopy completed.



New disinfection control system being installed.



View of power and control system wiring, air lines, and permeate discharge piping.

Change Order Detail

Shared Cost Change Orders (Split between CSD/CFD#1/CFD2014-1):

Completed (Shared) Change Orders:

<u>#</u>	<u>Status</u>	<u>Description</u>	<u>Amt</u>	<u>Remaining</u>
0.028	COMPLETE	Bid Div 28 SCADA console Allowance	\$ 1,738	\$ -
1	COMPLETE	Remove proj contingency from trade contr	\$ -	\$ -
2	COMPLETE	JDP - Drying bed extension shotcrete	\$ 5,648	\$ -
3	COMPLETE	KGW/JDP - FM change of material	\$ 2,888	\$ -
4	COMPLETE	JDP - 2" Conduit for Fiber	\$ 26,264	\$ -
5	COMPLETE	JDP - CLSM trench at lower yard	\$ 3,300	\$ -
6	COMPLETE	JDP - drying bed clean out	\$ 1,882	\$ -
7	COMPLETE	Boring of 2" FM (IBA)	\$ -	\$ -
8	COMPLETE	RFI #024, replace corroded FCA	\$ 6,623	\$ -
9	COMPLETE	RFI #009, TW Booster pump station slab	\$ 6,029	\$ -
10	COMPLETE	ASI #01, check valve/concrete fillet	\$ 7,018	\$ -
11	COMPLETE	NAOH added slab at tank yard	\$ 4,091	\$ -
14	COMPLETE	RFI #28, conduit & chem trench vault conflict	\$ 11,700	\$ -
15	COMPLETE	SWPPP Maintenance	\$ -	\$ -
16	COMPLETE	16" Water Main Repair	\$ 7,000	\$ -
17	COMPLETE	Addl gunite for drying bed extension	\$ 2,946	\$ -
18	COMPLETE	KGW - Door 302 added lockset	\$ 345	\$ -
19	COMPLETE	Zenon - GE dimension Clar.Support Grate	\$ 2,815	\$ -
21	COMPLETE	RFI #19, Transformer Relocation	\$ 1,542	\$ -
23	COMPLETE	Temp Power Switchover	\$ 3,070	\$ -
24	DELETION	RFI #024, deleted ARV at sta 227+47	\$ (5,008)	\$ -
26	COMPLETE	SWPPP Maintenance	\$ -	\$ -
27	DELETION	Upper Tank Yard Pad Prep	\$ (492)	\$ -
30	COMPLETE	RFI #060, relocate 12" line for stair conflt	\$ 1,725	\$ -
35	COMPLETE	RFI #041, CIP Line Relocation	\$ 5,561	\$ -
36	COMPLETE	GE Upgraded Maintenance Table	\$ 5,013	\$ -
38	COMPLETE	CIP Heater Control MCC	\$ 4,415	\$ -
39	COMPLETE	FS Structural Consulting	\$ 1,093	\$ -
40	COMPLETE	Additional Spare Parts	\$ 2,600	\$ -
42	COMPLETE	RFI#043.1 Flocculation covers	\$ 29,745	\$ -
43	COMPLETE	RCMS Trailer Power Hookup	\$ -	\$ -
45	COMPLETE	1" Motorized ball valves for chlorination equip	\$ 5,306	\$ -
47	COMPLETE	Generator Pad Size Changes	\$ 8,317	\$ -
57	COMPLETE	SWPPP Maintenance	\$ -	\$ -
60	COMPLETE	AER (E) Fan Demo and Plywood Vents	\$ 5,860	\$ -
61	COMPLETE	Clay Pipe at pump station	\$ 6,487	\$ -
62	COMPLETE	Unsuitable material under pump station	\$ 6,124	\$ -
63	COMPLETE	R&R Siding at West Side Plant 1	\$ 2,120	\$ -
64	COMPLETE	Additional Painting Control Room Ceiling & Walls	\$ 2,230	\$ -
69	COMPLETE	RFI #084, Pump Station Bar Beams	\$ 286	\$ -
70	DELETION	Paint (E) Chlorine Room	\$ 3,280	\$ -
72	COMPLETE	Modify Crane Stops	\$ 4,700	\$ -
75	COMPLETE	RFI#037, chemical conduit trench pathway	\$ 38,430	\$ -
81	COMPLETE	Lightpole at Pump Station	\$ 4,104	\$ -
83	COMPLETE	Wall opening at backwash basins	\$ 4,939	\$ -
87	DELETION	Reverse CE#70 paint (E) chlorine room	\$ (3,280)	\$ -
89	COMPLETE	RFI#102 Underdrain wall elevation descrpncy	\$ 1,240	\$ -
90	COMPLETE	2" FM ARV at septic tank	\$ 1,483	\$ -
93	COMPLETE	Concrete fillet at backwash basin conflick with ladder	\$ 659	\$ -
94	COMPLETE	RFI#081 Waterstop at wet well	\$ 1,185	\$ -

95	COMPLETE	TW bell restrain	\$	549	\$	-
98	COMPLETE	Clean CCT basin	\$	9,946	\$	-
99	COMPLETE	Grating at overflow channel	\$	4,976	\$	-
100	COMPLETE	Cable Tray rack in basin (power & signal)	\$	1,823	\$	-
102	COMPLETE	IP camera upgrade	\$	456		
106	COMPLETE	Flocculator surrounding concrete uneven	\$	3,966	\$	-
107	COMPLETE	Modify flocculation covers for relocated slide gates	\$	4,025		
115	COMPLETE	Phone line from (e) termination board to (N) PLC	\$	3,417		
116	COMPLETE	Generator Slab duck bank conflict	\$	425	\$	-
117	COMPLETE	RFI#122 Chemical injectors	\$	2,829		
120	COMPLETE	Generator control peripheral module	\$	2,791	\$	-
121	COMPLETE	RFI#110 safety air exhaust valves	\$	1,724		
122	COMPLETE	Plug holes at feed channel pvc	\$	2,142		
125	COMPLETE	RFI#145 gable end canopy supports	\$	11,425	\$	-
129	COMPLETE	RFI#139 ACH & CLS chemical diffusers	\$	1,612		
134	COMPLETE	Retaining Wall at pipe gallery	\$	1,467	\$	-
135	COMPLETE	ASI#03 HCL acid fume scrubber	\$	1,701	\$	-
140	COMPLETE	Membrane covers modify attachment	\$	2,504		
				\$ 290,799	\$ -	

Non-Completed (Shared) Change Orders:

<u>#</u>	<u>Status</u>	<u>Description</u>		<u>Amt</u>		<u>Remaining</u>
52	APPROVED	BWW & reject Flow Meters	\$	26,653	\$	26,653
65	DELETION	Delete control panels & VFD for KGW pumps	\$	(9,300)	\$	(9,300)
86	APPROVED	Pipe gallery valves and bolts replacement	\$	5,360	\$	5,360
133	PENDING	RFI#133 RW sample pump	\$	4,119	\$	4,119
136	PENDING	RFI#144 Neutralization tank LIT connection	\$	916	\$	916
148	PENDING	Replace lamps of (E) light poles with LED	\$	2,531	\$	2,531
				\$ 30,279	\$ 30,279	

CSD-Only Change Orders:

Completed (CSD-Only) Change Orders:

<u>#</u>	<u>Status</u>	<u>Description</u>		<u>Amt</u>		<u>Remaining</u>
25	COMPLETE	Drying Bed cleanout and sand infill (CSD only)	\$	13,482	\$	-
34	COMPLETE	Plant 2 SLC Ethernet connection (CSD only)	\$	8,527	\$	-
				\$ 22,009	\$ -	

Non-Completed (CSD-Only) Change Orders:

<u>#</u>	<u>Status</u>	<u>Description</u>		<u>Amt</u>		<u>Remaining</u>
12	APPROVED	Siding Replacement-Hardie Board (CSD only)	\$	91,466	\$	18,293

HARD CONSTRUCTION COSTS (via Roebbelen)

Project Construction Summary								Source of Funding		
Contractor	Work Type	Contract Amount	% Billed to Date	Amount Billed to Date	Amount Billed This Month	Contract Amount Remaining	CSD \$4.358 million	R&B LOC \$4.136 million	CFD 2014 \$3.818m Ph 1 \$0.540m Ph 2	
Roebbelen Construction Management Services	General Conditions	781,205	92%	718,709	31,248	62,496	254,423	241,486	222,800	
River City Painting	Painting	291,000	77%	223,741	127,531	67,259	79,204	75,177	69,360	
GE Technology	Membrane Supplier	2,173,800	90%	1,949,043	-	224,757	689,961	654,878	604,203	
JD Pasquetti	Sitework	555,659	63%	349,625	-	206,034	123,767	117,474	108,384	
Roebbelen Construction	Fencing	53,640	30%	16,078	-	37,562	5,692	5,402	4,984	
KG Walters Construction	Mechanical & Plumbing	4,893,000	99%	4,866,075	76,475	26,925	1,722,591	1,635,001	1,508,483	
Bockmon & Woody Electric	Electrical	2,370,266	97%	2,288,883	35,383	81,383	810,265	769,065	709,554	
Marquee	Fire Protection	42,500	15%	6,375	-	36,125	2,257	2,142	1,976	
Total Initial Construction Contracts (with 534,318 Contingency = 11,695,388)		11,161,070	93%	10,418,529	270,637	742,541	3,688,159	3,500,626	3,229,744	
Change Order Summary										
APPROVED CHANGE ORDERS:										
Max Contract Change Order Amount		534,318								
Shared Completed Change Orders (Invoiced/Paid)		290,799					102,943	97,708	90,148	
CSD Only Completed Change Orders (Invoiced/Paid)*		95,182					95,182			
Approved Change Orders (Not Invoiced)		41,006								
Total Completed/Approved CO		426,987								
Amount CO remaining		107,331								
PROPOSED CHANGE ORDERS:		7,566								
Amount CO remaining (if Proposed COs are approved)		99,765								
OTHER:										
Bay Area Coating Consulting Services	**Contingency amt outside of Roebbelen contract (approved BOD 11/19/15)	15,000	91%	13,622	-	1,378	4,822	4,577	4,223	
Sholl Construction	**Membrane Sealing contingency amt outside of Roebbelen contract	4,576	100%	4,576	-	0	1,620	1,538	1,419	
* CSD Only Change Orders are in addition to the CSD share of \$4.358m										
Total Adjusted Construction Contracts (hard costs + CO's)		11,489,582					3,892,726	3,604,449	3,325,533	

SOFT CONSTRUCTION COSTS (CSD Direct Expenses to be shared equally)

Service Cost Summary							Source of Funding		
Item	Company/Agency	Estimated Soft Cost	Contract/Actual Soft Cost	Amount Billed to Date	Amount Billed This Month	Contract Amount Remaining	CSD	R&B LOC	CFD 2014
							\$4.358 million	\$4.136 million	\$3.818m Ph 1 \$0.540m Ph 2
Preconstruction CM Assistance	Roebbelen CMS	49,049	49,049	49,049		-	17,363	16,480	15,205
Design Engineering	HDR Engineering	240,000	239,982	239,982		-		239,982	
CEQA NOI/MND	HDR Engineering	40,000	71,070	63,559		7,511	5,583	53,088	4,889
Design Geotech	Youngdahl and Associates	3,000	2,600	2,600		-	920	874	806
Construction Engineering Assistance	HDR Engineering	150,000	276,328	227,947		48,381	80,693	76,590	70,663
Special Construction Inspection	Youngdahl and Associates	50,000	45,511	45,511		-	16,111	15,292	14,108
Misc Fees				709		-	251	238	220
SMUD Service	SMUD	5,000	31,632	31,632		-	11,198	10,628	9,806
Generator Permit	Sac County Air Quality Mgmt	5,000	5,000	-		5,000			
State Clearinghouse for CEQA	State of CA	3,000	3,000	-		3,000			
Fish & Wildlife Agency Permits	State of CA	2,000	2,000	921		-	326	310	286
Ca Dept Health Review	State of CA	5,000	5,000	-		5,000			
Road Mitigation	RMA	8,000	12,000	12,000		-	4,248	4,032	3,720
CSD Admin, Legal and Engineering (CFD 2014 Max per FSA = \$50K)	CSD	50,000	50,000	188,839		-	70,871	67,968	50,000
						-	-		
Total		610,049	793,172	862,749	-	69,971	207,564	485,482	169,703

Grand Total (Construction and soft costs)

12,488,560

11,680,880

Additional Info	
Total Retainage to Date:	442,774

Total Hard/Soft Costs	4,100,290	4,089,930	3,495,236
Less: Funds Received		(3,682,313)	(3,455,475)
Pending Draw Request			0
Total Outstanding Amount		407,618	39,761

****CFD 2014-1 Draw Amount Based on Cashflow per FSA**

MEMORANDUM

Date: September 9, 2015
To: Improvements Committee
From: Paul Siebensohn, Director of Field Operations
Subject: Conservation Update

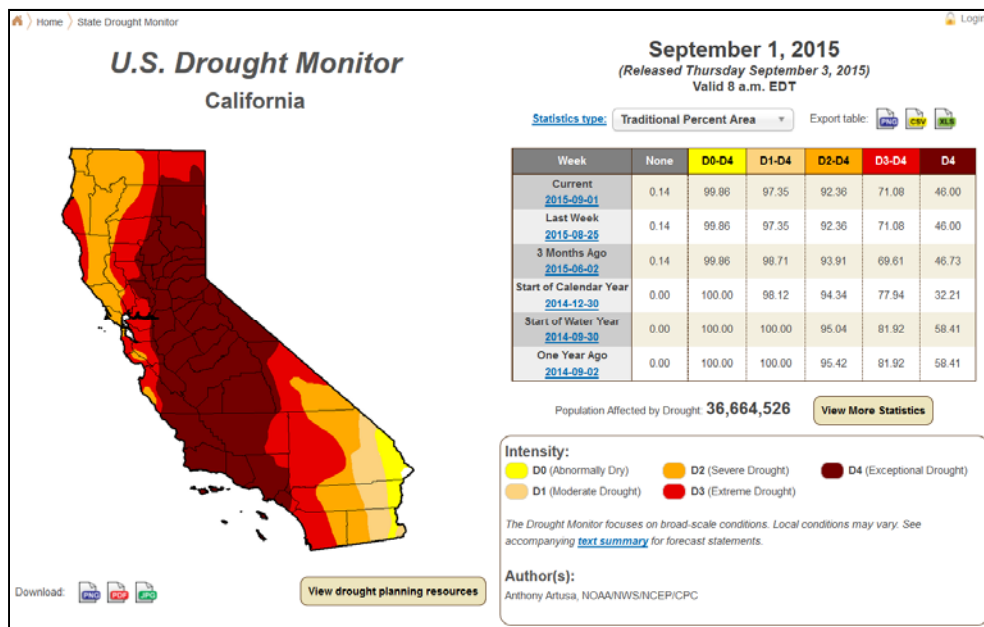
CONSERVATION

The only change from previous drought outlooks, as shown in the graphics below, is the dates. Despite the talk about an El Nino season, nothing has changed in the drought forecasts.

Our water conservation schedule is still in effect and staff is increasing monitoring the community for compliance as the temporary filtration system is coming offline. Calendar year to date, three hundred eighteen (318) conservation tags have been issued and five (5) fines levied to gain compliance with the District's water conservation program.

Water treatment plant current average effluent production is at 1.72 million gallons per day to keep up with the community's recent water demand. Water use for August was 25.5% less than in 2013, showing that the community continues to do an excellent job conserving water.

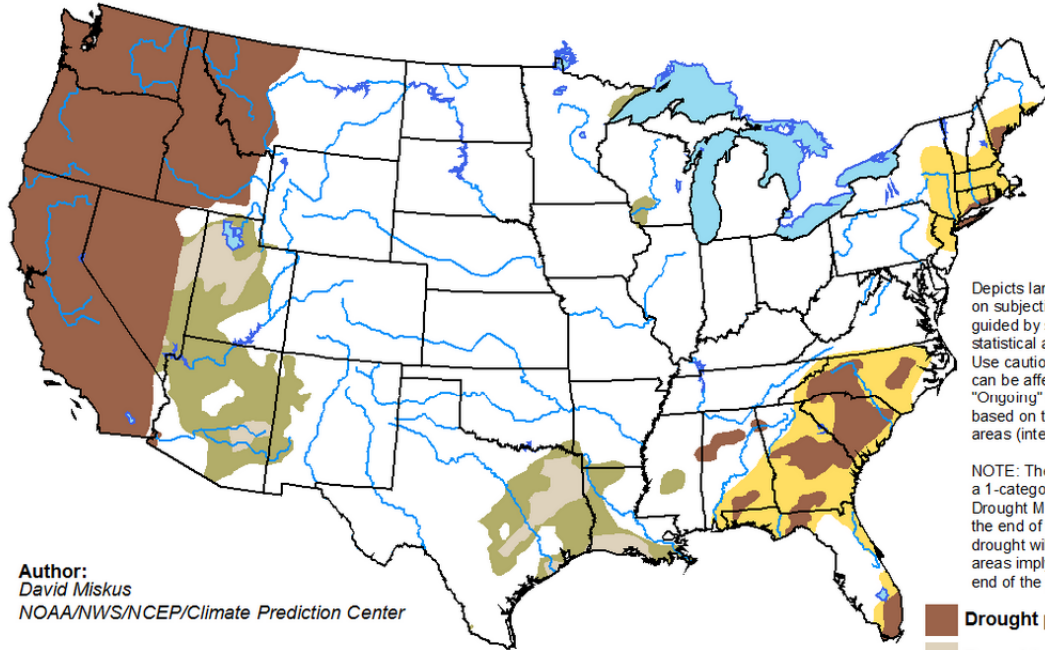
The Residential Gallons per Capita per Day (RGPCD) conservation for the period January through August 2015 as compared to the same time frame in 2013 is 31%. Refer t the attached chare for details.



U.S. Seasonal Drought Outlook

Drought Tendency During the Valid Period





Valid for August 20 - November 30, 2015
Released August 20, 2015

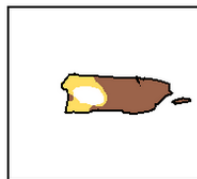
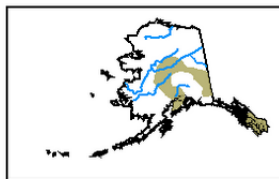


Depicts large-scale trends based on subjectively derived probabilities guided by short- and long-range statistical and dynamical forecasts. Use caution for applications that can be affected by short lived events. "Ongoing" drought areas are based on the U.S. Drought Monitor areas (intensities of D1 to D4).

NOTE: The tan areas imply at least a 1-category improvement in the Drought Monitor intensity levels by the end of the period, although drought will remain. The green areas imply drought removal by the end of the period (D0 or none).

Author:
David Miskus
NOAA/NWS/NCEP/Climate Prediction Center

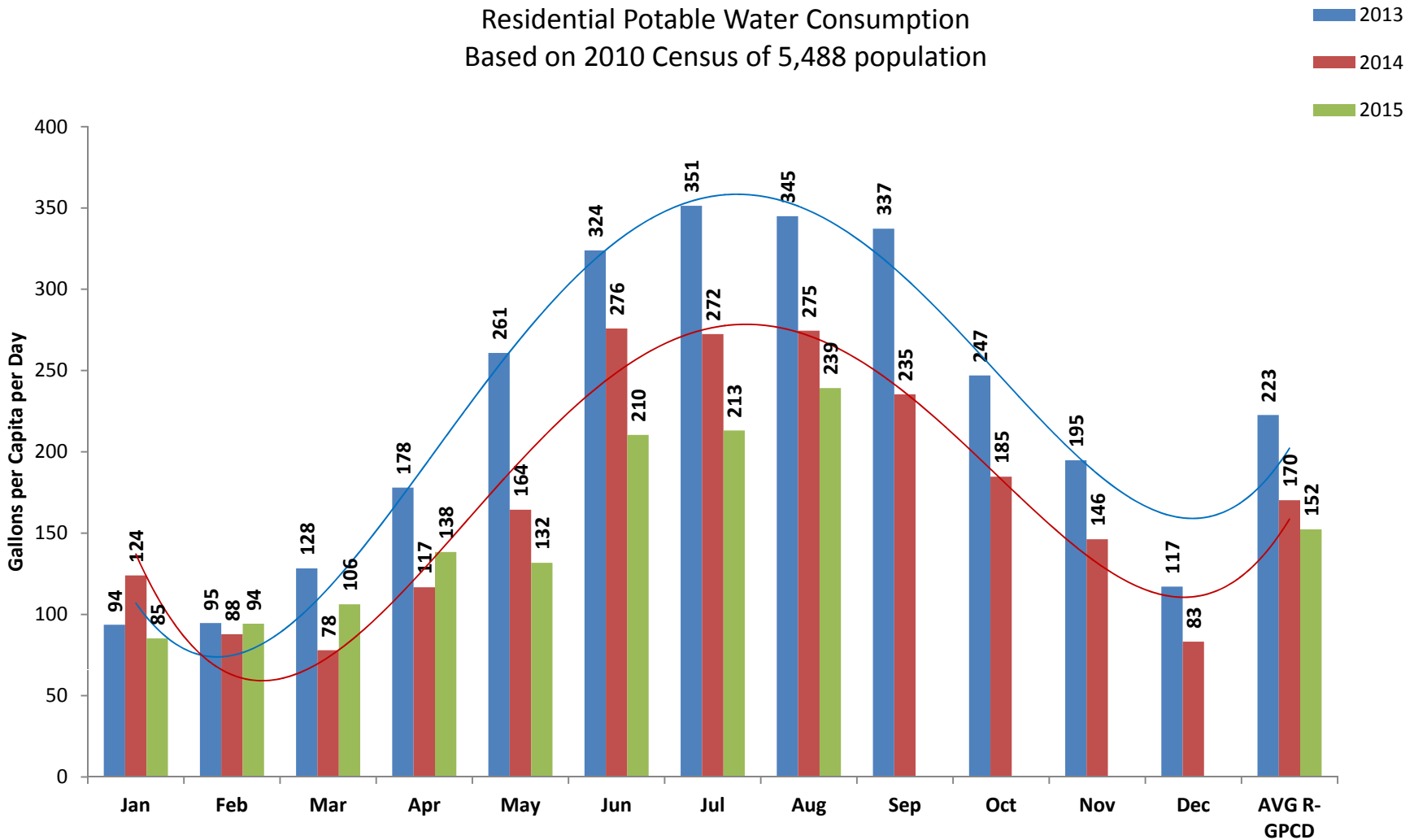
-  Drought persists/intensifies
-  Drought remains but improves
-  Drought removal likely
-  Drought development likely



<http://go.usa.gov/hH7e>

Rancho Murieta - Residential Gallons per Capita per Day

Comparison of 2013, 2014 and 2015
 Residential Potable Water Consumption
 Based on 2010 Census of 5,488 population



YTD Conservation achieved Aug 2014 versus 2013: 22% 2014 versus 2013 annual conservation: 24%

YTD Conservation achieved Aug 2015 versus 2013: 31%

MEMORANDUM

Date: September 10, 2015
To: Board of Directors
From: Darlene J. Gillum, General Manager
Subject: Quarterly Review of 2015 Board Goals

RECOMMENDED ACTION

No action needed - receive update.

BACKGROUND

Attached is the 2015 Board Goals along with an update on the progress of goals during the second quarter of 2015.

**BOARD GOALS 2015 (Status Report 9/16/15)
01/30/2015**

Priority	District Goal	Start Date	Due Date	% Comp	Major Accomplishments	Outstanding Issues, Questions
	WATER					
	Review and update the 2011 Strategic Plan based on 2015 goals established	1/1/15	12/31/15			
	Complete WTP expansion on time and within budget	1/1/15	5/15/15	80%	Project is coming in below budget – contingency \$'s remaining	Plant substantial completion date is pushed to 11/6/15
	Ensure alternative supply and/or treatment is available if WTP expansion schedule is delayed	1/1/15	5/15/15	98%	Temporary filtration on-site and operational as of 5/18/15	Scheduled to come offline on 9/14/15 (pushed out due to extremely high temps first week of September)
	Complete augmentation well project	1/1/15	6/16	30%	Test wells drilled	2 nd bid release in February 2015, did not attract any bidders; Hydraulic Engineering study needed
	Closely monitor number of connections as we near qualifying as an Urban Water Supplier (3,000 connections) in the next few years	1/1/15	1/1/18	N/A	In process with current development projects	
	Participate in/with regional agencies, associations, etc. to stay informed at the regional and state level of water issues	1/1/15	On-going	N/A	Attending Regional meetings and participating in RWA initiative	
	Update long term maintenance plan and identify estimated cost of future repairs/ replacements - Reserve Study	1/1/15	12/31/15	50%	Reserve study completed and presented to Board	Working on 5 year Capital Improvement Plan (meters; distribution system)
	Evaluate ways to increase efficiency, reduce costs, and find alternative funding for specific projects - grants	1/1/15	On-going	N/A	Applied for and received \$30K of Prop 84 Water Efficiency grant monies (rec'd 8/15); Solar power for Water Treatment Plant	

**BOARD GOALS 2015 (Status Report 9/16/15)
01/30/2015**

Priority	District Goal	Start Date	Due Date	% Comp	Major Accomplishments	Outstanding Issues, Questions
	WASTEWATER					
	Continue to coordinate with developers on development schedule and impact to amount of wastewater produced-develop facility update/ expansion schedule and plan accordingly; leveraging existing recycled water system	1/1/15	On-going	N/A	Paul working with developers and Kevin Kennedy; Approval received for Capacity Certification letter for the Murieta Gardens and Retreats West projects	
	Conduct rate study for development of recycled water rates	1/1/15	1/1/17			Need to develop RFP for rate study
	Develop process/ procedure for recycled water permit issuance	1/1/15	1/1/17	30%	Paul created "User Reclamation Plan" for recycled water users and has coordinated partnership with EID for landscape contractor orientation; Paul and Ron attended training at EID	Recycled Water System Implementation Process (Task 5 in AECOM 8/3/15 proposal)
	Evaluate alternative methods of using reclaimed water such as indirect potable reuse	1/1/15	12/31/15	90%	Paul is researching IPR; draft memo completed	
	Coordinate with current users on use of reclaimed water and what the new WDR means	1/1/15			Paul working with RMCC; attended RMCC Greens Committee meeting 6/9/15	
	Participate in/with regional agencies, associates, etc., to stay informed at the regional and state level of wastewater issues	1/1/15	On-going	N/A	Attended WaterReuse meeting on 7/1/15	
	Update long term maintenance plan and identify estimated cost of future repairs/ replacements	1/1/15	12/31/15	50%	Reserve study completed and presented to Board	Working on 5 year Capital Improvement Plan

**BOARD GOALS 2015 (Status Report 9/16/15)
01/30/2015**

Priority	District Goal	Start Date	Due Date	% Comp	Major Accomplishments	Outstanding Issues, Questions
	Evaluate ways to increase efficiency, reduce costs and find alternative funding for specific projects	1/1/15	On-going	N/A	Title XVI and Title 1 grant funds identified for potential use on reclaimed water project	Application support not approved for Title 1 process
	Develop reclaimed water plan	1/1/15	1/1/17	40%	Master Reclamation Permit rec'd 12/14; Working with AECOM and developers to re-evaluate phases identified in the Title XVI Feasibility Study	AECOM 8/3/15 proposal pending Board approval (Task 1 – phasing and schedule; Task 2 – stakeholder outreach with RMCC and District for using existing conveyance system; Task 4 – chlorine contact basin and storage expansion)
	DRAINAGE					
	Evaluate drainage culverts and review/update maintenance schedule as needed	1/1/15	On-going	N/A		
	Update long term maintenance plan and identify estimated cost of future repairs/ replacements	1/1/15	12/31/15	50%	Reserve study completed and presented to Board	Working on 5 year Capital Improvement Plan
	Evaluate ways to increase efficiency, reduce costs and find alternative funding for specific projects	1/1/15	On-going	N/A	Implemented herbicide application to reduce weed growth (reducing amount of time spent on weed whacking)	
	SECURITY					
	Develop long term Security Master Plan	1/1/15	12/31/15			
	Develop Security Camera Plan and policy	1/1/15	10/1/15	90%		Final plan delayed to coordinate with Gate Policy, Developer Impact Fee Policy, and North Gate Use Agreement
	Investigate the process for placing initiative on ballot for increasing Security Tax escalation constraints	1/1/15			Initial contact made with consultant who provided other consultants' names due to their retirement.	

**BOARD GOALS 2015 (Status Report 9/16/15)
01/30/2015**

Priority	District Goal	Start Date	Due Date	% Comp	Major Accomplishments	Outstanding Issues, Questions
	SOLID WASTE					
	Evaluate the need for sponsoring a community household hazardous waste collection event	1/1/15	12/31/15			
	Improve communications to the community of changes to pickup schedule and special items allowed for collection	1/1/15	12/31/15			Not sure this is really an issue – have not seen/received any complaints
	Evaluate ways to increase efficiency, reduce costs, and find alternative funding for specific projects	1/1/15	On-going			
	Research availability and cost of commercial collections	1/1/15	7/1/16		Initial contact made with CWRS - next step is to conduct rate comparison	
	COMMUNITY RELATIONS					
	Evaluate the use of social media in communicating with the community	1/1/15	12/31/15	40%	Suzanne attending classes and developing ideas for use at District	Suzanne looking into other website development programs
	Seek training opportunities for District employees on improving communication skills and techniques	1/1/15				
	Leverage local news sources to communicate effectively	1/1/15	On-going	N/A		
	Community workshops, visit schools, community meetings	1/1/15	On-going	N/A	Presented to Kiwanis Club in April 2015, Conducted 4 Conversations About Water community meetings in May/June 2015; Chief Remson attended Fishing Club meeting	
	Research use of internship for communication/ community outreach	1/1/15	12/31/15	100%	Initial contact made to FLC - not ready with appropriate project and mentoring of intern.	

**BOARD GOALS 2015 (Status Report 9/16/15)
01/30/2015**

Priority	District Goal	Start Date	Due Date	% Comp	Major Accomplishments	Outstanding Issues, Questions
	RMA/RMCC RELATIONS					
	Work towards developing a partnership-type relationship with RMA and RMCC that acknowledges and respects each entity's area of authority and responsibility	1/1/15	On-going	N/A	Building relationships with RMA, RMCC - Presidents' Meetings. Utilizing ad hoc committees to develop shared ideas and plans	
	Develop/review/ document agreements, policies, and procedures so that all entities understand their obligations/responsibility on certain issues (i.e. gate policy, Parks Committee, recycled water use, water use, etc.)	1/1/15	12/31/15	15%	Parks Committee - review North Gate Use Agreement; Gate Policy, Camera Policy to be discussed and coordinated with assistance of ad hoc committee; committee met on 9/3/15	Review of ad hoc committee recommendations by Board of Directors at 10/07/15 Special Board Meeting
	Evaluate ways to increase efficiency, reduce costs and find alternative funding for specific projects	1/1/15	On-going	N/A	Large Landscape audit and rebates identified in Prop 84 grant request	
	EMPLOYEE RELATIONS					
	Develop a relationship with employees that is respectful and inclusive of their opinions, ideas, and suggestions of ways to make the District a sought out place of employment	1/1/15	On-going	N/A	Employee appreciation lunch held on July 1st (co-sponsored with Director Martel)	
	Identify areas for training and growth for employees	1/1/15			Prop 218 and 26 training for Eric; Website/Social Media training for Suzanne;	
	Hold recurring meetings with employees and ensure employees scheduled for all	1/1/15	On-going	N/A	Management Staff meetings;	Establishing means to meet with second and third shift employees

**BOARD GOALS 2015 (Status Report 9/16/15)
01/30/2015**

Priority	District Goal	Start Date	Due Date	% Comp	Major Accomplishments	Outstanding Issues, Questions
	shifts have access to meetings to exchange information and ideas					
	DEVELOPMENT					
	Monitor development plans and evaluate impact on District's provision of services	1/1/15	On-going	N/A	Review of Murieta Gardens, Retreats West; Retreats North and Retreats East currently being done	RFP for District Engineering services needed – target to release by 10/01/15 AECOM 8/3/15 proposal (Task 3 – development discharge requirement support)
	Participate in Parks Committee meetings and ensure the District's role in the community parks is fulfilled	1/1/15	On-going	N/A	1 st meeting held in Feb. 2015; 2 nd meeting held 9/8/15	Evaluate/determine CSD's role; requested a Parks Committee meeting to be scheduled (8/15)
	Effectively monitor and manage the District's CFD 2014-1 continuing disclosure responsibilities	1/1/15	On-going through life of CFD	N/A		First disclosure not due until January 2016
	Evaluate ways to increase efficiency, reduce costs, and find alternative funding for specific projects	1/1/15	On-going	N/A		
	DISTRICT/BOARD					
	Effectively execute the duties and responsibilities of the District as authorized by government and District Code in the provision of services to the community	1/1/15	On-going	N/A	Expectation of all staff to effectively perform duties and responsibilities (achievement reflected in annual performance reviews)	
	Evaluate "best use" of 10 acre parcel (i.e. solar farm, etc.)	1/1/15	12/31/15	50%	Solar array installation on 3 acres to support electrical requirements of Wastewater Reclamation Plant	

**BOARD GOALS 2015 (Status Report 9/16/15)
01/30/2015**

Priority	District Goal	Start Date	Due Date	% Comp	Major Accomplishments	Outstanding Issues, Questions
	Use of solar power panels - Admin., Bldg, WTP, etc.	1/1/15	12/31/15	80%	Solar City - meeting on 5/12/15; Contract negotiations substantially complete	CEQA requirements; electrical panel evaluations, site surveys
	Reduction of gas (vehicle) costs - share use with RMA and RMCC - use of electric vehicles'	1/1/15	12/31/15	80%	Research into electric vehicles indicates that we don't have sufficient 'drive time' to have beneficial use of the electric motor (i.e., battery charge issue); Security patrol vehicles are no longer kept at idle when not occupied (some exceptions are allowed)	

Color Key: **New Goal** Carryover Goal

CONFERENCE/EDUCATION SCHEDULE

Date: September 10, 2015
To: Board of Directors
From: Suzanne Lindenfeld, District Secretary
Subject: Review Upcoming Conference/Education Opportunities

This report is prepared in order to notify Directors of upcoming educational opportunities. Directors interested in attending specific events or conferences should contact me to confirm attendance for reservation purposes. The Board will discuss any requests from Board members desiring to attend upcoming conferences and approve those requests as deemed appropriate.

Board members must provide brief reports on meetings that they have attended at the District's expense. (AB 1234).

The upcoming conferences/educational opportunities include the following:

CALIFORNIA SPECIAL DISTRICT ASSOCIATION (CSDA)

Annual Conference and Exhibitor Showcase	September 21 - 24, 2015	Monterey
Board Secretary/Clerk Conference	October 18-20, 2015	Lake Tahoe, CA

GOLDEN STATE RISK MANAGEMENT ASSOCIATION (GSRMA)

No Information Currently Available on Upcoming Conferences.

ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA)

2015 Regulatory Summit	October 14, 2015	Ontario, CA
2015 Annual Fall Conference	December 1-4, 2015	Indian Wells

AMERICAN WATER WORKS ASSOCIATION (AWWA)

No Information Currently Available on Upcoming Conferences.