



**CITY COUNCIL  
SPECIAL AND REGULAR MEETING  
AMENDED AGENDA**

**Tuesday, October 07, 2014 at 6:00 PM  
City Council Chambers  
701 Laurel Street, Menlo Park, CA 94025**

The agenda has been amended to remove item J2.

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**6:00 P.M. CLOSED SESSION (1<sup>st</sup> floor Council Conference Room, Administration Building)**

**Public Comment on this item will be taken prior to adjourning to Closed Session**

**CL1.** Closed Session pursuant to Government Code Section §54957 to conference with labor negotiators regarding labor negotiations with the Police Sergeants' Association (PSA)

Attendees: Alex McIntyre, City Manager, Starla Jerome-Robinson, Assistant City Manager, Bill McClure, City Attorney, Gina Donnelly, Human Resources Director, Drew Corbett, Finance Director, and Charles Sakai, Labor Attorney

**7:00 P.M. REGULAR SESSION**

**ROLL CALL** – Carlton, Cline, Keith, Mueller, Ohtaki

**PLEDGE OF ALLEGIANCE**

**REPORT FROM CLOSED SESSION**

**ANNOUNCEMENTS**

**A. PRESENTATIONS AND PROCLAMATIONS**

**A1.** Proclamation recognizing Menlo Art League's 40 years of service

**B. COMMISSION/COMMITTEE VACANCIES, APPOINTMENTS AND REPORTS – None**

**C. PUBLIC COMMENT #1 (Limited to 30 minutes)**

Under "Public Comment #1", the public may address the Council on any subject not listed on the agenda and items listed under the Consent Calendar. Each speaker may address the Council once under Public Comment for a limit of three minutes. Please clearly state your name and address or political jurisdiction in which you live. The Council cannot act on items not listed on the agenda and, therefore, the Council cannot respond to non-agenda issues brought up under Public Comment other than to provide general information.

**D. CONSENT CALENDAR**

- D1. Authorize the City Manager to enter into a lease agreement with the Rotary Club of Menlo Park to operate a Community Garden ([Staff report #14-175](#))
- D2. Authorize the City Manager to enter into an agreement with Erler & Kalinowski, Inc. to develop the 2015 Urban Water Management Plan ([Staff report #14-176](#))
- D3. Approve an amendment to the General Fund Reserve Policy to incorporate a reserve for pension costs ([Staff report #14-173](#))

**E. PUBLIC HEARING**

- E1. Adopt a resolution to abandon public utility and emergency access easements within the property at 721 - 851 Hamilton Avenue ([Staff report #14-177](#))
- E2. Approve a resolution making findings necessary to authorize an energy services contract for Power Purchase Agreements (PPA) at the Arrillaga Gymnasium, Arrillaga Gymnastics Center, Onetta Harris Center, and City Corporation Yard; authorize the City Attorney to finalize the agreement and authorize the City Manager to execute the agreement; and amend the existing consulting contract with Optony, Inc. to include construction management services ([Staff report #14-178](#))

**F. REGULAR BUSINESS**

- F1. One year review and follow up on the Police Department Taser Assessment and consider a request for adoption of tasers for the entire Police Department ([Staff report #14-174](#))
- F2. Authorize the City Manager to enter into a contract with Peninsula Conflict Resolution Center (PCRC) in an amount not to exceed \$91,300 for facilitation, youth and family support, and community building in the Belle Haven Neighborhood for FY 2014-15 ([Staff report #14-179](#))

**G. CITY MANAGER'S REPORT – None**

**H. WRITTEN COMMUNICATION – None**

**I. INFORMATIONAL ITEMS**

- I1. Update on City Council Goals ([Staff report #14-181](#))

**J. COUNCILMEMBER REPORTS**

- J1. Report from Mayor regarding Project Cornerstone

## **K. PUBLIC COMMENT #2 (Limited to 30 minutes)**

Under “Public Comment #2”, the public if unable to address the Council on non-agenda items during Public Comment #1, may do so at this time. Each person is limited to three minutes. Please clearly state your name and address or jurisdiction in which you live.

## **L. ADJOURNMENT**

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City website at <http://www.menlopark.org/AgendaCenter> and can receive e-mail notification of agenda and staff report postings by subscribing to the [Notify Me](http://www.menlopark.org/notifyme) service on the City’s homepage at [www.menlopark.org/notifyme](http://www.menlopark.org/notifyme). Agendas and staff reports may also be obtained by contacting the City Clerk at (650) 330-6620. Copies of the entire packet are available at the library for viewing and copying. (Posted: 10/02/2014)

At every Regular Meeting of the City Council, in addition to the Public Comment period where the public shall have the right to address the City Council on the Consent Calendar and any matters of public interest not listed on the agenda, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during the Council’s consideration of the item.

At every Special Meeting of the City Council, members of the public have the right to directly address the City Council on any item listed on the agenda at a time designated by the Mayor, either before or during consideration of the item.

Any writing that is distributed to a majority of the City Council by any person in connection with an agenda item is a public record (subject to any exemption under the Public Records Act) and is available for inspection at the Office of the City Clerk, Menlo Park City Hall, 701 Laurel Street, Menlo Park, CA 94025 during regular business hours. Members of the public may send communications to members of the City Council via the City Council’s e-mail address at [city.council@menlopark.org](mailto:city.council@menlopark.org). These communications are public records and can be viewed by any one by clicking on the following link: <http://ccin.menlopark.org>.

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## **PUBLIC WORKS DEPARTMENT**

**Council Meeting Date: October 7, 2014**  
**Staff Report #: 14-175**

**Agenda Item #: D-1**

**CONSENT CALENDAR:**                    **Authorize the City Manager to Enter into a Lease Agreement with the Rotary Club of Menlo Park to Operate a Community Garden**

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### **RECOMMENDATION**

Staff recommends that the City Council authorize the City Manager to enter into a lease agreement with the Rotary Club of Menlo Park (Rotary Club) to operate a Community Garden.

### **BACKGROUND**

The Rotary Club has been working with staff over a year on developing a site for a Community Garden. Staff identified a piece of City property and right-of-way in the Belle Haven neighborhood. The property is surrounded by single family residences with two alleys accessing the property one from Ivy Drive and the second from Hill Avenue. Part of the property includes public right-of-way. Staff identified this site as a location of the Community Garden because it is underutilized and it is a public nuisance in that debris is dumped at this site. Representatives of the Rotary Club inspected the site and believed the site would be an excellent location for a Community Garden.

Staff and the Rotary Club met numerous times to develop terms of the lease and plan for public outreach to determine Community's interest in the Community Garden. Staff over the last six months had informed the Belle Haven neighborhood of the Community Garden during neighborhood meetings and the neighborhood was supportive of the Community Garden. On September 22, 2014 a formal Community meeting was held to get input into the Community Garden. A total of 14 residents were present and were supportive of the Community Garden.

### **ANALYSIS**

The City Attorney has prepared a lease agreement which has been approved by the Rotary Club. The lease agreement contains the conditions in which the Rotary Club and the City have partnered in developing the site.

The City has agreed to:

- Pay for the water service connection and install the water service and water meter to the sidewalk. The water service fee is \$2,706 and the installation of the water service will be performed by City staff.
- Perform minor grading and clean-up of the site needed for the Community Garden.

The Rotary Club has agreed to perform the following:

- Constructing planting beds.
- Installing a new gate at the Ivy Drive entrance and installing an irrigation line from the City installed meter to the site.
- Installing a walkway from Ivy Drive to the planting beds.
- Maintaining the Community Garden and pay for all on-going utility costs.
- Maintaining Garden hours from Monday through Saturday; 8 am – dusk and Sunday 1 pm – dusk.

The lease pertains to the City owned property and a separate encroachment permit will be issued to the Rotary Club for the public right-of-way that will be tied to the lease. The City is unable to lease public right-of-way; therefore an encroachment permit will be issued. The lease gives priority use to Menlo Park residents.

The term of the lease is for three years with an automatic annual renewal, unless either party elects to terminate the lease with a 30 day notice prior to the annual renewal.

### **IMPACT ON CITY RESOURCES**

The staff cost to pay for the water service, installing the water service, minor grading and clearing the site will be paid out of the City's General fund operating budget and is estimated at \$10,000 this fiscal year.

### **POLICY ISSUES**

The recommendation does not represent any change to existing City policy.

### **ENVIRONMENTAL REVIEW**

The project is categorically exempt under Class I of the current State of California Environmental Quality Act Guidelines, which allows minor alterations and replacement of existing facilities.

### **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

### A. Lease Agreement

Report prepared by:

*Ruben Niño*

*Assistant Public Works Director*

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**LEASE**

THIS LEASE is executed effective as of \_\_\_\_\_, 2014, by and between the CITY OF MENLO PARK (hereinafter referred to as "Lessor"), and the ROTARY CLUB OF MENLO PARK (hereinafter referred to as "Lessee"), who agree as follows:

1. **REAL PROPERTY.**

Lessor leases to Lessee the unimproved real property in Menlo Park, California, shown on Exhibit A attached hereto and incorporated herein by this reference, (the "Lot"). In addition, Lessor shall grant an encroachment permit to Lessee for the use of the public right of way as shown on Exhibit A. Together the Lot and the area covered by the encroachment permit shall be referred to as the "Property".

2. **"AS IS" CONDITION.**

Notwithstanding any provision in this Lease to the contrary, the Property shall be delivered in its present "AS IS" condition. Lessor gives no warranty, express or implied, with regard to, but not necessarily limited to, the suitability of the Property for its intended use. Except as expressly provided in Paragraphs 6.2 through 6.4, below, Lessee accepts the Property in its existing condition and shall not require Lessor to improve, alter, maintain, or repair the Property or any part thereof.

3. **TERM.**

3.1 The term of this Lease shall be for a period of three (3) years, commencing \_\_\_\_\_, 2014, and terminating \_\_\_\_\_, 2017 (the "Lease Term").

3.2 The Lease Term shall automatically extend on a year to year basis unless and until either party notifies the other party of its election to terminate the Lease with at least thirty (30) days notice to the other party prior to the expiration of the Lease Term or any extensions of the Lease Term.

4. **RENTAL.**

Lessee shall pay rent for the Property in the amount of One Dollar (\$1.00) annually.

5. **USE.**

5.1 Lessee shall use the Property to establish a community garden that will be utilized by community members within a structured program as a way of providing an excellent opportunity for families and individuals to grow their own food source while connecting with their neighbors thereby creating a sense of community and for no other primary use without Lessor's written consent.

- 5.2 Lessee shall provide Menlo Park residents with first priority to use space in the community garden. Should there be insufficient interest by Menlo Park residents to fill the space in the community garden, the remaining space will be made available to others in the surrounding community.
- 5.3 Lessee shall obtain all necessary licenses and permits and shall comply with all Local, State, and Federal regulations pertaining to the use of the Property. Lessor shall make every effort within its authority to assist in obtaining the necessary licenses and permits at no cost to Lessor.
- 5.4 The community garden's operation will be confined to Monday through Saturday, 8:00AM until dusk, Sunday 1:00PM until dusk.

6. ALTERATIONS AND IMPROVEMENTS:

- 6.1 Except as expressly provided herein, Lessee shall not make any additions, alterations, or changes to the Property without the prior written consent of the Lessor. Lessor agrees not to unreasonably withhold its consent. Lessee shall request Lessor's consent in writing with fifteen (15) days prior written notice. Any additions or alterations to the Property, other than trade fixtures and personal property, shall become a part of the realty and shall revert to Lessor. Lessee shall not change any of the locks to the Property without providing Lessor with a duplicate key.
- 6.2 Lessor shall be solely responsible for installing a water service connection from the water main on Ivy Drive and installing a 3/4' water meter in the sidewalk adjacent to Ivy Drive.
- 6.3 Lessor shall be solely responsible for the initial clearing the site of any trash, dumped materials, weeds, and other materials not needed for the community garden. Lessor will not be responsible for removing any trees unless Lessor agrees at the request of Lessee to assist.
- 6.4 Lessor shall perform minor grading that allows the Property to drain in its existing natural grades.
- 6.5 Lessee has Lessor's express authority to construct garden beds, fencing at the two (2) entrances of the Property at Ivy Drive and Hill Avenue, irrigation lines and equipment within the Property boundaries, shade structures as needed and any related garden facilities. A drawing of improvements expressly approved by Lessor is attached hereto as Exhibit B.
- 6.6 Lessee shall install an approved backflow device on the irrigation line and have it certified annually by an approved backflow tester.

**7. MAINTENANCE AND UTILITIES.**

- 7.1** Lessee shall be responsible for day-to-day maintenance of the Property, which shall include weeding, clearing of any trash on site, including, the cost of supplies, any contract services for cleaning and maintenance, minor alterations, repairs and other maintenance costs arising during the term of the Lease, and general cleaning and maintenance as necessary to keep the site in an acceptable condition as agreed upon by the parties. Lessee shall also be responsible for the construction of fencing, if any, around and within the leased boundaries (not to include residential fencing), construction of any structures within the leased boundaries, construction of irrigation lines and equipment within the leased boundaries.
- 7.2** Lessee shall be responsible for all utility costs, including gas, electricity, water and telephone, and all maintenance, repair, installation and deposits for these services occurring during the term of the Lease for the Property.
- 7.3** Lessee shall report all problems and maintenance needs as soon as practicable to Lessor. Upon request by Lessee, but not more frequently than once per year, Lessor shall perform periodic maintenance checks. The scope of such maintenance checks shall be mutually agreed upon.
- 7.4** Lessee shall use the Property in a careful, safe, and proper manner. Lessee agrees to pay Lessor on demand for any damages to the Property by Lessee through its misuse, abuse, or lack of maintenance of the Property.

**8. ASSIGNMENT AND SUBLETTING.**

Except by operation of law, Lessee may not assign this Lease nor sublet the Property without Lessor's prior written consent, which consent may be withheld in Lessor's sole and absolute discretion.

**9. ABANDONMENT.**

Should the Lessee abandon, be dispossessed, surrender or otherwise vacate the Property, the Lessor, at Lessor's option, may immediately terminate this Lease and enter the Property and remove all persons and property. Lessee shall not allow the Property to be vacant for more than a thirty (30) day period.

**10. DEFAULT.**

In the event of a material default, the non-defaulting party shall give written notice thereof to the defaulting party. In the event that defaulting party shall not have cured the default within ten (10) days of the notice, or if the default cannot reasonably be cured within ten (10) days and the defaulting party shall not have commenced to cure the default and be diligently pursuing such cure to completion,

then the non-defaulting party, besides any other right or remedies that such party may have, shall have the right to terminate this Lease.

11. TERMINATION OF LEASE.

Upon termination of this lease Lessee shall remove all improvements not needed by City. Lessee will not be required to remove improvements any other group or organization that may take responsibility for the garden may need, if approved in writing by Lessor.

12. INSURANCE AND INDEMNIFICATION.

Lessee, at its own expense, shall provide and keep in force public liability insurance for the benefit of Lessor and Lessee jointly against liability for bodily injury and property damage in an amount of not less than Two Million Dollars (\$2,000,000.00) combined single limit, such limits to be for any greater amounts as may be reasonably indicated by circumstances from time to time existing following a mutual review of the circumstances upon Lessor's written request. Lessor shall be named as an additional insured on Lessee's insurance policy.

Except as covered by Lessor's indemnification obligations below, Lessee, during the continuance of this Lease, covenants and agrees to indemnify and save harmless the Lessor, its agents and employees from each and every loss, cost, damage and expense arising out of any accident or other occurrence on the Property causing injury to or death of persons or damage to property by reason of the operation of Lessee's community garden, the condition of the Property, or due to the use or neglect thereof by Lessee. Lessee further agrees during the continuance of this Lease also to indemnify and hold harmless the Lessor from all damages and penalties arising out of any claims of Lessee's negligence or failure of the Lessee to comply with any of Lessee's obligations hereunder.

Lessee, as a material part of the consideration to Lessor, hereby assumes all risk of damages to property or injury to persons on or about the Property from any cause whatsoever except that which is caused by the failure of the Lessor to observe any of the terms and conditions of this Lease. The obligations of Lessee under this section arising by reason of any occurrence taking place during the term of this Lease shall survive any termination of this Lease.

Lessor shall indemnify, defend, and hold harmless Lessee from and against any and all costs, attorneys' fees, expenses and liabilities arising out of Lessor's negligence or willful misconduct.

13. QUIET POSSESSION.

Lessor shall not disturb Lessee's quiet enjoyment and possession of the Property during the term of this Lease. Lessor shall not be responsible for defending any action brought by an adjacent property owner challenging Lessee's use of the public

rights of way as part of the Property. Lessee shall work with adjacent property owners to the extent they need access to the rear of their properties from the alleys.

14. INSPECTION.

Lessor may enter the Property at all reasonable times to inspect, maintain and repair the Property. Lessor shall attempt to provide twenty-four (24) hours notice to Lessee prior to such entry.

15. LIENS.

Lessee shall keep the Property free from any and all liens arising out of any work performed, materials furnished, or obligations incurred by or for Lessee; and Lessee agrees to defend Lessor at its sole cost and expense against any and all lawsuits arising from such lien upon receipt of notice of opportunity to defend from Lessor.

16. NOTICES.

All notices between the parties shall be in writing and hand delivered or sent by U.S. Certified Mail - Return Receipt to: Lessor: CITY OF MENLO PARK, 701 Laurel Street, Menlo Park, California 94025, Attn: Public Works Director; Lessee: ROTARY CLUB OF MENLO PARK, \_\_\_\_\_, Menlo Park, California 94025, Attn: President. Any notice of an alleged default issued by Lessee to Lessor shall also be delivered to the City Attorney of the City of Menlo Park at 1100 Alma Street, Suite 210, Menlo Park, CA 94025, or the then address of the City Attorney. Any notice of required maintenance issued to Lessee shall also be given by telephone communication to the Lessee at (650) \_\_\_\_-\_\_\_\_ or such other telephone number as may be provided by written notice from Lessee to Lessor.

17. WAIVER.

17.1 The waiver by Lessor of a breach by Lessee of any agreement herein, shall not be deemed to be a waiver on a part of Lessor of any covenant of this Lease. Such waiver by Lessor shall not constitute a waiver of any future breach by Lessee of the same or other covenants of this Lease.

17.2 The waiver by Lessee of a breach by Lessor of any agreement herein, shall not be deemed to be a waiver on a part of Lessee of any covenant of this Lease. Such waiver by Lessee shall not constitute a waiver of any future breach by Lessor of the same or other covenants of this Lease.

18. ATTORNEYS' FEES.

Should either party bring an action for breach under any of the conditions and terms of this Lease, the losing party agrees to pay to the prevailing party all reasonable attorneys' fees and cost, as fixed by the court.

19. MISCELLANEOUS.

19.1 This Lease shall be binding on the administrators, assigns, executors, heirs and successors of Lessor and Lessee. Section headings are for reference only and shall have no effect upon the interpretations of this Lease. Time is of the essence of each provision of this Lease. The unenforceability, invalidity or illegality of any provision shall not render the other provisions unenforceable, invalid or illegal. The law governing this Lease shall be that of the State of California.

19.2 The encroachment permit granted to Lessee as described in Paragraph 1 shall run with this Lease and shall be subject to all of the same terms and conditions as contained in this Lease. Upon termination of this Lease, the encroachment permit granted to Lessee for the use of the public right of way as shown in Exhibit A shall also terminate.

LESSOR

LESSEE

CITY OF MENLO PARK

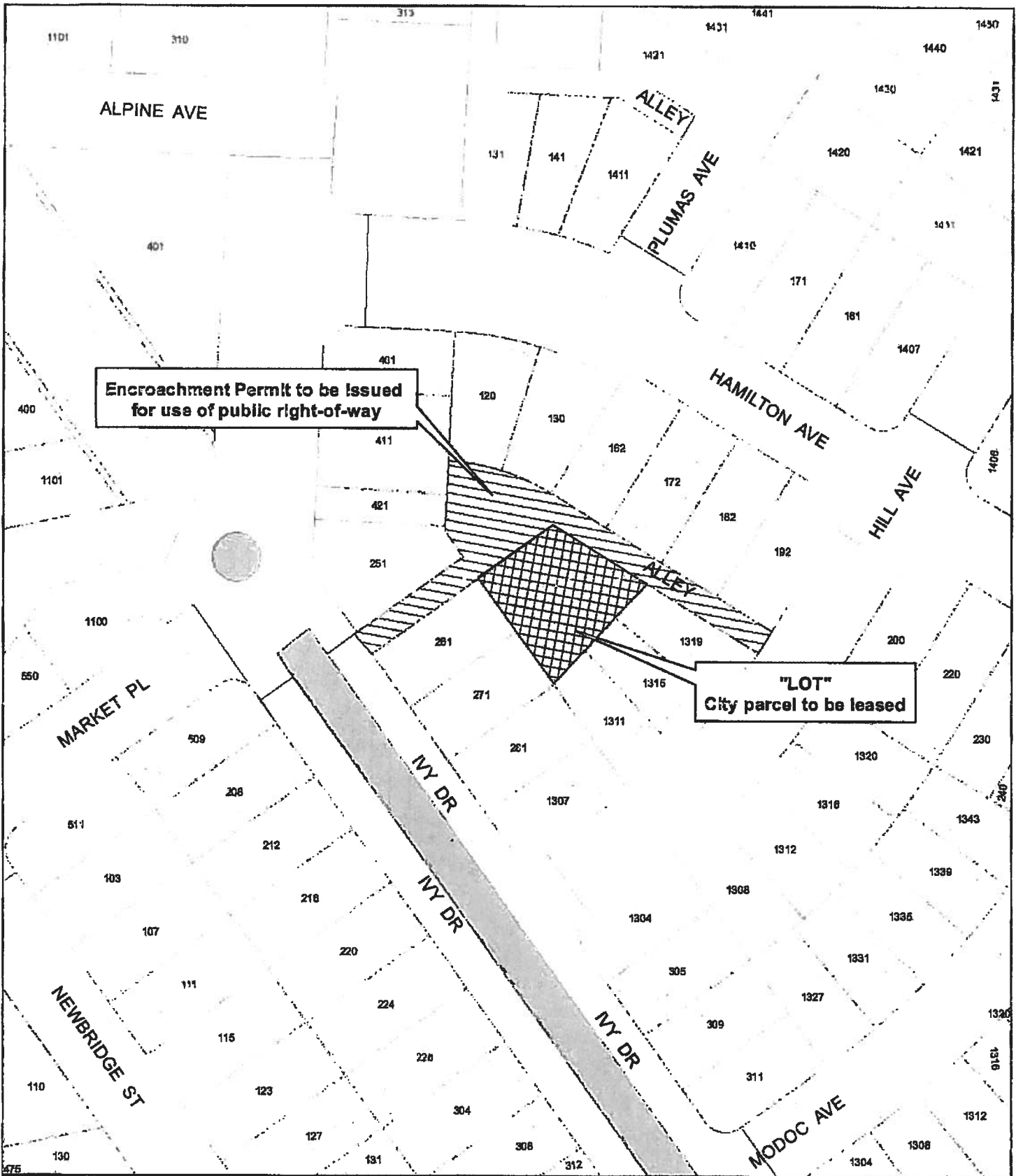
ROTARY CLUB OF MENLO PARK

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name and Title)

\_\_\_\_\_  
(Print Name and Title)



# CITY OF MENLO PARK

EXHIBIT A  
Belle Haven

Community Garden Area

DATE: 7/22/14 SCALE: 1" = 200' SHEET: 1



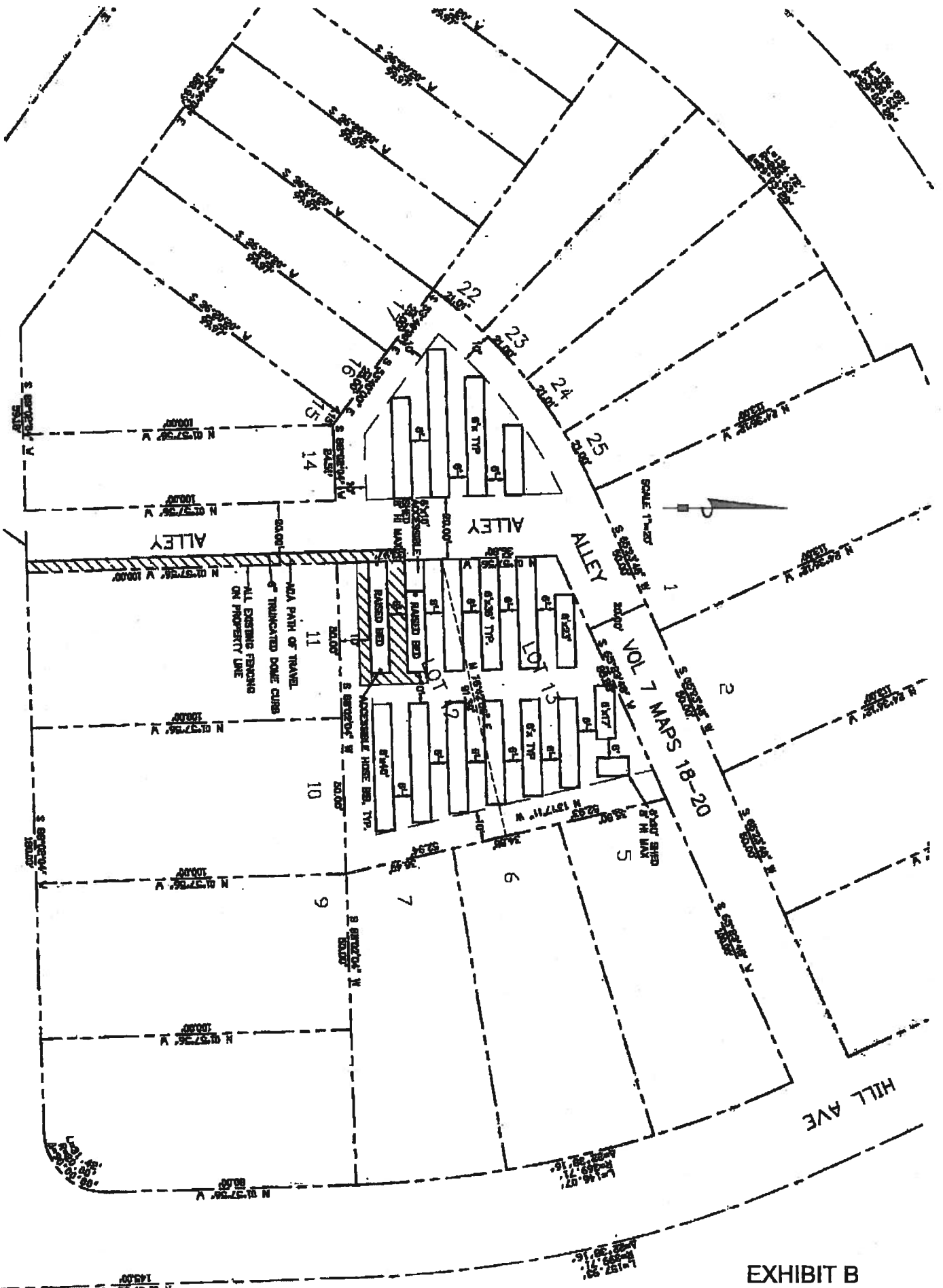


EXHIBIT B





## PUBLIC WORKS DEPARTMENT

Council Meeting Date: October 7, 2014  
Staff Report #: 14-176

Agenda Item #: D-2

**CONSENT CALENDAR:**            **Authorize the City Manager to Enter Into an Agreement with Erler & Kalinowski, Inc. to Develop the 2015 Urban Water Management Plan**

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### RECOMMENDATION

Staff recommends that the City Council authorize the City Manager to enter into an agreement with Erler & Kalinowski, Inc. (EKI) to develop the 2015 Urban Water Management Plan.

### BACKGROUND

The Urban Water Management Planning Act, passed by the California legislation in 1983, requires urban water suppliers to develop Urban Water Management Plans (UWMP) to address changing conditions related to water sources, water availability, water demands, and water reliability for the next 20 years. In 1991, the State added the requirement to include a Water Shortage Contingency Plan to outline the water supplier's response and plan for changes or shortages in water supplies. Water suppliers are required to update and submit their Plan to the Department of Water Resources every five years. Compliance with the Act is necessary to be eligible for State grants, loans, and drought assistance.

The Menlo Park Municipal Water District (MPMWD) provides water to approximately 16,000 residents through 4,000 service connections within two service areas. The District purchases 100% of its water from the San Francisco Public Utilities Commission (SFPUC), which delivers water from the San Francisco Regional Water System (RWS) to the City through 5 turnout connections. The District's 2013 average daily demand was around 3.26 million gallons per day (mgd).

The City Council adopted the 2010 UWMP in June 2011, and the next UWMP is anticipated to be due by July 1, 2016 (pending adoption of Assembly Bill 2067). The 2010 UWMP is available on the City's website at <http://www.menlopark.org/150/Urban-Water-Management-Plan>.

On June 17, 2014, the City Council adopted the 5-year 2014-2019 Capital Improvement Program. It included \$100,000 to develop the 2015 UWMP.

## ANALYSIS

Even though the California Department of Water Resources' 2015 UWMP Guidebook will not be available until July 2015, in order to coordinate activities with the City's General Plan Update and M-2 Area Zoning Update, which is currently underway, staff decided to bring a consultant on-board as soon as possible.

On July 22, 2014, staff mailed Request for Proposals (RFP) to twenty-five civil engineering consulting firms. Five consultants submitted proposals for the work. Staff reviewed each proposal and is recommending EKI for several reasons:

- EKI's team has extensive experience preparing UWMPs and Water Shortage Contingency Plans for several agencies, including other Bay Area Water Supply and Conservation agency members.
- EKI is well versed in the California Water Code requirements pertinent to UMWP preparation, including the fact that their Vice President is serving on the committee to develop the California Department of Water Resources (DWR) 2015 UWMP Guidebook.
- EKI has proposed an efficient and effective approach (City staff working meetings) that makes wise use of City staff's limited time and eliminates multiple draft preparation and review.

The scope of services to develop the 2015 UWMP is shown in Attachment A, and it includes a City Council Study Session to allow the Council an opportunity to provide input on the UWMP content prior to the issuance of a Public Review Draft. The total estimated cost is \$86,250 and includes a 15% contingency to account for unexpected UWMP requirements since the DWR UWMP Guidelines will not be available until July 2015. The cost breakdown per task for the Scope of Work is shown in Attachment B.

Budget for Scope of Work	\$75,000
15% Contingency	\$11,250
Total	\$86,250

The estimated schedule to complete the project is as follows:

January – June 2015	Coordination with General Plan and M-2 Area Zoning Update
July 2015	DWR 2015 UWMP Guidebook available
Fall/Winter 2015	DWR UWMP Workshops
Spring 2016	City Council Study Session
June 2016	City Council Public Hearing to Adopt 2015 UWMP

## IMPACT ON CITY RESOURCES

The UWMP Project is funded by the Water Fund and has sufficient funds to cover this agreement.

## **POLICY ISSUES**

The recommendation does not represent any change to existing City policy.

## **ENVIRONMENTAL REVIEW**

An environmental review is not required.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. EKI Scope of Services
- B. EKI Budget

Report prepared by:  
*Pam Lowe, P.E.*  
*Associate Civil Engineer*

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### 3 SCOPE OF WORK AND SCHEDULE

EKI proposes the following approach and scope of work to assist City staff with developing its 2015 UWMP.

#### 3.1 Proposed Scope of Work

EKI's scope of work and the associated tasks have been developed to emphasize the coordinated development of the 2015 UWMP through a meeting-based approach. As a result, the tasks identified below do not necessarily correspond with the tasks outlined in the RFP.

##### Task 1 – Review of Available Information and Initial Meetings

The RFP includes a comprehensive list of reports and information that the City will provide EKI for review at the start of this project. EKI will provide the City with a preliminary list of any additional requested information needs along with the preferred format. We assume that this information can be provided prior to the kick-off meeting in order to help identify any key information or data gaps during the meeting. EKI will review the relevant information and summarize it for inclusion in the 2015 UWMP, as appropriate.

At the kick-off meeting, EKI and City staff will discuss project goals, opportunities, constraints, information needs, roles, responsibilities, schedule, and expectations. A key topic for discussion will be the project schedule to ensure efficient development of the UWMP in coordination with DWR, BAWSCA and others.

A meeting with the City Planning staff will also be scheduled to ensure coordination between the 2015 UWMP and the City's General Plan update. EKI will work with the City to assess whether the demand projections that BAWSCA recently developed for Menlo Park using the DSS Model accurately reflect the General Plan update or whether the demand projections need to be revised. As stated above in Section 2, the 2015 UWMP development will be influenced by the availability of the 2015 UWMP Guidebook and information from BAWSCA and SFPUC related to water supply reliability. However, the City will have the option to move ahead with some elements of the UWMP that will support the General Plan update.

##### Task 2 – Prepare for and Attend City Staff Working Meeting #1 – Projected Water Demands

Task 2 includes preparing information regarding water system demand projections and conservation measures and attendance of meetings and training sessions with City Staff. City Staff Working Meeting #1 will address the following topics.

###### *New UWMP Requirements and Schedule*

As described above, DWR has indicated that additional information will be required in the 2015 UWMPs regarding climate change, water conservation reporting, WSCPs, and SB 7 reporting.

EKI will work with City staff to identify the additional, appropriate information that will be required as part of the 2015 UWMP and when the relevant information is likely to become available, either in the 2015 UWMP Guidebook or from BAWSCA and others.

#### Summary of General Plan Integration into UWMP

EKI will summarize the information reviewed during Task 1 and present the proposed approach to integrating the City's General Plan update with the UWMP. This discussion will include identification of key interdependencies regarding the preparation of the two documents, such as when completed population forecasts will be finalized, and a summary of the effect on the UWMP development schedule.

#### Water System Description

Based on information provided or approved by the City, the characteristics of the City's water service area including the water system, average rainfall, average temperature, and service area population will be summarized. EKI assumes that much of the information regarding the water system can be obtained from the 2010 UWMP and the City will identify any differences needed to accurately describe the water system.

With respect to future population, EKI has assumed that the City will provide population estimates on a block/track level based upon work being conducted as part of the General Plan. Based upon this information, EKI will calculate the current and projected service area population, consistent with the methodologies required by DWR, and will use this process to confirm the population estimates included in the DSS Model.

#### Water System Demand Projections

The City's 2015 UWMP may be relied upon by future WSAs for large-scale developments. Therefore, EKI recommends that information regarding anticipated land-use changes and development projects be explicitly incorporated into water demand projections presented in the 2015 UWMP, to the extent that the supporting information is available. This information can be used to supplement population-based demand estimates and will significantly simplify preparation of future WSAs.

Once population and other input information have been reconciled with the General Plan, the City's water demands will be projected using the DSS Model, as discussed above. For the purposes of this proposal we have assumed that the water demand projections will be analyzed in five-year increments for the next 25 years. The City may want to extend the demand projection to coincide with an extended planning horizon in the General Plan update or further evaluate the DSS Model. EKI can provide such additional services upon request by the City as part of an additional work authorization.

#### Senate Bill 7 Per-Capita Water Usage Analysis

Pursuant to SB 7, the City's 2015 UWMP will need to provide the City's baseline water use, compliance water use, and water use targets for 2015 and 2020. The DWR promulgated guidance on 1 October 2010 for calculating these values, including water use targets, by applying

three of the four established methodologies. Revised methodologies, plus final DWR guidelines, are anticipated to be available to support development of the 2015 UWMPs.

Current water use suggests that the City is on track to meet its SB 7 targets. However, confirmation of this issue will be a key part of this UWMP as the City will not be able to modify its 2020 target once the 2015 UWMP is published. EKI will identify critical information needed to calculate and optimize the City's baseline water use and targets, as well as work with the City to identify the methods by which the City intends to meet its per capita water use targets.

EKI's preliminary review of the City's per capita water use data indicates that Menlo Park has one of the highest per capita water use rates among the BAWSCA member agencies. The potential benefit to the City of developing regional alliances with other member agencies that have lower per capita water use rates will be discussed with the City. If the City decides to pursue such a regional alliance, EKI can provide such additional services upon request by the City as part of an additional work authorization.

#### Conduct City Staff Working Meeting #1

City Staff Working Meeting #1 will include a presentation of the information identified above and will consist of a two to three hour meeting with all appropriate stakeholders as identified by the City. During City Staff Working Meeting #1, EKI will obtain input regarding the presentation of initial findings and guidance from the City and stakeholders on how to include the information into the Administrative Draft UWMP.

#### Task 3 – Prepare for and Attend City Staff Working Meeting #2 – Water Supply Availability

Task 3 includes preparing information regarding the City's water supply availability and a comparison of the City's projected water supply availability and demands.

#### Water System Supply

The City's water supply will be analyzed in five-year increments for the next 25 years for both normal and drought years. To the extent appropriate, the 2015 UWMP will incorporate information regarding the projected availability of wholesale supplies based upon information provided by BAWSCA and SFPUC. The 2015 UWMP will also discuss (1) potential future water supplies considered by the City to be viable (e.g., groundwater and recycled water) (2) potential effects of water quality on management strategies, and (3) supply reliability; for example, during a drought.

The extent to which the City is planning to expand its use of groundwater, the 2015 UWMP will include information regarding the local groundwater basin (i.e., the San Mateo Plain Groundwater Subbasin) including information regarding the hydrogeologic conditions and groundwater recharge and use. Such groundwater information is required by the UWMP Act for agencies that will or may rely on groundwater supply. Additionally, EKI is aware that the City of East Palo Alto is developing a Groundwater Management Plan ("GWMP") for the underlying

portion of the basin and other basin users have signed, or are considering signing, a basin management Memorandum of Understanding (“MOU”).

As requested in the RFP, EKI will also address the potential for use of existing recycled water infrastructure owned and operated by the adjacent Cities of Redwood City or Palo Alto. EKI will work with the City and the adjacent entities to develop the necessary level of detail for inclusion in the UWMP, including a potential estimate of the recycled water demand within the City (e.g., for landscape irrigation and cooling towers).

#### *Evaluation of Supply versus Demand*

Based on information developed by the City, EKI, BAWSCA and SFPUC, EKI will compare the City’s projected water supply to projected water demand in five-year increments for the next 25 years, for normal, dry, and multiple dry years. To the extent that there are significant shortfalls or uncertainty identifies, EKI will bring these issues to the City’s attention so that they can be addressed prior to drafting the Administrative Draft UWMP.

#### *Conduct City Staff Working Meeting #2*

City Staff Working Meeting #2 will include a presentation of the information identified above and will consist of a two to three hour meeting with all appropriate stakeholders as identified by the City. During City Staff Working Meeting #2 EKI will obtain input regarding the presentation of initial findings and guidance from the City and stakeholders on how to include the information into the Administrative Draft UWMP.

#### *Task 4 – Prepare for and Attend City Staff Working Meeting #3 – Water Conservation and Water Shortage Contingency Planning*

Task 4 includes preparing information regarding the City’s water conservation measures and their adequacy compared to regulatory requirements, as well as information regarding water shortage contingency planning.

#### *Evaluation of Water Conservation*

In discussions with Peter Bostrom of DWR, he has indicated that the water conservation reporting elements of the UWMP will be changed significantly for the 2015 UWMPs. EKI will work with City staff to incorporate appropriate water conservation information into the 2015 UWMP based on the 2015 UWMP Guidebook. EKI has assumed that records of the City’s historic and projected future water conservation actions will be available from the City and/or BAWSCA.

#### *Water Shortage Contingency Planning*

Given the recent and severe drought and the State Water Resources Control Board’s emergency drought regulations, WSCPs are under increased scrutiny. Anona Dutton has partnered with DWR to give several presentation about developing WSCPs can be relied on by agencies during droughts. A copy of her most recent presentation on this topic is included as Appendix B.



As part of this task, EKI will review the City's current water rationing ordinance, as well as the update to the WSCP included in the 2010 UWMP. EKI will then revise the WSCP portion of the City's 2015 UWMP to comply with the requirements of California Water Code §10632, and include elements such as an implementation plan that will support the City in enacting the various water conservation measures and strategies during dry years.

### Conduct City Staff Working Meeting #3

City Staff Working Meeting #3 will include a presentation of the information identified above and will consist of a two to three hour meeting with all appropriate stakeholders as identified by the City. During City Staff Working Meeting #3 EKI will obtain input from the City and stakeholders regarding the current and planned water conservation efforts and the preferred water shortage contingency plan elements and how to include the information into the Administrative Draft UWMP.

### Task 5 - Attend Optional Workshops or Meetings

At the request of the City, EKI will be available to attend the following optional workshops and/or meetings:

- Up to two (2) training sessions offered by DWR regarding 2015 UWMP preparations. It is assumed that EKI will attend with or in lieu of City staff to ensure that the City's 2015 UWMP is prepared in accordance with the DWR guidelines. Based on our experience during the 2010 UWMP process, we expect that these will be full-day meetings.
- Up to four (4) meetings with BAWSCA and the member agencies to review the DWR 2015 UWMP Guidebook, the common language sections, and other elements for regional coordination purposes. It is assumed that EKI will attend with or in lieu of City staff to ensure that the City's 2015 UWMP can leverage the regional information, as appropriate. Based on our experience during the 2010 UWMP process, we expect that these will be two-hour meetings.

As the scope of this effort is difficult to precisely define, for costing purposes we have assumed that EKI will be available to participate in such meetings as requested by the City, to be compensated as additional work on an hourly basis as needed. A schedule of charges is included as Appendix C.

### Task 6 - Prepare and Submit One Administrative Draft UWMP

As discussed above, EKI is proposing the use of working meetings to review findings with City staff during the preparation of the UWMP. EKI believes this approach will result in a more collaborative development of the UWMP and eliminate the need for two administrative draft documents. Therefore Task 6 assumes the preparation of one Administrative Draft UWMP rather than the two Administrative Draft UWMPs requested in the City's RFP.

Based upon the results of Tasks 1 through 4, EKI will prepare an Administrative Draft UWMP. EKI will provide six (6) bound paper copies and one electronic version of the Administrative

Draft UWMP. Following a 30-day City review period, EKI will meet with key City staff to discuss comments and agree on an approach to modify the Administrative Draft UWMP. EKI will prepare minutes summarizing the meeting and distribute to attendees.

### Task 7 – City Council Study Session

Once a document is submitted to a government agency, particularly a City Council, they are usually considered a public document and available for review by the general public. During the preparation of UWMPs, EKI typically conducts study sessions with city councils prior to the issuance of a public review draft. These study sessions typically consist of a presentation that summarizes the information presented during the working meetings and the Administrative Draft UWMP, as modified to reflect the City’s comments. Benefits of this approach include:

- Eliminating the need to prepare an additional draft version of the UWMP;
- Allowing City staff to present information to, and receive feedback from, the City Council prior to submitting a document that could be perceived as near-final;
- Allowing the City Council the opportunity to provide input on the UWMP content prior to the issuance of a Public Review Draft;
- Allowing the City Council to review the Public Review Draft with more background information and insight regarding the strategic importance and key findings of the UWMP; and
- Allowing the City Council to ask more informed questions during the public hearing when final adoption of the UWMP is being considered.

The RFP requested that an Initial Draft UWMP be prepared for review by the City Council prior to issuing the Public Review Draft UWMP. However, because of the benefits identified above, we propose that the City rather focus on conducting a study session prior to the release of the Public Review Draft, thereby eliminating the expense and time associated with the preparation of an Initial Draft UWMP. However, if preferred by the City, EKI can still prepare an Initial Draft UWMP for the City Council as part of an additional work authorization.

### Task 8 – Prepare Public Review Draft UWMP and Attend Public Hearing

After the City Council study session, EKI will meet with City staff to discuss the preferred manner for incorporating the City Council’s comments into the Public Review Draft UWMP. Based upon this meeting, EKI will prepare the Public Review Draft UWMP and will submit six (6) bound paper copies and one electronic copy to the City.

It has been EKI’s experience that cities are accustomed to cost-effectively preparing public notices, circulating such notices in newspapers of record, and notifying other stakeholders such as wholesale water agencies, neighboring water districts, sanitary water districts, major water users, and community groups. We have assumed that EKI will provide the City with the technical information and key text needed for these public and stakeholder notices and the City will manage the distribution of the noticing process.

After at least a 30-day review period, EKI will work with City staff to present the Public Review Draft UWMP at a public hearing. We have assumed that such a meeting will be held in conjunction with a regularly scheduled City Council meeting. EKI will be available to support City staff to prepare for this meeting, including developing an agenda, staff report, and presentation.

EKI understands that the City usually video-records City Council meetings. If a detailed hearing transcription is desired for the public record, it will likely be more cost-effective for the City to arrange for such a service. If minutes summarizing UWMP-related discussions are requested by the City, EKI can prepare them as part of an additional work authorization.

EKI's past experience has been that public comments in response to UWMPs are limited and typically do not require revisions to the draft document. To the extent that comments are limited and do not warrant substantial revisions of the Public Review Draft UWMP, EKI has assumed that the City Council will adopt the UWMP at this meeting and a second public hearing will not be necessary.

Following the City Council meeting, EKI will follow up with the City staff to discuss any comments offered on the Public Review Draft UWMP and to determine how to address them in the Final 2015 UWMP.

#### Task 9 – Preparation and Filing of Final UWMP

As appropriate, EKI will incorporate comments received at the public hearing into a Final 2015 UWMP, as well as the City Council's resolution to adopt the 2015 UWMP. The Final 2015 UWMP will be delivered, including supporting tables, figures, and appendices, to the City in the following formats:

- Twenty (20) paper copies of the final 2015 UWMP (total bound and unbound);
- Electronic file in Adobe PDF format; and
- Electronic file in Microsoft Word format.

As requested in the RFP, EKI will provide a statement to the City regarding the UWMP's sufficiency to meet State requirements. This statement will be provided to the City, but will not be incorporated into the final document.

Within 30 days of City Council adoption, EKI will forward the Final 2015 UWMP on the City's behalf to DWR, the California State Library, and the San Mateo County Library. Proof of delivery would be provided to the City. In addition, if directed by the City, EKI will submit the UWMP data in electronic format to DWR using their online data management tool. The cost for online submission is not included in this proposal.

## Task 10 – Optional Attendance Other Meetings

The City has requested that the selected consultant be available to attend and participate in meetings with other agencies and neighboring water districts, when appropriate to development of the 2015 UWMP and to receive and incorporate comments. As the scope of this effort is difficult to precisely define, for costing purposes we have assumed that EKI will be available to participate in such meetings as requested by the City, to be compensated as additional work on an hourly basis as needed. A schedule of charges is included as Appendix C.

### **3.2 Schedule for the Development of the 2015 UWMP**

The City's RFP shows a tentative scheduled completion date for the 2015 UWMP of September 2015. Typically, UWMPs can take between six (6) and nine (9) months to complete, including public comment periods. However, there are a number of key factors that may impact the City's development schedule for the 2015 UWMP, including:

- Availability of information from the General Plan update,
- Completion of 2015 UWMP Guidebook by DWR, and
- Preparation of information and common language by BAWSCA and the SFPUC.

While the timing of the availability of the above information is unknown, EKI believes that the working meeting approach that we have proposed can counter-attack some of these potential delays by eliminating multiple reviews by City staff, thereby accelerating the project schedule and providing more flexibility in completing the UWMP. EKI will commit the necessary resources needed complete the work and publish the Final 2015 UWMP within the timeframe directed by the City. EKI will stay in close communication with the City throughout the development of the UWMP to ensure that the City is aware of the timeline and expected nature of the external inputs and so that our effort on the UWMP can be optimized relative to the available information.

As part the kick-off meeting and as part of City Staff Working Meeting #1, EKI has assumed that we will work with the City to develop a final project schedule. Depending upon the availability of the key information discussed above, it may be necessary to either re-order the sequence of the working meetings or alter the content of each working meeting to allow for discussions regarding available information.

## 5 BUDGET

Shown in Table 2 is a summary of our preliminary estimate of costs to perform the Scope of Work presented in Section 3. Final decisions on scope, approach, and resultant costs will be determined based on input from the City. A detailed breakdown of hours and costs for each task and subtask is provided in Appendix E.

**Table 2 – Preliminary Estimate of Costs to Perform the Scope of Work**

<b>Scope Task</b>	<b>Total Cost</b>
<b>Task 1:</b> Review of Available Information and Initial Meetings	\$9,000
<b>Task 2:</b> Prepare For and Attend City Staff Working Meeting #1	\$10,500
<b>Task 3:</b> Prepare For and Attend City Staff Working Meeting #2	\$12,500
<b>Task 4:</b> Prepare For and Attend City Staff Working Meeting #3	\$12,000
<b>Task 5:</b> <i>Attend Optional Workshops or Meetings</i>	<i>TBD</i>
<b>Task 6:</b> Prepare and Submit Administrative Draft UWMP	\$11,500
<b>Task 7:</b> City Council Study Session	\$5,500
<b>Task 8:</b> Prepare and Submit Public Review Draft UWMP and Attend Public Hearing	\$9,000
<b>Task 9:</b> Preparation and Filing of Final UWMP	\$5,000
<b>Task 10:</b> <i>Optional Attendance at Other Meetings</i>	<i>TBD</i>
<b>Total (Excluding Optional Tasks)</b>	<b>\$75,000</b>

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## FINANCE DEPARTMENT

Council Meeting Date: October 7, 2014  
Staff Report #: 14-173

Agenda Item #: D-3

**CONSENT CALENDAR:**            **Approve an Amendment to the General Fund Reserve Policy to Incorporate a Reserve for Pension Costs**

### RECOMMENDATION

Staff recommends that Council approve an amendment to the General Fund Reserve Policy to incorporate a reserve for pension costs.

### BACKGROUND

On September 9, 2014, Council was presented with a draft update of the General Fund Reserve Policy (staff report 14-159). Per prior Council direction, the General Fund Reserve Policy had been amended to incorporate the newly established Strategic Pension Funding Reserve. This draft update had also been reviewed by the Finance and Audit Committee, which was in support of the proposed changes.

The draft update was brought to Council to provide an opportunity for feedback or further direction prior to proceeding with a request to approve an amendment to the General Fund Reserve Policy. Council requested no changes to the draft policy, so the final action necessary for Council is to approve the amendment to the General Fund Reserve Policy.

### ANALYSIS

The amended General Fund Reserve Policy incorporates the newly established Strategic Pension Funding Reserve but otherwise remains unchanged. For reference, the language added to the policy reads:

#### Strategic Pension Funding Reserve

The City of Menlo Park participates in the California Public Employees Retirement System (CalPERS), which provides members with a defined-benefit pension based on years of service. CalPERS is funded by a combination of investment earnings on the CalPERS portfolio, contributions by employees, and contributions by employers (the City). Contribution rates for employers are variable and change annually based on a number of factors, including investment returns, benefits changes, and changes to actuarial assumptions. To mitigate the operational impact of employer contribution rate volatility, as well as to set aside funding for strategic opportunities to reduce the City's

pension liability, \$1 million of the General Fund's previously unassigned reserve was committed by Council action on January 14, 2014, to establish the Strategic Pension Funding Reserve. Subsequent to January 14, 2014, 25% of the General Fund's final operating surplus, should there be one, will be added annually to the Strategic Pension Fund Reserve upon completion of the City's Comprehensive Annual Financial Report. City Council approval shall be required before expending any portion of this committed fund balance. Examples of the types of situations in which funds would be expended from the Strategic Pension Fund Reserve include, but are not limited to:

- Mitigate the impact of a significant year-over-year increase in employer contribution rates due to actions outside of the City's control, such as poor investment returns in the CalPERS portfolio and/or changes to actuarial assumptions.
- Take advantage of opportunities to make non-recurring payments to CalPERS that will reduce the City's pension liabilities, such as paying down or paying off a side fund or other unfunded liability.

Should Council approve the amendment to the policy, 25% of the General Fund's net operating surplus from fiscal year 2013-14 will be added to the reserve as a part of the preparation of the City's annual financial statements.

### **IMPACT ON CITY RESOURCES**

There is no net fiscal impact to the General Fund for amending the General Fund Reserve Policy, as total fund balance remains unchanged.

### **POLICY ISSUES**

Amending the General Fund Reserve Policy to incorporate a Strategic Pension Funding Reserve provides a mechanism to mitigate employer contribution rate volatility that impacts the City's pension costs, as well as provide funding to make payments to CalPERS to reduce pension liabilities as it makes financial sense. This will help ensure that the City continues to prudently fund its pension obligation while mitigating the impact of employer contribution rate volatility on service delivery.

### **ENVIRONMENTAL REVIEW**

No environmental review is required.

### **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

### **ATTACHMENTS**

- A. Amended General Fund Reserve Policy

Report prepared by:  
*Drew Corbett*  
*Finance Director*



# City of Menlo Park

## City Council Policy

<b>Department</b> City Council	<b>Page 1 of 4</b>	<b>Effective Date</b>
<b>Subject</b> Fund Balance for the General Fund	<b>Approved by</b>	<b>Procedure #</b>

### **Purpose:**

A fund balance policy helps ensure that the City can:

- Quickly respond to unexpected situations such as natural disasters.
- Weather economic recessions and other cyclical revenue downturns while avoiding large variations in taxes and fees or variations in the type and quality of municipal services provided.
- Avoid the need for short-term borrowing to cover delays in revenue receipt.
- Pursue strategic and opportunistic projects or activities.

This policy establishes the amounts the City of Menlo Park will strive to maintain in its fund balance, how the fund balance will be funded, and the conditions under which fund balance may be spent.

### **Background:**

The City of Menlo Park has always maintained a high level of General Fund reserves, which has contributed to good standings with credit rating agencies; provided financial flexibility in economic downturns; contributed a source of investment income for General Fund operations; and assured financial coverage in the event of future emergencies.

### **Policy:**

This Fund Balance Policy establishes the procedures for reporting unrestricted fund balance in the General Fund financial statements. Certain commitments and assignments of fund balance will help ensure that there will be adequate financial resources to protect the City against unforeseen circumstances and events such as revenue shortfalls and unanticipated expenditures. The policy also authorizes and directs the Finance Director to prepare financial reports which accurately categorize fund balance as per Governmental Accounting Standards Board (GASB) Statement no. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. The policy will be reviewed annual by the Council for revisions as appropriate.

### **Procedures:**

Fund balance is essentially the difference between the assets and liabilities reported in a governmental fund. There are five separate components of fund balance, each of which identifies the extent to which the City is bound to honor constraints on the specific purposes for which amounts can be spent.

- Nonspendable fund balance (inherently nonspendable)
- Restricted fund balance (externally enforceable limitation on use)
- Committed fund balance (self-imposed limitations on use)
- Assigned fund balance (limitation resulting from intended use)
- Unassigned fund balance (residual net resources)

The first two components listed above are not addressed in this policy due to the nature of their restrictions. An example of nonspendable fund balance is inventory. Restricted fund balance is either imposed by law or constrained by grantors, contributors, or laws or regulations of other governments. This policy is focused on financial reporting of unrestricted fund balance, or the last three components listed above. These three components are further defined below.

# City of Menlo Park

# City Council Policy

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## **Committed Fund Balance –**

The City Council, as the City’s highest level of decision-making authority, may commit fund balance for specific purposes pursuant to constraints imposed by formal actions taken, such as an ordinance or resolution. These committed amounts cannot be used for any other purpose unless the City Council removes or changes the specific use through the same type of formal action taken to establish the commitment. City Council action to commit fund balance needs to occur within the fiscal reporting period; however the amount can be determined subsequently.

### General Fund Emergency Contingency

The City of Menlo Park’s General Fund balance committed for emergency contingencies is established at \$6,000,000. The City Council may wish to increase or decrease this amount, with the goal of providing an amount equivalent to 15-20 percent of the City’s annual operating budget for the General Fund. This range should be sufficient to allow for a quick and decisive municipal response to events such as natural disasters, catastrophic accidents, or other declared emergency incidents. As defined in the resolution establishing this commitment, the specific uses are listed as the declaration of a state or federal state of emergency or a local emergency as defined in the Menlo Park Municipal Code Section 2.44.010. The City Council may, by the affirming vote of three members, change the amount of this commitment and/or the specific uses of these monies.

### Economic Stabilization

The City of Menlo Park’s General Fund balance committed for the purpose of stabilizing the delivery of City services during periods of severe operational budget deficits and to mitigate the effects of major economic uncertainties resulting from unforeseen change in revenues and/or expenditures is established at \$8,000,000. The City Council may wish to increase or decrease this amount, with the goal of providing an amount equivalent to 20-25 percent of the City’s annual operating budget for the General Fund. This range serves as a sufficient cushion, safeguarding the City’s fiscal health against fluctuations in revenues and costs due to economic volatility. City Council approval shall be required before expending any portion of this committed fund balance. Access to these funds will be reserved for economic emergency situations. Examples of such emergencies include, but are not limited to:

- An unplanned, major event such as a catastrophic disaster requiring expenditures which exceed the General Fund Emergency Contingency Reserve
- Budgeted revenue taken over by another entity
- Drop in projected/actual revenue of more than five percent of the General Fund’s adopted revenue budget

# City of Menlo Park

# City Council Policy

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## Strategic Pension Funding Reserve

The City of Menlo Park participates in the California Public Employees Retirement System (CalPERS), which provides members with a defined-benefit pension based on years of service. CalPERS is funded by a combination of investment earnings on the CalPERS portfolio, contributions by employees, and contributions by employers (the City). Contribution rates for employers are variable and change annually based on a number of factors, including investment returns, benefits changes, and changes to actuarial assumptions. To mitigate the operational impact of employer contribution rate volatility, as well as to set aside funding for strategic opportunities to reduce the City's pension liability, \$1 million of the General Fund's previously unassigned reserve was committed by Council action on January 14, 2014, to establishing the Strategic Pension Funding Reserve. Subsequent to January 14, 2014, 25% of the General Fund's final operating surplus, should there be one, will be added annually to the Strategic Pension Fund Reserve upon completion of the City's Comprehensive Annual Financial Report. City Council approval shall be required before expending any portion of this committed fund balance. Examples of the types of situations in which funds would be expended from the Strategic Pension Fund Reserve include, but are not limited to:

- Mitigate the impact of a significant year-over-year increase in employer contribution rates due to actions outside of the City's control, such as poor investment returns in the CalPERS portfolio and/or changes to actuarial assumptions.
- Take advantage of opportunities to make non-recurring payments to CalPERS that will reduce the City's pension liabilities, such as paying down or paying off a side fund or other unfunded liability.

## **Assigned Fund Balance –**

Amounts that are constrained by the City's intent to be used for specific purposes, but are neither restricted nor committed, should be reported as assigned fund balance. This policy hereby delegates the authority to assign amounts to be used for specific purposes to the City Manager for the purpose of reporting these amounts in the annual financial statements. A few examples of assigned fund balance follow.

- Encumbrances – materials and services on purchase order and contracts which are unperformed
- Reappropriations – appropriated by the Council for specific projects or programs that were not completed and not encumbered by year end
- GASB 31 Adjustment – unrealized investment gains that have been recorded in the financial statements in accordance with GASB 31
- Infrastructure Maintenance Projects – amounts to be transferred to the General CIP Fund for such projects in the subsequent fiscal year adopted budget
- Comprehensive Planning Projects – amounts needed to fully fund such projects as outlined in the 5-Year Capital Improvement Plan for the subsequent fiscal year

## **Unassigned Fund Balance –**

These are residual positive net resources of the General Fund in excess of what can properly be classified in one of the other four categories.

# City of Menlo Park

## City Council Policy

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### **Amounts held in reserve:**

The total goal range for the City's unrestricted fund balance (includes Commitments and Assignments of fund balance) is 43% to 55% of General Fund expenditures.

From time-to-time, the Council may find it prudent to set aside funds for an existing need, priority or investment in the community. Amounts in excess of the established target levels may be shown as additional commitments or assignments of the General Fund balance. Such assignments will be reviewed with each fiscal year operating budget to determine if the funding is still necessary or can be released to the General Fund reserves.

### **Funding of General Fund balance targets:**

Funding of General Fund balance targets will come generally from one-time revenues, one-time expenditure savings, excess fund balance (e.g., unused or reversed assignment or commitments), and revenues in excess of projected expenditures.

### **Conditions for use and replenishment of reserves:**

#### **Use of Reserves**

It is the intent of the City to limit use of General Fund balances to address unanticipated, one-time needs or opportunities. Fund balances shall not be applied to recurring annual operating expenditures. Reserves will be used to the extent annual expenditures exceed revenues as reported in the City's annual audited financial statements (an operating deficit). Reserves may also be used to allow for an investment in the City's long-term assets as approved by the City Council.

#### **Authority to Use Reserves**

The City Manager may authorize use of reserves consistent with the purposes described above, including amounts authorized in the fiscal period's budget.

#### **Replenishment of Reserves**

Reserves will be replenished to the extent annual revenues exceed expenditures as reported in the City's annual audited financial statements (an operating surplus). Revenues in excess of expenditures at the end of a fiscal year shall be used to first satisfy committed contingency requirements before appropriating for other uses.

### **Flow of funds:**

Restricted fund balances will be expended before unrestricted fund balances when expenditures are incurred for purposes for which both are available. Unrestricted fund balances will be exhausted in the order of assigned, unassigned, and committed when expenditures are incurred for which any of these fund balances are available.



## PUBLIC WORKS DEPARTMENT

Council Meeting Date: October 7, 2014  
Staff Report #: 14-177

Agenda Item #: E-1

**PUBLIC HEARING:**                    **Adopt a Resolution to Abandon Public Utility and  
Emergency Access Easements Within the  
Property at 721 - 851 Hamilton Avenue**

### RECOMMENDATION

Staff recommends that the City Council adopt a resolution (Attachment A) ordering the abandonment of Public Utility Easement (PUE) and Emergency Access Easement (EAE) within the property at 721 - 851 Hamilton Avenue.

### BACKGROUND

On July 15, 2014, the City Council adopted a Resolution of Intention (No. 6215) to abandon public utility and emergency access easements within the property at 721 - 851 Hamilton Avenue, setting a date for a public hearing by City Council (7:00 pm, September 23, 2014) and referring the matter to the Planning Commission for a recommendation. On September 9, 2014, the City Council adopted an Amended Resolution of Intention to abandon PUE and EAE within the property at 721-851 Hamilton Avenue. In that resolution, the City Council set the new date of October 7, 2014 for the City Council to hold a Public Hearing on this subject. A detailed history of the proposed abandonment was provided in the July 15, 2014 staff report (Attachment B).

On August 18, 2014, the Planning Commission reviewed the proposed abandonment, determined that it was consistent with the City's General Plan, and recommended to the City Council that the resolution to abandon the public utility and emergency access easements within the property at 721 - 851 Hamilton Avenue be adopted (Attachment C).

### ANALYSIS

The Applicant's Development Plan and Lot Merger of the properties eliminates the need for the PUE's and EAE created in the past. The applicant's project as proposed is dependent on the PUE's being abandoned, and the existing EAE no longer makes sense in its current configuration given the new site plan. As can be seen in Attachments D, should the PUE's remain, they would conflict with the proposed buildings and stormwater treatment facilities.

All of the utility companies with an interest in the PUE have provided letters indicating that they have no objections to the proposed abandonment. Most of the utility companies have no facilities within the existing PUE's, however PG&E has an existing high-pressure gas line in the former Sevier Avenue segment that serves the Facebook West Campus property and the TE Connectivity property (formerly known as Tyco Electronics). The Applicant has provided a replacement easement to PG&E for continued use of this gas line. The Applicant also granted an easement over the former Windermere Avenue segment directly to the West Bay Sanitary District for potential future extension of their sewer lines. With these replacement easements in place, West Bay Sanitary District and PG&E have indicated that they have no objection to the proposed Abandonment of the PUE. Discussions have been held with the Menlo Park Police Department and the Menlo Park Fire Protection District, and neither of them object to the proposed abandonment of the EAE.

### Abandonment Procedure

Should the City Council consider the abandonment favorably, a Resolution ordering the vacation and abandonment of the PUE and EAE will be recorded.

### **IMPACT ON CITY RESOURCES**

There is no direct impact on City resources associated with the actions in this staff report. The fee for staff time to review and process the abandonment has been paid by the applicant.

### **POLICY ISSUES**

The recommendation does not represent any change to existing City policy.

### **ENVIRONMENTAL REVIEW**

The proposed abandonment is Categorical Exempt under Class 5, minor alterations in land use, of the current State of California Environmental Quality Act (CEQA) Guidelines.

### **PUBLIC NOTICE**

Public notification was achieved by publishing a legal notice in The Daily News, a local newspaper, on September 24<sup>th</sup> and October 1<sup>st</sup>, 2014; and posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Resolution of Abandonment
- B. July 15, 2014 Staff Report
- C. Planning Commission Resolution
- D. Site Plan

Report prepared by:  
*Ebby Sohrabi*  
*Senior Civil Engineer*

*Ruben Niño*  
*Assistant Public Works Director*

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**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ORDERING THE VACATION AND ABANDONMENT OF PUBLIC UTILITY AND EMERGENCY ACCESS EASEMENTS WITHIN THE PROPERTY AT 721 - 851 HAMILTON AVENUE**

WHEREAS, on July 15, 2014, the City Council of the City of Menlo Park adopted Council Resolution No. 6215 declaring the intention of said City Council to abandon the Public Utility and Emergency Access Easements within the property at 721 - 851 Hamilton Avenue in the City of Menlo Park (see Exhibit A); and

WHEREAS, the Planning Commission of the City of Menlo Park held a Public Hearing on this subject on August 18, 2014, to consider the aforementioned proposed abandonment and has reported to the City Council that said proposed abandonment conforms with the City's General Plan and has recommended that it be abandoned as proposed; and

WHEREAS, a Public Hearing was held before the City Council of the City of Menlo Park regarding the foregoing matter on October 7, 2014; and

WHEREAS, notice of said Public Hearing was duly made by publication, mailing, and posting as required by law, and proof thereof is on file with the City Clerk of the City of Menlo Park; and

WHEREAS, no protests were filed with or received by said City Council; and

IT APPEARING to the City Council of the City of Menlo Park that the Public Utility and Emergency Access Easements should be abandoned for the reason that they are no longer needed as a result of the recently approved Lot Merger and it would allow the Applicant to proceed with the construction of the multi-family residential project proposed for the site; thereby removing these unneeded easement encumbrance, and that public convenience, necessity, and the best interests of the citizens of Menlo Park will be served by such abandonment.

NOW, THEREFORE, the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore,

BE IT AND IT IS HEREBY RESOLVED by the City of Menlo Park

- A) that said City Council does hereby abandon, to the full extent permitted by law, the Public Utility and Emergency Access Easements within the property at 721 - 851 Hamilton Avenue, described on the legal plats, Exhibit A, attached hereto and by the legal description of said public utility

- easement on file in the Engineering Division, and said Exhibits and legal descriptions are incorporated herein and made a part hereof; and
- B) that said abandonment is consistent with the General Plan; and
  - C) that said abandonment is exempt under current California Environmental Quality Act Guidelines.

I, PAMELA I. AGUILAR, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the seventh day of October, 2014 by the following votes:

AYES:

NOES:

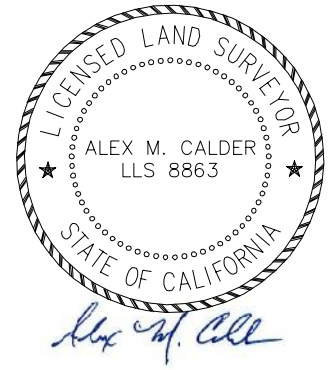
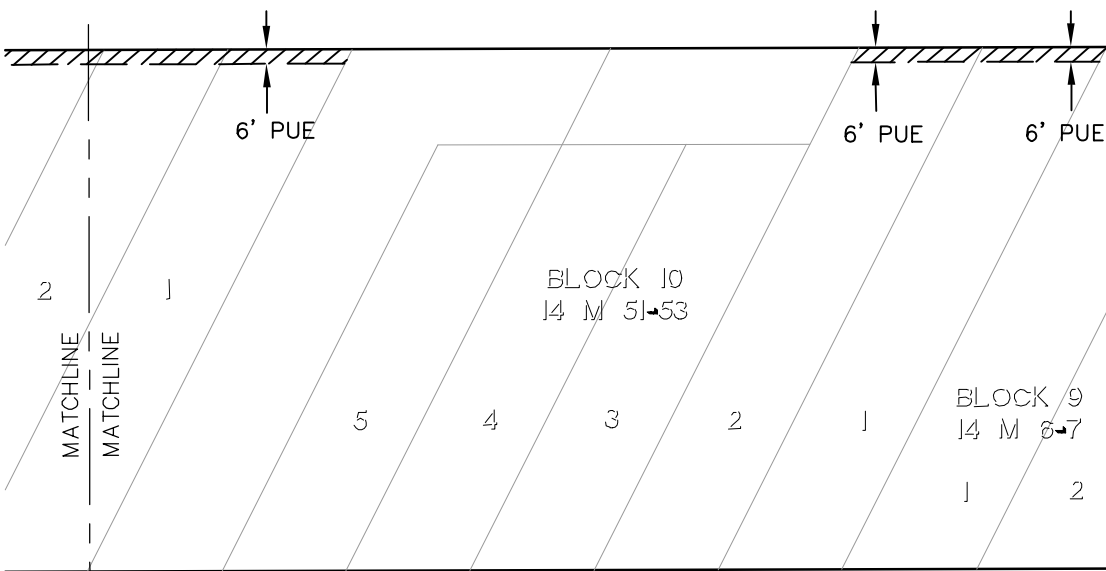
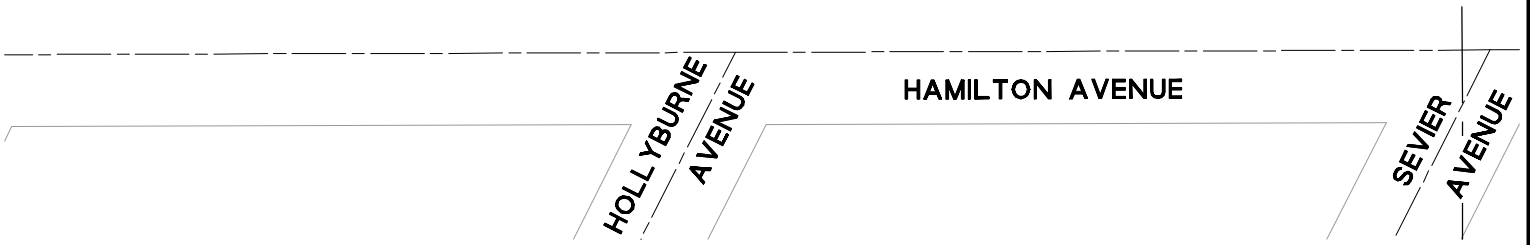
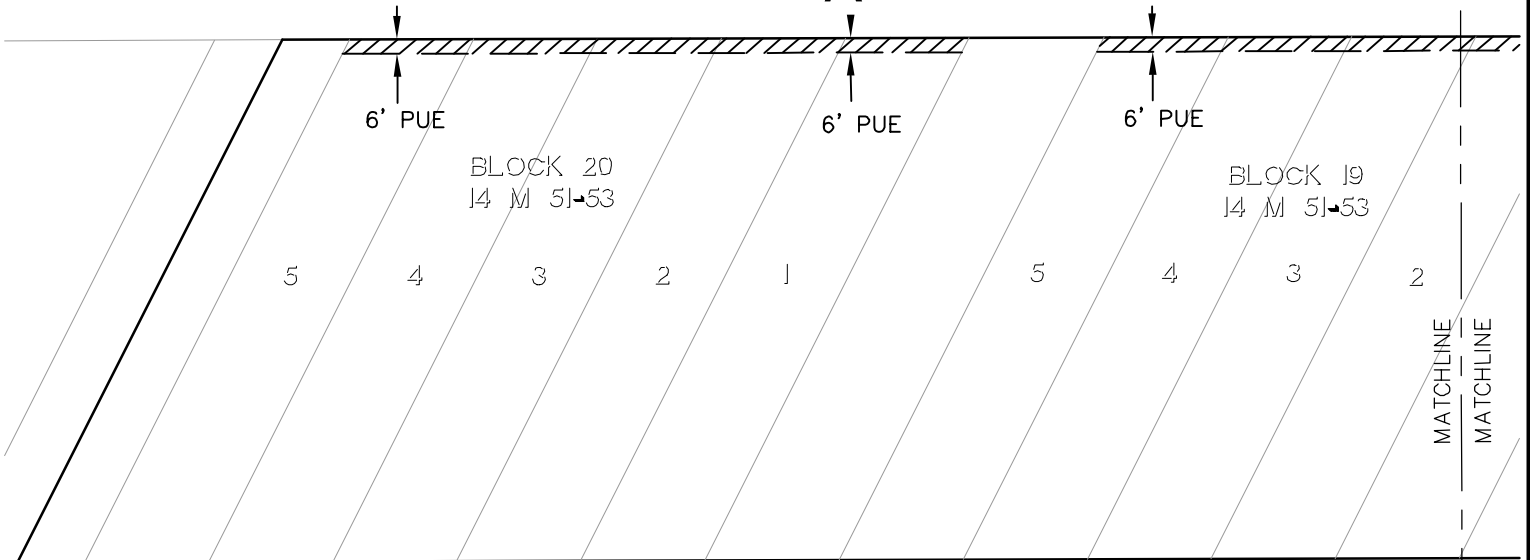
ABSENT:

ABSTAIN:

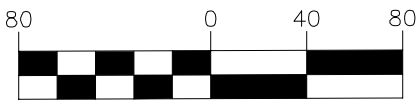
IN WITNESS THEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Menlo Park on this seventh day of October, 2014.

Pamela I. Aguilar  
City Clerk

# EXHIBIT A



## GRAPHIC SCALE



1 inch = 80 ft.

**LEGEND:**  
 PUBLIC UTILITY EASEMENTS (PUE) TO BE ABANDONED



255 SHORELINE DR  
 SUITE 200  
 REDWOOD CITY, CA 94065  
 650-482-6300  
 650-482-6399 (FAX)

Subject PUE TO BE ABANDONED  
 PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 Job No. 20120225-13  
 By DES Date 06/13/14 Chkd. AMC  
 SHEET 1 OF 1  
**PAGE 43**

PLOTTED BY: so lit

# EXHIBIT A

SOUTHERN PACIFIC TRANSPORTATION COMPANY - DUMBARTON CUTOFF  
 S86°04'52"W 56.14'



BLOCK 20  
 14 M 51-53

2

1

S23°08'15"W 243.99'

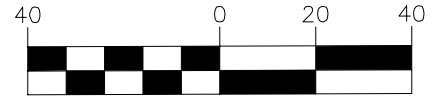
N23°08'15"E 243.98'

BLOCK 19  
 14 M 51-53

5

4

GRAPHIC SCALE



1 inch = 40 ft.

LEGEND:

 PUBLIC UTILITY EASEMENT (PUE)  
 TO BE ABANDONED

TRUE POINT OF BEGINNING

N86°04'15"E 56.15'



*Alex M. Calder*

HOLLYBURNE  
 AVENUE

HAMILTON AVENUE

BASIS OF BEARINGS

THE BEARING N86°04'15"E BETWEEN THE FOUND MONUMENTS ON HAMILTON AVENUE AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON AUGUST 8, 2011 IN VOLUME 36 OF LLS MAPS AT PAGES 25 THROUGH 30, WAS TAKEN AS THE BASIS OF ALL BEARINGS SHOWN HEREON.



255 SHORELINE DR  
 SUITE 200  
 REDWOOD CITY, CA 94065  
 650-482-6300  
 650-482-6399 (FAX)

Subject PUE TO BE ABANDONED  
PLAT TO ACCOMPANY LEGAL DESCRIPTION  
 Job No. 20120225-13  
 By DES Date 06/13/14 Chkd. AMC  
 SHEET 1 OF 1

PLOTTED BY: so lit

# EXHIBIT A

SOUTHERN PACIFIC TRANSPORTATION COMPANY - DUMBARTON CUTOFF

S86°04'52"W 211.10'

N23°08'15"E  
44.92'

N86°04'52"E 154.96'

BLOCK 19  
14 M 51-53

BLOCK 10  
14 M 51-53

BLOCK 9  
14 M 6-7

S23°08'15"W 243.93'

N23°08'15"E 199.00'

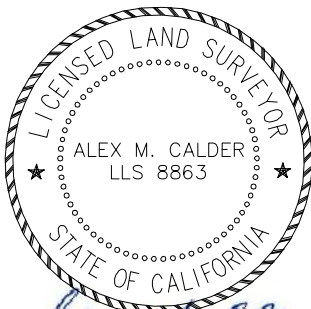
TRUE POINT OF BEGINNING

N86°04'15"E  
56.15'

SEVIER  
AVENUE

HAMILTON AVENUE

MADERA  
AVENUE

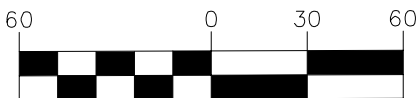


**LEGEND:**



PUBLIC UTILITY EASEMENT (PUE) AND  
EMERGENCY ACCESS EASEMENT (EAE)  
TO BE ABANDONED

**GRAPHIC SCALE**



1 inch = 60 ft.

**BASIS OF BEARINGS**

THE BEARING N86°04'15"E BETWEEN THE FOUND MONUMENTS ON HAMILTON AVENUE AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON AUGUST 8, 2011 IN VOLUME 36 OF LLS MAPS AT PAGES 25 THROUGH 30, WAS TAKEN AS THE BASIS OF ALL BEARINGS SHOWN HEREON.



255 SHORELINE DR  
SUITE 200  
REDWOOD CITY, CA 94065  
650-482-6300  
650-482-6399 (FAX)

Subject PUE AND EAE TO BE ABANDONED  
PLAT TO ACCOMPANY LEGAL DESCRIPTION

Job No. 20120225-13

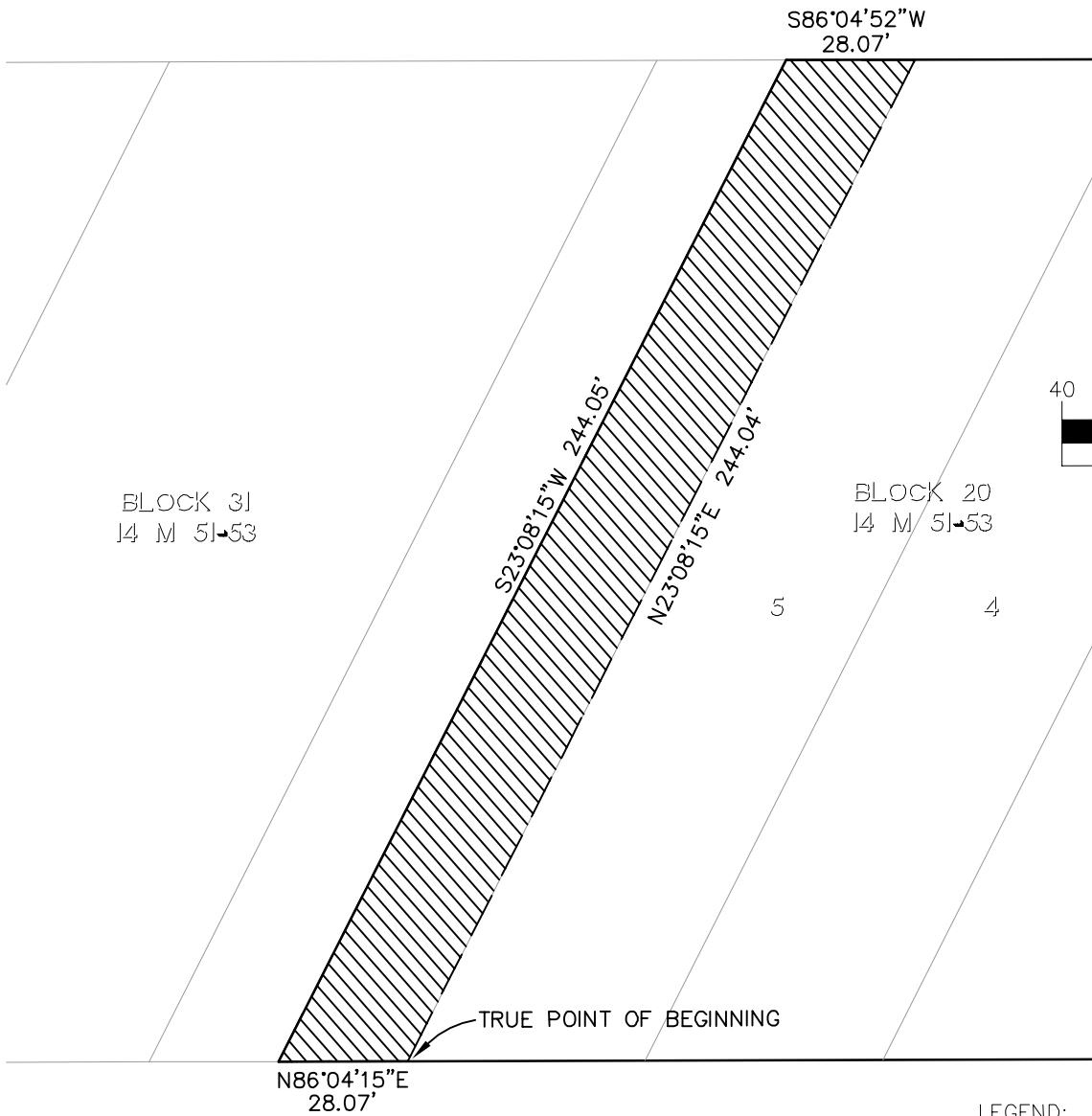
By DES Date 06/25/14 Chkd. AMC

SHEET 1 OF 1

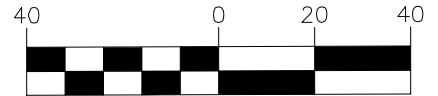
PLOTTED BY: sojt

# EXHIBIT A

SOUTHERN PACIFIC TRANSPORTATION COMPANY - DUMBARTON CUTOFF



GRAPHIC SCALE



1 inch = 40 ft.

BLOCK 31  
14 M 51-53

BLOCK 20  
14 M 51-53



*Alex M. Calder*

TRUE POINT OF BEGINNING  
N86°04'15"E  
28.07'

HAMILTON AVENUE

LEGEND:

 PUBLIC UTILITY EASEMENT (PUE) TO BE ABANDONED

WINDERMERE  
AVENUE

BASIS OF BEARINGS

THE BEARING N86°04'15"E BETWEEN THE FOUND MONUMENTS ON HAMILTON AVENUE AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON AUGUST 8, 2011 IN VOLUME 36 OF LLS MAPS AT PAGES 25 THROUGH 30, WAS TAKEN AS THE BASIS OF ALL BEARINGS SHOWN HEREON.



255 SHORELINE DR  
SUITE 200  
REDWOOD CITY, CA 94065  
650-482-6300  
650-482-6399 (FAX)

Subject PUE TO BE ABANDONED  
PLAT TO ACCOMPANY LEGAL DESCRIPTION  
Job No. 20120225-13  
By DES Date 06/13/14 Chkd. AMC  
SHEET 1 OF 1

PLOTTED BY: so lit



## PUBLIC WORKS DEPARTMENT

Council Meeting Date: July 15, 2014  
Staff Report #: 14-123

Agenda Item #: D-2

**CONSENT CALENDAR:**                    **Adopt a Resolution of Intention to Abandon Public Utility and Emergency Access Easements Within the Property at 721 - 851 Hamilton Avenue**

---

### RECOMMENDATION

Staff recommends that the City Council adopt a Resolution of Intention (Attachment A) to abandon the public utility and emergency access easements within the property at 721 - 851 Hamilton Avenue.

### BACKGROUND

On June 3, 2014, the Greenheart Land Company, property owners of 721 - 851 Hamilton Avenue, applied for the abandonment and vacation of multiple Public Utility Easements (PUE) and an Emergency Access Easement (EAE) within their property (Attachment B). This request comes after several actions taken by the City of Menlo Park which include:

- In 1986, the City approved the abandonment of Hollyburne Avenue and Sevier Avenue within the applicant's property, reserving a PUE over each abandoned street segment. The abandonment was not recorded until the year 2000, after the City Council approved the abandonment of the remaining portion of Sevier Avenue in 1999 and the adjacent property owners recorded a mutual agreement dedicating the PUE and EAE over the entire abandoned portion of Sevier Avenue.
- In 2000, the City approved the abandonment of Windermere Avenue within the applicant's property, reserving a PUE over the abandoned street segment.
- In 2012, the City, as part of the Housing Element, rezoned the applicant's property to R-4-S to allow for the development of high-density housing.
- On February 10, 2014, the applicant submitted an application to redevelop the properties at 721 - 851 Hamilton Avenue into one large, multi-family residential complex consisting of 195 dwelling units amongst seven three-story buildings (Attachment C).

- On May 12, 2014, the City Engineer approved the Lot Merger for the project consolidating all of the individual parcels into one larger parcel.
- On May 19, 2014, the Planning Commission held a study session as part of the R-4-S compliance review process to allow the Planning Commission and members of the public an opportunity to provide feedback on the proposal's compliance with the R-4-S development regulations and design standards.
- On June 11, 2014, the Community Development Director determined that the proposed residential development at 721-851 Hamilton Avenue is in compliance with the R-4-S development regulations and design standards.

## **ANALYSIS**

The Applicant's Development Plan and Lot Merger of the properties eliminates the need for the PUE's and EAE created in the past. The applicant's project as proposed is dependent on the PUE's being abandoned, and the existing EAE no longer makes sense in its current configuration given the new site plan. As can be seen in Attachments B and C, should the PUE's remain, they would conflict with the proposed buildings and stormwater treatment facilities.

All of the utility companies with an interest in the public utility easements have provided letters indicating that they have no objections to the proposed abandonment. Most of the utility companies have no facilities within the existing PUE's, however PG&E has an existing high-pressure gas line in the former Sevier Avenue segment that serves the Facebook West Campus property and the TE Connectivity property (formerly known as Tyco Electronics). The Applicant has provided a replacement easement to PG&E for continued use of this gas line. The Applicant also granted an easement over the former Windermere Avenue segment directly to the West Bay Sanitary District for potential future extension of their sewer lines. With these replacement easements in place, West Bay Sanitary District and PG&E have indicated that they have no objection to the proposed Abandonment of the Public Utility Easements. Once the Resolution of Intention is adopted, Staff will work with the applicant to coordinate the abandonment of the EAE with the Menlo Park Police Department and the Menlo Park Fire Protection District.

### *Abandonment Procedure*

This action first requires that Council adopt a Resolution of Intention to abandon a public easement. The Resolution of Intention forwards the abandonment request to the Planning Commission for its consideration and recommendation at its August 18, 2014 meeting and sets the time and date for the public hearing for September 23, 2014 at 7:00 p.m. The Planning Commission will review the abandonment to determine if it is compatible with the City's General Plan. The Planning Commission will forward its recommendation to the City Council for approval of the abandonment at a public hearing. The Engineering Division will post notices of the public hearing in The Daily



News and at the site in accordance with the requirements of the Streets & Highways Code. An affidavit of posting will then be filed with the City Clerk. Should the utility agencies, affected parties, Planning Commission and City Council consider the abandonment favorably, a Resolution ordering the vacation and abandonment of the public utility and emergency access easements at 721 - 851 Hamilton Avenue will be recorded.

### **IMPACT ON CITY RESOURCES**

There is no direct impact on City resources associated with the actions in this staff report. The fee for staff time to review and process the abandonment has been paid by the applicants.

### **POLICY ISSUES**

The recommendation does not represent any change to existing City policy.

### **ENVIRONMENTAL REVIEW**

The proposed street abandonment is Categorically Exempt under Class 5, minor alterations in land use, of the current State of California Environmental Quality Act (CEQA) Guidelines.

### **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to this meeting.

### **ATTACHMENTS**

- A. Resolution of Intention to Vacate and Abandon Public Utility Easements
- B. Exhibit showing Public Utility Easements proposed for Abandonment
- C. Exhibit showing proposed Development Plan

Report prepared by:  
*Roger Storz*  
*Senior Civil Engineer*

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK DECLARING THE INTENTION OF SAID CITY TO ABANDON PUBLIC UTILITY AND EMERGENCY ACCESS EASEMENTS WITHIN THE PROPERTY AT 721 - 851 HAMILTON AVENUE**

WHEREAS, the City Council of the City of Menlo Park has considered the abandonment of Public Utility and Emergency Access Easements within the property at 721 - 851 Hamilton Avenue as shown in Exhibit A, which is attached and made apart thereto; and

WHEREAS, the Planning Commission will hold a Public Hearing on this subject on August 18, 2014, as required by law to notify property owners and to find out whether the proposed abandonment is consistent with the City's General Plan; and

WHEREAS, the City Council will hold a Public Hearing on September 23, 2014 at approximately 7:00 p.m. as required by law to determine whether said easements shall be abandoned.

NOW, THEREFORE, BE IT RESOLVED that a Resolution of Intention of the City Council of the City of Menlo Park, is hereby established, to consider the abandonment of Public Utility and Emergency Access Easements within the property at 721 - 851 Hamilton Avenue.

I, PAMELA I. AGUILAR, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the fifteenth day of July, 2014 by the following votes:

AYES:

NOES:

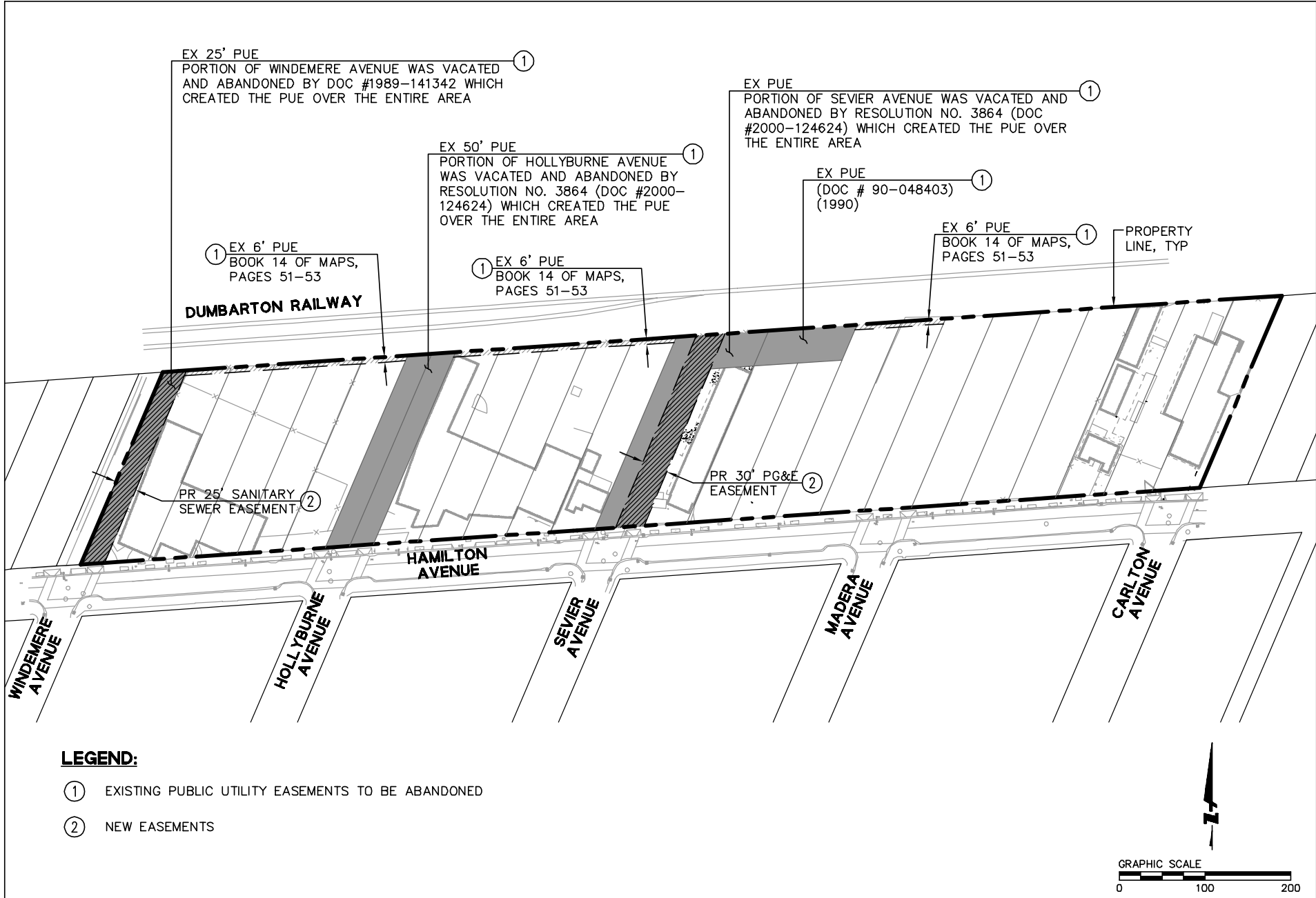
ABSENT:

ABSTAIN:

IN WITNESS THEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Menlo Park on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Pamela I. Aguilar  
City Clerk

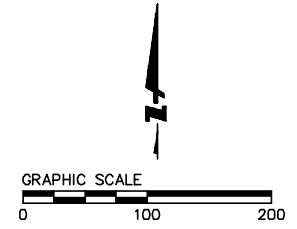
# Exhibit A



DRAWING NAME: J:\ENR\12\2025\DWG\SCHEMATIC\REV14\_0510-PUE\_Abandonment Exhibit A.dwg  
 PLOT DATE: 08-10-14  
 PLOTTED BY: Kurk

**LEGEND:**

- ① EXISTING PUBLIC UTILITY EASEMENTS TO BE ABANDONED
- ② NEW EASEMENTS



255 SHORELINE DRIVE, STE 200  
 850/442-8300  
 850/442-8399 (FAX)



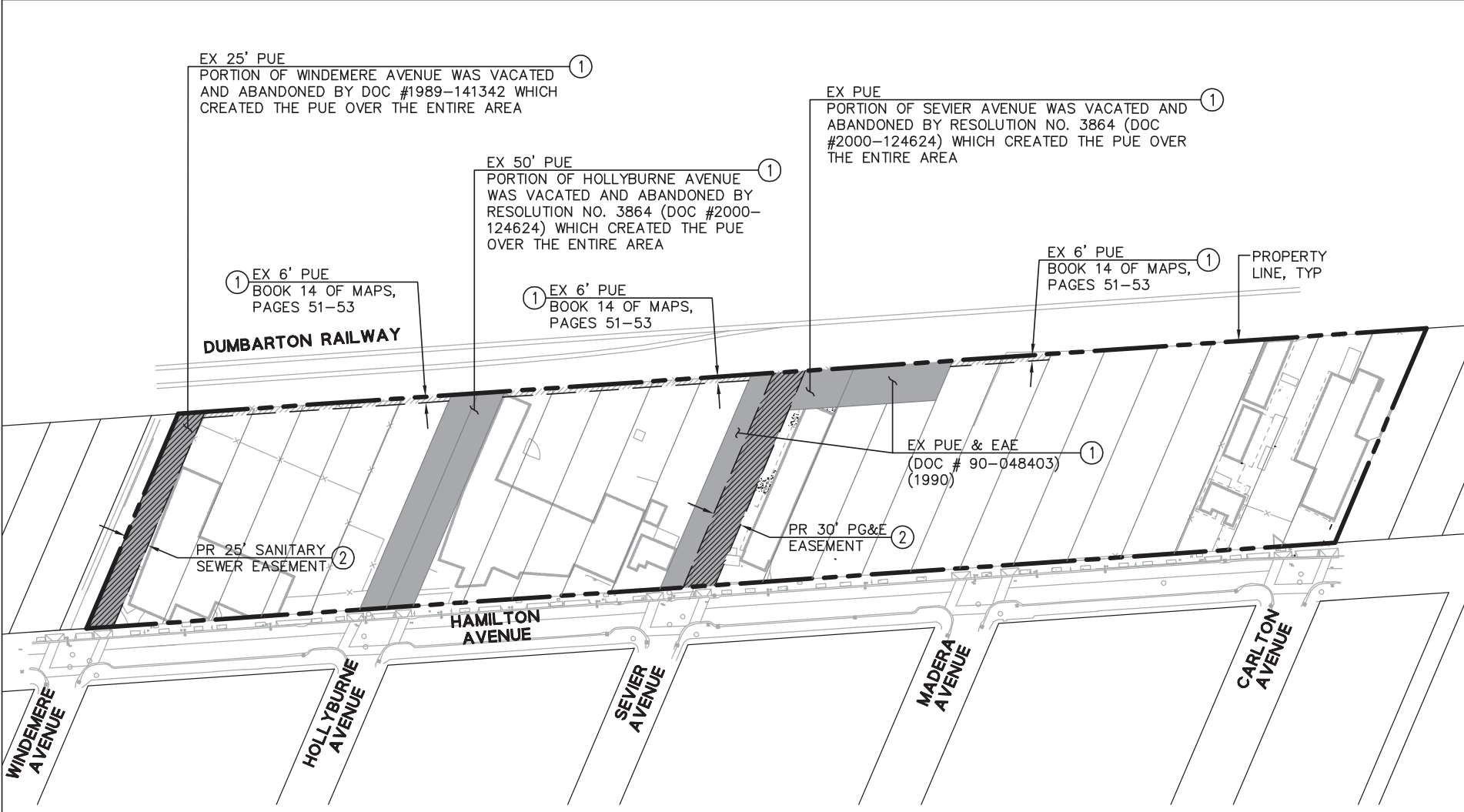
HAMILTON AVENUE DEVELOPMENT  
 PUBLIC UTILITY EASEMENT ABANDONMENT EXHIBIT  
 CALIFORNIA  
 SAN MATEO COUNTY  
 MENLO PARK

Revision	Date	By	Check	Appr
	4/2/2014			

Revisions	No.	Date	By	Check	Appr.	Job No.

Sheet Number:

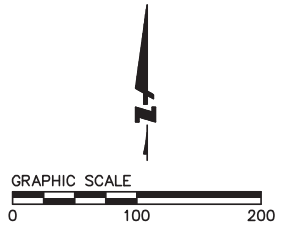
DRAWING NAME: I:\Projects\2025\KNOX\CONTR\KNOX\REV\A\_0810-PUE Abandonment Exhibit.dwg  
 PLOT DATE: 06-26-14 PLOTTED BY: KURK



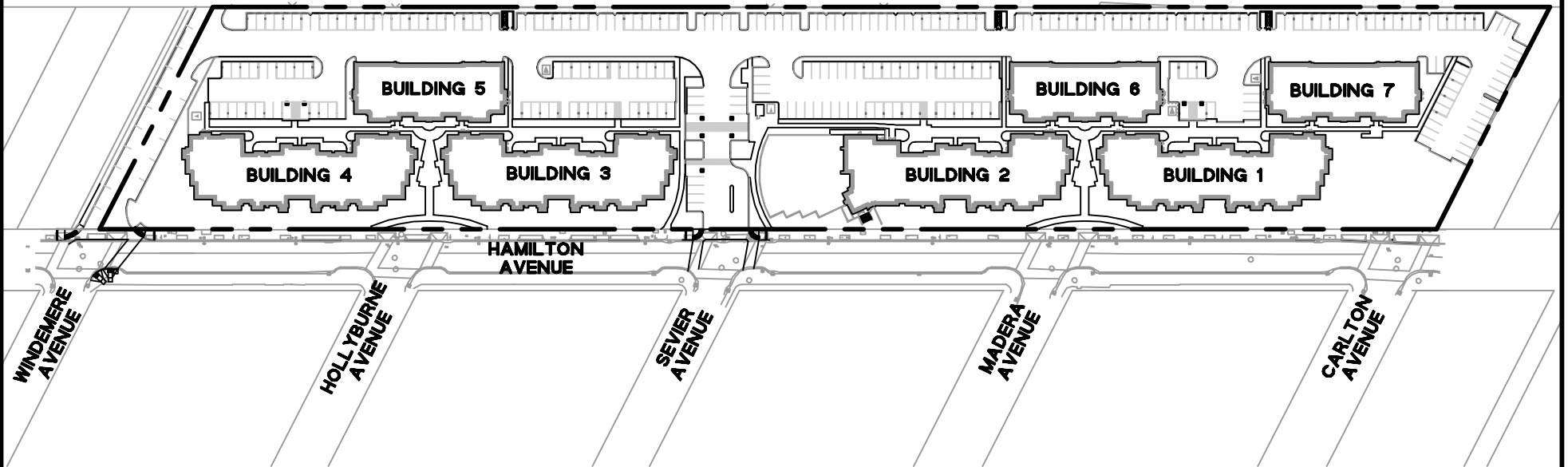
**LEGEND:**

- ① EXISTING PUBLIC EASEMENTS TO BE ABANDONED
- ② NEW EASEMENTS

PUE – PUBLIC UTILITY EASEMENT  
 EAE – EMERGENCY ACCESS EASEMENT



DUMBARTON RAILWAY



255 SHORELINE DRIVE SUITE 200  
REDWOOD CITY, CA 94065  
650/482-6300  
650/482-6399 (FAX)

ENGINEERS / SURVEYORS / PLANNERS

## 777 HAMILTON AVENUE SITE PLAN

Drawn  
Job No. 20120225

Checked  
Date 06/24/2014

Approved  
Sheet 1 of 1

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**RESOLUTION NO. 2014-02**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MENLO  
PARK DETERMINING THAT ABANDONMENT OF THE PUBLIC UTILITY  
EASEMENTS AND EMERGENCY ACCESS EASEMENT ON 721-851 HAMILTON  
AVENUE IS CONSISTENT WITH THE GENERAL PLAN**

WHEREAS, the Planning Commission of the City of Menlo Park has considered the abandonment of public utility easements and emergency access easement at 721-851 Hamilton Avenue as required for the development of a 195-unit multi-family residential development located in the R-4-S zoning district; and

WHEREAS, the Planning Commission has held a public meeting on this subject on August 18, 2014, as required by law, having provided public notification by publishing a legal notice in the local newspaper and notification of property owners and occupants within a 300-foot radius of the subject property;

WHEREAS, the Planning Commission of the City of Menlo Park has determined that said abandonments are consistent with the General Plan in that alternate easements for specific utility companies have been provided, access to the site for emergency service providers would be coordinated, and there has been no objections to the abandonment proposal; and


NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Menlo Park hereby recommends that the public utility easements and emergency access easement of 721-851 Hamilton Avenue, as shown in attached Exhibit, to be abandoned as proposed.

I, Arlinda Heineck, do hereby certify that the above and foregoing Resolution was duly and regularly passed and adopted by a majority of the total voting members of the Planning Commission of the City of Menlo Park at a meeting held by said Commission on the 18th day of August, 2014, by the following vote:

AYES:	Commissioners: Bressler, Combs, Eiref, Ferrick, Onken, Strehl
NOES:	Commissioners:
ABSTAIN:	Commissioners:
ABSENT:	Commissioners: Kadvary

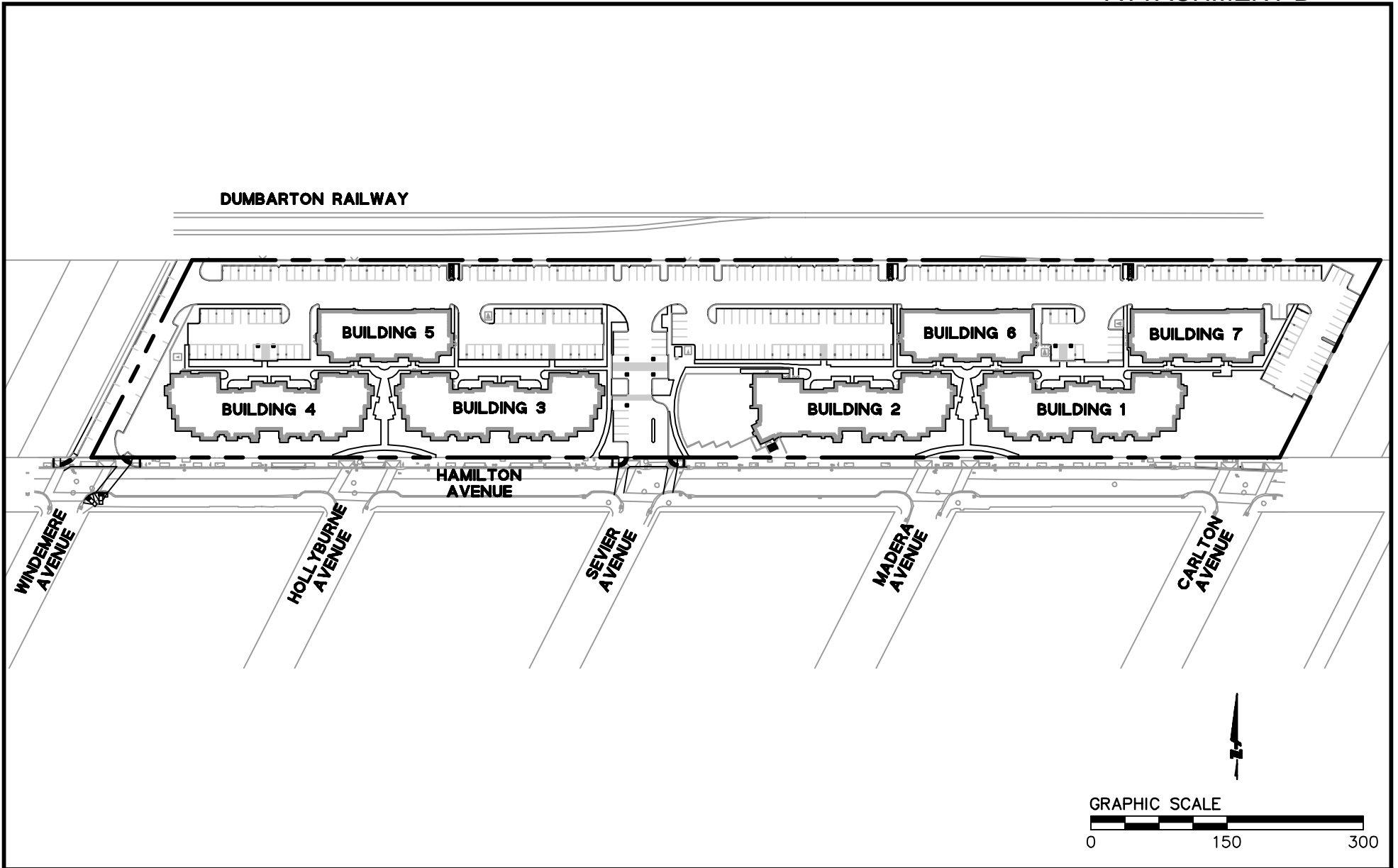
I further certify that the foregoing copy is a true and correct copy of the original of said resolution on file in the office of the Community Development Department, City Hall, Menlo Park, California.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City this 20<sup>th</sup> day of August, 2014.

  
Arlinda Heineck  
Community Development Director  
City of Menlo Park

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255 SHORELINE DRIVE SUITE 200  
REDWOOD CITY, CA 94065  
650/482-6300  
650/482-6399 (FAX)

ENGINEERS / SURVEYORS / PLANNERS

### 777 HAMILTON AVENUE SITE PLAN

Drawn  
Job No. 20120225

Checked  
Date 06/24/2014

Approved  
Sheet 1 of 1

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## **PUBLIC WORKS DEPARTMENT**

**Council Meeting Date: October 7, 2014  
Staff Report #: 14-178**

**Agenda Item #: E-2**

### **PUBLIC HEARING:**

**Approve a Resolution Making Findings Necessary to Authorize an Energy Services Contract for Power Purchase Agreements (PPA) at the Arrillaga Gymnasium, Arrillaga Gymnastics Center, Onetta Harris Center, and City Corporation Yard; Authorize the City Attorney to Finalize the Agreement and Authorize the City Manager to Execute the Agreement; and Amend the Existing Consulting Contract with Optony, Inc. to include Construction Management Services**

---

### **RECOMMENDATION**

Staff recommends that Council:

1. Approve a Resolution Making Findings Necessary to Authorize an Energy Services Contract for Power Purchase Agreement (PPA) at the Arrillaga Gymnasium, Arrillaga Gymnastics Center, Onetta Harris Center, and City Corporation Yard;
2. Authorize the City Attorney to Finalize the Agreement;
3. Authorize the City Manager to Execute the Agreement; and
4. Amend the existing consulting contract with Optony to include Construction Management Services.

### **BACKGROUND**

The City Council has previously reviewed the Renewable Energy Procurement Project (R-REP) on November 27, 2012 with the signing of a Memorandum of Understanding (MOU) with Alameda County to participate in the project and in a Council Study Session on April 29, 2014 in which City Council discussed and provided general direction to staff on proposed installation sites, financing options, installation of solar carports, and Planning Commission involvement in the carport review process. In addition, prior staff reports indicated SolarCity as the preferred vendor for solar equipment and energy production in the City of Menlo Park for this project. However, due to a material change in the business terms offered by Solar City, the City of Menlo Park (and the group of participating agencies led by Alameda County) reached an impasse in contract

negotiations with SolarCity and chose to move to the bidder ranked second, Cupertino Electric. With this update, staff is now coming before City Council for approval to execute an energy services contract with Cupertino Electric to move forward in the procurement process. The following sections provide additional background on the project history and contract negotiations.

R-REP is an initiative led by Alameda County to collaboratively purchase renewable energy systems with 19 public agencies throughout Alameda, Contra Costa, San Mateo, and Santa Clara Counties. The R-REP project includes 186 sites, totaling over 31 megawatts of renewable energy. Working collaboratively instead of individually has led to a significant reduction in renewable energy system costs, transaction costs, administrative time, and enhanced leverage for public agencies in negotiations for renewable energy systems.

On November 27, 2012, the City Council signed a MOU with Alameda County to participate in the R-REP project by including the following City facilities in the bulk purchase of renewable power:

- Arrillaga Gymnasium
- Arrillaga Gymnastics Center
- Onetta Harris Community Center
- Corporation Yard
- Belle Haven Child Care Center

In the procurement process, staff coordinated with Optony, Inc. to develop site feasibility reports in order for Alameda County to develop the Request for Proposals (RFP). The City saved significantly by joining this effort through reduced staffing costs as Alameda County prepared and coordinated additional financial analysis, bid documents, and vendor selection on behalf of Menlo Park.

All of the participating agencies sites were grouped into 11 bid bundles organized based upon the type of technology, system size, and geography. The R-REP RFQ/RFP was structured as an indefinite quantity, multiple award, and best value solicitation. In addition, the solicitation was conducted in accordance with Government Code Section 4217.10, et seq., and specifically, Section 4217.16, which authorizes public agencies to solicit proposals from qualified persons and to award a contract on the basis of the experience of the firm, the type of technology employed by the firm, the cost to the local agency, and any other relevant considerations, provided that the project deliver net cost savings to the public agency.

Following the RFQ/RFP, Menlo Park was grouped in the medium sized bundle. Initially SolarCity was the selected vendor and the City needed to formally enter into a contract with SolarCity by July 21<sup>st</sup> in order to remain eligible for a \$109,645 rebate (paid over the course of five years) through the California Solar Incentive (CSI) rebate program, which staff applied for last year. Securing the rebates required a \$15,000 deposit for all five sites which will be refunded to the City once construction is completed. Originally

the City was set to receive a \$0.088/kWh government CSI rebate, but it has been reduced to a \$0.025/kWh commercial CSI rebate. Because the City is choosing to participate in a power purchase agreement (PPA), the vendor (not the City) is the legal owner of the system. Thus, the City no longer qualifies for the government rate.

In early June, during contract negotiations with SolarCity, Alameda County, staff, and the City Attorney were unable to come to an agreement over the terms and conditions in SolarCity's PPA. SolarCity materially changed the business terms offered in their initial response and required a condition that would allow them to terminate the contract if they were not able to obtain financing. Despite staff's efforts to remove such a contingency, SolarCity refused. Staff then chose to pursue working with Cupertino Electric, who was ranked as the second bidder.

At risk for not meeting the July 21<sup>st</sup> rebate deadline, Alameda County and participating agencies were able to request rebate extensions from PG&E up to October 1<sup>st</sup>, 2014. This extension allowed the City the opportunity to work with Cupertino Electric on completing another round of site assessments. Attachment B includes the new solar installation layouts as proposed by Cupertino Electric and Attachment C includes the draft agreement as staff, the City Attorney, and Optony finalize negotiations with Cupertino Electric.

The Corporation Yard and the Belle Haven Childcare Center were considered small sites and were bundled in another package separate from the Arrillaga Gymnasium, Arrillaga Gymnastics, and Onetta Harris Community Center. Menlo Park and other participating agencies with smaller sites in this bundle never received a bid. Therefore, staff added these two sites as part of the complete package with Cupertino Electric. Based on further feasibility analyses on both of these sites, Optony determined that the Belle Haven Childcare Center was not sufficient under a PPA contract to warrant including (Attachment D).

It is important to note that the Arrillaga Gymnastics Center currently shares an energy meter with the Civic Center, so initial cost savings estimates for the Arrillaga Gymnastic Center are expected to increase if the meters are split, which will be further discussed during the construction phase.

## **ANALYSIS**

### **Core Proposal**

All sites will be a solar rooftop installation except for the Arrillaga Gymnastics Center. Carport designs will be presented to the Planning Commission for a recommendation to Council before Council makes a final approval on the design. The total combined system size for the Arrillaga Gymnasium, Arrillaga Gymnastics Center, Onetta Harris Community Center, and Corporation Yard is 390 KW or 583,432 kWh per year.

## **Economic Analysis**

As directed by Council at the April 29, 2014 study session meeting, all sites will be developed under a PPA as opposed to a direct purchase or lease option. A PPA has less cost savings than direct purchase and leasing, but does not require cash up-front and reduces staff time for maintenance and operation of the system.

The benefit of a PPA is fixed energy pricing over the term of the contract that is typically lower than PG&E rates. This is a substantial benefit not only because of the cost savings, but it allows the City to appropriately budget energy consumption costs for facilities rather than trying to predict PG&E pricing, which has increased 60% between 2000 and 2010 (U.S. Energy Information Administration). PG&E prices are expected to continue to increase due to SB 1078 that requires PG&E and other utilities to achieve a 33% renewable power mix by 2020. Currently, PG&E is at a 20% renewable power mix. This will require installation of new infrastructure with costs passed on to rate payers.

Under the proposed PPA, Cupertino Electric would own the solar power systems installed on City property, and would be fully responsible for all ownership costs, including financing, maintenance, insurance, and system production, while the City would pay Cupertino Electric for the energy produced and used by the City. The agreement with Cupertino Electric is 20 years with a price escalator of 2.5% per year. Based on the agreement with Cupertino Electric and assumptions about increases in PG&E rates in the future, the PPA is expected to generate modest annual savings for the City, as evidenced by Table 1. Through the first seven years of the agreement, savings range from \$11,800 to nearly \$22,000 annually, and over the term of the agreement with Cupertino Electric, the total savings are expected to be over \$461,000. It is important to note that the table includes the City's \$71,889 PG&E CSI rebate which has been reduced from the original \$109,645 rebate due to Cupertino Electric recommending different system sizes than Solar City and moving forward with four out of the five originally proposed sites. The cost savings drops in the sixth year due to the City only receiving the CSI rebate for only the first five years. In addition to anticipated cost savings, this project promotes energy-efficiency and sustainability while also stimulating the economy, creating jobs, and reducing fossil fuel emissions.

**Table 1. Yearly Energy Cost Savings Over a Twenty-Five Year Period (All Sites Combined)**

Year	Cost of PG&E	Cost of PPA	Savings / (Cost)
1	\$ 309,067	\$ 293,517	\$ 15,550
2	\$ 310,553	\$ 293,212	\$ 17,341
3	\$ 312,046	\$ 293,110	\$ 18,936
4	\$ 313,546	\$ 293,084	\$ 20,462
5	\$ 315,054	\$ 293,084	\$ 21,969
6	\$ 316,568	\$ 304,749	\$ 11,819
7	\$ 318,090	\$ 304,295	\$ 13,795
8	\$ 319,619	\$ 303,889	\$ 15,731
9	\$ 321,156	\$ 303,529	\$ 17,627

10	\$ 322,700	\$ 303,214	\$ 19,486
11	\$ 324,252	\$ 302,945	\$ 21,307
12	\$ 325,810	\$ 302,720	\$ 23,090
13	\$ 327,377	\$ 302,539	\$ 24,838
14	\$ 328,951	\$ 302,401	\$ 26,550
15	\$ 330,532	\$ 302,305	\$ 28,227
16	\$ 332,121	\$ 302,252	\$ 29,870
17	\$ 333,718	\$ 302,239	\$ 31,479
18	\$ 335,323	\$ 302,267	\$ 33,056
19	\$ 336,935	\$ 302,335	\$ 34,600
20	\$ 338,555	\$ 302,442	\$ 36,112
21	\$ 340,182	\$ 302,588	\$ 37,594
22	\$ 341,818	\$ 302,773	\$ 39,045
23	\$ 343,461	\$ 302,995	\$ 40,466
24	\$ 345,112	\$ 303,254	\$ 41,858
25	\$ 346,771	\$ 303,550	\$ 43,221
<b>Total</b>	<b>\$ 8,189,317</b>	<b>\$ 7,525,289</b>	<b>\$ 664,028</b>

**IMPACT ON CITY RESOURCES**

If the City proceeds with the PPA Agreements there would be no upfront cost to install the photovoltaic (PV) systems and no operation and maintenance costs. The City would pay for the energy produced by the PV systems, which would offset current costs paid to PG&E and produce cost savings to the City in the first year. In addition, should the City proceed with the installations, staff recommends extending the contract with Optony for construction management services to ensure that the PV systems will operate according to vendor specifications and agreed upon terms. Hiring Optony is expected to cost up to \$60,000 and is dependent on the number of sites approved (Attachment E). This cost has already been incorporated in the FY 14-15 budget. In addition, participation in R-REP will require an estimated forty hours of staff time to oversee consultant and vendor work over the course of five months and continued participation may delay other Climate Action Plan initiatives, such as development of Phase II of a sustainable building policy.

**POLICY ISSUES**

Installing renewable power on City facilities is consistent with the Climate Action Plan and 27% greenhouse gas (GHG) reduction target. It is estimated that this project could potentially reduce 419 tons of GHG emissions from government operations per year which is a community-wide savings of 0.1% annually. In addition, the project is consistent with sustainable budget practices by reducing operating costs.

## **ENVIRONMENTAL REVIEW**

Installing PV rooftops and carports are exempt from California Environmental Quality Act (CEQA) review under Existing Facilities 15301. In addition, State legislation SB 226 (2011) exempts both PV rooftop and parking lot projects from environmental review.

## **PUBLIC NOTICE**

Public notification was achieved by posting written notice in the Council Chambers on September 24<sup>th</sup>, publishing a legal notice in The Daily News, a local newspaper, on September 26<sup>th</sup> and October 1<sup>st</sup>, 2014, and by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Resolution
- B. PV Installation Layouts
- C. Draft Power Purchase Agreement
- D. Site Financial Analysis Summaries
- E. Optony Scope of Work

Report prepared by:

*Vanessa A. Marcadejas*

*Environmental Programs Specialist*



## RESOLUTION NO.

**APPROVE A RESOLUTION MAKING FINDINGS NECESSARY TO AUTHORIZE AN ENERGY SERVICES CONTRACT FOR POWER PURCHASE AGREEMENTS AT THE ARRILLAGA GYMNASIUM, ARRILLAGA GYMNASTICS CENTER, ONETTA HARRIS COMMUNITY CENTER, AND CITY CORPORATION YARD; AUTHORIZE THE CITY ATTORNEY TO FINALIZE THE AGREEMENT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Menlo Park participated in the Regional Renewable Energy Project (RREP), the largest collaborative group solar purchase ever undertaken in the United States; and

WHEREAS, Alameda County was the lead agency for the RREP and worked with the participating public agencies, and technical consultants to develop the RREP bid package, which was released in September 2013. The request for proposal (RFP) process was structured as an indefinite quantity, multiple award, best value solicitation and was conducted in accordance with Government Code Section 4217.10 *et seq.*; and

WHEREAS, the City of Menlo Park included five sites in the RREP RFP, including the Arrillaga Gymnasium, Arrillaga Gymnastics Center, Onetta Harris Community Center, Corporation Yard, and Belle Haven Childcare Center; and

WHEREAS, the City has entered into negotiations with Cupertino Electric, Inc. as the second ranked proposer after reaching an impasse over contract terms with the first ranked proposer; and

WHEREAS, the City of Menlo Park has received a \$71,889 incentive reservation from Pacific Gas and Electric's (PG&E) California Solar Initiative (CSI) to be applied to the Project, based upon the actual output of the system once constructed.

WHEREAS, the City of Menlo Park recognizes that it is in the interest of regional, state, and national economy to stimulate the economy; create and retain jobs; reduce fossil fuel emissions; and reduce total energy usage and improve energy efficiency within our jurisdiction.

WHEREAS, the project will effectively reduce electrical costs and help reduce greenhouse gas emissions associated with the production of electricity from conventional power plants; and

WHEREAS, California Government Code Section 4217.12, authorizes public agencies, including the City of Menlo Park, to enter into an energy service contract when the anticipated cost of the conservation services provided by an energy conservation facility will be less than the anticipated marginal cost of energy that would have been consumed in the absence of the project.

NOW, THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore do hereby make the following findings:

1. That the new photovoltaic (PV) systems to be installed at the Arrillaga Gymnastics Center, Arrillaga Gymnasium, Onetta Harris Community Center, and Corporation Yard includes the acquisition, design, construction, and installation of equipment that reduces energy use or makes for a more efficient use of energy and thereby qualifies as “conservation measures” as that term is defined in Government Code Section 4217.11 (c).
2. That the construction and installation of the PV systems, which will generate energy savings, are “conservation services” as that term is defined in Government Code Section 4217.11 (d).
3. That the proposed contract between the City of Menlo Park and Cupertino Electric, Inc. for the design, construction, and installation of the PV systems conservation measures qualifies as an “energy services contract” as that term is defined in Government Code Section 4217.11 (f).
4. That over its 25 year expected life span, the total cost of the PV systems at the Arrillaga Gymnastics Center, Arrillaga Gymnasium, Onetta Harris Community Center, and Corporation Yard will be less than the anticipated \$8,189,317 cost of electricity that would have been consumed by all sites in the absence of the PV systems.
5. That the terms of the award of contract to Cupertino Electric, Inc. for the design construction, and installation of the PV systems are in the best interest of the City of Menlo Park.

BE IT FURTHER RESOLVED that the City Attorney is hereby authorized to finalize the agreement to his satisfaction and the City Manager is authorized to execute the agreement.

I, Pamela Aguilar, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council Resolution was duly and regularly passed and adopted at a meeting by said Council on the seventh day of October, 2014, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this seventh day of October, 2014.

---

Pamela Aguilar  
City Clerk

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**PROJECT INFORMATION**

**PROJECT ADDRESS**  
600 ALMA STREET  
MENLO PARK, CA 94025

LAT. 37.453N  
LONG. 122.178W

**PROJECT SUMMARY**  
PROPOSED LAYOUT OF  
NEW FIXED-TILT  
PHOTOVOLTAIC ARRAYS  
ON EXISTING BUILDING.

**TECHNOLOGY SUMMARY**  
**PV MODULES:**  
JINKO 305W

**PV INVERTER(S):**  
SUNGROW 36KW

**GENERAL NOTES**

1. THE PURPOSE OF THIS DRAWING IS TO ESTABLISH PRELIMINARY MODULE LAYOUT.
2. DIMENSIONS AND SCALE ARE SHOWN FOR REFERENCE ONLY. THIS DRAWING SHOULD NOT BE SCALED.
3. THIS DRAWING WAS DEVELOPED USING INFORMATION PROVIDED BY THE CLIENT. ALL DIMENSIONS, OBSTRUCTIONS, AND OTHER RELEVANT DATA SHALL BE FIELD VERIFIED.
4. ARRAY SIZES AND CLEARANCES DEVELOPED TO MEET OR EXCEED THE SOLAR PHOTOVOLTAIC INSTALLATION GUIDELINE, FINAL DRAFT, PUBLISHED BY CAL FIRE, DATED APRIL 22, 2008.


**ARRAY SUMMARY**

MODULE COUNT: 480  
MODULE W DC: 305  
  
TILT°: FLUSH W/ ROOF  
AZIMUTH°: 210  
  
KW DC STC: 146.6  
KW CEC AC: 108  
  
ANNUAL OUTPUT KWh:



MODULE AZIMUTH = 210°

0' 20' 40'  
SCALE: 1" = 40'

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			DRAWN BY: ML CHECKED BY: XX REV. DESCRIPTION DATE 0 ISSUE FOR REVIEW 6/27/14 - - - - - - - - -		





**PROJECT INFORMATION**

**PROJECT ADDRESS**  
701 LAUREL STREET  
MENLO PARK, CA 94025

LAT. 37.453N  
LONG. 122.177W

**PROJECT SUMMARY**  
PROPOSED LAYOUT OF  
NEW FIXED-TILT  
PHOTOVOLTAIC ARRAYS  
ON EXISTING BUILDING.

**TECHNOLOGY SUMMARY**  
PV MODULES:  
JINKO 305W

PV INVERTER(S):  
SUNGROW 36KW

**GENERAL NOTES**

1. THE PURPOSE OF THIS DRAWING IS TO ESTABLISH PRELIMINARY MODULE LAYOUT.
2. DIMENSIONS AND SCALE ARE SHOWN FOR REFERENCE ONLY. THIS DRAWING SHOULD NOT BE SCALED.
3. THIS DRAWING WAS DEVELOPED USING INFORMATION PROVIDED BY THE CLIENT. ALL DIMENSIONS, OBSTRUCTIONS, AND OTHER RELEVANT DATA SHALL BE FIELD VERIFIED.
4. ARRAY SIZES AND CLEARANCES DEVELOPED TO MEET OR EXCEED THE SOLAR PHOTOVOLTAIC INSTALLATION GUIDELINE, FINAL DRAFT, PUBLISHED BY CAL FIRE, DATED APRIL 22, 2008.

**ARRAY SUMMARY**

MODULE COUNT: 480  
MODULE W DC: 305

TILT\*: 7° (CARPORT) & FLUSH W/ ROOF  
AZIMUTH\*: 125

KW DC STC: 146.4  
KW CEC AC: 120


ANNUAL OUTPUT kWh:

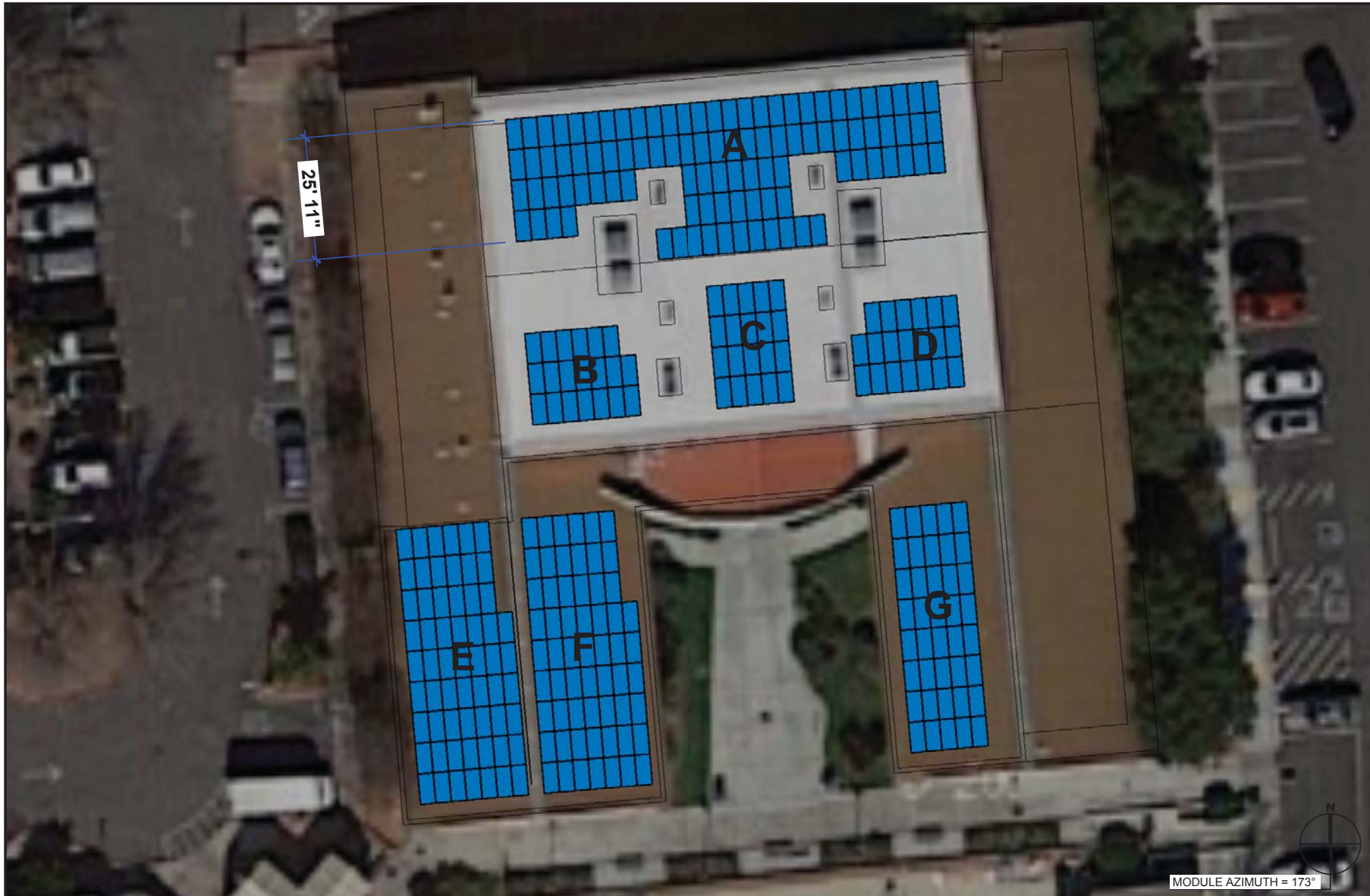


0' 20' 40'

SCALE: 1" = 40'

MODULE AZIMUTH = 125°

 <p><b>CUPERTINO ELECTRIC INC.</b> Energy Alternatives 1132 NORTH SEVENTH STREET, SAN JOSE CA, 95112   www.cei.com/energy</p>	<p>© 2014 CUPERTINO ELECTRIC, INC. REPRODUCTION OR TRANSFER OF THIS DOCUMENT, IN PART OR WHOLE, IS PROHIBITED WITHOUT WRITTEN PERMISSION FROM CUPERTINO ELECTRIC, INC.</p>	PROJECT OWNER	PROJECT TITLE	JOB NO. XXXX DRAWN BY: ML CHECKED BY: XX	SHEET TITLE	SHEET NO.
			ARRILLAGA FAMILY GYMNASTICS CENTER	REV. DESCRIPTION DATE	CONCEPTUAL PV LAYOUT	PV.00
				0 ISSUE FOR REVIEW 6/27/14		



**PROJECT INFORMATION**

100 TERMINAL AVE  
MENLO PARK, CA 94025

**PROJECT SUMMARY**  
PROPOSED LAYOUT OF  
NEW FIXED-TILT  
PHOTOVOLTAIC ROOFTOP  
ARRAYS.

**TECHNOLOGY SUMMARY**  
PV MODULES:  
YINGLI 305W (OR EQUAL)

PV INVERTER(S):  
SUNGROW 36 KW (OR  
EQUAL)

**GENERAL NOTES**

1. THE PURPOSE OF THIS DRAWING IS TO ESTABLISH PRELIMINARY MODULE LAYOUT.
2. DIMENSIONS AND SCALE ARE SHOWN FOR REFERENCE ONLY. THIS DRAWING SHOULD NOT BE SCALED.
3. THIS DRAWING WAS DEVELOPED USING INFORMATION PROVIDED BY THE CLIENT. ALL DIMENSIONS, OBSTRUCTIONS, AND OTHER RELEVANT DATA SHALL BE FIELD VERIFIED.
4. ARRAY SIZES AND CLEARANCES DEVELOPED TO MEET OR EXCEED THE SOLAR PHOTOVOLTAIC INSTALLATION GUIDELINE, FINAL DRAFT, PUBLISHED BY CAL FIRE, DATED APRIL 22, 2008.


**ARRAY SUMMARY**

MODULE COUNT: 320  
MODULE W DC: 305W  
TILT°: 0  
AZIMUTH°: 173  
kW DC STC: 97.6  
kW CEC AC: 72  
ANNUAL OUTPUT kWh: 141,520



0' 10' 20'  
SCALE: 1" = 20'

MODULE AZIMUTH = 173°

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		ALAMEDA COUNTY	ONETTA HARRIS COMMUNITY CENTER	REV. DESCRIPTION DATE	CONCEPTUAL PV LAYOUT	PV 1.1
				0 ISSUE FOR REVIEW 6/30/14		
				- - -		
				- - -		
				- - -		





**PROJECT INFORMATION**

**PROJECT ADDRESS**  
 333 BURGESS DR  
 MENLO PARK, CA 94025

LAT. 37.454N  
 LONG. 122.173W

**PROJECT SUMMARY**  
 PROPOSED LAYOUT OF  
 NEW FIXED-TILT  
 PHOTOVOLTAIC ARRAYS  
 ON EXISTING BUILDING.

**TECHNOLOGY SUMMARY**  
 PV MODULES:  
 JINKO 305W

PV INVERTER(S):  
 SUNGROW 36KW

**GENERAL NOTES**

1. THE PURPOSE OF THIS DRAWING IS TO ESTABLISH PRELIMINARY MODULE LAYOUT.
2. DIMENSIONS AND SCALE ARE SHOWN FOR REFERENCE ONLY. THIS DRAWING SHOULD NOT BE SCALED.
3. THIS DRAWING WAS DEVELOPED USING INFORMATION PROVIDED BY THE CLIENT. ALL DIMENSIONS, OBSTRUCTIONS, AND OTHER RELEVANT DATA SHALL BE FIELD VERIFIED.
4. ARRAY SIZES AND CLEARANCES DEVELOPED TO MEET OR EXCEED THE SOLAR PHOTOVOLTAIC INSTALLATION GUIDELINE, FINAL DRAFT, PUBLISHED BY CAL FIRE, DATED APRIL 22, 2008.

**ARRAY SUMMARY**

MODULE COUNT: 160  
 MODULE W DC: 305  
 TILT: FLUSH W/ ROOF  
 AZIMUTH: 210  
 KW DC STC: 48.8  
 KW CEC AC: 36  
 ANNUAL OUTPUT KWh:



MODULE AZIMUTH = 213°

0' 15' 30'  
 SCALE: 1" = 30'

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PROJECT OWNER

PROJECT TITLE  
**MENLO PARK CORPORATION YARD (OPTION. 1)**

JOB NO. XXXXX		
DRAWN BY: ML CHECKED BY: XX		
REV.	DESCRIPTION	DATE
0	ISSUE FOR REVIEW	6/30/14
-	-	-
-	-	-
-	-	-

SHEET TITLE  
**CONCEPTUAL PV LAYOUT**

SHEET NO.  
**PV.00**



**<INSERT JURISDICTION NAME>**

**CONTRACT TITLE:** POWER PURCHASE  
AGREEMENT

**CONTRACT**

**NUMBER: AWARD**

**DATE: XX**

**CONTRACT PERIOD:** 20 Years from the Actual Commercial Operation Date

**SERVICE:** Electricity Service Provision

**BUYER**

**CONTACT: TITLE:**

**BUYER TEL:**

**BUYER EMAIL:**

**SELLER NAME:**

**SELLER**

**CONTACT:**

**TITLE: SELLER**

**TEL: SELLER**

**EMAIL:**

**PURPOSE:** To establish a service contract for delivery of electricity.

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**EXHIBITS**

- Exhibit A – Technical and Warranty Requirements
- Exhibit B – Engineering and Construction Requirements
- Exhibit C – Operations Forecasts, Scheduling Protocols, & Monitoring
- Exhibit D – Form of Attestation
- Exhibit E – Insurance Requirements
- Exhibit F – Workforce Plan
- Exhibit G – Form of Certification

**SCHEDULES**

- Schedule 1 – Grant of Access Rights
- Schedule 2 – Early Termination Fee
- Schedule 3 – Notice Information
- Schedule 4 – Description of Generating Facility

- Schedule 5 – Project Site Description
- Schedule 6 – Contract Price
- Schedule 7 – Expected Annual Contract Quantity
- Schedule 8 – Project Milestones
- Schedule 9 - Project Management Reimbursement
- Schedule 10 - Cash Flow Tables Showing Value of Solar

DRAFT

This Regional Power Purchase Agreement is dated as of <INSERT DATE> (“Effective Date”), and is witnessed, acknowledged, and executed by authorized representatives of <INSERT VENDOR NAME>, a <INSERT LOCATION OF FIRM> limited liability company (“Seller”) and the <INSERT JURISDICTION NAME>, a <A POLITICAL SUBDIVISION OR OTHER RELEVANT NAME> of the State of California (“Buyer”), as evidenced by their signature on the last page of this document

## **RECITALS**

- A. Buyer wishes to meet its power requirements cost effectively, efficiently and in an environmentally-friendly manner;
- B. Buyer has solicited proposals from persons, firms, organizations, and/or other legal entities to provide such power from renewable resources in a cooperative/joint solicitation led by the County of Alameda;
- C. Seller is in the business of designing, constructing and operating solar photovoltaic (“PV”) electric generating systems for the purpose of selling power generated by the systems to its Buyers;
- D. Buyer has selected Seller to design, construct, own and operate solar PV generating systems to be located on its property subject to the terms, conditions, covenants and provisions set forth herein (each, a “Facility” and collectively the “Generating Facilities”);
- E. Seller intends to construct, own, and operate renewable energy-powered Generating Facilities that shall qualify as an eligible renewable energy resource (“ERR”) under the State of California Renewable Portfolio Standard (“RPS”) and desires to sell electricity produced by such generating facility together with other attributes to Buyer pursuant to the terms, conditions, covenants and provisions set forth herein;
- F. Buyer desires to purchase electricity generated by Seller’s Generating Facilities, together with all Environmental Attributes pursuant to the terms and conditions set forth herein;

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

## ARTICLE 1: DEFINITIONS

References in this Agreement to the terms or phrases below have the meanings as set forth in this Article. In the event of a conflict between the information in this Article and any more specific provision of this Agreement, the more specific provision shall control.

- 1.1 “Actual Commercial Operation” means the date on which a Facility: (i) has been constructed in accordance with Prudent Industry Practice, all Permits, Requirements of Law, the specifications set forth in Exhibit A [Technical and Warranty Requirements], Exhibit C [Engineering & Construction Requirements], and Schedule 4 [Description of Generating Facility] of this Agreement; (ii) Seller has successfully completed the Commissioning Tests, (iii) PG&E has approved installation and given its “Permission to “Operate” notification, (iv) the Data Acquisition System has been commissioned and is transmitting data, and, (v) the Facility is capable of generating electricity for sale to the Buyer at the Project Site.
- 1.2 “Actual Commercial Operation Date” the date upon which Seller has notified Buyer in writing that it has satisfied the requirements of Actual Commercial Operation.
- 1.3 “Actual System Output” means the amount of energy recorded by the Seller’s metering equipment for a Facility during the relevant Measurement Period.
- 1.4 “Affiliate” means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by such specified Person.
- 1.5 “Agreement” means this Regional Power Purchase Agreement, effective as of the Effective Date, and entered into by and between Buyer and Seller, and all exhibits, and schedules (each an “Exhibit” or “Schedule”, as applicable) attached hereto and incorporated herein.
- 1.6 “Anniversary Date” means the first anniversary of the Actual Commercial Operation Date and that same calendar date for each succeeding Contract Year.
- 1.7 “Applicable Law” means, with respect to any Person, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, Governmental Authority approval, consent or requirement of any Governmental Authority having jurisdiction over such Person or its property, enforceable at law or in equity, including the interpretation and administration thereof by such Governmental Authority.
- 1.8 “Bankruptcy Event” means with respect to a Party, that either:

(a) such Party has (i) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property; (ii) admitted in writing its inability to pay its debts as such debts become due; (iii) made a general assignment for the benefit of its creditors; (iv) commenced a voluntary case under any bankruptcy law; (v) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; or (vi) taken any corporate or other action for the purpose of effecting any of the foregoing; or

(b) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (i) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like of such Party under any bankruptcy law, and such proceeding or case has continued undefended, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continue un-stayed and in effect for a period of sixty (60) days.

1.9 “Business Day” means any day other than a Saturday, Sunday, public holidays recognized by California governmental entities or any other day on which banking institutions in California are required or authorized by Applicable Law to be closed for business.

1.10 “Buyer Act” means (i) an act of Buyer to repair the Project Site or the Project Site roof (as the case may be) for any reason not directly related to damage caused by the Facility, and such repair requires the partial or complete temporary disassembly or movement of the Facility, or (ii) any act or omission of Buyer or Buyer’s employees, Affiliates, agents, or subcontractors that results in a disruption or outage in Facility production.

1.11 “Buyout Date” has the meaning assigned to it in Section 2.2.

1.12 “Buyout Payment” has the meaning set forth in Section 2.2

1.13 “Buyer Address for Payments” means the address to which invoices to the Buyer should be sent, currently:

<INSERT PARTICIPATING AGENCY ADDRESS HERE>

1.14 “Buyer Address for Notices” means the addresses to which notices to the Buyer should be sent as set forth in Schedule 3 of this Agreement.

1.15 “Buyer Default” – has the meaning set forth in Section 10.3.

- 1.16 “California Renewables Portfolio Standard” means the California State Public Utilities Commission program that requires investor-owned utilities, electric service providers, and community choice aggregators to increase procurement from eligible renewable energy resources to 33% of total procurement by 2020.
- 1.17 “California Solar Initiative” means the program providing ratepayer funded incentives for eligible solar energy systems adopted by the California State Public Utilities Commission and implemented through chapter 8.8 (commencing with Section 25780) to Division 15 of the California Public Utilities Code.
- 1.18 “Commissioning Tests” means the tests set forth in Exhibit B [Engineering & Construction Requirements].
- 1.19 “Commencement of Work Date” means the date on which Seller begins site preparation (including, but not limited to, grading or clearing the site) of the Project Site or the physical construction work at the Project Site of a Facility.
- 1.20 “Commercial Operation Deadline” means the date set forth in Schedule 8, which reflects the current California Solar Initiative (CSI) Rebate construction deadline date, if applicable; provided, however, that the Commercial Operation Deadline shall be extended on a day-for-day basis for any Force Majeure Event or breach of this Agreement by Buyer, or to the extent the CSI construction deadline is extended for a Facility.
- 1.21 “Commercially Available Local Electric Utility Provided Energy” means the current applicable PG&E rate tariff time of use price in cents per kilowatt hour for the Project Site.
- 1.22 “Contract AC Power Rating” means the AC power rating for the Facility in a given Contract Year, as specified in Schedule 4 to this Agreement.
- 1.23 “Contract Capacity” means the maximum instantaneous output of the Facility in kilowatts AC measured at the Delivery Point.
- 1.24 “Contract Price” means the price in \$U.S. per kWh to be paid by Buyer to Seller for the purchase of the Delivered Energy, as specified in Article 4 and Schedule 6 to this Agreement .
- 1.25 “Contract Year” means each year beginning on the Actual Commercial Operation Date and succeeding anniversaries of such Date (“Anniversary Date”), and ending on the date immediately preceding the subsequent Anniversary Date.
- 1.26 “Data Acquisition System” means physical devices, data monitoring equipment and apparatus associated with real-time monitoring of the

quantities of AC energy generated by each Facility and complying with all requirements of Article 4.

- 1.27 “Daylight Hours” means hours that the inverter would normally be operating.
- 1.28 “Daylight Savings Adjustment” means the time periods that begin and end one hour later for the period between the second Sunday in March and the first Sunday in April, and for the period between the last Sunday in October and the first Sunday in November.
- 1.29 “Days” unless otherwise specified, shall mean calendar days.
- 1.30 “Degradation” means forecasted deterioration of the Facility calculated on an annual basis due to normal wear and tear and decreasing efficiency causing reductions in power output.
- 1.31 “Delivered Energy” the amount of Energy delivered by Seller as recorded by Seller’s Meters.
- 1.32 “Delivery Point” means the metering point at the load side of the transformer for each Facility, as specified in Schedule 4 of this Agreement [Description of Generating Facilities].
- 1.33 “Disruption Period” means the period of time that a Facility is not available due to a Buyer Act.
- 1.34 “Deemed Generated Energy” means the quantity of electric energy, expressed in MWh, that Seller reasonably calculates would have been produced by the Facility and made available at the Delivery Point during each measurement period, determined by taking into account during the relevant measurement period the radiometers or like devices at the Facility, or if such monitoring equipment is unavailable during a relevant interval, then using available data or interpolated data determined in accordance with Prudent Industry Practices.
- 1.35 “EA Agency” means any local, state or federal entity, or any other Person, that has responsibility for or jurisdiction over a program involving transferability of Environmental Attributes, including the Clean Air Markets Division of the United States Environmental Protection Agency, the California Resources, Conservation and Development Commission, the California Public Utilities Commission, and any successor agency thereto.
- 1.36 “Early Termination Fee” means the fee associated with an early termination of this Agreement in the amount expressed in dollars per Watt of the Facility’s size in Watts-DC (\$/Wdc) as set forth in Schedule 2 of this Agreement [Early Termination Fee].



- 1.37 "Effective Date" means the date set forth in the first paragraph of this Agreement.
- 1.38 "Energy" means the electricity generated by each Facility pursuant to this Agreement, as expressed in units of kWh.
- 1.39 "Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from each Facility, and its displacement of conventional energy generation. Environmental Attributes include but are not limited to: (i) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (Sox), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (ii) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and other greenhouse gases that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering Earth's climate by trapping heat in the atmosphere; and (iii) the reporting rights to these avoided emissions such as Green Tag Reporting Rights. Environmental Attributes for purposes of this Agreement expressly excludes Existing Financial Incentives.
- 1.40 "Environmental Attributes Reporting Rights" means all rights to report ownership of the Environmental Attributes to any Person, including under the Energy Policy Act of 1992, and any regulations promulgated thereunder.
- 1.41 "Environmental Laws" shall mean and include all federal, state and local laws, statutes, ordinances, regulations, resolutions, decrees and/or rules now or hereinafter in effect, as may be amended from time to time, and all implementing regulations, directives, orders, guidelines, and federal or state court decisions, interpreting, relating to, regulating or imposing liability (including, but not limited to, response, removal, remediation and damage costs) or standards of conduct or performance relating to industrial hygiene, occupational health, and/or safety conditions, environmental conditions, or exposure to, contamination by, or clean-up of, any and all Hazardous Materials, including without limitation, all federal or state super lien or environmental clean-up statutes.
- 1.42 "Existing Financial Incentives" means (i) the ITC and any tax deductions or other benefits under the Internal Revenue Code or applicable state law available as a result of the ownership and operation of the Generating Facilities or the Output generated by each Facility (including without limitation tax credits, accelerated depreciation, or bonus depreciation) that are in effect on the Effective Date and, (ii) any other financial incentives that result from the ownership and operation of the Generating Facilities or the Output that are in effect on the Effective Date.
- 1.43 "Expected Annual Contract Quantity" means the amount of Delivered Energy and Environmental Attributes that Seller expects to deliver from a Facility to

Buyer hereunder in a given Contract Year, as set forth in Schedule 7 of this Agreement [Expected Annual Contract Quantity].

- 1.44 “Expected Commercial Operation Date” means the date on which the Parties expect a Facility to achieve Actual Commercial Operation, established in accordance with Article 3.
- 1.45 “Facility” has the meaning set forth in the Recitals, as further described in Schedule 4.
- 1.46 “Fair Market Value” or “FMV” means the value a nationally recognized independent, third-party professional appraiser with experience and expertise in the solar photovoltaic industry would determine a photovoltaic system to have when negotiated in an arm’s-length, free market transaction between an informed, willing seller and an informed, willing buyer, neither of whom is under compulsion to complete the transaction.
- 1.47 “Financing Party” means, as applicable (i) any Person from whom Seller leases the Generating Facilities or (ii) any Person who has made or will make a loan to or otherwise provide capital to Seller with respect to the Generating Facilities.
- 1.48 “Force Majeure Event” has the meaning set forth in Article 8.
- 1.49 “Full Assignment” has the meaning set forth in Section 12.2.
- 1.50 “Generating Facilities” or “PV System” means each Seller electricity generating facility as more particularly described in Schedule 4 of this Agreement [Description of Generating Facilities], excluding the Project Sites, land rights, and interests in land.
- 1.51 “Governmental Authority” means any federal or state government, or political subdivision thereof, including, any municipality, township or county, special district or any other entity or authority exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including, any corporation or other entity owned or controlled by any of the foregoing.
- 1.52 “Green Tag Reporting Rights” means the rights of a Green Tag purchaser 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 at the Green Tag purchaser’s discretion, and include those 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, with “Green Tag” meaning one (1) MWh of Environmental Attributes.

- 1.53 “Hazardous Materials” shall mean any and all (a) substances, products, by-products, waste, or other materials of any nature or kind whatsoever which is or becomes listed, regulated or addressed under any Environmental Laws, and (b) any materials, substances, products, by-products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by-products, or waste may give rise to liability under any Environmental Law or any statutory or common law theory based on negligence, trespass, intentional tort, nuisance, strict or absolute liability or under any reported decisions of any state or federal court; and (c) any substance, product, by-product, waste or any other material which may be hazardous or harmful to the air, water, soil, environment or affect industrial hygiene, occupational health, safety and/or general welfare conditions, including without limitation, petroleum and/or asbestos materials, products, and by-products.
- 1.54 “Interconnection” means the interconnection of the Project Site electrical system to the Transmission System, including construction, installation, operation, and maintenance of all interconnection facilities.
- 1.55 “Interconnection Agreement” means the agreement between Buyer and the Local Electric Utility which sets forth the terms and conditions for Interconnection of the Facility and the Project Site electrical system to the Transmission System, as amended from time to time.
- 1.56 “Investment Tax Credit” or “ITC” means the federal tax credit associated with the ownership of eligible renewable energy projects as available under Section 48 of the Internal Revenue Code (26 U.S.C. Section 48).
- 1.57 “ISO Tariff” means the Federal Energy Regulatory Commission-approved tariff under which the California Independent System Operator (ISO) operates.
- 1.58 “Kiosk” means a single viewing station for the Buyer and the general public to view the production of electricity of the Generating Facilities as defined in Article 4.1(c)
- 1.59 “KW” means one kilowatt of power or nameplate capacity expressed as peak power DC (direct current).
- 1.60 “kWh” means one kilowatt of electricity supplied for one hour.
- 1.61 “Holidays” for the purposes of this Agreement are New Year’s Day, President’s Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day. The dates will be those on which the holidays are legally observed.
- 1.62 “Interest Rate” means, for any date:

- (a) The per annum rate of interest equal to the “Prime Rate” published in The Wall Street Journal under “Money Rates” or such date (or if not published on such date on the most recent preceding day on which published); plus
- (b) Two percentage points (2%); provided, in no event may the Interest Rate exceed the maximum interest rate permitted by Applicable Laws.
- 1.63 “Local Electric Utility” means the local electric distribution owner and operator providing electric distribution and interconnection services to Buyer & Seller at the applicable Project Site.
- 1.64 “Local Electric Utility Tariffs” means the duly authorized tariff, rules, schedules, protocols and other requirements of PG&E, as these may be amended from time to time.
- 1.65 “Lost Output” means the Deemed Generated Energy calculated during Lost Output Events for the relevant Measurement Period.
- 1.66 “Lost Output Event” has the meaning set forth in Section 4.1(d).
- 1.67 “Measurement Period” has the meaning set forth in Section 4.1(d).
- 1.68 “Meter” or “Meters” means the physical metering devices, data acquisition equipment and apparatus associated with the meters owned by Seller and used to determine the quantities of Energy generated by each Facility and to record other related parameters required for the reporting of data to Seller.
- 1.69 “Metered Energy” means the amount of Energy measured at the Meter for each Facility, including any adjustments programmed into the Meter for distribution losses after the Delivery Point.
- 1.70 “Milestone” means a defined and significant event that will occur during the engineering, construction, and installation of the Facility, as identified in Exhibits A and B, and Schedule 8, including, without limitation, completion of Commissioning Tests, issuance of a PG&E permission to operate notification, commissioning of the Data Acquisition System, and the occurrence of the Actual Commercial Operation Date.
- 1.71 “MW” means one megawatt of power or nameplate capacity expressed as peak power DC (direct current).
- 1.72 “MWh” means one megawatt of electricity supplied for one hour.
- 1.73 “Outage” means a physical state in which all or a portion of the Facility is unavailable to provide Energy to the Delivery Point.
- 1.74 “Output” means (i) the Contract Capacity and associated Energy; (ii) Test Energy; and (iii) all Environmental Attributes.

- 1.75 “Parties” means Buyer and Seller, and each such Party’s respective successors and permitted assignees.
- 1.76 “Party” means Buyer or Seller, and each such Party’s respective successors and permitted assignees.
- 1.77 “Permits” means local authorizations, certificates, permits, licenses, and approvals required by any Governmental Authority for the construction, ownership, operation and maintenance of a Facility.
- 1.78 “Person” means an individual, corporation, partnership, Limited Liability Company, business trust, joint stock company, trust, unincorporated association, joint venture, firm, or other entity, or a Governmental Authority.
- 1.79 “PG&E” means Pacific Gas and Electric Company, who is the Local Electric Utility, as defined herein.
- 1.80 “Preliminary Requirements” has the meaning set forth in Section 3.7.
- 1.81 “Prevailing Wage” means the State of California Public Works Contract Requirements pursuant to sections 1770 et seq. of the California Labor Code.
- 1.82 “Project Site” means the real property, on which each Facility is to be built and located, as described in Schedule 5 to this Agreement (Project Site Description).
- 1.83 “Prudent Industry Practice” means those practices, methods and equipment, as changed from time to time, that: (i) when engaged in, or employed, are commonly used in the State of California in prudent electrical engineering and operations to operate electricity equipment lawfully and with safety, reliability, efficiency and expediency; or (ii) in the exercise of reasonable judgment considering the facts known, when engaged in could have been expected to achieve the desired result consistent with applicable law, safety, reliability, efficiency, and expediency. Prudent Industry Practices include but are not limited to an optimum practice, method, selection of equipment or act.
- 1.84 “Purchase Date” means the 91st day of every year following the 6th year anniversary of the Actual Commercial Operation Date.
- 1.85 “Renewable Energy Credit” has the meaning set forth in California Public Utilities Code section 399.12(h) as may be amended from time to time or as further defined or supplemented by applicable law.
- 1.86 “Renewal Term” has the meaning set forth in Article 2.1.
- 1.87 “Requirements of Law” means, collectively, any federal or state law, treaty, franchise, rule, regulation, order, writ, judgment, injunction, decree, award or determination of any arbitrator or a court or other Governmental Authority, in

each case applicable to or binding upon Seller or Buyer or any of their property or to which Seller or Buyer or any of their respective properties are subject.

- 1.88 “Schedule” “Scheduled” or “Scheduling” means the actions of Seller, Buyer and /or their designated representatives, including each Party’s Local Electric Utility, if applicable, of notifying, requesting and confirming to each other the quantity of Energy to be delivered for each interval on any given day on which the delivery of Energy is scheduled to occur during the Term at the Delivery Point.
- 1.89 “Seller” has the meaning set forth in the first paragraph of this Agreement, and for purposes of access rights and other rights necessary for Seller to perform its obligations hereunder, the term “Seller” includes Seller’s authorized agents, contractors and subcontractors.
- 1.90 “Seller Address” means: <INSERT SELLER ADDRESS HERE>.
- 1.91 “Seller Default” has the meaning set forth in Section 10.2(a).
- 1.92 “Seller’s Project Management Team” means individuals identified by Seller as responsible for oversight and contract management of all phases of project design/build, operations, maintenance, verification and billing account management.
- 1.93 “Solar Insolation” means the amount of solar energy in kWh per square meter falling on a particular location.
- 1.94 “Substantial Completion” means when (i) installation of all necessary components and systems of a Facility (except for completion of painting, final grading, and similar portions of the construction work not affecting the operability, safety, or mechanical and electrical integrity of the Facility) have been completed; (ii) the Facility is mechanically and electrically sound; and (iii) the Facility is ready for initial operation, adjustment, and testing.
- 1.95 “Taxes” has the meaning set forth in Section 5.2..
- 1.96 “Term” has the meaning set forth in Section 2.1.
- 1.97 “Transmission System” or “Local Electric Utility Electricity Grid” means the facilities used for the distribution and transmission of electricity, including any modifications or upgrades made to such facilities, owned or operated by the Local Electric Utility.
- 1.98 “WREGIS” means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.



## ARTICLE 2: TERM

- 2.1 **TERM:** The term of this Agreement shall commence on the Effective Date and shall continue for twenty (20) years from the Actual Commercial Operation Date of the Facility (“Initial Term”, and together with any Renewal Terms, the “Term”), unless and until terminated earlier pursuant to the provisions of this Agreement. After the Initial Term, this Agreement may renew for a Facility, or all of the Generating Facilities, for additional five year terms (each a “Renewal Term”), if a written request for renewal is given by the Buyer at least one hundred eighty (180) days prior to the expiration of the Initial Term, or any Renewal Term, as the case may be. For each renewed Facility, the Parties shall confer and agree on a schedule for the Contract Price, Escalation Rate, Early Termination Fees, and Expected Annual Contract Quantity for any Renewal Term. The remainder of the terms and conditions shall remain substantially the same for each Renewal Term as for the Initial Term. If Seller consents to renewal of a Facility, it shall provide written notice of consent to the renewal within sixty (60) days of the date of the request by Buyer. If consent by Seller is not provided within such sixty (60) day period, this Agreement shall expire as to that Facility as of the last day of the Initial Term. No later than sixty 60 days after Seller provides consent to a Renewal Term, which consent shall state the mutually agreed upon schedule for the Price, Escalation Rate, Early Termination Fees, and Expected Annual Contract Quantity for such Renewal Term, Buyer shall confirm to Seller in writing of its intent to proceed with its option for a Renewal Term. Documentation of any such Renewal Term and changes to Contract Price, Early Termination Fees and Expected Annual Contract Quantity shall be in the form of an amendment to this Agreement. In the event Buyer does not provide such confirmation, this Agreement shall expire as of the last day of the Initial Term or applicable Renewal Term for such Facility. Upon expiration of the Initial or Renewal Term, Seller shall cause the Facility to be removed from the Project Site pursuant to Article 10.5(a). All timelines for action pursuant to this Section 2.1 may be extended at the Parties’ mutual written agreement.
- 2.2 **BUYER’S EXERCISE OF PURCHASE OPTION:** So long as a Buyer Default shall not have occurred and be continuing, Buyer has the option to purchase (the “Purchase Option”) a Facility for a purchase price equal to its FMV (the “Buyout Payment”), at any point after ninety-one (91) days after each of the sixth (6th), tenth (10th), or fifteenth (15th) anniversary of the Actual Commercial Operation Date of the Facility, or ninety (90) days prior to the end of Initial Term or Renewal Term, if applicable. If Buyer chooses to exercise the Purchase Option, the following steps shall be followed by the Parties:
- (a) Buyer shall provide Seller with at least two hundred and forty (240) days written notice of its intent to purchase the Facility on a date certain (such date, the “Buyout Date”).

- (b) For a reasonable period not exceeding thirty (30) days from the date of provision of notice referred to in Article 2.2 (a), the Parties shall make best efforts to agree on the selection of a nationally recognized independent, third-party professional appraiser with experience and expertise in the solar photovoltaic industry to determine the FMV as of the Buyout Date. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the Facility 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 FMV be less than the aggregate of: (i) the net present value (using a discount rate of nine percent 9%) of the projected payments over the Term, had the Term remained effective for the full initial Term, and (ii) any and all other amounts previously accrued under this Agreement and owed by Buyer to Seller as of the date of Facility title transfer. Within sixty (60) days of the selection of such appraiser, s/he shall evaluate and determine the FMV of the applicable Facility as of the Buyout Date and shall submit a report on same to the Parties. The costs of the appraisal shall be borne by Buyer.
- (c) In the event that the Parties cannot agree on the selection of an appraiser to determine the FMV, each Party shall, no later than sixty (60) days from the date of notice referred to in Article 2.2 (a), retain the services of a nationally recognized independent, third-party professional appraiser with experience and expertise in the solar photovoltaic industry. Each Party shall bear its own costs for its respective appraiser and of any appraisal conducted by him/her. Within fifteen (15) days of their retention, the two appraisers selected by the Parties shall mutually select a third nationally recognized independent, third-party appraiser with experience in the solar photovoltaic industry, whose services shall be equally paid for by the Parties. Within sixty (60) days of the selection of such third appraiser, the three appraisers shall evaluate and determine the FMV of the Facility and shall submit their reports to both Parties. The appraiser's valuation that diverges the greatest from each of the other two appraisers' valuations shall be disregarded, and the arithmetic mean of the remaining two appraisers' valuations shall be deemed to be the FMV of the Facility. If no such valuation may be established then the arithmetic mean of all three valuations shall be deemed to be the FMV of the Facility. The appraisers shall conduct their appraisals independently and shall not share the results of their appraisal or data with each other.
- (d) No later than sixty (60) days after determination of the FMV of the Facility, Buyer shall confirm to Seller in writing of its intent to proceed with its option to purchase the Facility at the Buyout Payment determined pursuant to this Article 2.2. In the event Buyer does not provide such written confirmation, the provisions of this Agreement shall be applicable as if Buyer had not exercised the Purchase Option.



- (e) If Buyer confirms its intent to proceed with its option to purchase as specified above, the Parties shall promptly execute all documents necessary to (i) cause title and ownership of the Facility to pass to Buyer on the Buyout Date, free and clear of any Liens, and (ii) to the extent such warranties are assignable, assign all warranties for the Facility to Buyer. Buyer shall pay the Buyout Payment to Seller on or about the Buyout Date, in accordance with any previous written instructions delivered to Buyer by Seller for payments under this Agreement. Upon such execution of documents and payment of the Buyout Payment, as to the Facility this Agreement shall terminate automatically and Buyer shall own the Facility and all Environmental Attributes and Existing Financial Incentives, if any, relating to the Facility. For the avoidance of doubt, payment of the Buyout Payment shall be in lieu of and instead of any payments described in Article 4 accruing from and after the Buyout Date. Seller shall provide all necessary cooperation with the Buyer to give prompt effect to this transfer.
- (f) All other personal property of the Seller not included in the Buyer's purchase shall be removed by Seller from the Project Site within ninety (90) days of the Buyout Date at no cost to Buyer.

2.3 TERMINATION: Buyer may terminate this Agreement as to any Facility prior to the expiration of the Initial Term without cause upon sixty (60) days' prior written notice. If Buyer elects to terminate this Agreement without cause for a Facility, Buyer shall pay to Seller the applicable Early Termination Fee. The Early Termination Fee shall be equal to the sum of (1) reasonable compensation, on a net after tax basis assuming a combined (Federal and State) effective tax rate of forty one (41%), for the loss or recapture of (a) during the first five years following the Actual Commercial Operation Date, the investment tax credit equal to thirty percent (30%) of the Facility value; (b) MACRS accelerated depreciation equal to eighty five percent (85%) of the Facility 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 Buyer with a detailed calculation of such compensation if such a claim is made), (d) other fixed financing costs not included in (a), (b) and (c), (2) the net present value (using a discount rate of nine percent (9%) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, (3) removal costs as provided in Section 13(b)(iii)(C) and (4) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. However, if Buyer terminates this Agreement for reasons otherwise specified in this Agreement including, but not limited to: (i) termination for CEQA compliance (Section 3.6); (ii) termination for Force Majeure (Article 8); and (iii) termination for failure of the Preliminary Requirements (Section 3.9), Buyer is not liable to the Seller for the Early Termination Fee. In the event that Buyer terminates this Agreement without cause, Seller shall, within one hundred eighty (180) calendar days of the

notice of termination from Buyer, or Buyer's payment of the Early Termination Fee, if applicable, shall cause the applicable Facility to be disconnected and removed from the Project Site, and shall remediate and restore the Project Site to the condition preceding the installation of the Facility as set forth in Section 10.5.

### **ARTICLE 3: ENGINEERING AND CONSTRUCTION REQUIREMENTS**

- 3.1 All elements of engineering, construction and installation of the Generating Facility and compliance with all California Solar Initiative ("CSI") requirements are Seller's sole responsibility, provided that Buyer cooperates in good faith with Seller to satisfy the requirements of CSI and those of the Local Electric Utility.
- 3.2 Seller shall provide services as described herein and pursuant to Exhibit B – Engineering and Construction Requirements.
- 3.3 [Intentionally left blank].
- 3.4 Seller shall provide weekly status reports from the Effective Date through the Actual Commercial Operation Date, as well as any additional briefing requested by Buyer.
- 3.5 Seller will create, maintain and provide to Buyer, minutes of meetings between Buyer's representatives and Seller's Project Management Team.
- 3.6 CEQA Compliance
  - (a) Compliance with the California Environmental Quality Act ("CEQA"), California Pub. Res. Code § 21000 et seq., is a condition precedent to the Buyer's obligations under this Agreement. The Seller shall not have any right to install a Facility until the Buyer has fully complied with CEQA, issued a statement to Seller attesting to the fact that Buyer has fully complied with CEQA as it relates to the Facility included in this Agreement, and issued a notice to proceed to Seller. In most cases, the Buyer expects to satisfy the CEQA requirements with a Notice of Exemption for each Generating Facility.
  - (b) If the Buyer, in its discretion, determines that a mitigated negative declaration ("MND") or environmental impact report ("EIR") is required to comply with CEQA, then Buyer shall, provide Seller with a written statement detailing the reasons that Buyer believes that a MND or an EIR is required to comply with CEQA, the estimated cost to comply with CEQA for the Facility, and a statement that it will or will not pay for the estimated cost to comply with CEQA for the Facility. If Buyer declines to pay for all of the estimated costs to comply with CEQA, then this Agreement shall terminate as to the Facility, and neither Party shall have any liability to the

other Party (other than any such liabilities that have accrued prior to such termination).

- (c) Within ten business days after the Effective Date, Buyer shall provide Seller either (1) a notice to proceed based on a Notice of Exemption under Section 3.6(a), or (2) the notice described pursuant to Section 3.6(b), including Buyer's election regarding payment of costs.

### 3.7 Engineering - Design Phase

During this phase, Seller shall proceed with all activities necessary to allow commencement of the construction phase, including completing the Preliminary Requirements (as set forth below) within the timeframes established in Schedule 8 [Project Site Milestones]. Upon completion of this phase, Seller shall proceed with the installation and construction phase. Seller's failure to meet Preliminary Requirements will be subject to Section 3.9 below.

#### (a) Preliminary Requirements:

- (i) Prior to the execution of this Agreement, the Seller must comply with the insurance requirements for the design phase included as Exhibit E (Insurance Requirements). Seller shall maintain such coverage throughout this phase.
- (ii) Seller must comply with all system design requirements set forth in Exhibit B [Engineering & Construction Requirements].
- (iii) Within the timeframe set forth in Schedule 8 [Project Site Milestones]:
  - (1) Seller shall notify the Buyer in writing of the Expected Commercial Operation Date. The Expected Commercial Operation Date shall be no later than the CSI reservation expiration date which is provided in Schedule 8 of this Agreement, or any extensions thereof.
  - (2) Each Party, upon request, shall furnish current certificates evidencing that the insurance coverage required in Exhibit E is being maintained.
- (iv) Within the timeframe set forth in Schedule 8 [Project Site Milestones]:
  - (1) Seller must have obtained a financing commitment for construction of each Facility and submitted a signed term sheet or redacted financing agreement as satisfactory proof of such financing commitment to the Buyer or in the alternative, Seller may certify in writing that Seller will be self-financing the construction of the Facility and that Seller has sufficient funds to do so. Such

certification shall be submitted by Seller in the Form of Certification in Exhibit G of this Agreement [Form of Certification].

- (v) Within the timeframe set forth in Schedule 8 [Project Site Milestones] for a Facility, Seller must have applied for a building permit for the Facility.
- (vi) Seller must have obtained approval from the Buyer, which shall not be unreasonably withheld, conditioned or delayed of the final 100% detailed engineering drawings and specifications for the Facility. Seller must submit 65% and final 100% detailed engineering drawings and specifications for the Facility to Buyer for approval no later the date set forth in Schedule 8 [Project Site Milestones].

### 3.8 Construction Phase

- (a) Prior to the execution of this Agreement, the Seller must comply with the insurance requirements for the construction phase included as Exhibit E (Insurance Requirements). Seller shall maintain such coverage throughout this phase.
- (b) Seller will cause each Facility to be designed, engineered, installed and constructed substantially in accordance with Exhibit B (Engineering and Construction Requirements) of this Agreement and Applicable Law, including but not limited to, the payment of Prevailing Wages, as applicable. All construction of a Facility, including but not limited to, any site preparation, landscaping or utility installation, shall be performed only by Seller or by independent contractors with demonstrated competence and experience in the construction of the photovoltaic systems, and duly licensed under the laws of the State of California, pursuant to written contracts with such contractors. Prior to the commencement of construction on a Facility, Seller shall deliver to Buyer for its review and approval, which approval shall not be unreasonably withheld, delayed, or conditioned, a complete set of plans and specifications relating to the installation of the Facility, which shall comply with all applicable uniform construction codes. Buyer shall be deemed to have approved such plans and specifications if Buyer fails to transmit notice of disapproval within the timeframe established in Schedule 8 [Project Site Milestones]. Buyer shall have the right, but not the obligation, to inspect all construction solely for the purpose of confirming that Seller is adhering to the specifications provided for in Exhibit B (Engineering and Construction Requirements) to this Agreement, provided that Buyer's inspections are done at a reasonable frequency and during reasonable dates and times.
- (c) Seller must comply with all requirements set forth in applicable building and electrical codes and Exhibit B (Engineering and Construction Requirements).

### 3.9 Parties' Rights to Terminate Prior to Commercial Operation

(a) Buyer's Rights to Terminate: If Seller fails to complete the Preliminary Requirements in conformance with Section 3.7 with respect to a Facility, Buyer may terminate this Agreement as to the applicable Facility without penalty, liability or expense of any kind to Buyer by providing to Seller a written notice of termination after the deadline for completion of the Preliminary Requirements; provided, however that any such written notice of termination for non-compliance with Article 3.7, sections (a)(i) – (a)(v) shall be provided by Buyer to Seller prior to the Commencement of Work Date and any written notice of termination for non-compliance with Article 3.7 section (a)(vi) may be provided by Buyer after the Commencement of Work Date. The Buyer may extend deadlines at its option. If Buyer elects to terminate this Agreement pursuant to this Section 3.9(a), Seller shall take all actions necessary to return the Project Site to the condition Seller first encountered them, at no cost to the Buyer. Buyer's right to terminate hereunder shall not be subject to the alternative dispute resolution procedures in Section 9.1. If Buyer determines that it wishes to exercise its termination right pursuant to this Section 3.9(a), Buyer shall give written notice to Seller within fifteen (15) days of such determination, specifying the basis for the termination. Upon receiving such notice, if Seller is able to cure, Seller shall have 45 days to provide a cure for the circumstance identified by Buyer as the basis for termination. The Seller shall not exercise its rights under section 3.9(a) until it has provided a written notice to the Seller of its intent to do so and allowed the Seller 45 days to attempt to cure. The Seller shall have the option, but not the obligation, to cure.

(b) Seller's Rights to Terminate: In the event that any of the following events or circumstances occur prior to the Actual Commercial Operation Date for a Facility, Seller may (at its sole discretion) terminate this Agreement, subject to Sections 3.9(d) and (e), as to the Facility, in which case neither Party shall have any liability to the other Party as to the Facility:

- (i) Seller has not received a fully executed (i) Grant of Access Right (Schedule 1 to this Agreement), and (ii) a release or acknowledgement from any mortgagee of the Project Site, if required by Seller or Seller's Financing Party, to establish the priority of its security interest in the Facility.
- (ii) Seller has not received evidence that interconnection services will be available with respect to energy generated by the Facility.
- (iii) Seller has reasonably determined that there are easements, covenants, conditions, or restrictions or other liens or encumbrances that would materially impair or prevent the installation, operation, maintenance or removal of the Facility.



Remediation: If Seller wishes to exercise its termination rights listed in section 3.9(b) with regard to a specific Facility, Seller shall take all actions necessary to return the Buyer's Project Site where the applicable Generating Facility was to be installed to the condition the Seller first encountered it in within ninety (90) days.

- (a) Buyer Option to Cure: Notwithstanding anything to the contrary, if Seller determines that it wishes to exercise termination pursuant to section 3.9(b), Seller shall give written notice to Buyer within 15 days of such determination, specifying the basis for the termination. Upon receiving such notice, if Buyer is able to cure, Buyer shall have 45 days to provide a cure for the circumstance identified by Seller as the basis for termination. The Seller shall not exercise its rights under section 3.9(b) until it has provided a written notice to the Buyer of its intent to do so and allowed the Buyer 45 days to attempt to cure. The Buyer shall have the option, but not the obligation, to cure.
- (b) Mutual Rights to Termination: Either Party shall have the right to terminate this Agreement, without liability to the other Party if:
  - (iv) Seller and Buyer mutually determine that the Project Site, as is, is insufficient to accommodate the Facility.
  - (v) Seller and Buyer mutually agree that there exist site conditions at the Project Site (including environmental conditions) or construction requirements that were not known as of the Effective Date and that could reasonably be expected to materially increase the cost of installing the Facility or would adversely affect the electricity production from the Facility as designed.
  - (vi) Seller and Buyer have reasonably determined that there has been a material adverse change in the rights of the Buyer to occupy the Project Site or the Seller to construct the Facility on the Project Site.

#### **ARTICLE 4: DELIVERY OF POWER, METERING & MONITORING**

##### **4.1 Purchase & Sale**

- (a) Commencing on the Actual Commercial Operation Date and continuing throughout the Term, subject to this Article 4, Seller shall sell and deliver at the Delivery Point, and Buyer shall purchase and accept from Seller at the Delivery Point, and pay for, the Output as follows:

Energy Pricing: The pricing for Energy delivered at the Delivery Point shall be the Contract Price for the current Contract Year. The invoice for Energy delivered by the Seller for the applicable monthly billing period shall be determined as follows:

P = Payment to Seller for Energy supplied to the Buyer over the billing period.  $P = EE \times EP$

EE = the total kWh of Delivered Energy to Buyer by Seller during the billing period.

EP= the Contract Price as per Schedule 6 to this Agreement – [Contract Price].

(b) Intentionally left blank.

(c) Meters

(i) The transfer of Energy from Seller to Buyer shall be measured by Meters at the Delivery Point, which are selected, provided, installed, owned, maintained, programmed and operated, at the Seller's sole cost and expense, by Seller or its designee. Meters and all metering activities shall comply with all applicable requirements of the Local Electric Utility Tariffs and the Buyer-PG&E Interconnection Agreement. Seller shall exercise reasonable care in the maintenance and operation of the Meters, and shall test and verify the accuracy of each Meter at least every two (2) years. Seller shall inform Buyer in advance of the time and date of these tests, and shall permit Buyer to be present at such tests and to receive the results of such tests. Metering must have an equivalent accuracy of +/- 2% or better and monitoring results from Seller's Performance Monitoring and Reporting Service (PMRS) that is viewable by Buyer at all times. Eligible meters and PMRS providers must be listed as approved on the Go Solar California website.

(ii) Single Viewing Kiosk for the Generating Facility: At the location of Buyer's choice, Seller will install a single Kiosk for viewing by the general public consisting of a 20"LCD screen with a computer and keyboard sufficient to view the Data Acquisition System ("DAS") monitoring of the Generating Facilities. The computer and keyboard shall be housed in a cabinet whose design, aesthetics, and cost are mutually agreed upon by Buyer and Seller. Buyer will allow Seller to use a 120v electrical outlet and data outlet located at the mutually agreed upon location which will be within a reasonable distance of an existing 120v electrical outlet. Seller's total installed cost of the Kiosk consisting shall not exceed \$5,000 US dollars. Following installation, Buyer shall provide and maintain communications equipment and services to the Kiosk.

(iii) Communications Equipment. After the Actual Operating Date Seller shall install, own and maintain, at its sole cost and expense,

communications equipment and services necessary to allow remote reading of the Meters.

- (iv) Meter Updates. Seller shall at its sole cost and expense, install any updates or upgrades to the Meters, and all associated measuring equipment necessary to permit an accurate determination of the quantities of Energy delivered under this Agreement. Seller shall permit the Buyer or Buyer's representative access to its Generating Facility for the purpose of verifying Meters.
- (d) Delivery Obligations. Beginning on the Actual Commercial Operation Date for each Facility, such Facility shall produce not less than 90% of its Expected Annual Contract Quantity (after accounting for weather-related) during the Initial Term or applicable Renewal Term, if any, measured on a four (4) year cumulative basis (the "Measurement Period"), unless, and then only to the extent that, the failure to satisfy the Expected Annual Contract Quantity is due to any downtime or Facility correction or repair resulting from the following: (a) Facility failure, damage to the system, theft, or downtime not caused by Seller or its approved service providers, (b) general utility outages or any failure of any electric grid, (c) a Force Majeure Event, (d) acts or omissions of Buyer of any of its obligations hereunder, provided that Buyer has received prior written notice from Seller of such acts or omissions, (e) if someone other than Seller or its approved service providers installed, repaired, or removed the system, or (f) any Buyer Act Outages (each of (a) through (f) a "Lost Output Event").

Subject to the terms and conditions of this Agreement, beginning on the fourth anniversary of the Actual Commercial Operation Date, and at the end of each successive four (4) year anniversary thereof, if the Actual System Output plus the Lost Output does not equal or exceed 90% of the Expected Annual Contract Quantity for such Measurement Period, then Seller will credit Buyer on its next invoice an amount equal to the product of (i) the average of the annual Contract Prices found in the applicable site Schedule 6 during such Measurement Period multiplied by (ii) the difference between the Actual System Output plus the Lost Output and the Expected Annual Contract Quantity for such Measurement Period.

- (e) Excess Energy. Buyer shall have the option, but not the obligation, to purchase the output of any facility that exceeds 110% of the expected annual contract quantity. Seller will first offer any energy beyond the 110% cap to buyer and, only if buyer does not exercise its option to purchase all or a portion of such excess energy, seller shall be permitted to resell the excess energy, provided such sale is in accordance will all applicable laws.



#### 4.1 Monitoring System and Web Interface

- (a) Seller shall install, maintain, control, and operate a monitoring system for each Facility meeting the following requirements (the "Monitoring System"):
- (i) The Monitoring System shall include, without limitation, ability to monitor revenue grade AC production data; weather data, (including ambient temperature and wind speed); and shall include a pyranometer.
  - (ii) Seller shall make available to Buyer a web-based tool or interface to view, collect and store data, in real time, including the energy delivered, and greenhouse gas emissions reduced.
  - (iii) The Monitoring System shall meet or exceed PG&E monitoring and reporting standards.
  - (iv) Additional requirements and specifications for monitoring are described in Exhibit C – (Operations Forecasts, Scheduling Protocols, & Monitoring).

#### 4.2 Delivery Point

- (a) Allocation of Costs and Risks. Except as expressly set forth in this Agreement, Seller is responsible for any costs or charges imposed on or associated with the Output or the delivery of the Output hereunder up to and at the Delivery Point. Except as expressly set forth in this Agreement, the Buyer is responsible for any costs or charges imposed on or associated with the Output, or its receipt, after the Delivery Point.

#### 4.3 Environmental Attributes

- (a) Throughout the Term, Seller shall transfer to Buyer, and Buyer shall receive from the Seller, all rights, title and interest in and to the Environmental Attributes, if any, whether now existing or subsequently generated or acquired (other than by direct purchase from a third party) by Seller, or that hereafter come into existence, during the Term, as a component of the Output purchased by Buyer from Seller hereunder. Seller agrees to transfer and make such Environmental Attributes available to Buyer immediately to the fullest extent allowed by applicable law upon Seller's production or acquisition of the Environmental Attributes. Seller agrees that the Contract Price, as applicable is the full compensation for all Environmental Attributes.
- (b) Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of any portion of the Environmental Attributes to any Person other than Buyer.

- (c) During the Term, Seller shall not report to any Person that the Environmental Attributes granted hereunder to the Buyer belong to anyone other than the Buyer, and the Buyer may report under any program that such attributes purchased hereunder belong to it.
- (d) WREGIS. If requested by Buyer, and at Buyer's expense, prior to the Actual Commercial Operation Dates of a Facility, Seller shall register the Facility in WREGIS, and take all other actions necessary to ensure that the Energy or Environmental Attributes produced by the Facility are issued and tracked through WREGIS for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred to Buyer as applicable.
- (e) If Buyer does not elect the use of WREGIS under Section 4.4(d), Seller shall document the production of Environmental Attributes under this Agreement by delivering on an annual basis to Buyer an attestation of Environmental Attributes produced by the Facility and purchased by Buyer in the preceding Contract Year. On or before the Anniversary Date of each year following a Contract Year, Seller shall document the transfer of Environmental Attributes to Buyer under this Agreement by delivering to the Buyer an attestation of Environmental Attributes transferred under this Agreement in the preceding Contract Year. The form of attestation is set forth as Exhibit D [Form of Attestation]. Exhibit D [Form of Attestation] hereto may be updated or changed by Buyer as necessary to ensure that the Buyer receives full and complete title to, and the ability to record with any EA Agency as its own, all of the Environmental Attributes purchased hereunder.
- (f) Documentation. At Buyer's option, the Parties, each at the Buyer's expense, shall execute all such documents and instruments in order to effect the transfer of the Environmental Attributes specified in this Agreement to the Buyer or its designees, as Buyer may reasonably request. Upon notification by an EA Agency that any transfers contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to the EA Agency to effectuate any transfers.

#### 4.4 Tax Credits and Financial Incentives

- (a) Buyer agrees to provide Seller information and documentation in support of Seller's rights and interests in Internal Revenue Service tax related benefits. In connection with Buyer's rights and interests in performance based incentive payments to be made under the CSI after the Actual Commercial Operation Date, Seller agrees to cooperate with Buyer,

including signing authorizations needed by Buyer, to obtain any such performance based incentives.

## ARTICLE 5: BILLING AND PAYMENT

### 5.1 Billing and Payment

- (a) During the Term on a monthly basis Seller shall invoice Buyer, and Buyer shall make payment for Energy delivered to Buyer, in accordance with Article 4. Such payment is full compensation to Seller for the Delivered Energy received under this Agreement. Invoices furnished by Seller under this Agreement must be in a form acceptable to the Buyer, and must include a unique invoice number.
- (b) All payments shall be made on or before thirty (30) days after receipt of an invoice. Each Party shall make payments by electronic funds transfer, if available, or by other mutually agreeable method(s), to the account designated by the other Party.
- (c) All payments made hereunder shall be made free and clear of any tax, levy, assessment, duties or other charges and except as specifically set forth herein, not subject to reduction, withholding, set-off, or adjustment of any kind.
- (d) Disputed Payments. If a *bona fide* dispute arises with respect to any invoice, Buyer shall pay the undisputed portion of the invoice and state, in writing, the basis for the dispute. If an amount disputed by Buyer is subsequently deemed to have been due pursuant to the applicable invoice, interest shall accrue at the Interest Rate on such amount in dispute from the date becoming past due under such invoice until the date paid.

### 5.2 Allocation of Taxes and Possessory Interest Tax

- 5.3 Buyer 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 Generating Facility or the interconnection of the Generating Facility to the Utility's electric distribution system, including property taxes on the Generating Facility; provided, however, Buyer will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Buyer due to the action or omission of Seller. For purposes of this section, "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. Nothing shall obligate or cause a Party to pay or be liable to pay Taxes for which it is exempt under the law.

## **ARTICLE 6: REMOVAL OF GENERATING FACILITY**

### **6.1 Removal and Disposal Fund Requirements**

- (a) Removal and Disposal Fund – General. In order to ensure that funds are available for the removal of the Generating Facilities and remediation of the Project Sites upon the expiration or termination of this Agreement, Seller agrees to establish an interest bearing escrow account at a federally insured banking institution to hold funds dedicated for such purpose (the "Removal Fund"). The terms for the escrow account shall be reasonably acceptable to the Buyer and the Seller.
- (b) Interest. All interest earned shall become part of the Removal Fund.
- (c) Buyer shall have the right to request and review Removal Fund balances at any point prior to expiration of Term, upon written notice to Seller.
- (d) Deposits. Seller shall make deposits into the Removal Fund in annual amounts of \$6 per KW, on the Actual Commercial Operation Date. Seller shall deposit equal annual amounts on the first day of each subsequent Anniversary Date during the Term. Seller agrees to deposit the annual amount until the Removal Fund (including interest income) has a balance equal to or greater than \$120 per KW of nameplate capacity of the Generating Facilities. Funds from the Removal Fund shall be disbursed, as needed, on a pro-rata per KW basis for individual Project Sites; however, Seller's costs of removal shall not be limited to amounts deposited in the Removal Fund.
- (e) Estimate of Removal Costs. No later than five hundred and forty-five (545) days prior to the expiration of the Term for each Facility, Seller shall provide Buyer a written estimate of the cost to remove the applicable Facility and restore the applicable Project Site to its condition prior to the installation of the Facility. The Parties shall meet and confer within thirty (30) days after such written estimate is received by Buyer to resolve any concerns regarding such estimated cost.

### **6.2 Abandonment.**

If Seller fails to complete its removal and restoration obligations under this Agreement within one hundred eighty (180) Days of after termination of this Agreement, then, in addition to Buyer's other remedies under this Agreement, at law or in equity for such failure, any part of a Facility and all personal property of Seller not removed from the Project Site within one hundred eighty (180) Days after such termination of this Agreement shall be

deemed abandoned by Seller, and shall become the property of Buyer, and Buyer may, at its option, remove and warehouse or otherwise dispose of such property or retain ownership thereof indefinitely, as it determines in its sole discretion. Buyer shall have no liability to Seller for any property deemed abandoned per this Section 6.2.

## **ARTICLE 7: SELLER'S ADDITIONAL OBLIGATIONS**

- 7.1 Seller shall provide Buyer with an as-built plan set after project completion.
- 7.2 Seller shall develop, finance, own, maintain and operate the Generating Facilities in accordance with this Agreement including the technical requirements set forth in Exhibits A [Technical and Warranty Requirements] and B [Engineering and Construction Requirements], access rights to the Project Sites, all Requirements of Law, all Permits, the Local Electric Utility Tariffs and Prudent Industry Practice. Additionally, Seller shall obtain the warranties described in Exhibit A [Technical and Warranty Requirements] for the equipment detailed therein.
- 7.3 Seller agrees to pay Prevailing Wages in connection with the construction and operation of the Generation Facilities. Seller also agrees to plan subcontracting and staffing levels according to its Workforce Plan in Exhibit F [Workforce Plan].
- 7.4 Milestones
- (a) Generally.

Seller shall diligently pursue all Milestones established pursuant to Exhibits A and B, Schedule 8, and the Expected Commercial Operation Date. The Parties agree that time is of the essence in connection with the completion of the Generating Facilities, and that Milestones for the development, financing and construction of the Generating Facilities must be achieved in a timely fashion. Seller will use best commercial efforts to achieve the Milestones mutually agreed to at the time this PPA executed by the Seller and Buyer.

- (b) Weekly Reports.

Unless otherwise specified in this Agreement, starting on the Effective Date, Seller shall provide weekly progress reports concerning the progress towards completion of the Milestones. In addition, within five (5) Business Days of the completion of each Milestone, Seller shall provide a certification to the Buyer (along with any supporting documentation) demonstrating the satisfaction of such Milestone. Seller shall provide to the Buyer additional information concerning Seller's progress towards, or confirmation of,

achievement of the Milestones, as the Buyer may reasonably request from time to time.

(c) Notice of Failure to Achieve a Milestone.

Upon becoming aware that Seller will, or is reasonably likely to, fail to achieve one or more Milestone(s) by the required date, for any reason including a Force Majeure Event, Seller shall so notify the Buyer in writing immediately. Such notice shall explain the cause of the delay, provide an updated date for achievement of the Milestone(s), and describe Seller's plan for meeting such Milestone(s). Seller's notice will also explain any impact such delay may, or will have, on any other Milestone, and the measures to be taken to mitigate such impact.

(d) Facility Substantial Completion Inspection.

Seller shall notify Buyer when Substantial Completion of a Facility is achieved. At discretion of Buyer, Seller shall schedule and arrange for Buyer to conduct an inspection of the Facility after Substantial Completion. The inspection shall be scheduled for a date, mutually agreeable to Seller and Buyer, which is within ten (10) Business Days of Seller's notification of Substantial Completion of the Facility. Based on the inspection, Buyer may, within ten (10) Business Days of the inspection, prepare and provide to Seller a punch list of any observed defects or deficiencies in the construction work or discrepancies between installed equipment and workmanship and this Agreement. Seller is responsible for completion, correction, or otherwise addressing issues identified by the Buyer, and shall provide a written response to document actions taken in response to the punch list items. If requested by Buyer, Seller shall schedule and arrange a follow-up inspection for Buyer after all punch list items are resolved. All punch list items shall be resolved prior to the Actual Commercial Operation Date of the Facility except those items specifically excepted by mutual agreement between Buyer and Seller.

(e) Force Majeure Event.

In the event that a Force Majeure Event causes any delay in the achievement of a Milestone, such Milestone's deadline may be extended, together with any Force Majeure Event extensions for other Milestones, for a period not to exceed, in the aggregate, six (6) months. The extension of the deadline for any Milestone shall extend the deadline for all subsequent Milestones, provided that in no event shall the combined extensions for Force Majeure Events for any or all of the Milestones exceed six (6) months. The extension provided for in this Section 7.4 shall be the only effect of a Force Majeure Event on Seller's obligations with respect to the Milestones. Should a Force Majeure Event beyond such six (6) month period, then either Party shall be entitled to terminate this Agreement upon



prior written notice to the other Party. Upon such termination for a Force Majeure Event, neither Party shall have any liability to the other (other than any such liabilities that have accrued prior to such termination), and the Buyer shall not be required to pay the Early Termination Fee. For any termination under this section, Seller shall be required to remove any portion of the Facility then installed, and shall remediate and restore the Project Site to the condition preceding the installation of the applicable Generating Facility as set forth in Section 10.5.

(f) Waiver of Right.

The Buyer may, at its discretion, grant waivers for Seller's failure to meet any of the Milestones, but in no way shall any such waiver constitute a waiver of any future failures by Seller to meet other Milestones.

7.5 Compliance: Seller shall, in its own name and at its own expense, seek, obtain, maintain, comply with and, as necessary, renew and modify from time to time, all Permits and other authorizations that are required by any Requirements of Law, the Local Electric Utility Tariffs or any Governmental Authority as are necessary for Seller to engage in the activities and obligations required by this Agreement.

7.6 Maintenance, Audit and Inspection of Records

(a) Maintenance of Records. Seller shall maintain any and all documents and records which demonstrate performance under this Agreement and any lease or license relating to the Generating Facilities, and all ledgers, books of account, invoices, vouchers, cancelled checks, and other documents evidencing or relating to charges for services, or expenditures and disbursements charged to Buyer for a minimum period of five (5) years, or for any longer period required by law, from the date of final payment to Seller pursuant to this Agreement.

(b) Inspection. Any documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at no cost to Buyer, at any time during regular business hours, upon written request by a designated representative of the Buyer. Seller shall provide copies of such documents to Buyer for inspection at a time and place that is convenient to Buyer.

7.7 Insurance:

Seller shall obtain and maintain the policies of insurance in amounts and with coverage as set forth in Exhibit E [Insurance Requirements] for the term of this Agreement.

#### 7.8 Commissioning Tests:

Seller shall comply with all applicable Local Electric Utility requirements for pre- operational testing. In addition, no later than fourteen (14) days prior to conducting its Commissioning Tests, Seller shall notify Buyer of the date on which it intends to conduct such tests. Within seven (7) days of the successful completion of Seller's Commissioning Tests, Seller shall provide to Buyer written notification of the Actual Commercial Operation Date, including any relevant data demonstrating that Actual Commercial Operation has occurred. Buyer has the right to be present during any Commissioning Test, and to receive all information, including meter and performance data associated with such tests. Seller may change the date for such tests upon written notice to Buyer, provided that Buyer has at least fourteen (14) days' notice of the date of such tests.

#### 7.9 Obligation to Interconnect:

Seller shall be responsible for the interconnection of the Facility to the Project Site electrical system and shall be solely responsible for all equipment, maintenance, and repairs associated with such interconnection equipment in accordance with the terms and conditions of this Agreement. Buyer shall at all times own and be responsible for the operation and maintenance of the Project Site electrical system at and from the Delivery Point.

Seller, with Buyer's assistance, shall, at it's own cost and expense, enter into net metering arrangements by executing such agreements, including Interconnection Agreements, as may be required by the Local Electric Utility to permit the interconnection of the Facility with the Project Site electrical system and to allow any output of the Facility not consumed by the Project Site to flow to the Local Electric Utility. Seller shall promptly provide copies of such agreements and arrangements to Buyer when executed. Seller shall be responsible for all costs under any Interconnection Agreement and any other agreements with the Local Electric Utility including but not limited to the costs of any upgrades to the Transmission System associated with the Interconnection of the Project Site electrical system. Per California net metering laws, there are no interconnection fees.

#### 7.10 Facility Conformance to Buyer Specifications. Seller shall assure that each Facility remains in conformance with the most recent version of the as-built drawings approved by the Buyer and all specifications and requirements of this Agreement during the Term, including when maintenance is performed or when modifications are implemented. Seller has the right to modify the design of the Facility subject to the Buyer's approval, not to unreasonably conditioned, delayed, or withheld. Buyer may, at any time, prepare and provide to Seller a letter or notice of any observed defects, deficiencies or deviations between each Facility and the most recent version of the as-built drawings approved by the Buyer, or any specification or requirement of this



Agreement. Within twenty (20) Days of Buyer's notification, Seller shall correct or address the issue(s) or propose to Buyer a reasonable schedule for correcting or addressing the issue(s). The schedule shall be subject to the written consent of the Buyer, which consent shall not be unreasonably withheld or delayed.

7.11 Coordination with Local Electric Utility and Western Electricity Coordinating Council ("WECC")

- (a) Local Electric Utility and WECC Standards. Each Party shall undertake its obligations under this Agreement in compliance with all applicable (i) operating policies, criteria, rules, guidelines, tariffs and protocols of the Local Electric Utility; (ii) WECC scheduling practices; and (iii) Prudent Utility Practices.
- (b) Start-ups and Shut-downs. Seller shall coordinate all Facility start-ups and shut-downs, in whole or in part, with Buyer in accordance with the reasonable protocols established by Buyer in Exhibit C [Operations Forecasts, Scheduling Protocols, & Monitoring].

7.12 Seller and Buyer shall use commercially reasonable efforts to minimize the number and duration of Outages during periods when the Facility otherwise would be able to produce Energy. Seller's Planned Outages shall be limited to no more than five (5) calendar days per Contract Year. Seller is responsible for all expenses and costs associated with all requirements and timelines for generation Outage scheduling. Planned and forced Outages shall be coordinated between Seller and Buyer in accordance with Exhibit C [Operations Forecasts, Scheduling Protocols, & Monitoring].

- (a) Buyer Act Outages. For each Facility, Buyer shall be permitted to be off line for a total of forty-eight (48) Daylight Hours per Contract Year during the Term, during which hours Buyer shall not be obligated to accept or pay for Output from a Facility. If Buyer's outages exceed a total of forty-eight (48) hours, Seller shall estimate the Deemed Generated Energy for such outages and invoice Buyer for such amount. In the event that a Buyer Act results in a Disruption Period that is greater than thirty (30) calendar days in any Contract Year, or more than eighty (80) days in the aggregate when added to all prior Disruption Periods, then Buyer shall (i) pay Seller for all work required by Seller to disassemble or move the Facility, which work shall be undertaken within thirty (30) days of Buyer notice to Seller, and (ii) continue to make all payments for the Energy that was expected to be delivered during such Disruption Period exceeding thirty (30) days annually, or eighty (80) days in aggregate, and (iii) reimburse Seller for lost revenue associated with any Existing Financial Incentives recaptured by a Governmental Authority during such Disruption Period exceeding thirty (30) days annually, or eighty (80) days in the aggregate. For the purpose of calculating estimated Energy and lost revenue for such

Disruption Periods, Energy shall be deemed to have been produced at the average rate over the preceding twelve (12) months (or, if the Disruption Period occurs within the first twelve (12) months of operation, the average over such period of operation).

- 7.13 Transmission and Distribution Maintenance Information: If either Party receives information from the Local Electric Utility regarding maintenance that will directly affect the Generating Facilities, it will provide the information promptly to the other Party.
- 7.14 Modifications to the Generating Facilities After Its Applicable Actual Commercial Operation Date

After the Actual Commercial Operation Date of a Facility, Seller shall have no right to change, replace or alter the Facility nor attach fixtures or erect additions or structures in or upon the Facility (collectively "Alterations") without receiving prior written approval of Buyer prior to undertaking any such Alterations. Seller shall submit to Buyer detailed and complete plans and specifications for the proposed Alterations. To the extent any change, replacement or alteration consists solely of modification or replacement of like-kind equipment it shall not be deemed to be an Alteration. Buyer shall not unreasonably delay, condition or withhold written approval of Seller's proposed Alteration, provided that such Alteration shall impose no additional burdens or obligations on Buyer. As a condition to consenting to the Alterations, Buyer may impose reasonable requirements, including the reimbursement of any costs incurred by Buyer in responding to Seller's request or inspecting such Alterations. Any such Alterations performed by Seller shall be performed in accordance with all Applicable Laws and Requirements, including any and all necessary Permits and approvals to be obtained from Buyer. Seller agrees to provide Buyer with sufficient advance notice of any proposed Alterations to allow the coordination and consideration by Buyer of the construction schedule for such Alterations. Notwithstanding the foregoing, Seller's routine repair, replacement, or maintenance of the equipment components of the Facility shall not require Buyer's consent, but shall require sufficient advance notice to Buyer.

## **ARTICLE 8: FORCE MAJEURE**

### **8.1 Force Majeure Events**

- (a) Excuse. Subject to Article 8.2 below, and except as expressly set forth herein, neither Party shall be considered in default under this Agreement for any delay or failure in its performance under this Agreement (including any obligation to deliver or accept Output) if such delay or failure is due to a Force Majeure Event. "Force Majeure Event" means an event or circumstance that:

- (i) was not anticipated on the Effective Date.
  - (ii) is not attributable to the fault or negligence or action or inaction on the part of that Party;
  - (iii) is caused by factors beyond that Party's reasonable control; and
  - (iv) Despite taking all reasonable technical and commercial precautions and measures to prevent, avoid, mitigate or overcome such event and the consequences thereof, the Party affected has been unable to prevent, avoid, mitigate or overcome such event or consequences.
- (b) Subject to this Article 8, a "Force Majeure Event" may include, but is not limited to:
- (i) acts of Nature such as storms, floods, lightning and earthquakes;
  - (ii) sabotage or destruction by a third party of facilities and equipment relating to the performance by the affected Party of its obligations under this Agreement;
  - (iii) Local Electric Utility transmission system or distribution system outage or failure not caused by Seller or Seller activities;
  - (iv) war, riot, acts of a public enemy or other civil disturbance;
  - (v) strike, walkout, lockout or other significant labor dispute;
  - (vi) theft, vandalism, accidents, or construction related power interruptions and mechanical moves; and
  - (vii) a Budgetary Non-Appropriation Event (as defined in Section (d) below)
- (c) Exclusion. "Force Majeure Event" does not include the following:
- (i) economic hardship of either Party except pursuant to 8.1(d);
  - (ii) an Outage, except if caused directly by an event or circumstance that meets the requirements set forth in this Article 8.1;
  - (iii) failure or delay in the granting of Permits;
  - (iv) failures or delays by the Local Electric Utility in entering into, or performing under, all agreements with Seller contemplated by this Agreement;

- (v) insufficiency, unavailability, failure, or diminishment of solar resource, except as a result of an event that would otherwise qualify as a Force Majeure Event
- (d) Notwithstanding anything to the contrary, due to the constitutional limitations on Buyer it may choose not to appropriate funds for the procurement of any utility services for Buyer for a particular fiscal year (a "Budgetary Non-Appropriation Event"). During a Budgetary Non-Appropriation Event, if the Buyer does not otherwise have other funds available to make payments otherwise due under this Agreement, the Buyer is not obligated to pay for (and the Seller shall not be required to deliver) any services provided under this Agreement until the Budgetary Non-Appropriation Event has terminated; *provided* that Buyer shall reimburse Seller for payments of any energy delivered during a Budgetary Non-Appropriation Event if funds for utility services are appropriated retroactively. Buyer agrees that it shall use its best efforts to seek appropriation for utility services during the term of this Agreement. If a Budgetary Non-Appropriation Event continues for more than 180 days, Seller (but not Buyer) may terminate this Agreement.

## 8.2 Conditions

- (a) In addition to the conditions set forth in Article 8.1(a) above, a Party may rely on a claim of a Force Majeure Event to excuse its performance only to the extent that such Party:
  - (i) provides prompt written notice of such Force Majeure Event to the other Party, giving an estimate of its expected duration and the probable impact on the performance of its obligations under this Agreement;
  - (ii) exercises all reasonable efforts to continue to perform its obligations under this Agreement;
  - (iii) expeditiously takes action to correct or cure the event or condition excusing performance so that the suspension of performance is no greater in scope and no longer in duration than is dictated by the problem; provided, however, that settlement of strikes or other labor disputes shall be completely within the sole discretion of the Party affected by such strike or labor dispute;
  - (iv) exercises all reasonable efforts to mitigate or limit damages to the other Party; and
  - (v) provides prompt written notice to the other Party of the cessation of the event or condition giving rise to its excuse from performance.

### 8.3 Termination Due To Force Majeure Event

In addition to and without limiting any other provisions of this Agreement, if a Party is prevented from performing its material obligations under this Agreement for a period of three hundred and sixty-five (365) consecutive days or more (whether full or partial days) due to a Force Majeure event, the other Party may terminate this Agreement, without liability of either Party to the other, upon thirty (30) days written notice after the Force Majeure Event. In the event that a Facility is unable to function for a period of three hundred and sixty-five (365) consecutive days and this Agreement as it relates to that Facility is thereby terminated, Seller shall be responsible for removing the applicable Facility and restoring the Project Site where the applicable Facility was installed to its pre-installation condition within ninety (90) days after provision of written notice. Seller agrees to work in good faith to keep Buyer informed of its plans to address the Force Majeure Event. If such Force Majeure Event results in a Facility being unable to function for a period of eighty consecutive (80) days then within ten (10) days of such event, Seller shall present Buyer with a plan to restore the Facility. For avoidance of doubt, Seller termination for a Force Majeure Event under Section 8.1(b)(vii) (Budgetary Non-Appropriation Event) shall be in accordance with the timeframes set forth in Section 8.1(d).

## **ARTICLE 9: DISPUTE RESOLUTION**

- 9.1 The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within fifteen (15) days after the date that a Party gives written notice of such Dispute to the other Party, other than the Seller's failure to comply with the Preliminary Requirements in Section 3.7 for which a specific Buyer termination procedure exists pursuant to Section 3.9 which shall not require compliance with Section 9.1. Except to the extent that this Agreement expressly permits a Party to suspend performance, pending final resolution of a Dispute, the Parties shall each proceed diligently and faithfully with performance of their respective obligations under this Agreement. If the Dispute remains unresolved, either Party may require that a non-binding mediation take place. In such mediation, representatives of the Parties with authority to resolve the dispute shall meet for at least three (3) hours with a mediator mutually agreeable to the parties whom they choose together, and share costs for such equally.
- 9.2 Notwithstanding anything to the contrary, this Article is not intended to limit or restrict the rights of either Party to seek any judicial remedy or otherwise negate the requirements of the Government Claims Act, if applicable.

## ARTICLE 10: DEFAULT & REMEDIES

### 10.1 Events of Default Generally.

The following is a list of non-exclusive events of default (each, an “Event of Default,” and collectively “Events of Default”) They shall constitute a Seller’s default or Buyer’s default as specified below and are in addition to those Events of Default specified in Sections 10.2 and 10.3:

- (a) Seller delivers to Buyer, without Buyer’s consent, energy or other product from a resource other than the Generating Facilities specified in this Agreement; or
- (b) If, for twelve (12) consecutive months, a facility does not meet fifty percent (50%) of the expected annual contract quantity for such twelve-month period as specified in schedule 7 of this Agreement after adjustments for weather and lost output events; or
- (c) Seller sells or transfers output to any person other than Buyer, except as may be permitted herein; or
- (d) Either Party fails to maintain any insurance required pursuant to this Agreement, and such failure is not cured within five (5) business days after notice by the other party; or
- (e) A court shall have made or entered any decree or order: (i) adjudging a Party to be bankrupt or insolvent; (ii) approving as properly filed a petition seeking reorganization of such Party or an arrangement under the bankruptcy laws or any other applicable debtor’s relief law or statute of the United States or any state thereof; (iii) appointing a receiver, trustee or assignee of such Party in bankruptcy or insolvency or for its property; (iv) directing the winding up or liquidation of such Party and such decree or order shall have continued for a period of sixty (60) days; or (v) such Party shall have voluntarily submitted to or filed a petition seeking any such decree or order; or
- (f) The sequestration or attachment of or execution or other levy by a Governmental Authority on a Party’s interest in this Agreement or the Project Site or any improvements located thereon shall have occurred and such Party shall have failed to obtain a return or release of such property within thirty (30) days thereafter, or prior to sale pursuant to such levy, whichever first occurs; or
- (g) The occurrence of any act or omission on the part of a Party which operates to suspend, revoke or terminate any certificate, permit, franchise, approval, authorization or power necessary for a Party to lawfully conduct the operations which a Party is required or permitted to conduct on the



Project Site and the defaulting Party fails to cure such breach within thirty (30) days after the non-defaulting Party's written notice or (B) fails to commence and pursue a cure within such thirty (30) day period if a longer cure period is needed; or

- (h) A mechanics lien is filed against the Facility because of any act or omission of the Seller, that has not been discharged, bonded or contested by the Seller in good faith by proper legal proceedings within twenty (20) calendar days after receipt of notice.

## 10.2 Seller Defaults and Buyer Remedies

- (a) Seller Defaults. The following events shall be defaults with respect to Seller (each, a "Seller Default"):

- (i) A Bankruptcy Event shall have occurred with respect to Seller;
- (ii) Seller fails to pay Buyer any undisputed amount owed under this Agreement within sixty (60) days after receipt of notice from Buyer of such past due amount;
- (iii) Seller breaches any material term of this Agreement, (including, where applicable to Seller, the circumstances listed in Section 10.1), and (A) if such breach can be cured within thirty (30) days after Buyer's written notice of such breach and Seller fails to so cure, or (B) Seller fails to commence and pursue a cure within such thirty (30) day period if a longer cure period is needed; and
- (iv) Any material representation or warranty made by Seller hereunder is false or misleading in any material respect and such misrepresentation is not cured within ten (10) business days from the earlier of (a) written notice from the Party affected by the misrepresentation and (b) the actual discovery or determination by any responsible personnel of a Party of its misrepresentation; provided, that if the Party that has made the misrepresentation commences an action to cure such misrepresentation within such ten (10) business day period, and thereafter proceeds with all due diligence to cure such failure, the cure period shall extend for an additional thirty (30) days after the expiration of the initial ten (10) business day period.

- (b) Buyer's Remedies. If a Seller Default described in Article 10 has occurred and is continuing, in addition to all rights and remedies expressly provided herein, Buyer may terminate this Agreement and exercise any other remedy it may have at law or equity or under this Agreement; provided that no such termination or exercise of remedies may occur unless and until written notice of Seller Default has been delivered by Buyer to each Financing Party – the identity of which Seller will have provided to Buyer,

and such Seller Default has not been cured within thirty (30) days of delivery of such notice or a Financing Party has failed to commence and pursue a cure to the reasonable satisfaction of the Buyer within such thirty (30) day period if a longer cure period is needed. Any Financing Party is an intended third-party beneficiary of this Article 10. Upon Buyer's exercise of termination rights pursuant to this subsection, Buyer may, at its option, provide written notice to Seller to remove the Facility from the Project Site of the Buyer. If Buyer makes such election, Seller shall be responsible for removing the Facility at its own cost and restoring the site where the Generating Facility was installed to its pre-installation condition, within 180 days of provision of written notice.

- (c) No Early Termination Fee. Buyer's exercise of its rights under this section 10.2 will not obligate it to pay an Early Termination Fee.

### 10.3 Buyer Defaults and Seller Remedies

- (a) Buyer Default. The following events shall be defaults with respect to Buyer (each, a "Buyer Default"):

- (i) A Bankruptcy Event shall have occurred with respect to Buyer;
- (ii) Buyer fails to pay Seller any undisputed amount owed under the Agreement within sixty (60) days after receipt of notice from Seller of such past due amount, which Seller shall send to Buyer 45 days after amount is due;
- (iii) Buyer breaches any material term of this Agreement, (including where applicable to Buyer, the circumstances listed in Article 10.1), if (A) such breach can be cured within thirty (30) days after Seller's notice of such breach and Buyer fails to so cure, or (B) Buyer fails to commence and pursue said cure within such thirty (30) day period if a longer cure period is needed;
- (iv) Buyer's modification or change in use of the Project Site that will or would reasonably be expected to impact the Output of the Facility without Seller's prior written consent; and
- (v) Buyer's failure to provide Access Rights to a Facility as required pursuant to Schedule 1.

- (b) Seller's Remedies. If a Buyer Default described in Article 10 has occurred and is continuing, in addition to all rights and remedies provided at law or in equity, and all the rights and remedies expressly provided to Seller pursuant to this Agreement, and subject to Article 11, Seller may terminate this Agreement and demand payment of the Early Termination Fee by Buyer as specified in Schedule 2 of this Agreement. Upon such termination, Seller shall remove the applicable Facility and shall remediate



and restore the Project Site to the condition preceding the installation of the applicable Facility as set forth in Section 10.5.

#### 10.4 Limitation of Liabilities

- (a) Except as otherwise specifically and expressly provided in this Agreement, and except as may be included in the Early Termination Fee, neither Party shall be liable to the other Party under this Agreement for any indirect, special or consequential damages, including loss of use, loss of revenues, loss of profit, interest charges, cost of capital or claims of its buyers or members to which service is made.
- (b) Under no circumstances shall the non-defaulting Party be required to make a termination payment or any other payment to the defaulting Party (except for payments due under this Agreement for performance prior to termination).
- (c) To the extent an Event of Default occurs as to an individual Facility, but not all of the Generating Facilities, this Agreement will terminate as to such Facility and will remain in full force and effect as to any Facility not impacted by the default.

#### 10.5 Effect of Termination - Survival of Obligations

- (a) Removal and Restoration. Unless the Parties otherwise mutually agree in writing, upon expiration of any Initial or Renewal Terms, or upon termination of this Agreement as to a Facility for any reason other than the exercise of the Purchase Option pursuant to Section 2.2, Seller shall disconnect and remove the Facility from the Project Site and shall remediate and restore the Project Site to the condition preceding the installation of the Facility at no cost to the Buyer. Within one hundred eighty (180) calendar days after payment of the Early Termination Fee, Seller shall remove the Facility and shall remediate and restore the Project Site to the condition preceding the installation of the Facility. If the Facility is located on Buyer's roof, Seller shall ensure that its removal shall not affect the integrity of the roof, including, without limitation, its leak proof capacity (other than ordinary wear and tear). Upon removal of the Facility, Seller shall leave the applicable site in broom-clean condition at no cost to the Buyer. Should Seller fail to comply with any obligation to remove the Facility and restore the Project Site as required herein, Buyer shall be entitled to draw on the Removal Fund in order to fulfill Seller's removal and restoration obligations herein, and if any such funds are exhausted, Buyer may exercise any remedies it may have at law or equity against Seller for failure to comply with the terms herein.
- (b) The following sections shall survive termination or expiration of this Agreement:

- (i) Obligations to pay by either Party that have accrued prior to termination or expiration
- (ii) Indemnification obligations
- (iii) Limitation of liability provisions
- (iv) Obligations to remove the Generating Facility and remediate the Project Site
- (v) Obligations (if any) to repair damage caused by either Party (13.27)
- (vi) Obligations to retain records and provide access to same (13.28)
- (vii) Restriction regarding use of Buyer's name for commercial purposes (13.34)
- (viii) This provision, section 10.5.

#### 10.6 Indemnification

To the fullest extent permitted by law, each Party ("Indemnifying Party") shall defend, indemnify and hold harmless, with counsel of its own choosing (subject to terms of the next paragraph), the other Party, and its permitted successors and assigns, and their elective or appointive board, officers, directors, employees, agents, affiliates and representatives (each, an "Indemnified Party") from and against any and all claims, liability or losses, including but not limited to those losses arising from (i) personal injury or death, (ii) damage to property, (iii) taxes for which the Indemnifying Party is responsible under this Agreement, (iv) fines or penalties payable by the Indemnified Party, or (v) any other actions resulting in damages, losses or liabilities to the extent such losses result from or arise out of or in any way are connected with the Indemnifying Party's performance of this Agreement or, in the case of Seller, the design, construction, use, operation, maintenance, or removal of a Facility, except as may arise solely from the negligence, willful misconduct or violation of law by the Indemnified Party, its officers, employees, subcontractors or agents. Notwithstanding the above, an Indemnifying Party shall not be required to defend, indemnify and hold harmless an Indemnified Party for the Indemnified Party's own negligent acts, omissions or willful misconduct. It is the intent of the Parties that where negligence is determined to have been joint or contributory, principles of comparative negligence will be followed, and each Party shall bear the proportionate cost of any loss damage, expense or liability attributable to that Party's negligence.

The Indemnifying Party shall defend any claims, liabilities, or lawsuits at its cost and expense. The Indemnifying Party shall defend the Indemnified Party by counsel (including insurance counsel) of the Indemnifying Party's selection

reasonably satisfactory to the Indemnified Party, with respect to any claims within the indemnification obligations hereof. The Parties shall give each other prompt written notice of any asserted claims or actions indemnified against hereunder and shall cooperate with each other in the defense of any such claims or actions. No Indemnified Party shall take any action relating to such claims or actions within the indemnification obligations hereof without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld, and no Indemnifying Party shall settle any such claims without the Indemnified Party's prior written consent, unless the settlement includes a full and unconditional release of claims against the Indemnified Party.

If Indemnifying Party refuses or fails to undertake or diligently prosecute such defense on behalf of Indemnified Party, Indemnified Party will have the right to provide its own defense, and Indemnifying Party will reimburse Indemnified Party for such expenditures, including reasonable attorney's fees and costs. Indemnifying Party's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of Indemnified Party or any other person, except as may arise solely from the negligence or solely from the willful misconduct of the Indemnified Party, its officers, employees or agents, and shall apply without limitation to claims and litigation arising under the Americans with Disabilities Act, inverse condemnation, or any other statutory or legal theory. All obligations under this section are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this Agreement.

To the extent that a portion of Seller's services under this Agreement are design professional services subject to Civil Code Section 2782.8, and to the extent that a particular claim or litigation arises from such design professional services, Seller's obligations under this Section shall be subject to any applicable limitations mandated by Civil Code Section 2782.8.

Seller shall, at its own expense, indemnify, defend, settle, and hold harmless the Buyer and its agencies against any claim or potential claim that any service, technology or good provided by Seller to Buyer under this Agreement, or Buyer's use thereof, infringes any patent, trademark, copyright or other intellectual property rights, including trade secret rights. Seller shall pay all costs, damages and attorneys' fees that a court awards against Buyer as a result of any such claim.

## **ARTICLE 11: REPRESENTATIONS, WARRANTIES AND COVENANTS**

### **11.1 Seller's Representations, Warranties and Covenants**

- (a) Seller represents, warrants, and covenants to the Buyer that as of the date of the execution of this Agreement:

- (b) Seller is duly organized and validly existing as a <INSERT LOCATION e.g. DELAWARE >limited liability company, and has the lawful power to engage in the business it presently conducts and contemplates conducting in this Agreement and Seller is duly qualified in each jurisdiction wherein the nature of the business transacted by it makes such qualification necessary;
- (c) Seller has the legal power and authority to make and carry out this Agreement and to perform its obligations hereunder; all such actions have been duly authorized by all necessary proceedings on its part;
- (d) This Agreement has been duly and validly executed and delivered by Seller and, as of the Effective Date, constitutes a legal, valid and binding obligation of Seller, enforceable in accordance with its terms against Seller, except to the extent that its enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally or by general principles of equity;
- (e) There are no actions, suits, proceedings or investigations pending or, to the knowledge of Seller, threatened in writing against Seller, at law or in equity before any Governmental Authority, which individually or in the aggregate are reasonably likely to have a materially adverse effect on the business, properties or assets or the condition, financial or otherwise, of Seller, or to result in any impairment of Seller's ability to perform its obligations under this Agreement;
- (f) Seller will deliver to Buyer at the Delivery Point the Delivered Energy free and clear of all liens, security interests, claims and encumbrances or any interest therein, or thereto, by any Person.
- (g) Prior to conveyance to Buyer, Seller holds and will hold throughout the Term, the rights to all Environmental Attributes, which it has conveyed and has committed to convey to Buyer hereunder; and
- (h) The execution, delivery and performance of this Agreement by Seller will not conflict with its governing documents, any applicable laws, or any covenant, agreement, understanding, decree or order to which Seller is a party or by which it is bound or affected.

#### 11.2 Seller's Additional Representations, Warranties and Covenants

- (a) Seller warrants, represents and covenants that all of its operating and maintenance personnel shall be adequately qualified and trained throughout the term of this Agreement.
- (b) Seller shall conform to all requirements in Exhibits A and B of this Agreement and shall operate and maintain the Generating Facilities in accordance with Prudent Industry Practices.

- (c) Seller covenants to maintain and repair the Project Sites if such maintenance and repairs are necessary as a direct result of Sellers' authorized or permitted use, including without limitation, the repair of any roofs to the reasonable satisfaction of Buyer.

### 11.3 Buyer Representations and Warranties

Buyer represents and warrants to Seller that as of the Effective Date of this Agreement:

- (a) Buyer has the legal power and authority to make and carry out this Agreement and to perform its obligations hereunder and all such actions have been duly authorized by all necessary proceedings on its part; and
- (b) This Agreement has been duly and validly executed and delivered by Buyer and, as of the Effective Date, constitutes a legal, valid and binding obligation of Buyer, enforceable in accordance with its terms against Buyer, except to the extent that its enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the rights of creditors generally or by general principles of equity; and
- (c) There are no actions, suits, proceedings or investigations pending or, to the knowledge of Buyer, threatened in writing against Buyer, at law or in equity before any Governmental Authority, which individually or in the aggregate are reasonably likely to result in any impairment of the Buyer's ability to perform its obligations under this Agreement. Seller and Buyer further understand and agree that the Buyer is entering into this Agreement in its capacity as a purchaser of electric power. Nothing in this Agreement shall limit in any way Seller's obligation to obtain any required approvals from departments, boards, commissions or governmental entities having jurisdiction over this Agreement. By entering into this Agreement, Buyer is in no way modifying Seller's obligation to cause the Generating Facility to be installed and operated in accordance with all Requirements of Law.
- (d) Buyer represents that during the five (5) year period prior to the Effective Date, Buyer sufficient funds for the procurement of utility services have been appropriated by the County.

## **ARTICLE 12: ASSIGNMENT AND FINANCING**

### 12.1 Collateral Assignment and Assignment to Financing Parties

Buyer acknowledges that Seller will be financing the acquisition, operation, and/or installation of a Facility or the Generating Facilities through a lessor, lender, or with financing accommodations from one or more financing institutions (each a "Financing Party"), and that Seller may assign, or in the



case of a sale-leaseback transaction, sell and lease back, the Generating Facilities and/or may secure Seller's obligations to a Financing Party by a pledge or collateral assignment of this Agreement and a first security interest in the Generating Facilities (a "Collateral Assignment"). In order to facilitate a Collateral Assignment by Seller, and with respect to any Financing Party of which Seller has notified Buyer in writing, Buyer agrees to take any reasonable action and provide any documentation reasonably requested by Seller in connection with such a transaction, and agrees as follows:

- (i) Buyer consents to the collateral assignment by Seller to a Financing Party that has provided financing for a Facility or the Generating Facilities, of the Seller's right, title and interest in and to this Agreement.
- (ii) Buyer will deliver to the Financing Party, concurrently with delivery thereof to Seller, a copy of each notice of default given by Buyer under this Agreement, inclusive of a reasonable description of Seller default.

Any Collateral Assignment by Seller shall not release either Party of its obligations hereunder. In the event that a Financing Party exercises its right to assume all of Seller's rights, interests and obligations under this Agreement, it shall do so in writing.

12.2 Assignment. Except as otherwise provided in Section Article 12.1 Seller shall not sell, transfer or assign the Seller's rights and obligations under this Agreement, or any interest in this Agreement (collectively, a "Full Assignment"), without the prior written consent of Buyer, provided, however, that, without the prior consent of Buyer, Seller may fully assign this Agreement to an Affiliate of Seller, if Affiliate is wholly owned by Seller. For any assignment requiring Buyer's consent, Buyer has thirty (30) days to approve or deny Seller's written request for Full Assignment (unless the parties mutually agree in writing to a longer period). Upon the completion of a Full Assignment by Seller that follows the requirements of this Agreement, the term "Seller" shall mean the Assignment Assignee. Buyer's consent to any Full Assignment shall not be unreasonably withheld, conditioned or delayed if Buyer has been provided with proof to the Buyer's reasonable satisfaction that the proposed assignee (and subcontractor(s) with whom it has an active contract):

- (e) has experience in operating and maintaining fuel cell or solar PV systems, as applicable, greater than or equal to that of Seller; and
- (f) has the financial capability and credit rating equal to or greater than that of Seller; and
- (g) has the ability to maintain the Facility and provide the services provided pursuant to this Agreement in the manner required by this Agreement; and

(h) provides proof that it complies with the Removal Fund requirements of this Agreement.

Seller will not sell, lease, or otherwise convey its interest in the Facility to any Person unless it also makes a Full Assignment to such Person and such assignment is permitted by this Agreement. Assignments or transfers not permitted or in compliance with this section will be null and void. Any assignment by Seller without required prior written consent of Buyer shall not release Seller of its obligations hereunder.

### 12.3 Rights of Assignees Upon Event of Default.

In the case where a Seller has defaulted under its obligations under this Agreement, any Financing Party shall have the right but not the obligation to (a) cure such default on Seller's behalf, including the right to pay all sums due and to perform any other act, duty, or obligation required of Seller hereunder, or cause to be cured any default of Seller hereunder in the time and manner provided by the terms of this Agreement, or (b) assume the Seller's obligations under this Agreement within 45 days of the Seller's default. For avoidance of doubt, in the event that a Financing Party exercises its right contemplated in this section, such Financing Party shall assume all obligations under this Agreement as well as assuming all of Seller's rights and interests under this Agreement, and thereafter shall become the Successor-in-Interest to Seller under this Agreement.

- (i) In the event that a Financing Party exercises its right to assume all of Seller's rights, interests, and obligations under this Agreement, it shall so assume in writing, and Seller shall have no further obligation to Buyer unless accrued up to that point and will provide notice to Buyer in writing.
- (ii) Nothing herein requires the Financing Party to cure any default of Seller under this Agreement (unless the Financing Party has succeeded to Seller's interests under this Agreement). Except as provided, Buyer has no obligation to deal with a Financing Party under this Agreement unless it has succeeded to Seller's right, title, and interest under this Agreement and become the Seller hereunder.
- (iii) A Successor-in-Interest shall cure any ongoing Seller Defaults promptly after becoming the Successor-in-Interest and no later than 90 days after becoming Successor-in-Interest. If the Successor-in-Interest does not cure all

(1) Seller Defaults, it will also be considered to be in default and Buyer shall have all rights afforded to Buyer against such Successor-in-Interest under this Agreement as in the case of a Seller Default.

- (iv) Buyer will not terminate this Agreement unless it has given the Financing Party prior written notice by sending notice to the Financing Party (at the address provided by Seller) of its intent to terminate or suspend this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within the periods provided for in this Agreement. The Parties respective obligations will otherwise remain in effect during any cure period; provided that if such Seller default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, Buyer may agree to extend such period for cure for a reasonable period of time under the circumstances.
- (v) Buyer shall be relieved of its obligations under this Agreement during the period of time a Seller Default has occurred and is continuing and may exercise its termination rights (upon notification to Financing Party and expiration of the applicable cure periods) pursuant to this Agreement (including without limitation, invoking the use of the Removal Fund to have any facilities/equipment removed). If Buyer chooses not to exercise any available termination rights and when the Successor-in-Interest cures any and all Seller Defaults, the respective Buyer and Seller rights and obligations shall resume for the remainder of the Term. No partial or complete waiver of Buyer's rights shall be implied from Buyer's actions pursuant to this paragraph.

#### 12.4 Payments and Notices

If a Collateral Assignee elects to become the Successor-in-Interest, it will be solely responsible for notifying the Seller and any other Collateral Assignees of this intention. The Buyer shall not be responsible for passing any notices, information and/or communications between the Seller and Collateral Assignees. If a Collateral Assignee does become a Successor-in-Interest, Buyer shall make all payments due under this Agreement to an account specified by such Collateral Assignee. For avoidance of doubt, upon the Collateral Assignee becoming the Successor-in-Interest the previous Seller shall not retain any of its rights or obligations under this Agreement and payments made by Buyer to the Successor-in-Interest shall satisfy Buyer's payment obligations under this Agreement.

Seller is solely responsible to provide contact information, including mailing addresses, email addresses and phone numbers for all Collateral Assignment assignees and Full Assignment assignees to Buyer. Buyer shall notify all Collateral Assignment assignees for which it has contact information within 15 days of a Seller Default. Seller shall be solely responsible for any instance where a Collateral Assignment assignee does not receive notice due to the Seller not providing contact information to Buyer.



Collateral Assignee Changes. Buyer acknowledges and agrees that Seller, subject to the terms and conditions of this Agreement may change one or more Collateral Assignment assignees. In the case that a Seller changes a Collateral Assignment assignee, Seller shall provide Buyer with any relevant, new contact information and payment directions as instructed by Seller. The terms and conditions of this Agreement, apply to any change in Financing Party by Seller.

Notwithstanding any language to the contrary, when any assignee chooses to exercise any rights against Buyer, it shall indemnify Buyer per the terms of this Agreement (and shall agree to do so in writing upon request by Buyer) for any claims arising from the exercise of such rights. By way of example and not limitation, such indemnification obligations shall extend to claims by other Financing Parties and Collateral Assignees asserted against Buyer. Any assignee's ability to exercise any rights against Buyer shall be contingent on the assignee's assumption of such indemnification obligations.

### **ARTICLE 13: OTHER TERMS & CONDITIONS**

#### **13.1 NOTICES**

All deliveries, notices, requests, demands or other communications provided for or required by this Agreement shall be in writing and shall be deemed to have been given three (3) days after being sent by registered or certified mail, return receipt requested; one (1) day after being sent by overnight carrier; or upon email confirmation to sender of receipt of a facsimile communication which is followed by a mailed hard copy from sender. Notices shall be addressed to:

Buyer: As listed in Schedule 3 of this Agreement

Seller: As listed in Schedule 3 of this Agreement

Each party may designate a different person and address by sending written notice to the other party, to be effective no sooner than ten (10) days after the date of the notice.

#### **13.2 COMPLIANCE WITH ALL LAWS**

The Parties shall at all times comply with all applicable laws, ordinances, rules and regulations. The Parties shall keep themselves fully informed of Buyer's charter, codes, ordinances and regulations and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with all applicable local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time. Seller shall

procure and maintain all Permits necessary for performance of this Agreement, and shall pay its respective charges and fees in connection therewith. Examples of such Regulations include but are not limited to California Occupational Safety and Health Act of 1973, Labor Code §6300 et. seq. the Fair Packaging and Labeling Act, etc. and the standards and regulations issued there under.

### 13.3 NO DEDICATION

Any undertaking by one Party to the other under any provision of this Agreement shall not constitute the dedication of the Generating Facility or any portion thereof to the public or to any portion thereof.

### 13.4 NON-WAIVER OF RIGHTS

Waivers of any rights hereunder must be in writing and shall not be implied from performance or usage of trade. The failure of either party to this Agreement to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect.

### 13.5 HEADINGS

All titles, subject headings, Article titles and similar items are provided for the purpose of reference and convenience and are not intended to be inclusive, definitive or to affect the meaning of the contents or scope of this Agreement.

### 13.6 NO THIRD PARTY BENEFICIARY

Except as to Seller's Financing Parties referred to in Article 12 of this Agreement, including but not limited to Seller's Financing Parties, who are intended third party beneficiaries of this Agreement and the Grant of Access Rights, neither this Agreement nor the Grant of Access Rights shall not be construed to create rights in, or to grant remedies to, any third party.

### 13.7 FORWARD CONTRACT

The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a "forward contract" within the meaning of the United States Bankruptcy Code.

### 13.8 GOVERNING LAW

This Agreement is made in the State of California and shall be interpreted and governed by the laws of the State of California without regard to conflict of law

principles.

### 13.9 VENUE

In the event that suit shall be brought by either party hereunder, the parties agree that venue shall be exclusively vested in the state courts of California in the <INSERT JURISDICTION NAME> or if federal jurisdiction is appropriate, exclusively in the United States District Court in the Northern District of California, <INSERT JURISDICTION>, California.

### 13.10 NATURE OF RELATIONSHIP

- (i) The duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. This Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Seller and the Buyer or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. A Party shall not have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or act as or be an agent or representative of or otherwise bind the other Party.
- (j) Seller shall perform pursuant to this Agreement as an independent contractor and not as an officer, agent, servant, or employee of Buyer. Seller shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing herein shall be considered as creating a partnership or joint venture between the Buyer and Seller. No person performing any services and/or supplying all goods shall be considered an officer, agent, servant, or employee of Buyer, nor shall any such person be entitled to any benefits available or granted to employees of the Buyer.
- (k) Seller shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Seller's performing services and work, or any agent or employee of Seller providing same.
- (l) Any terms in this Agreement referring to direction from Buyer shall be construed as providing for direction as to policy and the result of Seller's work only, and not as to the means by which such a result is obtained. Buyer does not retain the right to control the means or the method by which Seller performs work under this Agreement.

### 13.11 SUBCONTRACTING

All subcontractors shall be subject to background checks and Seller shall notify Buyer of its intent to use a subcontractor prior to such subcontractor's

entry on the Project Site. Seller shall be responsible for directing the work of any approved subcontractors and for any compensation due to any approved subcontractors. Seller shall ensure that all Seller subcontractors comply with this Agreement and shall be responsible for such compliance. Seller shall require any or all subcontractors to sign an agreement requiring compliance with this Agreement. Buyer assumes no responsibility whatsoever concerning compensation or any other responsibility or liability to subcontractors.

#### 13.12 GOOD FAITH & FAIR DEALING

The Parties agree to act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement: (i) wherever this Agreement requires the consent, approval or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld or delayed; and (ii) wherever this Agreement gives a Party a right to determine, require, specify or take similar action with respect to matters, such determination, requirement, specification or similar action shall be reasonable.

#### 13.13 SEVERABILITY

Should any provision of this Agreement be or become void, illegal or unenforceable, the validity or enforceability of the other provisions of this Agreement shall not be affected and shall continue in full force and effect. The Parties will, however, use their best endeavors to agree on the replacement of the void, illegal, or unenforceable provision(s) with legally acceptable clauses that correspond as closely as possible to the sense and purpose of the affected provision.

#### 13.14 COUNTERPARTS

This Agreement may be executed in two or more counterparts and by different Parties on separate counterparts, all of which shall be considered one and the same Agreement, and each of which shall be deemed an original.

#### 13.15 COOPERATION

The Parties agree to reasonably cooperate with each other in the implementation and performance of this Agreement. Such duty to cooperate shall not require either Party to act in a manner inconsistent with its rights under this Agreement.

#### 13.16 NECESSARY ACTS AND FURTHER ASSURANCES

The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and

purposes of this Agreement. Buyer shall provide Seller estoppels certificates confirming the status of this Agreement and acknowledging that Buyer has no rights in the Generating Facility. Buyer shall obtain, and pay any costs to obtain, all consents required for Buyer to enter into and perform its obligations under this Agreement from Buyer's lenders, landlords and tenants, if any, and those of any other persons with interests in Buyer's real property upon which Seller's personal property is located. These consents shall include estoppels certificates which recognize the rights of Seller, Seller's Financing Parties, and Seller and Seller's Financing Parties' assignees and successors under this Agreement.

### 13.17 CONSTRUCTION

The Parties acknowledge that this Agreement was jointly prepared by them, by and through their respective legal counsel, and any uncertainty or ambiguity existing herein shall not be interpreted against either Party on the basis that the Party drafted the language, but otherwise shall be interpreted according to the application of the rules on interpretation of contracts.

### 13.18 ENTIRE AGREEMENT, INTEGRATION/MERGER CLAUSE

This Agreement, together with all Exhibits and schedules attached hereto, constitute the entire agreement between the Parties and supersedes any and all prior oral or written understandings. No amendment, addition to or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any provision or any remedy available to it, unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the Parties.

### 13.19 NON-DISCRIMINATION

Seller shall comply with all applicable Federal, State, and local laws and regulations including Buyer's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101 and 1102. Seller shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status in the recruitment, selection for training including apprenticeship, hiring, employment, utilization, promotion, layoff, rates of pay or other forms of compensation. Nor shall Seller discriminate in provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability,

medical condition, political beliefs, organizational affiliations, or marital status.

#### 13.20 NON-EXCLUSIVE CONTRACT

This Agreement does not establish an exclusive contract between the Buyer and the Seller for the purchase of electricity or power or any services. The Buyer expressly reserves all its rights, including but not limited to, the following: the right to utilize others to provide electricity, products, support and services; the right to request proposals from others with or without requesting proposals from the Seller; and the unrestricted right to bid any such product, support or service.

#### 13.21 MODIFICATION

This Agreement may be supplemented, amended, or modified only by the mutual written agreement of the Parties.

#### 13.22 HAZARDOUS SUBSTANCES

If any product being offered, delivered or supplied to the Buyer in connection with this Agreement is listed in the Hazardous Substances List of the Regulations of the Director of Industrial Relations with the California Occupational Safety and Health Standards Board, or if the product presents a physical or health hazard as defined in the California Code of Regulations, General Industry Safety Order, Section 5194 (T8CCR), Hazard Communication, the Seller must include a Material Safety Data Sheet (MSDS) with delivery, or shipment. Each MSDS must reference the contract/purchase order number, and identify the "Ship To Address". All shipments and containers must comply with the labeling requirements of Title 49, Code of Federal Regulations by identifying the hazardous substance, name and address of manufacturer, and appropriate hazard warning regarding potential physical safety and health hazard.

#### 13.23 DISENTANGLEMENT

Seller shall cooperate with Buyer and Buyer's other Sellers to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Seller shall cooperate with Buyer's efforts to ensure that there is no interruption of electricity and no adverse impact on the provision of services or Buyer's activities. Seller shall return to Buyer all Buyer assets or information in Seller's possession. Seller shall deliver to Buyer or its designee, at Buyer's request, all documentation and data related to Buyer, including, but not limited to, the Buyer Data and client files, held by Seller, and Seller shall destroy all copies thereof not turned over to Buyer, all at no charge to Buyer.

#### 13.24 ACCOUNTABILITY



Seller will be the primary point of contact and assume the responsibility of all matters relating to this Agreement, including those involving the manufacturer and/or deliverer and/or any subcontractor, as well as payment issues. If issues arise, the Seller must take immediate action to correct or resolve the issues.

#### 13.25 CONFLICT OF INTEREST

Seller warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required under this Agreement.

#### 13.26 DAMAGE AND REPAIR

Any and all damages to a Party's property caused by the other Party's negligence or operations shall be repaired, replaced or reimbursed by such Party at no charge to the other Party. Repairs and replacements shall be completed within seventy-two (72) hours of the incident, unless the Parties agree to an extension or another time frame, or if such repairs or replacements cannot be completed within such timeframe, then upon notification by the repairing Party then the Parties shall mutually agree on an alternative timeframe to complete such repair or replacement. The cleanup of all damage related to accidental or intentional release of any/all non-hazardous or hazardous material (e.g. hydraulic fluid, fuel, grease, etc.) from a Party's vehicles or during performance shall be responsibility of such Party. All materials must be cleaned up in a manner and time acceptable to Buyer (completely and immediately to prevent potential as well as actual environmental damage). Seller must immediately report each incident to the Buyer's <INSERT ORGANIZATION NAME AND CONTACT>. Damage observed by either Party, whether or not resulting from such Party's operations or negligence shall be promptly reported to the other Party.

#### 13.27 COOPERATION WITH REVIEW

Seller shall cooperate with Buyer's periodic review of Seller's performance. Such review may be conducted on a semi-annual or more frequent basis at the option of the Buyer. Seller shall make itself available onsite to review the progress of the project and Agreement, as requested by the Buyer, upon reasonable advanced notice. Seller agrees to extend to the Buyer or his/her designees and/or designated auditor of the Buyer, the right to monitor or otherwise evaluate all work performed and all records, including service records and procedures to assure that the project is achieving its purpose, that all applicable Buyer, State, and Federal regulations are met, and that adequate internal fiscal controls are maintained. The Seller shall be responsible for receiving, replying to, and complying with any audit exceptions set forth in Buyer audits. The Seller shall pay to Buyer the full amount of any

audit determined to be due as a result of Buyer audit exceptions. This provision is in addition to other inspection and access rights specified in this Agreement.

#### 13.28 AUDIT RIGHTS UNDER STATE LAW

Pursuant to California Government Code Section 8546.7, the parties acknowledge and agree that every contract involving the expenditure of public funds in excess of \$10,000 shall be subject to audit by the State Auditor.

#### 13.29 DEBARMENT

Seller represents and warrants that it, its employees, subcontractors and agents are not suspended, debarred, or excluded from, or ineligible from, receiving Federal or state funds. Seller must within 30 calendar days advise the Buyer if, during the term of this Agreement, the Seller becomes suspended, debarred or excluded from or ineligible for, receiving Federal or state funds.

#### 13.30 CALIFORNIA PUBLIC RECORDS ACT

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

#### 13.31 DEBT LIABILITY DISCLAIMER

The Buyer, including, but not limited to, any source of funding for Buyer, any general fund or any special self insurance program, is not liable for any debts, liabilities, settlements, liens, or any other obligations of the Seller or its heirs, successors or assigns. Buyer is not be liable for and shall be held harmless and indemnified by Seller for any claims or damages arising out of any other



contract to which Seller is a party, tort, action or inaction, negligent error in judgment, act of negligence, intentional tort, negligent mistakes or other acts taken or not taken by the Seller, its employees, agents, servants, invitees, guests or anyone acting in concert with or on behalf of the Seller. Buyer and its agencies and divisions, has no obligation to defend or undertake the defense on behalf of the Seller or its heirs, successors or assigns.

### 13.32 USE OF BUYER'S NAME FOR COMMERCIAL PURPOSES

Seller may not use the name of the Buyer or reference any endorsement from the Buyer in any fashion for any purpose, without the prior express written consent of the Buyer.

### 13.33 PAYMENT OF PREVAILING WAGES

The Seller and all subcontractors under the Seller shall pay all workers on all work performed pursuant to this Agreement not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed within the boundaries of **<INSERT JURISDICTION>**, pursuant to sections 1770 et seq. of the California Labor Code.

### 13.34 ACCOUNT MANAGER

Seller must assign an account manager to Buyer to facilitate the contractual relationship, be fully responsible and accountable for fulfilling Buyer's requirements. Seller represents and warrants that such person will ensure that Buyer receives adequate support, problem resolution assistance and required information on a timely basis.

*By signing below, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity, that he/she has the authority to bind the entity listed to contractual obligations and that by his/her signature on this Agreement, the entity on behalf of which he/she acted, executed this Agreement.*

**SELLER:**      **<INSERT NAME>**

By: By: By:

By: Name: Title:

**BUYER: THE <INSERT JURISDICTION NAME>**

<INSERT NAME>  
<INSERT TITLE>

**Approval as to Form:**

**Approval of <INSERT TITLE>:**

<INSERT NAME>  
<<INSERT JURISDICTION NAME>> Counsel

**Exhibit A**

Technical and Warranty Documentation

<insert all system and component Technical and Warranty documents here>

**Exhibit B**

**Engineering and Construction Requirements**

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## Exhibit B. Engineering and Construction Requirements

### **1. Site Access**

Seller shall conform to all Buyer rules and requirements for accessing the Project Sites. Road usage, road closures, number of vehicles, access points, etc., may be regulated by the Buyer. Project Site visits shall be approved and proper check-in requirements must be followed. Seller shall provide signage and/or electronic notification of possible operational impacts upon request by Buyer. Unless otherwise determined by Buyer, Seller shall be responsible for providing bathroom and storage facilities for all workers on-site, and shall be responsible for procuring, installing, securing, and removing temporary security fencing and scaffolding.

### **2. Project Management**

#### **2.1 Project Manager**

Seller shall assign a Project Manager from their firm upon execution of this Agreement and receipt of Notice to Proceed. The Project Manager shall manage all design, procurement, construction, and commissioning phases of the Project. The construction of PV systems shall be accomplished by Seller with an on-site construction management team. The Project Manager shall ensure that all contract, schedule, and reporting requirements of the Project are met and shall be the primary point of contact for the Buyer.

#### **2.2 Project Schedule**

A Project Schedule is to be prepared and submitted to the Buyer within 14 days of Agreement execution. The Buyer will review and approve the Project Schedule prior to the initiation of work. Updates shall be submitted every other week, though the Buyer may allow less frequent updates at their discretion. The submittal shall be a Critical Path Method (CPM) schedule describing all Project activities, dependencies, and sequencing of tasks. In particular, Seller shall include Buyer review of submittals on the Critical Path. The Project Schedule shall describe all elements of project design, equipment procurement, construction and commissioning, and shall be submitted in electronic format (MS Project, Primavera P6). Adobe Acrobat is not acceptable. The schedule shall also reflect the requirement that construction activities must be coordinated to minimize impacts on normal operations at each Project Site, including ongoing construction activities.

Sufficient information shall be shown on the Project Schedule to enable proper control

## Exhibit B. Engineering and Construction Requirements

and monitoring of the Work. The Project Schedule shall show the intended time for starting and completing each activity; the duration of each activity; submittal and approval times; design; delivery of materials, equipment and software; all testing; and other significant items related to the progress of the Work. The Project Schedule shall include a CPM network diagram of sufficient detail to show how Mandatory Milestones are intended to be met. If a schedule submitted by Seller includes changes affecting the achievement of Mandatory Milestones, Seller should clearly identify and justify those changes.

Seller is encouraged to phase the Work in a way that supports efficient and effective delivery of design and build services. The Mandatory Milestones set forth in Schedule 8 to this Agreement shall be reflected in the schedule and where applicable, represent the dates upon which each milestone is to be achieved for all Project Sites in this Agreement.

### **2.3 Submittals**

Seller shall provide the submittals set forth in Schedule 8 to this Agreement as part of the performance of the Work. The cost of developing and providing submittals shall be included in the Project price.

### **2.4 Solar Incentives**

Seller, with Buyer's reasonable cooperation, shall submit applications for all available energy production incentives (e.g., CSI, SGIP, etc.) or, should the Buyer already have submitted such applications, assume responsibility for all future requirements (agreements, submittals, etc.) related to these programs. This includes actions necessary to ensure compliance with the PG&E's net metering program and all interconnection agreements and related documents for Buyer participation and utilization of the benefits of each applicable program. Seller shall attend all Project Site verification visits conducted by the applicable public utility or Governmental Authority and shall assist the Buyer in satisfying the requirements of the incentive program. Seller shall be responsible for providing updated documentation to incentive program administrators throughout the project, as required by rules of the relevant incentive programs. Incentives shall be paid to the Buyer if the system is to be purchased and to the Seller should the system be owned by a third-party.

## **2.5 Interconnection Applications**

Seller shall be responsible for preparing and submitting interconnection application to appropriate utility and department. Seller shall pay the PG&E Interconnection Agreement application fee, if applicable, for a behind the meter, distributed generation net-metered project.

## **3. System Design**

### **3.1 Design Review Process/ Phases**

The Buyer will review and approve design documentation as detailed in Section 3.3 of this document. Additional documents may be requested by the Buyer as needed. The precise organization and format of the design submittals shall be agreed upon by Seller and the Buyer prior to the first design submission. The Buyer will review all submittals, provide written comments, and conduct Design Review Meetings for each stage of the process. Seller shall provide additional detail, as required, at each successive stage of the Design Review. Seller shall not order equipment and materials until Schematic Design submittals have been approved. Seller shall not begin construction until Construction Documents have been approved and all required permits have been obtained. The Buyer will formally approve, in writing, each phase of the design and is the sole arbiter of whether each phase of the design has been completed. The Seller shall not enter a subsequent design phase without the approval of the Buyer.

Seller shall be held solely responsible for obtaining approvals from the Buyer, including revising designs as necessary until they are given approval by the Buyer and all other required entities and organizations. A description of requirements for each design phase is provided below. System design shall comply with all applicable laws, statutes, ordinances, codes, rules, and regulations for construction projects of jurisdictions with authority over the Buyer. Seller is responsible for providing designs approved by the appropriate professional engineers registered in the State of California. Costs for engineering reviews and approvals shall be borne by the Seller. System designs must take into account Buyer aesthetic issues and not conflict with any current Buyer operations.

#### **3.1.1 Schematic Design**

Seller shall prepare Schematic Design documents consisting of drawings and other



## Exhibit B. Engineering and Construction Requirements

documents illustrating the scale and relationship of Project components, including but not limited to, schematic design studies, site utilization plans, PV array layouts and design information, a shading analysis, electrical single-line diagrams, wiring and conduit schedule, equipment lists and bills of material, and equipment cut sheets or specifications.

### **3.1.2 Design Development**

Design Development documents shall consist of elevations, cross sections, and other drawings and documents necessary to depict the design of the Project. This submittal shall include architectural, structural, geotechnical, mechanical and electrical design documents and equipment specifications to illustrate the size, character, and quality of the Project and demonstrate that it meets the performance specifications defined in this RFP. The Design Development documents shall represent 100% of the intended scope for the Project.

### **Documents**

Seller shall prepare Construction Documents (CDs) depicting the detailed construction requirements of the Project. CDs shall conform to all applicable governmental, regulatory, and code requirements, and all pertinent federal, state, and local permitting agencies. The CDs shall show the work to be done, as well as the materials, workmanship, finishes, and equipment required for the Project. CDs shall comply with and illustrate methods to achieve the performance specifications of this RFP. CDs shall be stamped by the engineer of record and any other required engineering disciplines.

### **3.2 Sellers' License Classification**

In accordance with the provisions of California Public Contract Code §3300, the Buyer requires that Respondents possess, at the time of submission of a Proposal, at the time of award of this Agreement and at all time during construction activities, a General Contractor License (B), Electrical Contractor License (C-10), or Solar Contractor License (C-46). It shall be acceptable for a Respondent that does not possess a C-10 or C-46 License to list a Subcontractor with a C-10 or C-46 License.

## Exhibit B. Engineering and Construction Requirements

### 3.3 Design Submittals

Seller shall prepare a comprehensive submittal package for each phase of the Work that will be reviewed and approved by the Buyer. At a minimum, each submittal package shall include the elements required to convey in sufficient detail the following for each phase of the design:

- Project Site Layout Drawings, with distances from roof edges and existing equipment, as applicable
- Construction Specifications (trenching, mounting, etc.)
- Equipment Layout Drawings
- Detailed Drawings
- Electrical Single-Line and Three-Line Diagrams
- Module Stringing Diagrams
- Electric Wire and Conduit Schedule
- Electrical Warning Labels & Placards Plans
- Lighting Plan (for carports)
- Network Connection Diagrams
- Architectural Drawings
- Structural/Mechanical Drawings including roof penetration details
- Geotechnical Drawings
- Manufacturer's Cut Sheets with Equipment Specifications
- Data Acquisition System (DAS) Specifications, Cut Sheets, and Data Specifications

Seller shall include adequate time for Buyer review and approval of submittals, as well as re-submittals and re-reviews. Minimum Buyer review time shall be ten (10) days from the date of receipt of each submittal package during each phase of the Design Review.

### 3.4 Permits and approvals

Construction Documents must be reviewed and approved by all authorities having jurisdiction (AHJs) over the work, which may include, but are not limited to: the Buyer, the City or County in which the work is being done, the utility, the Office of Statewide Health Planning and Development (OSHPD), and the California Solar Initiative Program Administrator. Seller shall be responsible for obtaining all approvals and shall account for permitting requirements in their system designs, project pricing, and schedule. Seller shall produce required documentation in sufficient detail to obtain all regulatory

## Exhibit B. Engineering and Construction Requirements

approvals requested for design, construction and operation of the system, including but not limited to all federal, state, and local permits. Seller shall attend all Project Site verification visits conducted by the applicable public utility or Governmental Authority and shall assist the Buyer in satisfying the requirements of the incentive program. The Buyer will not grant Seller relief based on Seller's incomplete or incorrect understanding of permitting and approval requirements.

### 13.35 Technical Requirements

#### 3.5.1 General Considerations

All documentation and components furnished by Seller shall be developed, designed, and/or fabricated using high quality design, materials, and workmanship meeting the requirements of the Buyer and all applicable industry codes and standards. Reference is made in these specifications to various standards under which the Work is to be performed or tested. The installations shall comply with at least, but not limited to, the latest approved versions of the International Building Code (IBC), National Electrical Code (NEC), Pacific Gas and Electric (PG&E) Interconnection Requirements, California Building Code (CBC) and all other federal, state, and local jurisdictions having authority.

#### 3.5.2 Electrical Design Standards

The design, products, and installation shall comply with at least, but not limited to, the following electrical industry standards, wherever applicable:

- Electronic Industries Association (EIA) Standard 569
- Illumination Engineering Society of North America (IESNA) Lighting Standards
- Institute of Electrical and Electronics Engineers (IEEE) Standards
- National Electrical Manufacturers Association (NEMA)
- National Electric Code (NEC)
- Insulated Power Cable Engineers Association (IPCEA)
- Certified Ballast Manufacturers Association (CBMA)
- Underwriters Laboratories, Inc. (UL)
- National Fire Protection Association (NFPA)
- Pacific Gas and Electric Utility Requirements
- American National Standards Institute (ANSI)

## Exhibit B. Engineering and Construction Requirements

- Occupational Health and Safety Administration (OSHA)
- American Disabilities Act (ADA)
- American Society for Testing and Materials (ASTM)
- National Electrical Contractors Association (NECA)
- National Electrical Testing Association (NETA)
- International Building Code (IBC)
- California Building Code (CBC)
- All other Authorities Having Jurisdiction

### 3.5.3 Modules

In addition to the above, the PV modules proposed by Seller shall comply with at least, but not limited to, the following:

IEEE 1262 “Recommended Practice for Qualifications of Photovoltaic Modules”.

System modules shall be UL1703 listed.

Modules shall be new, undamaged, fully warranted without defect.

Modules shall comply with the State of California SB1 Guidelines for Eligibility, listed at: [http://www.gosolarcalifornia.org/equipment/pv\\_modules.php](http://www.gosolarcalifornia.org/equipment/pv_modules.php)

Modules shall have minimum maintenance requirements and high reliability, have a minimum 25-year design life, and be designed for normal, unattended operation.

Acceptable mounting methods for unframed modules shall be provided by the manufacturer. Bolted and similar connections shall be non-corrosive and include locking devices designed to prevent twisting over the 25-year design life of the PV system.

If PV modules using hazardous materials are to be provided, then the environmental impact of the hazardous material usage must be disclosed, including any special maintenance requirements and proper disposal/recycling of the modules at the end of their useful life.

### 3.5.4 Inverters

In addition to the above, inverters proposed by Seller must comply with at least, but not limited to the following:

- Inverters shall be suitable for grid interconnection and shall be compliant with all PG&E interconnection requirements.

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- Inverters shall comply with the State of California SB1 Guidelines for Eligibility, listed at: <http://www.gosolarcalifornia.org/equipment/inverters.php>
- IEEE 929-2000 – “Recommended Practice for Utility Interface of Photovoltaic Systems”.
- Inverters must automatically reset and resume normal operation after a power limiting operation.
- The inverter shall be capable of continuous operation into a system with voltage variation of plus or minus 10% of nominal. The inverter shall operate in an ambient temperature range of -20°C to +50°C.
- Inverters shall include all necessary self-protective features and self-diagnostic features to protect the inverter from damage (in the event of component failure or from parameters beyond normal operating range due to internal or external causes). The self protective features shall not allow the inverters to be operated in a manner which may be unsafe or damaging.
- Inverters shall be true sine wave high frequency PWM with galvanic isolation.
- Inverters shall be sized to provide maximum power point tracking for voltage and current range expected from PV array for temperatures and solar insolation conditions expected for Project conditions.
- Inverters shall be capable of adjusting to "sun splash" from all possible combinations of cloud fringe effects without interruption of electrical production.
- Isolation transformers shall be provided for central inverters if the NEC or any other applicable safety standards require the use and application of such transformers. Use of transformerless string inverters is acceptable.
- Inverters shall be UL 1741 and IEEE 1547 compliant.
- Inverters shall have a THD < 5%.
- Enclosures shall be rated NEMA 3R when the inverter is located outdoors. For outdoor installations in corrosive environments, NEMA 4X series 300 stainless steel enclosures must be used.
- Power factor shall be 0.99 or higher.
- Inverter selection shall take into account anticipated noise levels produced and minimize interference with Buyer activities.
- Inverters shall have a minimum efficiency, based on the device's power rating, of 96%.
- Inverters shall be 600V minimum. 1000V inverters are acceptable.

### **3.5.5 Electrical Balance of System Components**

- Each proposed PV system shall include, at a minimum, one fused DC disconnect and one fused AC disconnect for safety and maintenance concerns.
- String combiner boxes must include properly-sized fusing, and all metal equipment and components must be bonded and grounded as required by NEC.

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- String combiner boxes shall be load-break, disconnecting types, such that opening the combiner boxes shall break the circuit between combiner box feeders and inverters.
- All system wiring and conduit must comply with NEC stipulations, and all indoor and outdoor wiring, outdoor-rated or otherwise, must be enclosed in EMT or RIGID conduit or covered raceway, except adjacent panel connections. [All outdoor EMT shall be weatherproof with weatherproof fittings and boxes, this may include rugged die cast aluminum construction and powder coated finish for added corrosion protection.]
- All wiring materials and methods must adhere to industry-standard best practices, and all inter-module connections must require the use of a specialized tool for disconnecting.

### 3.5.6 Mounting Systems

The mounting systems shall be designed and installed such that the PV modules may be fixed or tracking with reliable components proven in similar projects, and shall be designed to resist dead load, live load, corrosion, UV degradation, wind loads, and seismic loads appropriate to the geographic area over the expected 25-year lifetime. The Seller's design shall sufficiently respond to the design requirements imposed by Federal, State, and local jurisdictions in effect at the time of Agreement execution and any pending code decisions affecting the design shall be identified during Schematic Design. Seller shall conduct an analysis, and submit evidence thereof, including calculations, of each structure affected by the performance of the scope described herein, and all attachments and amendments. The analysis shall demonstrate that existing structures are not compromised or adversely impacted by the installation of PV, equipment, or other activity related to this scope. Mounting systems must also meet the following requirements at a minimum:

- All structural components, including array structures, shall be designed in a manner commensurate with attaining a minimum 25-year design life. Particular attention shall be given to the prevention of corrosion at the connections between dissimilar metals.
- Thermal loads caused by fluctuations of component and ambient temperatures shall be accounted for in the design and selection of mounting systems such that neither the mounting system nor the surface on which it is mounted shall degrade or be damaged over time.
- PV modules will be mounted using a combination of Prudent Industry Practices, best practices and manufacturer's instructions to maintain the module warranty.
- Final coating and paint colors shall be reviewed and approved by the Buyer during Design Review from standard colors offered by the manufacturer.

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- Painting or other coatings must not interfere with the grounding and bonding of the array.

### 3.5.7 Corrosion Control

In addition to the above, Corrosion Control proposed by Seller must comply with at least, but not limited to the following requirements:

- Fasteners and hardware throughout system shall be stainless steel or material of equivalent corrosion resistance
- Racking components shall be anodized aluminum, hot-dipped galvanized steel, or material of equivalent corrosion resistance
- Unprotected steel not to be used in any components
- Each PV system and associated components must be designed and selected to withstand the environmental conditions of the Project Site (e.g., temperatures, winds, rain, flooding, etc.) to which they will be exposed.

### 3.5.8 Roofing Requirements

The installation of PV modules, inverters and other equipment shall provide adequate room for access and maintenance of existing equipment on the building roofs. A minimum of three feet of clearance will be provided between PV equipment and existing mechanical equipment and other equipment mounted on the roof. A minimum of four feet of clearance shall be provided between PV equipment and the edge of the roof. Clearance guidelines of the local fire marshal shall be followed. The installation of solar or thermal systems will be reviewed for code compliance and adherence to the *State Fire Marshal Solar Photovoltaic Installation Guideline*. The PV equipment shall not be installed in a way that obstructs air flow into or out of building systems or equipment.

Proposed roof top mounted systems may be ballasted, standing seam attachment, or penetrating systems and must meet or exceed the following requirements:

- Systems shall not exceed the ability of the existing structure to support the entire solar system and withstand increased wind uplift and seismic loads. The capability of the existing structure to support proposed solar systems shall be verified by Seller prior to design approval.
- Roof penetrations, if part of the mounting solution, shall be kept to a minimum.
- Seller shall perform all work so that existing roof warranties shall not be voided, reduced, or otherwise negatively impacted.

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- No work shall compromise roof drainage, cause damming or standing water or cause excessive soil build-up.
- All materials and/or sealants must be chemically compatible.
- Thermal movement that causes scuffing to the roof must be mitigated as part of the mounting solution.
- All penetrations shall be waterproofed.
- Detail(s) for the sealing of any roof penetrations shall be approved in writing to the Buyer, as well as the manufacturer of the existing roofing system, as part of system design review and approval – prior to Seller proceeding with work. The Buyer will make available the roofing manufacturer for each building for consultation with Seller as part of the design process.
- All roofing penetrations and waterproofing shall be performed or overseen by a licensed roofing contractor who is certified by the roofing materials manufacturer for the specific materials or systems comprising each roof upon which a solar system will be installed. The roofing contractor shall also be safety prequalified by the Buyer.
- As part of the design submittals, Seller shall include signed certificates from the roofing manufacturer stating:
  - The roofing contractor is certified installer of Complete Roofing System.
  - The manufacturer's Technical Representative is qualified and authorized to approve project.
  - Project Plans and specs meet the requirements of the warranty of the Complete Roofing System for the specified period.
  - Existing warranty incorporates the new roofing work and flashing work.
- Any damage to roofing material during installation of solar systems must be remedied by Seller.
- The installation of PV modules, inverters and other equipment on building roofs will be designed to minimize visibility of the equipment from the ground.

### 3.5.9 Shade Structure Requirements

Seller will be responsible for incorporating the following elements in the design and construction of the System:

- Minimum height: all shade structures shall be designed to have a minimum clear height of ten (10) feet, unless specified in a Project Site's Specification Sheet to be taller to accommodate larger vehicles at the site.
- All shade structures shall be installed with a fascia surrounding the exposed edge of the structure's purlins.
- Shade structures located in parking lots shall have a concrete bollards installed on support posts. The bollards shall extend up to a minimum elevation of 36"



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above finished grade. This requirement may be waived at the Buyer's sole discretion.

- Shade structure columns, beams, and fascia shall be painted to match site colors or to a color of the Buyer's approval.

### **3.5.10 Ancillary Equipment Enclosures**

Seller will be responsible for incorporating the following elements in the design and construction of the System:

- Fencing: all ancillary equipment be grouped to a single location per Project Site and shall be surrounded by a fence to prevent access by unauthorized personnel. The fence shall be a six (6) foot high chain link fence with vinyl privacy slats. This requirement may be waived at the Buyer's sole discretion.
- Location: all ancillary equipment shall be located in a manner that minimizes its impact to normal Buyer operations and minimizes the visual impacts to the Project Site.

### **3.5.11 Placards and Signage**

Placards and signs shall correspond with requirements in the National Electric Code and the interconnecting utility in terms of appearance, wording, and placement.

Permanent labels shall be affixed to all electrical enclosures, with nomenclature matching that found in As-Built Electrical Documents.

### **3.5.12 Infrastructure for Ground Mount Systems**

Seller will be responsible for incorporating the following elements in the design and construction of the System:

- Fencing: the site shall be surrounded by a fence to prevent unauthorized personnel from gaining access the site. The fence shall be a eight (8) foot high chain link fence with vinyl privacy slats.
- Gates shall be installed to enable site access for trucks.
- A pathway a minimum of ten (10) feet wide passable by a maintenance truck shall be provided within the array fence to allow for access to all equipment enclosed within the fence area.
- Access to water for maintenance (module cleaning) purposes, as determined adequate by Seller and approved by the Buyer.
- Access to low voltage (120V) AC power to power maintenance equipment and miscellaneous equipment.

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- Seller shall install and ensure activation of sufficient security cameras on site to monitor array area, connected to the site's security system, in collaboration with the Buyer.
- Seller will be responsible for installing an acceptable surface cover material under and around the modules and throughout the site that provides appropriate weed control, erosion and dust management.
- Seller will be responsible for creating an access road to any ground mount system for maintenance and fire access purposes. The access road shall be passable under all weather conditions.

### **3.5.13 Lightning and Surge Protection**

Seller shall utilize surge suppressors to protect the appropriate equipment from electrical surges.

### **3.5.14 Short Circuit Coordination**

As part of their design submittals, Seller shall identify overcurrent protective devices installed on the project (AC/DC fuses and AC/DC circuit breakers). Design submittals shall include calculations and demonstrate that the devices installed as part of the PV project are coordinated with the rest of each site's distribution, preventing an unintentional outage due to an isolated PV system fault.

### **3.5.15 Wiring and Cabling Runs**

- Seller shall install all AC conductors in conduit.
- Direct burial wire will not be acceptable. Conduit buried underground shall be suitable for the application and compliant with all applicable codes. PVC shall be constructed of a virgin homopolymer PVC compound and be manufactured according to NEMA and UL specifications. All PVC conduit feeders shall contain a copper grounding conductor sized per NEC requirements and continuity shall be maintained throughout conduit runs and pullboxes. Minimum conduit size shall be ¾". A tracing/caution tape must be installed in the trench over all buried conduit.
- Conduit installed using horizontal directional boring (HDB), shall include tracer tape or traceable conduit. The minimum depth of the conduit shall be per NEC 2011 Article 300.5. The Seller is responsible for demonstrating that all conduits installed utilizing horizontal boring meets the minimum depth requirement and is solely responsible for any remediation costs and schedule impacts if the

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specification is not met. The HDB contractor must provide documentation of final depth and routes of all conduit installed in horizontal bores.

- Conduit installed on building roofs shall not be installed near roof edges or parapets to reduce visibility. Any conduit penetrations through roof surfaces shall not be made within five (5) feet of the roof edge to reduce visibility. If conduit is installed on the exterior face of any building, it shall be painted to match the existing building color. In all cases, the visible impact of conduit runs shall be minimized and the design and placement of conduit shall be reviewed and approved by the Buyer as part of Design Review.
- Electro-metallic tubing (EMT) shall be used in indoor, above grade locations and where conduit needs to be protected from damage. EMT shall not be installed underground, outdoors, or embedded in concrete. EMT shall be cold-rolled zinc coated steel and be manufactured to UL and ANSI standards. Fittings shall be watertight and malleable gripping ring compression type. Pressure cast material for nuts of compression ring type fittings and set-screw type connections are not acceptable. EMT can be used outdoor, exposed to weather with approved UL-listed fittings.
- Unless specified otherwise by Buyer, Galvanized Rigid Conduit (GRC) shall be used where to transition from underground to above ground exposed to weather up to 10' above finished grade where subject to physical damage in exposed areas. GRC shall be continuous hot-dipped galvanized manufactured per UL and ANSI requirements. Rigid aluminum conduit is not acceptable. Conduit bodies for use with steel conduit, rigid or flexible, shall be manufactured per UL requirements and shall be cast metal with gasketed closures. Fittings for GRC conduit shall be malleable iron or forged steel with cadmium or zinc coating. Union couplings for joining rigid conduit at intermediate runs shall be of the same material as the conduit. Couplings shall be threaded concrete-tight to permit completing conduit runs when neither conduit can be turned and to permit breaking the conduit run at the union. Set screw connectors are not acceptable.
- All conduits, boxes, enclosures, etc. shall be secured per NEC 690 requirements.
- All conductors shall be insulated copper rated for 600V, minimum. 1000V-rated conductors shall be used for systems rated as such. DC conductors shall be PV Wire or USE-2 600V UL Listed Sunlight resistant wire.
- All items shall be U.L. listed and shall bear the U.L. label.
- All spare conduits shall be cleaned, mandrelled, and provided with a pullwire. Spare conduits shall be required for security cameras for ground mount systems.
- All feeders and branch circuits shall be sized to minimize voltage drop and losses and shall be in compliance with NEC requirements.
- Seller shall furnish, install, and connect combiners and recombiners as necessary to complete the System. Enclosures for combiners and recombiners shall be NEMA 3R rated outdoor or NEMA 1 indoor or higher.
- All systems, conduit, boxes, components, etc. shall be grounded and bonded per NEC requirements and in accordance with Section 3.5.16.

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- All exposed conduit runs over 100-feet in length or passing over building connection points shall have expansion joints to allow for thermal expansion and building shift.
- Seller will be responsible for locating, identifying and protecting existing underground utilities conduits, piping, substructures, etc. and ensuring that no damage is inflicted upon existing infrastructure.
- Design Builder shall install and secure the exposed string cable homeruns along the beams or structure where the combiner box is installed.
- All exposed string wiring must be installed above the lower surface of the structural purlins and beams. Wire loops under framing members are not acceptable.
- Acceptable wire loss in DC circuits is < 1.5% and acceptable wire loss in AC circuits is < 1.5% as well.
- 1000V systems are acceptable.

### **3.5.16 Grounding and Bonding**

- Module ground wiring splices shall be made with irreversible crimp connectors.
- All exposed ground wiring must be routed above the lower surface of any structural framing.
- For shade structure installations, grounding electrode conductors shall be bonded to structure columns either just below grade or below the top surface of concrete bollards.

### **3.5.17 System Security Requirements**

Seller shall utilize tamper-resistant PV module to rack fasteners for all PV module mounting.

### **3.5.18 Shade Structure Lighting**

- Installation of shade structure PV systems in all locations shall include the installation of new high efficiency lighting. Installation of shade structure PV systems shall include the removal of existing security light poles, foundations, and fixtures that are no longer effective.
- Lighting shall be LED lighting or other similar energy efficient lighting system.
- New parking lot fixtures shall be installed to provide parking lot illumination compliant with IESNA requirements or recommendations for illumination and safety.

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- Minimum horizontal illuminance of one (1) foot-candle shall be maintained at ground level with a uniformity ratio (maximum to minimum) of 15:1.
- The new lighting is required to illuminate the entire parking area and adjacent pedestrian walkways affected by the removal of existing lights to restore light levels to similar condition as before, not just the area under the PV modules.
- A photometric illumination plot must be submitted for each parking lot showing all existing lighting and proposed new SSS canopy lighting.
- Submit California Title 24 Outdoor Lighting calculations with all lighting drawings and show evidence of compliance.

Photocell controls shall be used in conjunction with a lighting control system for all exterior lighting and energize lighting when ambient lighting levels fall below two (2) foot-candles measured horizontally at ground level. Lighting shall also be required to operate manually without regards to photocell input. Replacement parking lot lighting shall be served from an existing parking lot lighting circuit and any existing circuits and existing control function shall be maintained, or if replaced, done so at the approval of the Buyer.

### **3.5.19 Monitoring System, DAS, and Reporting**

Seller shall design, build, activate and ensure proper functioning of Data Acquisition Systems (DAS) that enable the Buyer to track the performance of the PV Systems as well as environmental conditions through an online web-enabled graphical user interface and information displays. Seller shall provide equipment to connect the DAS via Ethernet cable, existing Wi-Fi network or cellular data network at all locations. The means of data connection will be determined during design. The Buyer will pay for the cost of cellular data service if needed, but not for the modem or other equipment needed to connect to the cellular network.

The DAS(s) shall provide access to at least the following data:

- Instantaneous AC system output (kW)
- PV System production (kWh) over pre-defined intervals that may be user configured
- AC and DC voltage
- In-plane irradiance
- Ambient and back-of-module temperature (at least two (2) sensors for each, at different positions in the array)
- Inverter status flags and general system status information
- System availability

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- Site Load information. Available load data for the meter the system is connected to shall be collected by the solar monitoring solution as part of the DAS.

Environmental data (temperatures and irradiance) shall be collected via an individual weather station installed for each site

Data collected by the DAS shall be presented in an online web interface, accessible from any computer through the Internet with appropriate security (e.g., password controlled access). The user interface shall allow visualization of the data at least in the following increments: 15 minutes, hour, day, week, month, and year. The interface shall access data recorded in a server that may be stored on-site or remotely with unfettered access by the Buyer for the term of the Project. The online interface shall enable users to export all available data in Excel or ASCII comma-separated format for further analysis and data shall be downloadable in at least 15 minute intervals for daily, weekly, monthly and annual production. Historical data from the full lifetime of the PV system shall be available through the online interface.

The monitoring system shall provide alerts when the system is not functioning within acceptable operating parameters. These parameters shall be defined during the design phase of the Project and specified in the DAS design document.

Additionally, Seller shall make available, at no additional cost, the following:

- Monthly Production report shall be available online to the Buyer personnel.
- System performance data shall be made available electronically to the Buyer in a format and at a frequency to be determined during the Design Review process.
- Additional reports shall be made available to the Buyer to assist the Buyer in reconciling system output with utility bills and the production guarantee, as determined in the Design Review process.
- A Monitoring Manual shall be provided to the Buyer in printed or on-line form that describes how to use the monitoring system, including the export of data and the creation of custom reports.

### **3.5.20 FAA Requirements**

Seller shall be responsible to submit the appropriate FAA Form 7460-1, along with any other required forms and documentation, for all proposed PV systems within the approach or takeoff paths or on the property of airports as defined by the Code of Federal Regulations Title 14 Part 77.9.

### **3.5.21 Interconnection**

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Seller is responsible for obtaining all necessary PG&E interconnection approvals for each PV system being installed. Seller must comply with all interconnection requirements, such as CPUC Rule 21 for the PG&E service territory. Seller is responsible for the proper planning and scheduling of interconnection approvals. Systems installed as part of this project will take advantage of Net Energy Metering (NEM), unless specified otherwise by Buyer or its agents. Seller shall be responsible for ensuring the system design and interconnection qualifies for NEM, as applicable.

### **3.5.22 Production Modeling**

Production modeling of the PV systems shall be performed using PVSYST or equivalent modeling software using TMY3 weather data for the location closest to the site. The simulations shall accurately simulate energy production for proposed system layouts, sizes, and orientation. It is critical that PV production models are accurate with all methodology and assumptions described. The Buyer will independently verify production models are accurate to the designed systems and utilize simulation results for economic evaluations. Seller shall be responsible for updating the production models each time sufficient changes are made to the proposed system designs that will impact production.

### **3.5.23 Shading**

Seller shall adhere to the following requirements in order to avoid excessive shading on modules. For any object near an array that is higher than the lowest point of that array by height  $H$ , Seller shall locate the array farther from the object than:

- $2H$  to the North of the object
- $2H$  to the East or West of the object
- $2H$  to any non-cardinal direction of the object

Any Seller whose system design does not adhere to these rules shall perform a shading analysis justifying the basis for their design, including any proposed tree removal, and explaining why shading does not create an adverse performance and/or economic impact.

Any trees that are in the footprint of systems to be installed by the Seller shall be removed by the Seller at their expense, subject to the approval of the Buyer. A tree shall be considered to be in the footprint of a system if its canopy would extend over any part of the system, including structural components or modules. The Buyer will remove or prune, at its discretion, trees planted outside of the work area that shade PV systems

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(at present time or in the foreseeable future), provided the Seller identifies these trees during the design process. The Seller shall be responsible for any required tree remediation efforts resulting from tree removal that is deemed the Seller's responsibility.

### **3.6 Warranties**

Seller shall provide a comprehensive ten (10) year warranty on all solar energy equipment for electricity generation (PV Modules & inverters) to provide for no-cost repair and replacement of the system for any expenses not otherwise covered by the manufacturer.

Additionally, the following minimum warranties are required:

- PV Modules: The PV modules are to be warranted against degradation of power output of greater than 10% of the original minimum rated power in the first ten (10) years and greater than 20% in the first twenty (20) years of operation.
- Inverters: Inverters shall carry a minimum 10-year warranty (direct purchase price must include a 20-year warranty).
- Meters: At minimum, meters shall have a one (1) year warranty. For meters integrated in inverters, the meter warranty period must match the inverter.
- Mounting system: twenty (20) year warranty, covering at least structural integrity and corrosion.
- Balance of system components: the remainder of system components shall carry manufacturer warranties conforming to industry standards.

All work performed by Seller must not render void, violate, or otherwise jeopardize any preexisting Buyer facility or building warranties or the warranties of system components.

## **4. Procurement/Construction**

### **4.1 Scope of Supply**

Seller shall provide all necessary labor, materials, equipment, and services required to install complete integrated turnkey PV systems. Seller shall supply all solar modules, mounting equipment, inverters, AC and DC disconnect switches, metering, related wiring, monitoring equipment, and all ancillary equipment necessary to install the PV system and interconnect it to the Buyer electrical distribution system. The PV system installations shall comply with all contract requirements, technical specifications, approved design documents, and applicable regulatory codes and requirements. Seller shall submit As-Built Construction Drawings in hard copy with two (2) sets and an electronic copy in DWG format on compact disc to the Buyer after completion of the



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Proving Period for each system at each site.

### **4.2 Materials and Equipment**

Materials and equipment incorporated in the Work shall be new and suitable for the use intended. No material or equipment shall be used for any purpose other than that for which it is designed, specified or indicated.

Seller shall use means necessary to protect the materials and equipment before, during and after installation. Seller shall promptly replace lost or damaged materials and equipment with equal, or Buyer-approved, replacements, or repair them, at no additional cost to the Buyer.

### **4.3 Line Location**

Seller will be responsible for locating, identifying and protecting existing underground utilities conduits, piping, substructures, etc. and ensuring that no damage is inflicted upon existing infrastructure. In addition to USA Dig and utility line-locating, a private line-locator must be used for any project requiring underground work.

### **4.4 Quality Assurance and Quality Control**

Seller shall implement a Quality Assurance / Quality Control (QA/QC) plan for construction activities on Buyer sites. At least 30 days prior to the planned commencement of construction, Seller shall submit a copy of the QA/QC Plan for review and approval by the Buyer.

To ensure the highest quality of the installation, Seller shall:

- Implement policies and procedures to ensure proper oversight of construction work, verification of adherence to construction documents and contractual requirements, and rapid identification and mitigation of issues and risks.
- Utilize best practice methods for communicating progress, performing work according to the approved Project schedule, and completing the Project on-time.
- Keep the Site clean and orderly throughout the duration of construction. All trash and rubbish shall be disposed of off-site by licensed waste disposal companies and in accordance with applicable Law.
- Provide equipment marking, as well as labeling and signage for the Project that shall be removed after Project completion.
- Fully comply with all applicable notification, safety and Work rules (including Buyer safety standards) when working on or near Buyer facilities.
- Provide Special Inspection for trenching, rebar, concrete, welding, and roof attachment work, according to AHJ requirements.

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- Route all electrical collection system wiring and conduits in a neat and orderly fashion and in accordance with all applicable code requirements. All cable terminations, excluding module-to-module and module-to-cable harness connections, shall be permanently labeled.
- Torque all mechanical and electrical connections and terminations according to manufacturer specifications, with marking/sealing of all electrical terminations at appropriate torque point.
- Provide all temporary road and warning signs, flagmen or equipment as required to safely execute the Work. Street sweeping services shall also be provided as required to keep any dirt, soil, mud, etc. off of roads. Comply with all state and local storm water pollution prevention (SWPP) ordinances.

### 4.5 Removal and Remediation

SELLER SHALL REMOVE ALL CONSTRUCTION SPOILS, ABANDONED FOOTINGS, UTILITIES, CONSTRUCTION EQUIPMENT AND OTHER BYPRODUCTS OF CONSTRUCTION. ALL DISTURBED AREAS INCLUDING LANDSCAPING, ASPHALT, AND CONCRETE SHALL BE REMEDIATED TO BE IN EQUAL OR BETTER CONDITION THAN FOUND. PARKING LOTS SHALL BE RE-STRIPED IF AFFECTED BY CONSTRUCTION OPERATIONS.

THE SITE SHALL BE LEFT CLEAN AND FREE OF DEBRIS OR DIRT THAT HAS ACCUMULATED AS A RESULT OF CONSTRUCTION OPERATIONS.

### 5. Testing

Following completion of construction, Seller shall provide the following services related to startup and performance testing of the PV systems:

- Acceptance Testing
- System Startup
- Proving Period

A detailed Testing Plan covering each of the phases above shall be prepared prior to substantial completion of construction. A detailed description of each phase is provided below.

#### 5.1 Acceptance Testing

Seller shall perform a complete acceptance test for each PV System. The acceptance test procedures include component tests as well as other standard tests, inspections, safety and quality checks. All testing and commissioning shall be conducted in accordance with the manufacturer's specifications.

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The section of the Testing Plan that covers Acceptance Testing shall be equivalent or superior to the CEC (California Energy Commission) "Guide to Photovoltaic (PV) System Design and Installation", Section 4 and shall cover at least the following:

- Detailed test methods, including sample calculations and reference to standards as required or applicable, and list of tested equipment.
- Pre-test checklist to ensure readiness and any safety measures are in-place.
- Detailed list of all items to be inspected and tests to be conducted.
- Acceptance Criteria: For each test phase, specifically indicate what is considered an acceptable test result.

The Acceptance Testing section of the Testing Plan shall include (but not be limited to) the following tests:

- String-level voltage (open circuit) and amperage (under load) testing for all PV strings. Amperage testing shall be performed concurrently with irradiance testing.
- Inverter testing for all inverters. The inverters shall be commissioned on-site by a qualified technician and shall confirm that the inverter can be operated locally per specification and that automatic operations such as wake-up and sleep routines, power tracking and fault detection responses occur as specified. Performance testing shall be performed concurrently with irradiance testing.
- Testing of all sensors of the DAS.
- Testing of the Data Presentation interface of the DAS.

After Seller conducts all Acceptance Testing based on the Testing Plan, Seller shall submit a detailed Acceptance Test Report to the Buyer for review.

The Acceptance Test Report shall document the results of the tests conducted following the Testing Plan, and include additional information such as the date and time each test was performed. It shall also make reference to any problem and deficiencies found during testing. If there was troubleshooting done, the Report shall describe the troubleshooting methods and strategy. Seller shall be responsible for providing the labor and equipment necessary to troubleshoot the System.

### **5.2 System Startup**

Following Buyer approval of the Acceptance Test Report, Seller shall conduct tests over twenty-four (24) hours and at a time resolution of fifteen (15) minutes, recording the following data:

- Average AC output (kW)

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- Average DC output (kW)
- Hourly PV system production (kWh)
- AC and DC voltage
- In-plane irradiance
- Ambient and cell temperature
- Inverter status flags and general system status information

These data points shall be presented in a manner that best depicts the actual performance of the system for Buyer review and approval and shall be submitted as part of the Startup Test Report.

### 5.3 Proving Period (30 days)

Upon completion of Acceptance Testing and System Startup, Seller shall monitor the system during a thirty (30) day Proving Period and submit a report for Buyer review. This includes monitoring system output and ensuring the correct functioning of system components over this time. The values for the following data shall be acquired every fifteen (15) minutes over thirty (30) days:

- AC system output (kW)
- PV system production (kWh)
- AC and DC voltage
- In-plane irradiance
- Ambient and cell temperature
- Inverter status flags and general system status information
- System availability

Seller shall utilize calibrated test instruments and the DAS and monitoring system to collect the test data described above, which shall be made available to the Buyer for access throughout the Proving Period. Seller shall determine through analysis of data from the Proving Period whether the PV system delivers the expected production as determined by the final approved design (i.e., Construction Documents). Actual production shall be compared against expected production using actual weather data and other system inputs (such as module cell temperature factor, module mismatch, inverter efficiency, and wiring losses) for calculating expected production. The production figures for all meters, whether existing or installed by or on behalf of the IOU or by or on behalf of the Respondent, shall be correlated during this test to verify their accuracy in measuring system production.

## Exhibit B. Engineering and Construction Requirements

All data and reports required in Section 3.5.20 shall be fully functional and available to the Buyer at the commencement of the Proving Period. Data and reporting requirements are included in the testing scope of the Proving Period.

If the PV system does not perform to design specifications, diagnostic testing shall be performed by Seller, deficiencies shall be identified with proposed corrective actions submitted to the Buyer. Seller shall be responsible for providing the labor and equipment necessary to troubleshoot the system.

**At the end of the Proving Period, Seller will provide notice to Buyer confirming that the system is operating as designed and in compliance with this Exhibit.**

### **5.4 CLOSE-OUT DOCUMENTATION REQUIREMENTS**

Close-Out documents prepared by Seller must include at minimum, but not limited to, the following items:

- Final As-Built Drawing Set with accurate string diagram and estimated Year 1 monthly production
- Megger test Results
- Module flash-test results with serial numbers
- Component warranties
- Signed inspections cards from AHJ and required Special Inspections
- Interconnection agreements and Permission To Operate
- Owner's Manual

## **6. Operations and Maintenance**

Seller shall perform all necessary preventive and corrective maintenance, which includes routine maintenance adjustments, replacements, and electrical panel/transformer/ inverter cleaning (interior and exterior). Maintenance by Seller shall ensure that all warranties, particularly inverter warranties, are preserved. The frequency and timing of any panel wash-downs shall be determined by Seller based on system monitoring data. Environmental sensors will be evaluated on an ongoing basis to ensure accuracy.

Seller shall perform the following maintenance services, at a minimum, as described in the following sections:

### **6.1 Preventive Maintenance**

Preventive Maintenance shall be performed at least annually and include:

- System testing (voltage/amperage) at inverter and string levels

## Exhibit B. Engineering and Construction Requirements

- System visual inspection and necessary corrections:
  - Inspect for stolen, broken or damaged PV modules, record damage and location.
  - Inspect PV wiring for loose connections and wire condition. Inspect for wires in contact with the structure or hanging loose from racking.
  - Check mechanical attachment of the PV modules to the racking.
  - Check attachment of racking components to each other and the structure.
  - Verify proper system grounding is in place from panels to the inverter.
  - Check conduits and raceways for proper anchorage to structures.
  - Inspect all metallic parts for corrosion.
  - Check combiner boxes for proper fuse sizes and continuity.
  - Inspect all wiring connections for signs of poor contact at terminals (burning, discoloration, etc).
  - Inspect disconnects for proper operation.
  - Survey entire jobsite for debris or obstructions.
  - Inspect fasteners for proper torque and corrosion.
  - Inspect inverter pad for cracking or settling.
  - Inspect electrical hardware for proper warning and rating labeling.
  - Review as built documentation as needed.
  - Inspect alignment of arrays and racking to identify settling foundations or loose attachments
  - Inspect operation of tracking hinges, pivots, motors and actuators if present.
  - Check for proper operation and reporting of monitoring hardware.
  - Inspect sealed electrical components for condensation buildup.
  - Inspect wiring and hardware for signs of damage from vandalism or animal damage.
- Routine system maintenance to include correction of loose electrical connections, ground connections, replacement of defective modules found during testing, other minor maintenance repair work.
- Module cleaning, as deemed necessary by Seller.
- Routine DAS maintenance to include sensor calibration and data integrity check.

### **6.2 Troubleshooting, Inspection and Additional Repairs**

Dispatch of field service resources (via automated or manual means) for repairs as necessary to maintain system performance.

Seller will respond in a timely manner upon recognition of an alarm condition to ensure, using commercially reasonable efforts, that the Performance Guarantee requirements outlined in this Agreement are achieved.

## Exhibit B. Engineering and Construction Requirements

### 6.3 Customer Service Support

Support telephone line made available to Buyer staff to answer questions or report issues. Contact Seller at: [provide contact information here]

### 6.4 Major Component Maintenance and Repair

- Inverter repair and component replacement and refurbishment as required in the event of inverter failure.
- Inverter inspection and regular servicing as required under inverter manufacturer's warranty specifications. Those include but are not limited to the following annually:
  - Check appearance/cleanliness of the cabinet, ventilation system and all exposed surfaces.
  - Inspect, clean/replace air filter elements
  - Check for corrosion on all terminals, cables and enclosure.
  - Check all fuses.
  - Perform a complete visual inspection of all internally mounted equipment including subassemblies, wiring harnesses, contactors, power supplies and all major components.
  - Check condition of all the AC and DC surge suppressors.
  - Torque terminals and all fasteners in electrical power connections.
  - Check the operation of all safety devices (E-stop, door switches).
  - Record all operating voltages and current readings via the front display panel.
  - Record all inspections completed.
  - Inform inverter manufacturer of all deficiencies identified.
  - Oversee inverter manufacturer performance of In-Warranty replacement of failed inverter components.
- Customer advocacy with vendors.

### 6.5 Other System Services

- O&M Manuals – Seller shall provide one (1) copy of O&M Manuals. Updated editions of O&M Manuals shall be sent electronically to the Buyer as they become available.
- Management of long term service and warranty agreements, ongoing.

## Exhibit B. Engineering and Construction Requirements

- Seller shall log all maintenance calls and document all maintenance activities. These activities shall be presented in a report, which is to be submitted to the Buyer on a minimum monthly basis.

### **8. Training**

The Respondent shall provide emergency shutdown training and standard PV safety training for Buyer's personnel.

Upon exercise by Buyer of Purchase Option, Seller shall make additional system training available to Buyer at an additional, agreed upon price. Training shall included, at a minimum, the following:

- PV system safety, including shut-down procedures
- PV module maintenance and troubleshooting
- Inverter overview and maintenance procedures
- Calibration and adjustment procedures for the inverters and tracking systems (if any)
- DAS and monitoring solution, including standard and custom reporting



**Exhibit C**

**Operations & Scheduling**

**3 Notices**

All Schedules, Schedule changes, Scheduled Outages, Forced Outages, and planned outages are to be submitted to Buyer by email to the following persons: [AGENCY CONTACT NAME, EMAIL, PHONE.]

**3 Meters**

**3.1 Metering**

Proposers shall install utility-grade revenue, electronic, bi-directional meter per this Agreement and Exhibit B. The meter must meet all CSI rebate requirements and Local Utility requirements.

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**Exhibit D**

**Form of Attestation**

FORM OF ATTESTATION Environmental Attribute Attestation and  
Bill of Sale

[Name of Seller] ("Seller") hereby sells, transfers and delivers to the [Name of Public Agency] ("Buyer") the Environmental Attributes and Environmental Attributes Reporting Rights associated with the generation of the indicated energy for delivery to the grid (as such terms are defined in the Regional Power Purchase Agreement ("Agreement") dated [Date], between Buyer and Seller) arising from the generation for delivery to the grid of the energy by the Generating Facility described below:

Facility name and

location: Project

Name:

EIA

ID #:

CEC

ID#:

ISO Meter ID#:

Fuel Type:

Capacity

(MW):

Commercial Operation Date:

Dates

MWhs generated

Dates MWhs generated

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

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

Exhibit

indicated as undifferentiated energy; and

(Check one)

\_\_\_\_\_ Seller owns the facility.

\_\_\_\_\_ To the best of Seller's knowledge, each of the Environmental Attributes associated with the generation of the indicated energy for delivery to the grid have been generated and sold by the Facility.

This serves as a bill of sale, transferring from Seller to Buyer all of Seller's right, title and interest in and to the Environmental Attributes associated with the generation of the energy for delivery to the grid.

Contact Person: Name: \_\_\_\_\_ Phone: \_\_\_\_\_

WITNESS MY HAND,

Seller: By:

Title: Date:

**Exhibit E**  
**Insurance Requirements**

**A. ENDORSEMENTS AND CONDITIONS APPLYING TO ALL PHASES INSURANCE**

Without limiting the Seller's indemnification of the Buyer, the Seller shall provide and maintain at its own expense, during the term of this Agreement, or phase of this Agreement if coverage is phase-specific, or as may be further required herein, the following insurance coverage's and provisions:

1. **REDUCTION OR LIMIT OF OBLIGATION:** All insurance policies, including excess and umbrella insurance policies, shall include an endorsement and be primary and non-contributory and will not seek contribution from any other insurance (or self-insurance) available to the Buyer. The primary and non-contributory endorsement shall be at least as broad as ISO Form 20 01 04

13. Pursuant to the provisions of this Agreement insurance effected or procured by the Seller shall not reduce or limit Seller's contractual obligation to indemnify and defend the Indemnified Parties.

2. **EVIDENCE OF COVERAGE:** Before commencing operations under this Agreement, Seller shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to Buyer, evidencing that all required insurance coverage is in effect. The Buyer reserves the rights to require the Seller to provide complete, certified copies of all required insurance policies. The required certificate(s) and endorsements must be sent as set forth in the Notices.

The Seller shall not receive a Notice to Proceed with the work under this Agreement until it has obtained all insurance required and such insurance has been approved by the Buyer. This approval of insurance shall neither relieve nor decrease the liability of the Seller.

3. **DURATION OF COVERAGE:** All required insurance shall be maintained during the entire term of this Agreement or phase of this Agreement to which it applies. In addition, Insurance policies and coverage(s) written on a claims-made basis:

- Shall be maintained during the entire term of this Agreement or phase of this Agreement to which it applies and until 5 years following the letter of termination of this Agreement/Phase of this Agreement and acceptance of all work provided under this Agreement.
- The retroactive date must be before the execution date of the contract or the beginning of contract work.
- If coverage is canceled or non-renewed, and not replaced with another claims-

## Exhibit E. Insurance Requirements

made policy form with a retroactive date prior to the contract effective, or start of work date, the Seller must purchase extended reporting period coverage for a minimum of five (5) years after completion of work.

4. **ADDITIONAL INSURED:** All insurance required herein with the exception of Automobile Liability, Workers' Compensation, Employers Liability, and Professional liability shall be endorsed to name as additional insured: Buyer or, its <Insert Buyer's Governing Authority Name>, the individual members thereof, and all Buyer's officers, agents, employees, volunteers, and representatives. The Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13.

*The additional insured condition described above shall apply to all public entities entering into this agreement, with the specific entity and its respective related parties substituted for the Buyer. In all cases, the additional insured endorsement shall be at least as broad as ISO Form CG 20 38 04 13.*

All private property owners granting "Rights of Entry" for construction of the Work shall be covered as an additional insured under the same coverage as provided the Buyer as respects their ownership of the property and the work to be done thereon.

5. **INSURER FINANCIAL RATING:** Insurance shall be maintained through an insurer with an A.M. Best Rating of no less than A: VII or equivalent shall be admitted to the State of California unless otherwise waived by Risk Management, and with deductible amounts acceptable to the Buyer. Acceptance of Seller's insurance by Buyer shall not relieve or decrease the liability of Seller hereunder. Any deductible or self-insured retention amount or other similar obligation under the policies shall be the sole responsibility of the Seller.

6. **SUBCONTRACTORS:** Seller shall include all subcontractors as an insured (covered party) under its policies or shall verify that the subcontractor, under its own policies and endorsements, has complied with the insurance requirements in this Agreement, including this Exhibit F. Additional Insured endorsement shall be at least as broad as ISO Form Number CG 20 38 04 13.

7. **JOINT VENTURES:** If Seller is an association, partnership or other joint business venture, required insurance shall be provided by one of the following methods:

- Separate insurance policies issued for each individual entity, with each entity included as a "Named Insured (covered party), or at minimum named as an "Additional Insured" on the other's policies.
- Coverage shall be at least as broad as in the ISO Forms named above. Joint insurance program with the association, partnership or other joint business venture included as a "Named Insured.

8. **NOTICE OF CANCELLATION:**

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified Buyer insurance requirements without 30 days' prior

## Exhibit E. Insurance Requirements

written notice of such cancellation or change being delivered to the Buyer or their designated agent.

The Buyer acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self insurance on the part of the Seller. However, this shall not in any way limit liabilities assumed by the Seller under this Agreement. Any self insurance shall be approved in writing by the Buyer upon satisfactory evidence of financial capacity. Seller's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions

The Buyer acknowledges that some insurance requirements contained in this Agreement may be fulfilled by a combination of primary and excess liability policies. However, this shall not in any way limit liabilities assumed by the Seller under this Agreement.

The Buyer reserves the right to withhold payments to the Seller in the event of material noncompliance with the insurance requirements outlined below.

### **B. DESIGN PHASE INSURANCE REQUIREMENTS**

Insurance required during the design phase will include:

1. Commercial General Liability Insurance for bodily injury (including death) and property damage which provides limits as follows:

- a. Each occurrence -\$2,000,000
- b. General aggregate -\$2,000,000
- c. Personal Injury -\$2,000,000

2. General liability coverage shall include:

- a. Premises and Operations
- b. Personal Injury liability
- c. Severability of interest

3. General liability coverage shall include the following endorsement, a copy of which shall be provided to the Buyer:

*The additional insured requirement described above applies to each Agreement, with the specific entity and its respective related parties substituted for the County of Alameda. In all cases, the additional insured endorsement shall be at least as broad as ISO Form CG 20 38 04 13.*

## Exhibit E. Insurance Requirements

### 4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non owned and hired vehicles.

### 5. Workers' Compensation and Employer's Liability Insurance

- a. Statutory California Workers' Compensation coverage including broad form all states coverage.
- b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

### 6. Professional Errors and Omissions Liability Insurance

- a. Coverage shall be in an amount of not less than two million dollars (\$2,000,000) per occurrence/aggregate.
- b. If coverage contains a deductible or self-retention, it shall not be greater than one hundred fifty thousand dollars (\$150,000) per claim /event.
- c. Coverage as required herein shall be maintained for a minimum of three years following termination or completion of this Agreement.

### 7. CLAIMS MADE COVERAGE

If coverage is written on a claims made basis, the Certificate of Insurance shall clearly state so. In addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

## **C. CONSTRUCTION PHASE INSURANCE REQUIREMENTS**

The following limits shall apply In the event that a single bidder is awarded multiple bid packets with simultaneous construction periods, the Buyer reserves the right to increase insurance limits after bid award but prior to commencement of construction to reflect the higher exposure.

1. Commercial General Liability Insurance for bodily injury (including death) and

## Exhibit E. Insurance Requirements

property damage which provides limits as follows:

- a. Each occurrence -\$2,000,000
- b. General aggregate -\$4,000,000
- c. Products/Completed Operations aggregate \*\* -  
\$4,000,000
- d. Personal Injury -\$2,000,000

A minimum of 50% of each of the aggregate limits must remain available at all times unless coverage is project specific.

2. General liability coverage shall include:

- a. Premises and Operations
- b. \*\*Products/Completed Operations with limits of four million dollars (\$4,000,000) per aggregate to be maintained for three (3) years following acceptance of the work by the Buyer.
- c. Contractual Liability expressly including tort liability assumed under this Agreement. If the Seller is working within fifty (50) feet of a railroad or light rail operation, any exclusion as to performance of operations within the vicinity of any railroad bridge, trestle, track, roadbed, tunnel, underpass or crossway shall be deleted, or a railroad protective policy provided.
- d. Personal Injury liability
- e. Independent Contractor's Protective  
liability
- f. Severability of interest
- g. Explosion, Collapse, and Underground Hazards (X, C and U)
- h. Broad Form Property Damage liability

3. General liability coverage shall not be endorsed to exclude the following:

a. Contractual Liability Endorsement:

Insurance afforded by this policy shall apply to tort liability assumed by the insured under written contract with the Buyer.

b. X C & U (Explosion, Collapse and Underground) Endorsement:



## Exhibit E. Insurance Requirements

Insurance afforded by this policy shall provide X, C and U Hazards coverage.

### 4. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non owned and hired vehicles.

### 5. Workers' Compensation and Employer's Liability Insurance

a. Statutory California Workers' Compensation coverage including broad form all states coverage.

b. Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

### 6. Property Installation floater:

The property installation floater shall insure project material and equipment intended to become a part of the installation against risks of direct physical loss while in transit, in temporary storage, and while at the installation site. The coverage shall be in the amount of the value of the completed project.

## D. OPERATIONS AND MAINTENANCE PHASE INSURANCE REQUIREMENTS

Without limiting the Seller's indemnification of the Buyer, Seller, shall at its own expense, provide and maintain the following insurance coverage in full force and effect after the Commercial Operation Date:

1. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

a. Each occurrence -\$2,000,000

b. General aggregate -\$4,000,000

c. Personal Injury -\$2,000,000

2. General liability coverage shall include:

- Premises and Operations
- Personal Injury liability
- Severability of interest

## Exhibit E. Insurance Requirements

### 3. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

### 4. Workers' Compensation and Employer's Liability Insurance

- Statutory California Workers' Compensation coverage including broad form all-states coverage.
- Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

**Exhibit F – Workforce Plan**

Insert here

**Exhibit G – Form of Certificate**

Insert here

**SCHEDULES**

**I. Schedule 1: Grant of Access Rights**

<b>Location of Site:</b>
<b>Agency:</b>

**RIGHT OF ENTRY FOR CONSTRUCTION AND MAINTENANCE**

This Right of Entry for Construction and Maintenance Agreement (this "License") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ (the "Effective Date"), by and between the [Participating Agency] \_\_\_\_\_ as licensor ("Buyer"), and [Vendor] as licensee ("Seller"). \_\_\_\_\_ and \_\_\_\_\_ are sometimes individually referred to as "Party" and collectively as "Parties".

**RECITALS**

**WHEREAS**, Reference is made to the Power Purchase Agreement dated as of DATE (the "Agreement") and entered into by and between the undersigned the <INSERT JURISDICTION NAME> ("Buyer") and <INSERT SELLER'S NAME> ("Seller"), pursuant to which Seller will install, finance, operate, and maintain a solar photovoltaic system at [Insert Site Address] (the "Site"); and

**WHEREAS**, capitalized terms used herein but not defined herein shall have the meaning set forth in the Agreement.

By our signature below, we hereby grant to Seller and to Seller's agents, employees, contractors and subcontractors, commercial access rights during the Term of this License (the "Access Rights"), We further acknowledge and agree that:

**WITNESSETH**

**NOW THEREFORE, FOR AND IN CONSIDERATION** of the mutual Agreements by the Parties set forth herein and other good and valuable consideration, this License is subject to the following terms and conditions:

1. Grant of License

1.1 [Participating Agency] hereby grants to [Vendor], its employees, consultants, representatives and contractors a non-exclusive, temporary license to enter the Site for the purpose of installation, operation, and maintenance of the applicable Facility or Generating Facilities, including commercially reasonable access to, on, over, under and across the Site during reasonable business hours, and during non-business hours in the event of any event or circumstance that poses an imminent risk to human health, the environment, the applicable Facility or Generating Facilities or the Site.

1.2 This License is subordinate to all prior or future rights and obligations of the [Participating Agency] in the Site, except that the [Participating Agency] shall grant no rights inconsistent with the reasonable exercise by the [Vendor] of its rights under this License.

## 2. Use

2.1 Seller may use the Site for the erection, installation, ownership, operation, maintenance, repair, replacement, improvement and removal of the Facility or Generating Facilities as well as for all other activities to be conducted by Seller in connection with the performance of its obligations and exercise of its rights under the Agreement. Seller will comply with all laws, ordinances, orders, rules and regulations (state, federal or local), specifically including without limitation all environmental and occupational, health and safety requirements relating to Seller's use and/or occupancy of the Site and the Facility or Generating Facilities. Seller shall confine maintenance and operations activities to the Site or to other portions of the Site as may be expressly permitted by Buyer in writing.

## 3. Utilities

3.1 Buyer and Seller understand and acknowledge that pursuant to the terms of the Agreement, Buyer shall provide certain specified utilities to the Site in connection with Seller's construction, start-up, maintenance, repair, replacement and operation of the Facility or Generating Facilities. In connection therewith, Seller's use of the Site shall include the non-exclusive right to the use of water lines, sewer lines, storm water lines, power lines, fuel lines, telephone and communication lines, pipelines, and drainage ditches, if available. Exercise of Seller's license to utilize these utilities as set forth herein and in the Agreement shall be subject to Buyer's prior written approval which may be withheld should Buyer, in its sole discretion, determine that the proposed use will interfere or otherwise adversely impact Buyer systems, operations or activities. Buyer shall maintain and repair all utilities up to the delivery points identified in the Agreement, and Seller will have the obligation to maintain and repair all utilities, including all pipes, conduits, ducts, electric or other utilities, sinks or other apparatus through which any utility services are provided, from said delivery points to and then within the Site.

## 4. Maintenance Activities/Seller's Security Obligations

4.1 Except in the event of an emergency, Seller agrees to give Buyer fifteen (15) days prior written notice of its maintenance activities to coordinate and schedule such activities so as to avoid interference, impact or conflict with Buyer's use of the Site or areas adjacent to or proximate to the Site. Notwithstanding the security measures Buyer maintains around the Site and adjacent to the Site, Seller shall be solely responsible for undertaking reasonable security measures to ensure and maintain the security of the Facility or Generating Facilities and the Site, which includes, but is not limited to, the security of the wiring and the inverters. As such, Seller shall bear the sole cost and responsibility of replacing any equipment or other property stolen from or otherwise damaged at the Site, whether owned by Buyer or Seller, due to Seller's failure to provide reasonable security measures except if such damage is the result of Buyer's negligence or willful misconduct.

Seller shall contact Buyer's designated contact person as described in Attachment 2 to coordinate operation and maintenance activities on the Site. Buyer shall provide Seller with at least seven (7) calendar days written notice of any Buyer activities proximate to the Facility or Generating Facilities.

#### 5. Seller to Comply with Buyer's Security Measures, Rules and Regulations

5.1 Without in anyway limiting Seller's responsibility to provide adequate security as set forth in the foregoing, Seller hereby agrees to abide by any and all Buyer security measures and procedures currently in place at or adjacent to the Site. Seller agrees to repair to the current standards all roads, driveways and walkways damaged by Seller equipment or deliveries that are now and may be located in and around the Site necessary for proper ingress and egress to and from, and occupancy of, the Site. Seller will observe all speed limits and other rules and regulations established by Buyer with respect to such roads and driveways.

#### 6. Compliance with Safety Requirements

6.1 Seller shall comply with all safety requirements specified in any safety program established by Buyer as well as any required by state, federal or local laws and ordinances.

6.2 Buyer will provide Seller with a copy of all Buyer established safety programs and will provide Seller with written changes to these programs, if any, within a reasonable time of their adoption by Buyer. Seller or its designee (including any Financing Party) shall have the right without cost to access the Site to perform its obligations under the Agreement. Buyer will not charge Seller any rent for such right to access the Site.

#### 7. No Interference with Buyer's Use

7.1 This License and the use hereunder by Seller shall not interfere or permit interference with Buyer's use of its Site for \_\_\_\_\_ purposes. Seller shall repair any damage to the Site and any facilities, equipment, persons or property located

in or adjacent to the Site. Nothing in this License shall supersede the terms and conditions of the Agreement. To the extent that the terms and conditions of the Agreement and this License conflict, the Agreement shall govern.

8. Security Interest

8.1 The Financing Parties have a first priority perfected security interest in the Facility or Generating Facilities. Seller and the Financing Parties are intended third party beneficiaries of Buyer's Agreements in this License.

9. Generating Facility Personal Property of Seller/Not a Fixture

9.1 The applicable Facility or Generating Facilities are the personal property of Seller, and shall not be considered the property (personal or otherwise) of Buyer upon installation of the applicable Facility or Generating Facilities at the applicable Site. Each applicable Facility is more particularly described in the Schedule 4 of the Agreement.

9.2 The applicable Facility or Generating Facilities shall not be considered a fixture of the applicable Site. Accordingly, Buyer hereby grants Seller and any Financing Party the right to file any UCC-1 financing statement or fixture filing that confirms its interest in the applicable Facility or Generating Facilities.

10. No Interference with Access Rights

10.1 The term shall commence on the Effective Date and shall terminate upon expiration of the one-hundred eighty (180) day period provided for in Section 10.5 of the Agreement, which allows for the removal of the Facility or Generating Facilities ("Term"). During the Term, Seller's access rights are preserved and Buyer shall not interfere with or permit any third party to interfere with such rights or access. The Access Rights granted hereunder shall be irrevocable during the Term of this License, except upon expiration or earlier termination of the Agreement regarding a Facility, in which case it shall only be revocable as it relates to the applicable Facility or Generating Facilities.

11. Access Rights Upon Termination

11.1 Upon any rejection or other termination of this License pursuant to any process undertaken with respect to Seller under the United States Bankruptcy Code, at the request of any Financing Party made within ninety (90) days of such termination or rejection, Buyer shall execute a new grant of access rights in favor of the Financing Parties (or their designees) on substantially the same terms as this Grant of Access Rights.

12. Compliance with Laws



12.1 [Vendor] shall conduct all activities in compliance with all Federal, State and municipal statutes and ordinances, and with all regulations, orders and directives of appropriate governmental agencies ("Laws and Regulations"), as such Laws and Regulations exist during the Term of this License.

### 13. Indemnification

13.1 To the fullest extent permitted by law, each Party ("Indemnifying Party") shall defend, indemnify and hold harmless, with counsel of its own choosing (subject to terms of the next paragraph), the other Party, and its permitted successors and assigns, and their elective or appointive board, officers, directors, employees, agents, affiliates and representatives (each, an "Indemnified Party") from and against any and all claims, liability or losses, including but not limited to those losses arising from (i) personal injury or death, (ii) damage to property, (iii) taxes for which the Indemnifying Party is responsible under this License, (iv) fines or penalties payable by the Indemnified Party, or (v) any other actions resulting in damages, losses or liabilities to the extent such losses result from or arise out of or in any way are connected with the Indemnifying Party's performance of this License or, in the case of Seller, the design, construction, use, operation, maintenance, or removal of the Generating Facility, except as may arise solely from the negligence, willful misconduct or violation of law by the Indemnified Party, its officers, employees, subcontractors or agents. Notwithstanding the above, an Indemnifying Party shall not be required to defend, indemnify and hold harmless an Indemnified Party for the Indemnified Party's own negligent acts, omissions or willful misconduct. It is the intent of the Parties that where negligence is determined to have been joint or contributory, principles of comparative negligence will be followed, and each Party shall bear the proportionate cost of any loss damage, expense or liability attributable to that Party's negligence.

13.2 If requested by any of the Buyer's Indemnified Parties, Seller shall defend any claims, liabilities, or lawsuits at its cost and expense. In an action or claim against Buyer in which Seller is required to defend Buyer, Seller shall have reasonable discretion in choosing legal counsel retained by Seller to provide Buyer's defense, provided however, that Buyer shall have the right to approve such legal counsel, which approval shall not be unreasonably withheld, conditioned or delayed. If Seller refuses or fails to undertake or diligently prosecute such defense on behalf of Buyer, Buyer will have the right to provide its own defense, and Seller will reimburse Buyer for such expenditures, including reasonable attorney's fees and costs. Seller's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of Buyer or any other person, except as may arise solely from the negligence or solely from the willful misconduct of Buyer, its officers, employees or agents, and shall apply without limitation to claims and litigation arising under the Americans with Disabilities Act, inverse condemnation, or any other statutory or legal theory. All of Seller's obligations under this section are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this Agreement.

14. Insurance

14.1 [Vendor] shall maintain the policies of insurance in amounts and with coverage as set forth in Exhibit E [Insurance Requirements] of the Agreement.

15. Taxes and Assessments

15.1 It is expressly understood that this License is not exclusive and does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the Site to Seller. Should taxes or assessments be levied upon any interest in this License, Seller agrees to pay all lawful taxes, assessments or charges created by this License.

16. Continuing Liability

16.1 No termination of this License shall release the Seller from any liability or obligations hereunder resulting from any acts, omissions or events happening prior to the termination of this License and restoration of the Site to its prior condition.

17. Attorneys' Fees

17.1 In the event of a dispute between the Parties with respect to the terms or condition of this License, it is agreed that each Party, including the prevailing Party, must bear its own costs and reasonable attorneys' fees as established by the judge or arbitrator presiding over such dispute.

18. Assignment

18.1 Seller shall not sell, transfer or assign the Seller's rights and obligations under this License, or any interest in this License, without the prior written consent of Buyer, except as may be permitted with regards to assignment concurrently with the Agreement, in which case any proposed sale, transfer or assignment of Seller's rights and obligations under this License must be carried out in accordance with Section 12 of the Agreement.

19. Notices

19.1 All notices or other communications required or permitted hereunder shall be in writing and shall be personally delivered (including by means of professional messenger service), sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below.

19.2 All such notices or other communications shall be deemed received upon the earlier of 1) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notices or 2) if mailed as provided above, on the date of receipt or rejection.

To the County of Alameda:

To \_\_\_\_\_ [vendor]:

20. Entire Agreement

20.1 This License contains all the agreements of the Parties regarding right of entry for construction and supersedes any prior License or negotiations. There have been no representations by the Seller or understandings made between the Seller and the Buyer regarding right of entry for construction other than those set forth in this License. This License may not be modified except by a written instrument duly executed by the Parties.

21. Counterparts

21.1 This License may be executed in one or more counterparts, each of which shall be deemed as original but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this License by their duly authorized representatives on the date first above written.

**II. Schedule 2: Early Termination Fee**

The Early Termination Fee with respect to each Facility under this Agreement shall be calculated in accordance with the following:

<b>Early Termination Occurs in Year:</b>	<b>Early Termination Fee (\$/Wdc including costs of removal)</b>
1	
2	
3	
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III. Schedule 3: Notice Information \_

**Buyer:**

<Insert Buyer Name>

<Insert Buyer Address>

**Seller:**

<Insert Seller Name>

<Insert Seller Address>

**Financing Party:**

*With a copy to:*

[       ]

[To be provided by Seller when known]

**IV. Schedule 4: Description of Generating Facilities**

**V. Schedule 5: Project Site Description**



**VI. Schedule 6: Contract Price**

The kWh Rate with respect to the Generating Facility under this Agreement shall be in accordance with the following schedule(s).

**<INSERT PROJECT SITE NAME> Generating Facility:**

<b>Year of System</b>	<b>kWh Rate[*] (\$/kWh)</b>	<b>Year of System</b>	<b>\$/kWh Rate[*] (\$/kWh)</b>
<b>1</b>	\$0.0	<b>11</b>	\$0.0
<b>2</b>	\$0.0	<b>12</b>	\$0.0
<b>3</b>	\$0.0	<b>13</b>	\$0.0
<b>4</b>	\$0.0	<b>14</b>	\$0.0
<b>5</b>	\$0.0	<b>15</b>	\$0.0
<b>6</b>	\$0.0	<b>16</b>	\$0.0
<b>7</b>	\$0.0	<b>17</b>	\$0.0
<b>8</b>	\$0.0	<b>18</b>	\$0.0
<b>9</b>	\$0.0	<b>19</b>	\$0.0
<b>10</b>	\$0.0	<b>20</b>	\$0.0

[\*Calculated based on the year 1 kWh Rate multiplied by <X>% inflation factor each year.]

**VII. Schedule 7: Expected Annual Contract Quantity**

Expected Annual Contract Quantity commencing on the Actual Commercial Operation Date with respect to each Facility under this Agreement shall be as follows:

[include Expected annual Contract Quantity set forth separately for each separate Facility]

**VIII. Schedule 8: Project Site Milestones**

**Mandatory Milestones**

<b>Mandatory Milestone</b>	<b>Date</b>
50% Schematic Design submittal	<b>TBD</b>
90% Design Development submittal	<b>TBD</b>
100% Construction Documents submittal for permitting	<b>TBD</b>
Approved Construction Documents – All Agency Sites	<b>TBD</b>
Notice to Proceed	<b>TBD</b>
Mobilization	<b>TBD</b>
Substantial Completion	<b>TBD</b>
Final Completion	<b>TBD</b>

**1.1 Submittals**

Seller shall provide the following submittals as part of its obligations under this Agreement. The cost of developing and providing such submittals shall be included in the Contract Price.

**Agreement Submittals**

<b>Submittal</b>	<b>Timeline Requirement</b>	<b>Date</b>
<b>I. System Design</b>		<b>TBD</b>
a. System Design Documentation	At each design milestone	<b>TBD</b>
b. Warranties	At Construction Documents milestone	<b>TBD</b>

Schedule 8

c. Testing Plan	At Construction Documents milestone	TBD
d. Training Plan	At Construction Documents milestone	TBD
e. Power production modeling	At Construction Documents milestone	TBD
<b>II. Procurements and Construction</b>		<b>TBD</b>
a. Quality Assurance / Quality Control (QA/QC) Plan	30 days before commencement of construction	TBD
b. Safety Plan	30 days before commencement of construction	TBD
c. As-built Documentation	After completion of Proving Period	TBD
<b>III. Testing</b>		<b>TBD</b>
a. Acceptance Test Results	After Acceptance Test	TBD
b. Startup Test Results	After Startup Test	TBD
c. Monitoring Data (Proving Period)	Continually throughout Proving Period	TBD
d. Proving Period Report	30 days after System Startup	TBD
<b>IV. Training</b>		<b>TBD</b>
a. Training Materials	30 days before Training Session	TBD
b. Monitoring Manual	30 days before Training Session	TBD
c. Operations & Maintenance Manual	30 days before Training Session	TBD

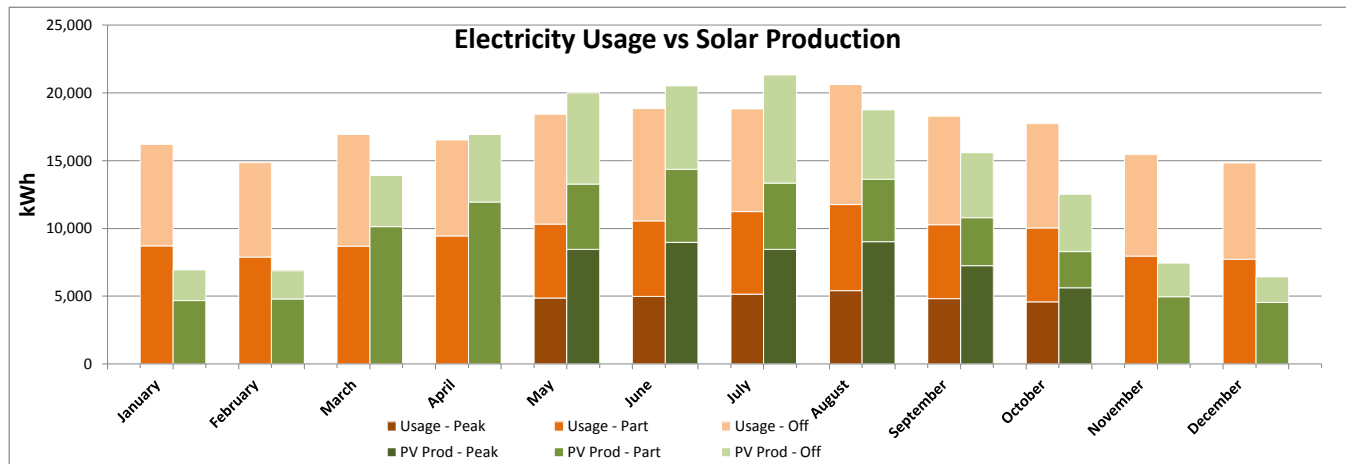
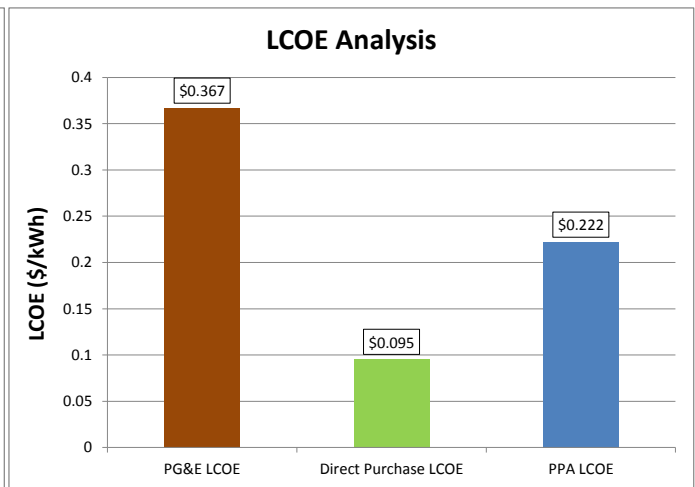
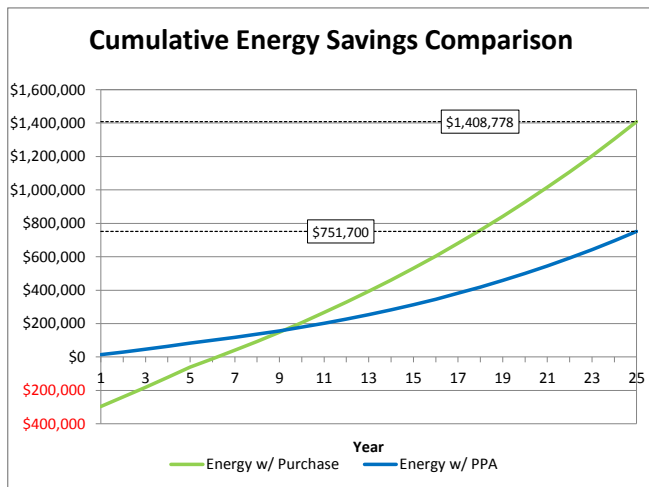
**IX. Schedule 9: Project Management Reimbursement**

Seller to provide Project Management funds of <INSERT \$ AMOUNT>, equaling three and one half percent (3.5%) of Seller's costs [to construct] the Generating Facility to Buyer within thirty (30) days of receipt of Notice to Proceed from Buyer.

**X. Schedule 10: Cash Flow Tables Showing Value of Solar**

**<INSERT TABLE PROVIDED BY SELLER**

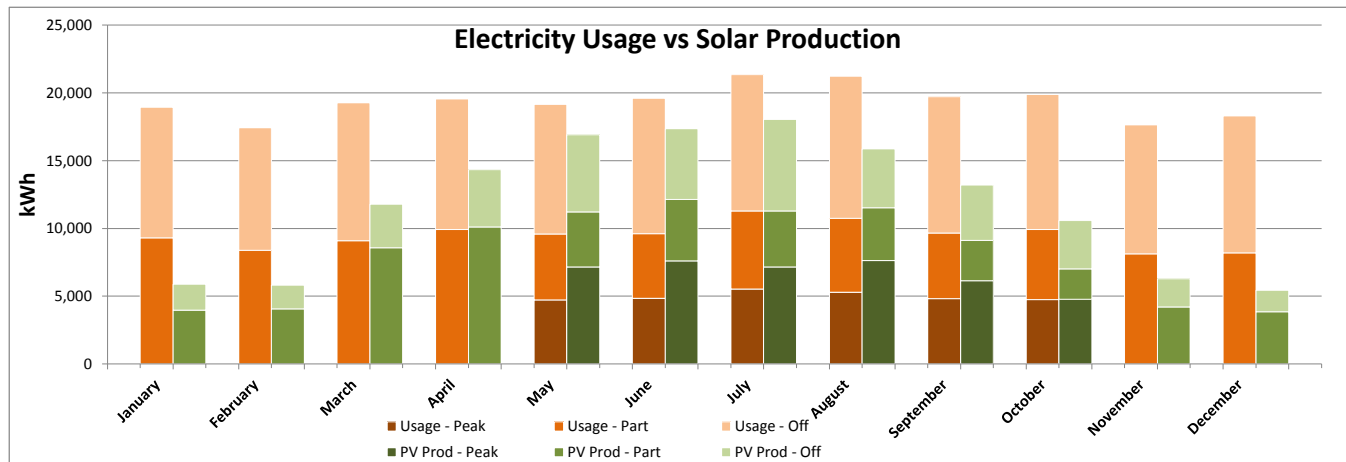
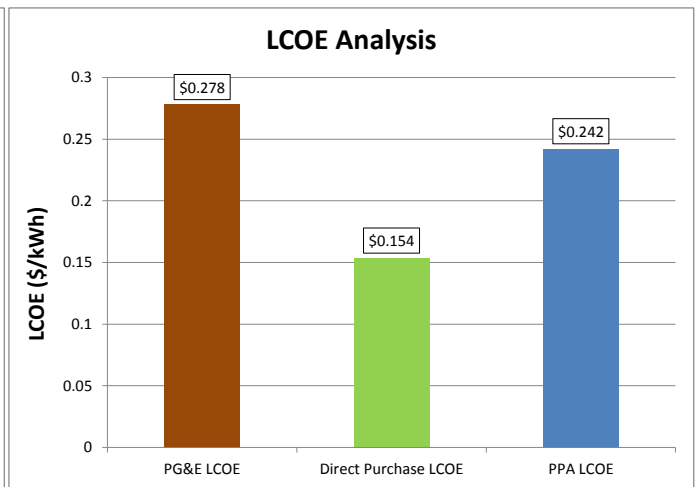
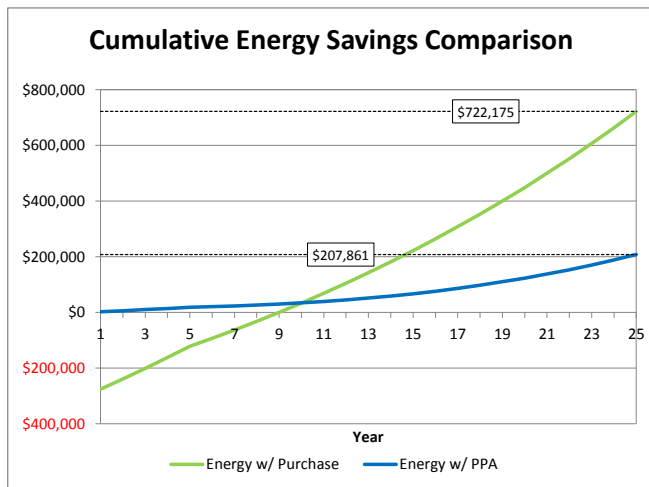
Arrillaga Family Gymnasium Financial Analysis Summary		(Cupertino Electric Inc.)			
<b>Site Information and Assumptions</b>		<b>Energy Savings Summary By Term</b>			
Recommended System Size (kW)	109.8	<b>Year</b>	<b>Cost of PG&amp;E</b>	<b>Cost of Purchase</b>	<b>Cost of PPA</b>
Yield (kWh/kW)	1,523	15-Year	\$ 662,456	\$ 339,956	\$ 429,840
Year 1 Solar Output (kWh)	167,220	20-Year	\$ 894,079	\$ 368,751	\$ 565,869
Annual Onsite Energy Usage (kWh)	207,473	25-Year	\$ 1,131,324	\$ 402,965	\$ 697,331
Energy Offset by Solar	81%	25 year Savings/Cost		\$ 728,359	\$ 433,993
Annual PV degradation	0.50%		<b>% Savings</b>	<b>Energy w/ Purchase</b>	<b>Energy w/ PPA</b>
Utility Rate Schedule	A-10 S		10-Year	39%	34%
Proposed Rate Schedule	A-10 S		15-Year	60%	35%
Average Utility Cost (\$/kWh)	0.2058		20-Year	69%	37%
Utility Annual Inflator	5%		25-Year	74%	40%
Analysis Cycle	25 yrs	Payback Year =		7	1
<b>General Financial Inputs</b>		<b>Levelized Cost of Energy (LCOE)</b>			
Discount Rate	4%	Utility LCOE (25 years) (\$/kWh)		\$ 0.3668	
Buyer sells S-REC (Y/N)	N	Direct Purchase LCOE (25 years) (\$/kWh)		\$ 0.0952	
Solar Rebate (\$/kWh) (Direct Purchase / PPA)	\$0.088 / \$0.025	PPA LCOE (25 years) (\$/kWh)		\$ 0.2219	
Solar Rebate Term (Years)	5	<b>Net Present Value (NPV) of Energy Cost</b>			
<b>Direct Purchase Information</b>		Utility Energy Purchase (25 years)		\$1,131,324	
System and PM Cost (\$/W)	\$3.36	Direct Purchase (25 years, incl O&M)		\$402,965	
Engineering, Procurement, and Construction	\$350,845	PPA (25 years)		\$697,331	
Year 1 O&M	2,716	<b>Environmental Impact</b>			
O&M Annual Escalator	2%	Annual CO2 Reduction (tons)		120	
<b>Power Purchase Agreement (PPA) Information</b>		Annual VMT Reduction Equivalent (miles)		275,513	
Initial PPA rate (\$/kWh)	0.1950	Annual Carbon Sequestration Equiv. (acres)		26	
PPA escalator	2.5%				



## Onetta Harris Community Center Financial Analysis Summary

(Cupertino Electric Inc.)

Site Information and Assumptions		Energy Savings Summary By Term				
Recommended System Size (kW)	97.6	<b>Year</b>	<b>Cost of PG&amp;E</b>	<b>Cost of Purchase</b>	<b>Cost of PPA</b>	
Yield (kWh/kW)	1,450	15-Year	\$ 561,519	\$ 462,218	\$ 512,167	
Year 1 Solar Output (kWh)	141,483	20-Year	\$ 757,850	\$ 542,263	\$ 679,985	
Annual Onsite Energy Usage (kWh)	232,045	25-Year	\$ 958,946	\$ 628,196	\$ 845,517	
Energy Offset by Solar	61%	25 year Savings/Cost		\$ 330,751	\$ 113,429	
Annual PV degradation	0.50%			<b>% Savings</b>	<b>Energy w/ Purchase</b>	
Utility Rate Schedule	E-19 SV			10-Year	8%	8%
Proposed Rate Schedule	E-19 SV			15-Year	30%	9%
Average Utility Cost (\$/kWh)	0.1560			20-Year	40%	11%
Utility Annual Inflator	5%			25-Year	45%	13%
Analysis Cycle	25 yrs			Payback Year =	9	
<b>General Financial Inputs</b>		<b>Levelized Cost of Energy (LCOE)</b>				
Discount Rate	4%	Utility LCOE (25 years) (\$/kWh)			\$ 0.2780	
Buyer sells S-REC (Y/N)	N	Direct Purchase LCOE (25 years) (\$/kWh)			\$ 0.1535	
Solar Rebate (\$/kWh) (Direct Purchase / PPA)	\$0.088 / \$0.025	PPA LCOE (25 years) (\$/kWh)			\$ 0.2422	
Solar Rebate Term (Years)	5	<b>Net Present Value (NPV) of Energy Cost</b>				
<b>Direct Purchase Information</b>		Utility Energy Purchase (25 years)			\$958,946	
System and PM Cost (\$/W)	\$3.36	Direct Purchase (25 years, incl O&M)			\$628,196	
Engineering, Procurement, and Construction	\$312,131	PPA (25 years)			\$845,517	
Year 1 O&M	2,414	<b>Environmental Impact</b>				
O&M Annual Escalator	2%	Annual CO2 Reduction (tons)			102	
<b>Power Purchase Agreement (PPA) Information</b>		Annual VMT Reduction Equivalent (miles)			233,108	
Initial PPA rate (\$/kWh)	0.1900	Annual Carbon Sequestration Equiv. (acres)			22	
PPA escalator	2.5%					

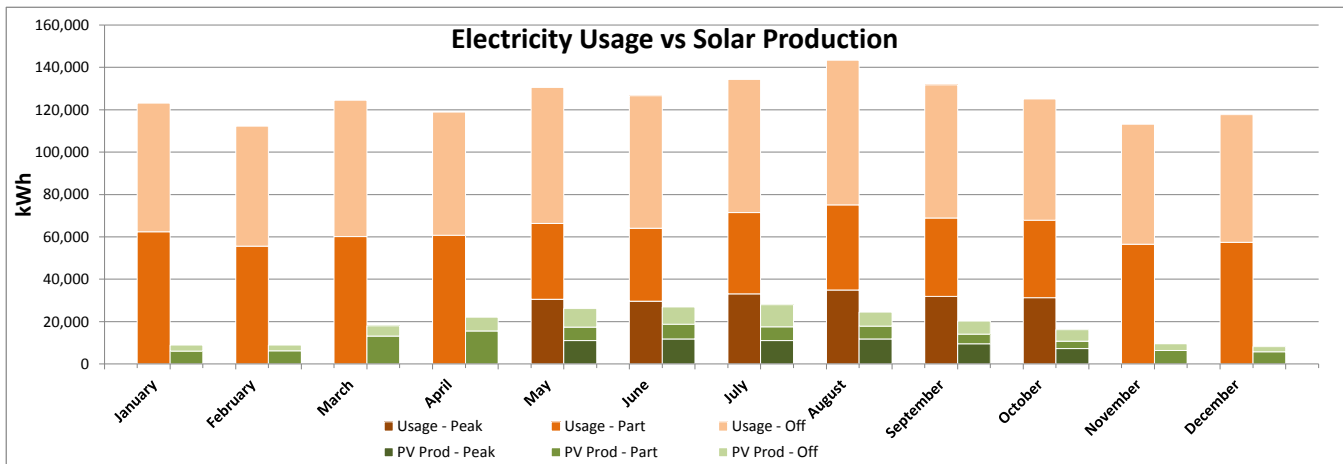
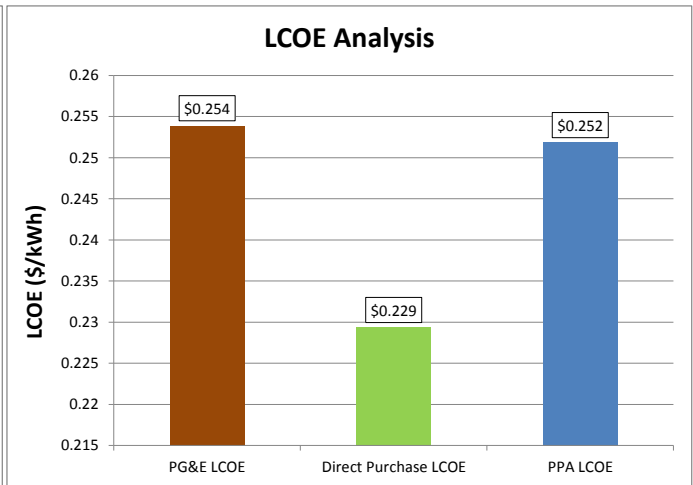
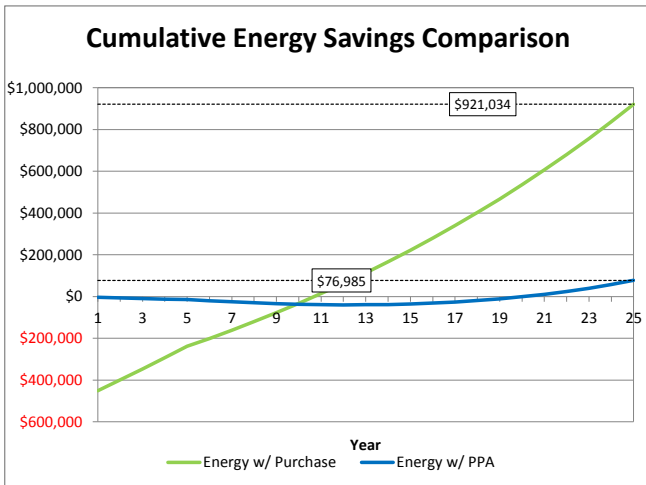




## Arrillaga Family Gymnastics Center Financial Analysis Summary

(Cupertino Electric Inc.)

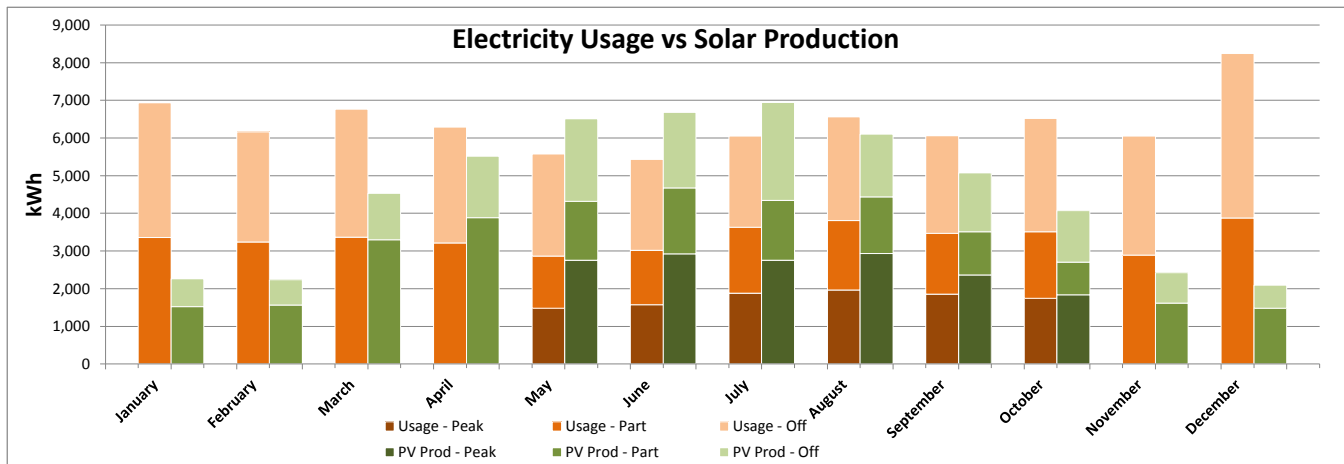
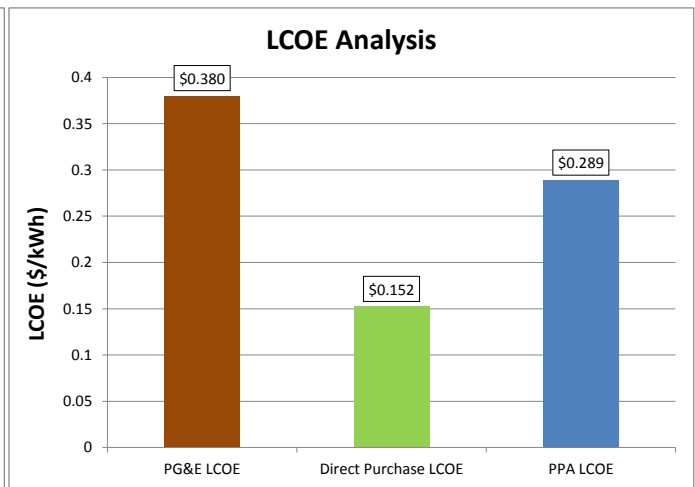
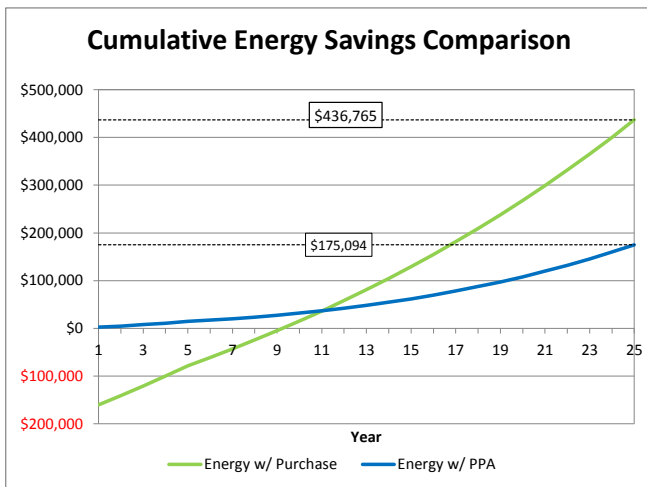
Site Information and Assumptions		Energy Savings Summary By Term			
		Year	Cost of PG&E	Cost of Purchase	Cost of PPA
Recommended System Size (kW)	146.4	15-Year	\$ 3,317,555	\$ 3,261,272	\$ 3,347,836
Yield (kWh/kW)	1,487	20-Year	\$ 4,477,515	\$ 4,260,615	\$ 4,490,415
Year 1 Solar Output (kWh)	217,743	25-Year	\$ 5,665,629	\$ 5,286,135	\$ 5,645,830
Annual Onsite Energy Usage (kWh)	1,501,322	25 year Savings/Cost		\$ 379,493	\$ 19,798
Energy Offset by Solar	15%				
Annual PV degradation	0.50%				
Utility Rate Schedule	A-10 S				
Proposed Rate Schedule	A-10 S				
Average Utility Cost (\$/kWh)	0.1424				
Utility Annual Inflater	5%				
Analysis Cycle	25 yrs				
<b>General Financial Inputs</b>		<b>Levelized Cost of Energy (LCOE)</b>			
Discount Rate	4%	Utility LCOE (25 years) (\$/kWh)		\$ 0.2539	
Buyer sells S-REC (Y/N)	N	Direct Purchase LCOE (25 years) (\$/kWh)		\$ 0.2293	
Solar Rebate (\$/kWh) (Direct Purchase / PPA)	\$0.088 / \$0.025	PPA LCOE (25 years) (\$/kWh)		\$ 0.2518	
Solar Rebate Term (Years)	5	<b>Net Present Value (NPV) of Energy Cost</b>			
<b>Direct Purchase Information</b>		Utility Energy Purchase (25 years)		\$5,665,629	
System and PM Cost (\$/W)	\$3.59	Direct Purchase (25 years, incl O&M)		\$5,286,135	
Engineering, Procurement, and Construction	\$500,505	PPA (25 years)		\$5,645,830	
Year 1 O&M	3,622	<b>Environmental Impact</b>			
O&M Annual Escalator	2%	Annual CO2 Reduction (tons)		156	
<b>Power Purchase Agreement (PPA) Information</b>		Annual VMT Reduction Equivalent (miles)		358,755	
Initial PPA rate (\$/kWh)	0.2000	Annual Carbon Sequestration Equiv. (acres)		33	
PPA escalator	2.5%				



## Corporation Yard (Option 1) Financial Analysis Summary

(Cupertino Electric Inc.)

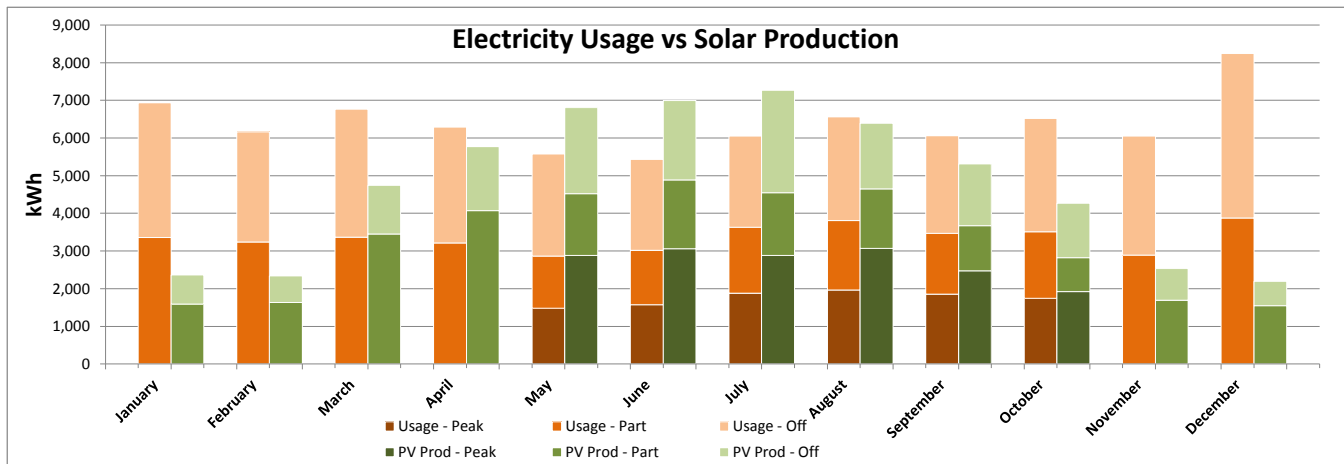
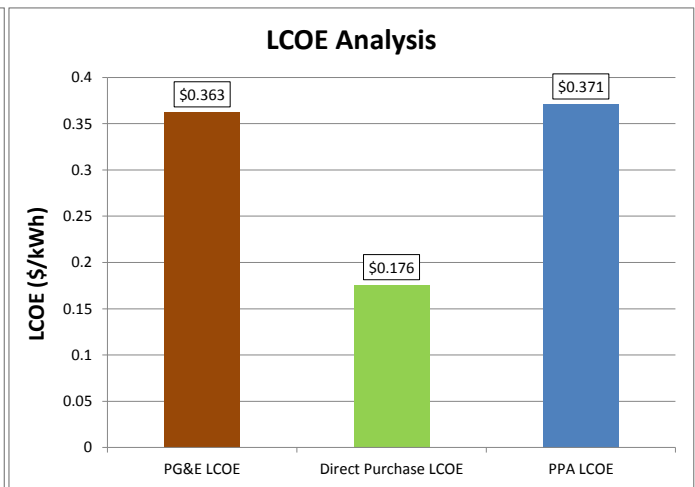
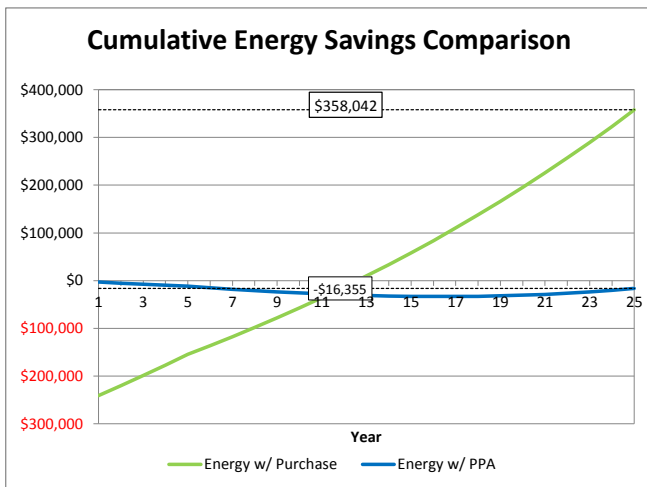
Site Information and Assumptions		Energy Savings Summary By Term			
		Year	Cost of PG&E	Cost of Purchase	Cost of PPA
Recommended System Size (kW)	36.6	15-Year	\$ 253,791	\$ 197,715	\$ 208,750
Yield (kWh/kW)	1,488	20-Year	\$ 342,528	\$ 215,339	\$ 273,859
Year 1 Solar Output (kWh)	54,443	25-Year	\$ 433,418	\$ 235,133	\$ 336,611
Annual Onsite Energy Usage (kWh)	76,655	25 year Savings/Cost		\$ 198,285	\$ 96,807
Energy Offset by Solar	71%			% Savings	Energy w/ Purchase
Annual PV degradation	0.50%			10-Year	8%
Utility Rate Schedule	A-10 S			15-Year	38%
Proposed Rate Schedule	A-10 S			20-Year	52%
Average Utility Cost (\$/kWh)	0.2134			25-Year	60%
Utility Annual Inflator	5%			Payback Year =	10
Analysis Cycle	25 yrs			Energy w/ PPA	1
General Financial Inputs		Levelized Cost of Energy (LCOE)			
Discount Rate	4%	Utility LCOE (25 years) (\$/kWh)		\$ 0.3804	
Buyer sells S-REC (Y/N)	N	Direct Purchase LCOE (25 years) (\$/kWh)		\$ 0.1525	
Solar Rebate (\$/kWh) (Direct Purchase / PPA)	\$0.088 / \$0.025	PPA LCOE (25 years) (\$/kWh)		\$ 0.2890	
Solar Rebate Term (Years)	5	Net Present Value (NPV) of Energy Cost			
Direct Purchase Information		Utility Energy Purchase (25 years)		\$433,418	
System and PM Cost (\$/W)	\$5.14	Direct Purchase (25 years, incl O&M)		\$235,133	
Engineering, Procurement, and Construction	\$179,262	PPA (25 years)		\$336,611	
Year 1 O&M	549	Environmental Impact			
O&M Annual Escalator	3%	Annual CO2 Reduction (tons)		39	
Power Purchase Agreement (PPA) Information		Annual VMT Reduction Equivalent (miles)		89,701	
Initial PPA rate (\$/kWh)	0.2550	Annual Carbon Sequestration Equiv. (acres)		8	
PPA escalator	2.5%				



## Corporation Yard (Option 2) Financial Analysis Summary

(Cupertino Electric Inc.)

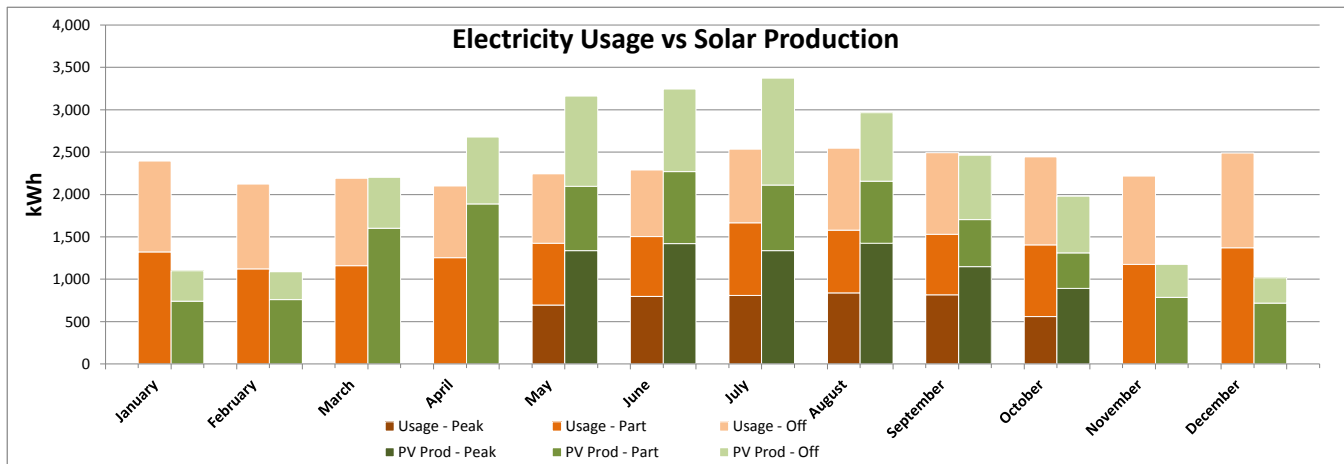
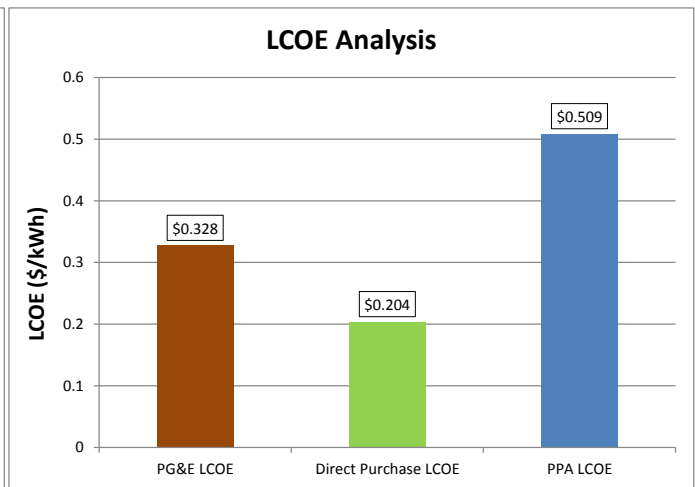
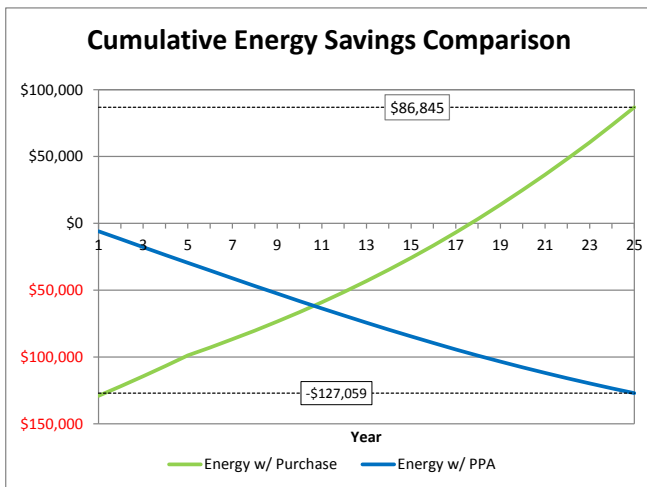
Site Information and Assumptions		Energy Savings Summary By Term				
Recommended System Size (kW)	36.6	Year	Cost of PG&E	Cost of Purchase	Cost of PPA	
Yield (kWh/kW)	1,557	15-Year	\$ 250,436	\$ 267,210	\$ 276,639	
Year 1 Solar Output (kWh)	56,986	20-Year	\$ 333,914	\$ 280,392	\$ 359,058	
Annual Onsite Energy Usage (kWh)	76,655	25-Year	\$ 417,393	\$ 295,262	\$ 436,612	
Energy Offset by Solar	74%	25 year Savings/Cost		\$ 122,131	\$ (19,219)	
Annual PV degradation	0.50%			% Savings	Energy w/ Purchase	
Utility Rate Schedule	A-6 TOU			10-Year	-29%	-13%
Proposed Rate Schedule	A-6 TOU			15-Year	17%	-10%
Average Utility Cost (\$/kWh)	0.2464			20-Year	39%	-6%
Utility Annual Inflator	4%			25-Year	51%	-2%
Analysis Cycle	25 yrs			Payback Year =	13	
<b>General Financial Inputs</b>		<b>Levelized Cost of Energy (LCOE)</b>				
Discount Rate	4%	Utility LCOE (25 years) (\$/kWh)		\$ 0.3628		
Buyer sells S-REC (Y/N)	N	Direct Purchase LCOE (25 years) (\$/kWh)		\$ 0.1760		
Solar Rebate (\$/kWh) (Direct Purchase / PPA)	\$0.088 / \$0.025	PPA LCOE (25 years) (\$/kWh)		\$ 0.3714		
Solar Rebate Term (Years)	5	<b>Net Present Value (NPV) of Energy Cost</b>				
<b>Direct Purchase Information</b>		Utility Energy Purchase (25 years)		\$417,393		
System and PM Cost (\$/W)	\$7.49	Direct Purchase (25 years, incl O&M)		\$295,262		
Engineering, Procurement, and Construction	\$261,193	PPA (25 years)		\$436,612		
Year 1 O&M	549	<b>Environmental Impact</b>				
O&M Annual Escalator	3%	Annual CO2 Reduction (tons)		41		
<b>Power Purchase Agreement (PPA) Information</b>		Annual VMT Reduction Equivalent (miles)		93,891		
Initial PPA rate (\$/kWh)	0.3500	Annual Carbon Sequestration Equiv. (acres)		9		
PPA escalator	2.5%					



## Belle Haven Childcare Center Financial Analysis Summary

(Cupertino Electric Inc.)

Site Information and Assumptions		Energy Savings Summary By Term				
Recommended System Size (kW)	18.3	<b>Year</b>	<b>Cost of PG&amp;E</b>	<b>Cost of Purchase</b>	<b>Cost of PPA</b>	
Yield (kWh/kW)	1,445	15-Year	\$ 80,078	\$ 131,855	\$ 145,816	
Year 1 Solar Output (kWh)	26,444	20-Year	\$ 108,076	\$ 133,836	\$ 185,706	
Annual Onsite Energy Usage (kWh)	28,069	25-Year	\$ 136,754	\$ 136,434	\$ 222,596	
Energy Offset by Solar	94%	25 year Savings/Cost		\$ 320	\$ (85,842)	
Annual PV degradation	0.50%			<b>% Savings</b>	<b>Energy w/ Purchase</b>	
Utility Rate Schedule	A-1			10-Year	-105%	-92%
Proposed Rate Schedule	A-1			15-Year	-24%	-79%
Average Utility Cost (\$/kWh)	0.1839			20-Year	15%	-67%
Utility Annual Inflater	5%			25-Year	38%	-55%
Analysis Cycle	25 yrs			Payback Year =	18	
<b>General Financial Inputs</b>		<b>Levelized Cost of Energy (LCOE)</b>				
Discount Rate	4%	Utility LCOE (25 years) (\$/kWh)		\$ 0.3278		
Buyer sells S-REC (Y/N)	N	Direct Purchase LCOE (25 years) (\$/kWh)		\$ 0.2040		
Solar Rebate (\$/kWh) (Direct Purchase / PPA)	\$0.088 / \$0.025	PPA LCOE (25 years) (\$/kWh)		\$ 0.5088		
Solar Rebate Term (Years)	5	<b>Net Present Value (NPV) of Energy Cost</b>				
<b>Direct Purchase Information</b>		Utility Energy Purchase (25 years)		\$136,754		
System and PM Cost (\$/W)	\$7.81	Direct Purchase (25 years, incl O&M)		\$136,434		
Engineering, Procurement, and Construction	\$136,107	PPA (25 years)		\$222,596		
Year 1 O&M	458	<b>Environmental Impact</b>				
O&M Annual Escalator	3%	Annual CO2 Reduction (tons)		19		
<b>Power Purchase Agreement (PPA) Information</b>		Annual VMT Reduction Equivalent (miles)		43,569		
Initial PPA rate (\$/kWh)	0.4200	Annual Carbon Sequestration Equiv. (acres)		4		
PPA escalator	2.5%					





**Optony Inc.**  
2855 Kifer Road, Suite 201  
Santa Clara, CA 95051

August 18, 2014

Vanessa Marcadejas  
City of Menlo Park

Re: Solar Project Technical Services

Dear Vanessa,

As the City moves into the next phase of your solar solar projects, we have prepared the following description of the services that we can provide to continue to support your efforts. We will build upon the work completed to date and will continue to deliver outstanding value.

Following is the scope of work for major tasks that we can perform for you during the next phases of the project lifecycle including final vendor contract reviews and project commissioning. Budget estimates have been provided for discussion and planning purposes.

After your review, I would be happy to discuss the specific deliverables and cost estimates and make any necessary adjustments so that you are comfortable to proceed. Please do not hesitate to contact me if you have any questions at (646) 250-4241.

Sincerely,

***Benjamin Foster***

Senior Vice-President  
Optony Inc.  
Ben.foster@optony.com  
646-250-4241

## SCOPE OF WORK

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### **TASK 1: VENDOR CONTRACT REVIEW SERVICES**

In collaboration with City staff and vendors, Optony will support the final analysis and approval of contracts for your solar projects. We believe that providing continuity and independent expertise at this critical phase of the project will increase the long-term benefits from this project while avoiding major issues. Close attention to details in contract terms and conditions, system sizing and designs, proactive issues identification and rapid analysis of their impact are all keys to ensuring that the purchase or PPA contracts meet your needs.

#### **Tasks Performed**

- Contract negotiation support including evaluation of terms, conditions, pricing and performance, recommendations and negotiation points
- Provide continuity from site evaluation and procurement to negotiation and system designs
- Independent analysis and evaluation for final contract
- Evaluation of available state and federal incentive programs and any potential changes to determine the impact on project financial viability
- Modeling of applicable and recommended electricity rate schedules for renewable energy systems, including virtual net metering and feed-in-tariff options
- Recommendations for SREC strategy related to clean energy goals
- Assist in preparation and presentation of project benefits for Council (Board) approval

## **TASK 2: PROJECT COMMISSIONING SERVICES**

From the approval to proceed until the system is fully operational, Optony will apply its extensive experience and knowledge of the solar industry to provide a broad range of project commissioning services designed to protect your investment, as needed. These include hands-on project coordination, technology inspection, installation oversight, and specification compliance to final project performance certification. Independent from any financial, technology, or vendor interests, our solar experts act on your behalf to ensure a smooth transition from construction to long-term operations, based on your specific needs and risk assessment.

### **Tasks Performed**

- Expert, independent review of engineering documents, components and system designs
- Participation in site walks to aid in review and approval of contractor provided designs
- Conducting final system design reviews to ensure the proposed designs meet desired goals, technical requirements, and adherence to industry best practices
- On-site inspection of system and all components, methods and designs using Optony's 35-point evaluation form at 50%, 90% and 100% completion levels.
- Documentation of current progress with impact to construction timeline and project risks
- Review engineering change orders and provide independent analysis to minimize impact
- Evaluate system safety and security to minimize risks from damage, theft and third party claims
- Create project punch-list to verify completion of construction to site-specific requirements.
- Monitoring system and process review to ensure proper performance management
- Review solar energy output (kWh) one month after in-service date to evaluate actual system output and project economics for compliance with contract guarantees
- Follow up with utility to verify that electric meter rate schedule has changed to meet the proposed financial benefits
- Report of findings and final project performance forecasts



## CONTRACTING & PROPOSED BUDGET

Optony was competitively selected for full project lifecycle management services by the County of Alameda (Vendor #: 0000094365) and all public agencies can directly procure our services under this contracting vehicle in the category of “Technical and Financial Consultants for the Regional Renewable Energy Project” based on RFP# 901098 and 901053. These services specifically include: Procurement Management, Vendor and Contact Reviews, Site Design Analysis, and Design/Build Phase Project Management.

The budget estimates below are based on our discounted rate schedules and take into account the scope, tasks and group efficiency and cost savings savings for each remaining phase of this project. As we have demonstrated with our projects across the US and over 25 agencies in the Bay Area alone, our services will deliver significant project risk reduction and increase lifetime costs savings for our clients.

Subsequent changes to the tasks for each task are welcomed if they help your goals and any impact to the proposed costs will be quickly communicated and are subject to your prior approval.

Rest assured that we do not have any financial interests in the contractors or technology that will be evaluated or recommended because maintaining our independence and your best interests are our top priority. We also offer our discounted rate schedule for our advisory services based on the scale and importance of your efforts.

Proposed Services	Budget Estimates
<b>TASK 1:</b> Final Contract Review for Council	\$2,500
<b>TASK 2:</b> Project Commissioning	\$12,000 Per Site
<b>Other Fees and Costs</b>	
Travel - Within Bay Area	No charge
Expenses - printing, binding, materials	No charge

Optony is committed to making this project a success and in the event that the scope needs to be changed to fit within budget constraints, we are open to further refinement and negotiation.

Thank you for your consideration of our proposal.





## POLICE DEPARTMENT

Council Meeting Date: October 7, 2014  
Staff Report #: 14-174

Agenda Item #: F-1

**REGULAR BUSINESS:**                    **One Year Review and Follow up on the Police Department Taser Assessment and Consider a Request For Adoption of Tasers for the Entire Police Department**

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### RECOMMENDATION

Staff will present a one year review and follow up of the police department Taser assessment. Staff recommends City Council approve the adoption of Tasers for the entire police department.

### BACKGROUND

On July 16, 2013, the Police Department conducted a study session for City Council, in regards to new police technology recommendations. A portion of the presentation was a recommendation for authorization to use Taser devices for a one-year assessment period. This was based on a multiyear study by the Menlo Park Police Department, which indicated that the Taser device would be a viable and preferable less than lethal control device. The recommendation was also based on a 2011 San Mateo County Civil Grand Jury report which concluded that Menlo Park PD was one of only two police agencies in San Mateo County and one of 9 agencies in the entire Bay Area region which does not authorize the Taser device. The Grand Jury also concluded that the use of the Taser would “result in fewer injuries to officers and subjects,” and also recommended that Menlo Park PD implement the use of the Taser device by every uniformed officer.

In 2012, during a City sponsored organizational review by Belcher and Associates, a recommendation was made that Menlo Park PD should “...follow Grand Jury recommendations and authorize issuing of the Taser as an additional tool to protect officers, suspects and the general public.”

Staff recommended and the City Council approved a limited Taser assessment. The Police Department purchased Taser devices for seven officers and all six Sergeants. They were trained by in-house certified instructors and were authorized to carry the Taser device. The assessment period would allow for study and evaluation of the effectiveness of the Taser device, its deterrent capabilities, change in use of force complaints and claims and any change in the number of injuries to officers and

suspects. A temporary Taser policy was enacted and the selected officers and Sergeants were instructed to report all Taser uses and displays.

**ANALYSIS**

The assessment period, which lasted for a year, has been successful in showing the usefulness of the Taser as a non-injurious control device and deterrent. Below is a comparison of use of force incidents for the last year during the Taser assessment along with the two prior years:

	2011/2012	2012/2013	2013/2014
Use of Force	9	7	6
Use of Taser	N/A	N/A	1
Officer Injured	1	2	2
Suspect Injured	8	7	4
Taser Display	N/A	N/A	9
Excessive Force Complaints	2	2	0

*A “reportable use of force” is defined as any arrest where force is used and a suspect is injured or where a defensive weapon (pepper spray, Taser, baton, less-lethal device, or firearm) is used.*

Overall, the use of force by Menlo Park officers nominally decreased and a Taser device was only actually used on one occasion. The number of officers injured remained low but constant; although the biggest decrease occurred in the number of suspects injured during use of force, which dropped by 50% from FY 11/12.

Another statistic which was collected was “Taser display only”. In these cases, officers were required to confront a suspect who was uncooperative and refusing to follow lawful orders or combative. When the Officer displayed the Taser and advised the suspect to comply, the suspect was able to be taken into custody without incident. It is conceivable that if officers in those situations were not carrying the Taser, they would have turned into reportable use of force cases with the officer and or the suspect possibly being injured.

Excessive force complaints, which remained steady for two years, decreased to **zero** during the Taser assessment period.

It should be noted that in many of the reportable use of force cases, the officers involved were not part of the limited Taser deployment and did not have access to a Taser device. In those 5 situations, if a Taser device had been available, the level of

force used may not have been necessary and the overall number of suspect and officers injured may have decreased.

It is clear that the Taser assessment has been successful and the above statistics show that even a limited deployment of the Taser device has lowered use of force incidents along with decreasing injuries to suspects. The mere presence of a Taser has proven to be an effective deterrent to suspects from assaulting and or resisting officers while making arrests. More importantly, excessive force complaints have dropped to zero during the assessment period.

Staff recommends that the Council approve a full deployment of the Taser device, consistent with the 2011 San Mateo County Civil Grand Jury recommendation.

### **IMPACT ON CITY RESOURCES**

The cost of purchasing enough Taser devices along with Taser cartridges and training equipment is approximately \$41,000. The Police Department experienced a savings in FY 13/14, due to a smaller than anticipated purchase of ammunition and other police supplies and was able to purchase the required Taser devices and training equipment which it has received. If Council elects not to approve the police department's recommendation, the purchased equipment can be returned for a refund.

### **POLICY ISSUES**

No City policies are affected by this item.

### **ENVIRONMENTAL REVIEW**

N/A

### **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

### **ATTACHMENTS**

None

Report prepared by:  
*Dave Bertini*  
*Police Commander*

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## COMMUNITY SERVICES DEPARTMENT

Council Meeting Date: October 7, 2014  
Staff Report #: 14-179

Agenda Item #: F-2

**REGULAR BUSINESS:** Authorize the City Manager to Enter Into a Contract With Peninsula Conflict Resolution Center (PCRC) in an Amount Not to Exceed \$91,300 for Facilitation, Youth and Family Support, and Community Building in the Belle Haven Neighborhood for FY 2014-15

### RECOMMENDATION

Staff recommends that the Council authorize the City Manager to enter into a contract with the Peninsula Conflict Resolution Center (PCRC) in an amount not to exceed \$91,300 for Facilitation, Youth and Family Support, and Community Building in the Belle Haven Neighborhood for FY 2014-15.

### BACKGROUND

On August 20, 2013, the City Council received and approved the Belle Haven Action Plan including proposed next steps. The next steps focused on supporting resident action teams and stakeholders, developing and strengthening resident capacity to achieve short and long term goals, building infrastructure for continued engagement and support, as well as addressing some of the particular action items where resources and strategies may be more easily identified. Following Council approval of the Action Plan, Requests for Proposals (RFPs) were developed and bids were sought. Two RFPs addressed the early stages of work in the Neighborhood Action Plan that included Belle Haven Action Team Support and Community Capacity Building and Youth and Neighborhood Engagement. One of the consultants selected for this scope of work was the Peninsula Conflict Resolution Center (PCRC), which focused on facilitation of action teams, neighborhood community building and leadership development as well as support for youth development and diversion.

PCRC began its work with City staff and residents in February 2014 addressing many of the high priority outcomes identified in the Action Plan. Much progress has been made toward achieving these outcomes over the past 6 months, summarized in a presentation to Council at their meeting on August 26, 2014. For a summary of progress on measurable outcomes, the Belle Haven Neighborhood Action Plan Update and Outcomes Measures Table are included as Attachment A.

The scope of work performed by PCRC in support of the Action Plan over the past six to eight months has focused on the coordination and facilitation of the Public Safety Action Team, family engagement in support of the Youth Diversion Program and community building and neighborhood leadership development. Staff recommends the continuation of this scope of work through the remainder of the current fiscal year 2014-15 as previously approved by Council during the budget process. The scope of work and proposed budget for this second year of Action Plan implementation is included as Attachment B.

## **ANALYSIS**

Public Safety and Crime Prevention emerged as one of the top three priorities for residents during the Belle Haven Visioning Process and has been a significant focus of the early implementation of the Action Plan. One area of focus was the development and implementation of a Youth Diversion and Truancy Program. Implementation of this program began in late April and has resulted in 25 youth referrals to the program from the Menlo Park Police Department, 21 intake assessments with families, and two family conferences. Many of the families have received referrals for service and support for the youth's education. The family support has been well received by the families of the youth who have been referred into the Youth Diversion Program.

During the early implementation, the Youth Diversion Program team, which includes staff from the Menlo Park Police Department, Community Services and PCRC, recognized that more support was needed for the referred youth in the program and more effort was needed to engage the youth and direct them into more positive pursuits. One pilot proposal addressing this need is the implementation of "Restorative Justice Circles," a community process for supporting youth that are in conflict. The process involves bringing three parties together – those who have acted, those directly impacted by those actions and the wider community –to dialogue as equals. The process concludes when actions have been identified that would provide mutual benefit for all parties. Under this program, other support for the youth would include one-on-one case management and referral to additional resources and intervention. As a result, youth come away with a plan of action and a team of individuals prepared to help them reach their goals; they feel more supported, and are better equipped with skills to deal with conflict and community pressures.

There are a number of cities and schools that use "Restorative Justice" programs in California. Some of these include Oakland Restorative Justice for Oakland Youth, San Francisco Resolve to Stop the Violence Program, Santa Clara Restorative Justice Program, San Jose Victim-Offender Mediation Program and San Mateo Victim-Offender Mediation Program. A sister organization of PCRC's known as SEEDS (Services that Encourage Effective Dialogue and Solutions), worked with the Oakland Schools to develop their programs in which the Cole Middle School in West Oakland saw an 87% decline in suspensions, with expulsions declining to zero, after the implementation of restorative justice. Another example is the Davidson Middle School in San Rafael, CA which experienced 375 suspensions in 2008-09, but after a strong restorative justice

program was implemented suspensions declined by 90%. While in these examples restorative justice was implemented to reduce suspensions, agencies and schools have found that it has been a significant tool in community-building and in improving the overall climate for the youth.

Staff from the Police and Community Services Departments recommend that Council approve this addition to the scope of work at a cost of \$26,900 beyond the second year base program of work for PCRC in order to implement Justice Circles. The additional scope of work and proposed budget for this enhancement is included as Attachment C.

## **IMPACT ON CITY RESOURCES**

The City Council approved and allocated \$130,500 for FY 2013-14 and \$122,500 for FY 2014-15 toward the Belle Haven Neighborhood Action Plan implementation. There is sufficient funding allocated to cover the current scope of work for PCRC which is included in Attachment B. If the Council approves the additional scope of work that is included in Attachment C and approves the full contract of \$91,300, an additional \$26,900 will need to be allocated from anticipated savings through vacancies in both the Community Services and Police Departments.

## **POLICY ISSUES**

Supporting Belle Haven residents and businesses in improving the Belle Haven area is consistent with existing Council policies and goals.

## **ENVIRONMENTAL REVIEW**

The neighborhood visioning and action plan process is not a project under CEQA.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Belle Haven Neighborhood Action Plan Update and Outcomes Measures Table
- B. PCRC Proposed Scope of Work – Action Team Support and Community Capacity Building
- C. PCRC Proposed Scope of Work – Youth Diversion

Report prepared by:  
*Derek Schweigart*  
*Community Services Manager*

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## COMMUNITY SERVICES DEPARTMENT

Council Meeting Date: August 26, 2014  
Staff Report #: 14-152

Agenda Item #: A-2

**PRESENTATION:** **Belle Haven Neighborhood Action Plan Update**

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### RECOMMENDATION

Staff recommends that the City Council receive the Belle Haven Neighborhood Action Plan Update and provide feedback to staff concerning implementation and progress toward goals and measures.

### BACKGROUND

Led by the City of Menlo Park's Community Services staff and consultants from MIG, Inc. (MIG), the Belle Haven neighborhood participated in a visioning process that began in January 2013 and concluded in July 2013. The visioning process built on the work initiated by the City and sought to engage a broader cross-section of the Belle Haven neighborhood than had been involved with earlier planning processes. It was designed to identify community values, prioritize services and programs, identify needed improvements, build capacity and better position Belle Haven residents to work with the City of Menlo Park, community partners and other stakeholders to advocate for the neighborhood's interests.

The six-month community visioning process included multiple strategies for engaging and gathering input from Belle Haven residents and other community members. The culmination of the work has led to the development of a Belle Haven Neighborhood Action Plan which outlines and highlights high-level action items for the City, Belle Haven residents and stakeholder groups to guide implementation of next steps. The plan emphasizes a small number of action items for each topic so that residents and the City can take on a manageable number of actions and achieve "quick wins" while organizing toward longer-term goals. This approach will further neighborhood capacity building and leadership development which will be essential for achieving the long-term neighborhood goals.

On August 20, 2013, the City Council received and approved the Belle Haven Action Plan and proposed next steps. The next steps focused on helping convene resident action teams and stakeholders, developing and strengthening resident capacity to achieve short and long term goals, building infrastructure for continued engagement and support, as well as addressing some of the particular action items where resources and

strategies may be more easily identified. At this meeting, the Council requested measurable outcomes for the project and directed Staff to return to provide a progress report on those outcomes. A progress summary of outcomes and measures can be found as part of the Belle Haven Action Plan Outcome Measures Table, Attachment A.

Following Council approval of the Action Plan, the next four months were devoted to extensive planning including developing Requests for Proposals (RFPs) and seeking bids from qualified consultants to support City staff and neighborhood residents and begin working on the Action Plan. Two RFPs addressed the early stages of work in the Neighborhood Action Plan and include Belle Haven Action Team Support and Community Capacity Building and Youth and Neighborhood Engagement. After consultants were selected for the project, work plans were developed and refined based on the approved Action Plan goals. The Peninsula Conflict Resolution Center (PCRC) is focusing on the facilitation of action teams, neighborhood community building and leadership development as well as support for youth development and diversion. Alejandro Vilchez (AV Consulting) was selected as the Community Connector focusing on community engagement, resource and referral and neighborhood safety. The combined scope of work for the consultants which includes specific strategies, corresponding measurable outcomes and proposed timelines was presented to Council on January 23, 2014.

During this planning period staff also began working with the Silicon Valley Community Foundation and their affiliate, the Belle Haven Community Development Fund, to finalize the details of the Council-approved mini grant program. The mini grants included funding up to \$1000 for neighborhood and community building projects, cleaning and greening activities and small home improvements. The Belle Haven Community Development Fund administered the mini grant program with the Silicon Valley Community Foundation serving as the fiscal agent.

Other ongoing projects during the last six months include: collaboration with the Menlo Park Rotary on a proposed community garden for Belle Haven; the development of a neighborhood newsletter; the opening of the Belle Haven Neighborhood Services Center (Police Substation); and a Belle Haven Action Plan kickoff event held on Thursday, February 13 at 6:30 at the Senior Center.

## **ANALYSIS**

### **Progress Toward Goals**

The first six months of the Neighborhood Action Plan implementation has focused on developing and strengthening the neighborhood's capacity to achieve its short term goals, while creating the foundation needed to achieve longer term goals. This initial investment focused on training and preparation so that resident groups are stronger and in a better position to advocate for their needs, now and in the future. Considerable ramping up and community engagement was required during this period, as the neighborhood had not convened regarding the Neighborhood Action Plan since last summer. In this short period of time resident leaders have emerged as well as

representative groups composed of both long time and newer residents. As these leaders and groups experience successes in partnership with the City and other stakeholders, the City's role as "convener" will transition to these resident groups and they will be empowered to accomplish many of the neighborhood's long term goals with less direct City support.

The Belle Haven Neighborhood Action Plan goals coalesced around clear themes concerning resident priorities and are divided among seven primary areas for improvement. A complete progress report of the Belle Haven Action Plan Outcomes and Measures can be found in Attachment A. Below is a brief synopsis of each of the seven primary areas and measurable results achieved during the past six months as well as challenges and potential next steps.

### **1. Public Safety and Crime Prevention**

Public Safety and Crime Prevention emerged as one of the top priorities during the Belle Haven Visioning Process and has been a significant focus early Action Plan implementation, including formation of the Public Safety Action Team, recruitment and training of Neighborhood Watch "Community Captains", early development of a youth diversion and community service program, and resident relationship building with the Menlo Park Police. A highlight includes the opening of the long-awaited Neighborhood Services Center (Police Substation) which is a symbol of the emerging partnership and strengthened relationship between residents in Belle Haven and Menlo Park Police. Residents have indicated they feel greater trust and confidence toward the police and increased personal connections. Several Police Dialogues have also strengthened relationships and understanding between residents and beat officers. The resident-led Public Safety Action Team is beginning to feel empowered as they learn how to advocate for their concerns and create positive change in the neighborhood. The upcoming year will need to see a greater focus on youth diversion and family engagement, providing youth leadership opportunities and additional ways for youth to contribute positively to their community.

### **2. Traffic and Safety**

The City's Public Works Department committed to addressing another top priority -- traffic safety. Progress includes improved bus stop amenities, on-street parking removal to accommodate bus stops and significant coordination between Samtrans, MPPD, Public Works, the School District and other partners. Traffic safety has also been addressed by the Public Safety Action Team including concerns about obstruction of street lighting by street trees, which has been addressed by Public Works.

Traffic congestion and safety around schools is a high priority for residents and will require the attention of multiple stakeholders. The implementation of the Safe Routes to School Plan has been identified by residents as a priority. Parent and resident engagement will be essential for its success. An emerging concern for the neighborhood is the large number of employee commuter buses that are now driving through the neighborhood obstructing traffic.

### **3. Educational Quality and Access**

Education emerged as one of the neighborhood's top priorities and includes residents' concern for education equity and quality opportunities for Belle Haven youth. In the development of the scope of work for this high priority area, the new Ravenswood City School District Superintendent requested that the City Council allow the school district the opportunity to address this high priority issue. The City remains a willing partner in support of education quality for residents. Opportunities exist for the City to serve as a convener and facilitator for educational leaders to support other educational activities such as lifelong and service learning, afterschool homework and study programs, creation of work spaces for students, tutoring and mentorship and youth leadership opportunities.

### **4. Economic Opportunity and Job Training**

This area of concern was not addressed as a part of the initial implementation of the Neighborhood Action Plan as it was not a high priority for residents. However, when creating the Belle Haven Mini-Grant Program, the City, in partnership with the Belle Haven Community Development Fund, was intentional in developing a list of approved contractors who are also residents of Belle Haven. As a result, 10 residents from Belle Haven were identified and approved to perform work on approved mini grant projects. One of the goals for this year is to bring together local business owners from Belle Haven to identify opportunities and champions in the neighborhood to take the lead on developing strategies for this Action Plan goal.

### **5. City Services and Programs**

The primary focus for this area is to provide youth and teens more opportunities for recreation, leadership and safe places, as well as improving and diversifying the range of programming offered to residents in Belle Haven. The Community Services Department regularly surveys and evaluates its program offerings to ensure they are meeting the diverse needs of the community. During the current fiscal year, the Department plans to conduct an inventory of existing youth and teen leadership programs available to Belle Haven youth and identify gaps and opportunities, including, for example, programming and events that would appeal to the Pacific Islander population. Residents identified the need for more computers in public spaces in the neighborhood. Positive developments in response to this action item include installation of public Wi-Fi at the Onetta Harris Community Center, Menlo Park Senior Center and Youth Center. In addition, plans are in place to upgrade the computers at the Onetta Harris Community Center Computer Lab and to begin a marketing campaign to let residents know of this valuable resource.

### **6. Neighborhood Infrastructure and Aesthetics**

Progress in this area over the past 6-8 months has included the Mini-Grant program provided in collaboration with the recently formed Belle Haven Community Development Fund. As a result of the Fund's leadership and hard work, the first round of funding for the mini-grant program received 23 eligible applications from Belle Haven residents with 18 mini-grants being awarded totaling \$13,000. The next round of funding scheduled for the mini-grant program will be in the spring of 2015. The enthusiasm in the

neighborhood about this program is reflected in the survey results, where residents have indicated they feel an increased pride to live in the neighborhood and that they notice their fellow residents are taking pride in their neighborhood as well.

## **7. Working Effectively with the City**

A major focus of the first 6 months of Action Plan implementation was to develop and strengthen relationships between City Staff and residents in Belle Haven. A key component of the consultants' scope of work and that of City staff has been to improve communication with residents using various strategies and media including a quarterly neighborhood newsletter, growing a neighborhood email database and sending out frequent neighborhood updates, promoting the use of NextDoor which has led to a 90% subscription increase in the past year, and ensuring that all communication is in both English and Spanish. This is reflected in the resident survey where 70% of residents reported that they have increased knowledge of where to go if they want information on current events in Belle Haven. 56% of residents have also indicated they are more aware of how to access City services.

One of the highlights of the work thus far has been the well-attended community dialogues held in Belle Haven which include: My Changing Community Photovoice Project, City staff and resident relationship building dialogue, and the Public Safety dialogue with residents and Menlo Park Police Beat Officers. Staff have identified other dialogues which would be beneficial, including helping residents to identify their neighborhood representatives from various governmental agencies and how to successfully engage them.

## **IMPACT ON CITY RESOURCES**

The City Council approved and allocated \$130,500 for FY 2013-14 and \$122,500 for FY 2014-15 toward the Belle Haven Neighborhood Action Plan implementation. City staff is currently revising and updating the project scope of work and contracts are being negotiated for the remainder of the fiscal year. As the neighborhood appears to be interested in broadening the scope of work for the Action Plan, City staff may return to update the Council and to seek additional allocations for this fiscal year in order to continue the progress made toward the Action Plan goals.

## **POLICY ISSUES**

Supporting Belle Haven residents and businesses in improving the Belle Haven area is consistent with existing Council policies and goals.

## **ENVIRONMENTAL REVIEW**

The neighborhood visioning and action plan process is not a project under CEQA.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. Belle Haven Action Plan Outcome Measures Table

Report prepared by:  
*Derek Schweigart*  
*Community Services Manager*

### Belle Haven Action Plan – Progress Toward Goals Outcome Measures Table

Public Safety and Crime Prevention				
Goal	Actions	Measure	Impacts / Result	Next Steps
1. Promote and create educational and recreational options for youth to help prevent crime.	<ul style="list-style-type: none"> <li>Collaborated with MPPD to establish youth diversion and truancy prevention program that will launch in fall 2014.</li> <li>Developed partnership with Youth Community Service (YCS) as a resource for the youth diversion program.</li> </ul>	<ul style="list-style-type: none"> <li>Family and youth engagement.</li> <li>Identify families for Parent Project.</li> <li>Photovoice participation by youth.</li> <li>Families and youth increase their skills and ability to navigate the school system.</li> <li>Youth and families participate more in community and school activities.</li> </ul>	<ul style="list-style-type: none"> <li>✓ 25 youth referrals received by MPPD.</li> <li>✓ 21 intake assessments scheduled and conducted with families to initiate service.</li> <li>✓ 4 youth participants for the Photovoice project and showcase</li> <li>✓ 2 family conferences held over the past 6 months.</li> <li>✓ 15 families identified for the Parent Project.</li> <li>✓ 5 families participating in the youth diversion program have increased participation in BH community events such as the clean-up days and dialogues.</li> <li>✓ 4 out of 7 youth completed summer school programs as a requirement of the diversion program. 3 of the families chose not to participate.</li> <li>✓ 1 youth was referred and successfully enrolled in the MMAP (Music Murals and Arts Program).</li> <li>✓ 5 families have increased skills and ability to navigate the school system.</li> <li>✓ 2 diversion families using county crisis intervention services.</li> </ul>	<ol style="list-style-type: none"> <li>Conduct inventory of existing youth and teen leadership programs available to BH youth.</li> <li>Identify gaps in programming and explore new programs and partnerships if needed to provide teens an opportunity to develop leadership and give back to the community.</li> <li>Complete Community bulletin board and kiosk project for information sharing.</li> </ol>
2. Organize neighborhood watch groups.	<ul style="list-style-type: none"> <li>Conducted outreach and community engagement to identify BH block captains.</li> <li>Conducted Neighborhood Watch orientation and training</li> </ul>	<ul style="list-style-type: none"> <li>National Night Out event to be held in BH in collaboration with neighborhood residents.</li> <li>BH Block captains recruited in support of the Neighborhood Watch program.</li> </ul>	<ul style="list-style-type: none"> <li>✓ 11 BH Neighborhood Watch block captains recruited.</li> <li>✓ 8 BH residents who attended the Neighborhood Watch orientation and received training on 7/31/14.</li> </ul>	<ol style="list-style-type: none"> <li>BH residents expressed interest in forming Neighborhood Watch group composed of "Community Captains" with support of MPPD.</li> <li>BH Neighborhood Watch group expressed interest in promoting</li> </ol>

### Belle Haven Action Plan – Progress Toward Goals Outcome Measures Table

	<ul style="list-style-type: none"> <li>Coordinated and facilitated meetings with BH Neighborhood Watch captains</li> <li>Coordinated and helped facilitate National Night Out event.</li> </ul>	<ul style="list-style-type: none"> <li>Residents attend and receive training on the Neighborhood Watch program.</li> </ul>	<ul style="list-style-type: none"> <li>✓ National Night Out event was held on 8/5/14 hosted by the Mt. Olive Church and neighborhood residents which was well received and attended.</li> </ul>	CPTED – Crime Prevention through Environmental Design.
3. Participate in on-going dialogues with MPPD Chief and other law enforcement officers.	<ul style="list-style-type: none"> <li>Coordinated and facilitated a dialogue with residents and the MPPD.</li> </ul>	<ul style="list-style-type: none"> <li>Hold a dialogue with the MPPD and residents that is well received and attended.</li> <li>Improve relationships between police and residents as reflected in participant and resident surveys.</li> <li>Complete 6 month survey of resident public safety perceptions.</li> </ul>	<ul style="list-style-type: none"> <li>✓ A police dialogue was held on 4/30/14 with over 40 resident participants, 5 police officers, and the Police Chief.</li> <li>BH residents met Beat 3 officers</li> <li>BH residents visited new substation</li> <li>67% of BH residents surveyed report that their trust with the MPPD has/somewhat has increased in the past 6 months.</li> <li>60% of BH residents surveyed report that they have/somewhat have had a positive interaction with BH PD at least once over the past 6 months.</li> <li>53% of BH residents surveyed report they have/somewhat have increased personal connection with MPPD assigned to BH in the past 6 months.</li> </ul>	1. Next resident-MPPD dialogue planned for September 2014.
4. Host a workshop on burglary prevention.	Pending	Pending	Pending	1. Workshop is pending development of Neighborhood Watch Program.
5. Develop a community advisory group to support public safety and crime prevention goals.	<ul style="list-style-type: none"> <li>Worked with MPPD to establish public safety advisory group.</li> <li>Conducted outreach to recruit residents to serve on Public Safety Action Team.</li> <li>Convened and established a resident led Public Safety Action Team.</li> </ul>	<ul style="list-style-type: none"> <li>A public safety advisory group will be formed that includes residents throughout Menlo Park and includes representation from the BH neighborhood.</li> <li>A Public Safety Action Team will be formed composed of BH residents to address public safety issues in neighborhood.</li> <li>Complete 6 month survey of</li> </ul>	<ul style="list-style-type: none"> <li>✓ 20 MP residents who serve on the Chief's Advisory Group that includes 2 BH residents.</li> <li>✓ 18 residents serve on Public Safety Action Team meeting monthly.</li> <li>✓ 69% of BH residents surveyed report they have/somewhat have seen efforts to address specific problems related to their own</li> </ul>	<ol style="list-style-type: none"> <li>Explore combining Neighborhood Watch "Community Captains" with Public Safety Action Team.</li> <li>Continue to train, develop and build capacity with Action Team resulting in team leaders becoming facilitators and conveners of meetings.</li> </ol>



**Belle Haven Action Plan – Progress Toward Goals  
Outcome Measures Table**

		resident public safety perceptions.	public safety concerns. ✓ 65% of BH residents surveyed report that they have shared their crime prevention and neighborhood safety concerns with city staff in the past 6 months. ✓ 57% of BH residents surveyed report that they have/somewhat have shared how to address specific crime prevention efforts and safety concerns with other residents in the past 6 months. ✓ There have been 2-4 residents from the Action Team taking the lead on the outreaching to other residents. ✓ The Action Team partnered with City to resolve obstruction of street lights by trees in the neighborhood. ✓ The Action Team created a resident troubleshooting resource guide.	
<b>Other Ideas for Consideration:</b> <ul style="list-style-type: none"> <li>• Improve lighting on homes and in public spaces</li> <li>• Work with MPPD to add cameras or bring other surveillance technology to the neighborhood</li> <li>• Improve code enforcement activities</li> <li>• Create more ways for anonymous and safe reporting of suspicious or criminal activity</li> <li>• Better publicize existing MPPD reporting and communication tools (e.g., Next Door)</li> <li>• Support community policing</li> </ul>	<ul style="list-style-type: none"> <li>• Street lighting on homes and in public places will be improved in the neighborhood.</li> <li>• Surveillance cameras will be installed in high traffic and areas of concern in the neighborhood.</li> <li>• There will be an increased presence of code enforcement in the BH neighborhood.</li> <li>• Residents understand the impact of their involvement in the neighborhood.</li> </ul>	<ul style="list-style-type: none"> <li>✓ 4 Surveillance cameras installed at Willow and Newbridge, Willow and Ivy, Willow and Hamilton, Chilco and Terminal.</li> <li>✓ ALPR – Automated License Plate Readers have been deployed by the MPPD.</li> <li>✓ Public Safety Action Team worked with Public Works to trim trees around street lights and as a result the lighting around homes and important intersections has improved based on resident feedback.</li> <li>✓ New code enforcement officer</li> </ul>		

### Belle Haven Action Plan – Progress Toward Goals Outcome Measures Table

		<p>hired and stationed at the Neighborhood Services Center that provides increased presence and convenience for BH residents.</p> <ul style="list-style-type: none"> <li>✓ MPPD has increased use and promotion of Black Board emergency notification system as well as using Nextdoor.</li> <li>✓ 68% of residents report that they feel more or somewhat more vested and connected to the BH community over the past 6 months.</li> </ul>		
<b>Traffic and Safety</b>				
Goal	Actions	Measure	Impacts / Result	Next Steps
6. Improve safety near schools and areas where children often walk by implementing the Safe Routes to Schools Plan and other actions.	<ul style="list-style-type: none"> <li>• Public Safety Action Team increased its scope of work to include traffic safety concerns.</li> <li>• Participated in Ravenswood District Safe Routes to School Coordination Meetings held quarterly with District, Safe Routes, City of Menlo Park and City of EPA.</li> <li>• Coordinated monthly meetings with Menlo Park Transportation and MPPD.</li> </ul>	<ul style="list-style-type: none"> <li>• Meetings will be held with key neighborhood stakeholders to address the issue of Safe Routes to Schools Plan that will result in improved safety near schools.</li> </ul>		<ol style="list-style-type: none"> <li>1. Continue to coordinate efforts around Safe Routes to School.</li> <li>2. Recruit parents and neighbors to be volunteer crossing guards</li> <li>3. Convene and conduct a meeting of key stakeholders (MPPD, Public Works, School District and other partners) to discuss priorities and next steps.</li> <li>4. Conduct resident survey to measure improved safety near schools.</li> </ol>
7. Pursue incentives and programs to reduce driving.	<ul style="list-style-type: none"> <li>• Communicated and promoted traffic safety, ride-share resources by using various media.</li> </ul>	<ul style="list-style-type: none"> <li>• Promotions and marketing collateral materials will be developed to promote traffic safety and ride share programs.</li> </ul>	<ul style="list-style-type: none"> <li>✓ New signs, postcards, and marketing materials have been developed for the Menlo Park Shuttle Program.</li> <li>✓ Hosted Bike to Work Day Energizer Station at Ringwood Pedestrian Overcrossing in May 2014.</li> </ul>	<ol style="list-style-type: none"> <li>1. Engage public safety action team to explore ride-share resources and expanded opportunities to ride-share.</li> <li>2. Continue to communicate and promote traffic safety, ride-share using various media.</li> <li>3. Evaluate potential grant opportunity for care share program in Menlo Park.</li> </ol>
<b>Other Ideas for Consideration:</b>	<ul style="list-style-type: none"> <li>• Work with Samtrans for new</li> </ul>	<ul style="list-style-type: none"> <li>✓ New Samtrans 281 bus stops on</li> </ul>	<ol style="list-style-type: none"> <li>1. Evaluation of Citywide</li> </ol>	

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Belle Haven Action Plan – Progress Toward Goals  
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<ul style="list-style-type: none"> <li>Eliminate parking around bus stops to avoid congestion and conflicts</li> <li>Add speed bumps or other traffic calming measures around schools</li> <li>Investigate traffic controls to minimize congestion during peak hours</li> <li>Review bus stop locations and improve bus stop amenities</li> </ul>	<ul style="list-style-type: none"> <li>shelters and stop amenities.</li> <li>Key bus stops will see improved amenities in BH</li> </ul>	<p>Newbridge included parking removals, approved by City Council in May 2014.</p> <ul style="list-style-type: none"> <li>Installed new seating at bus stops at OHCC/Senior Center/Belle Haven Library.</li> </ul>	<p>transportation networks and circulation patterns will occur as part of the General Plan Update.</p> <ol style="list-style-type: none"> <li>Continue to explore Menlo Park Shuttle Service enhancements and coordinate with Samtrans</li> </ol>	
<b>Education Quality and Access</b>				
<b>Goal</b>	<b>Actions</b>	<b>Measure</b>	<b>Impacts / Result</b>	<b>Next Steps</b>
8. Investigate the option of joining Menlo Park City School District.	Per the request of the RCSD Superintendent to the City Council, the area of improvement concerning Education Quality and Access was to be addressed by the school district.			
9. Improve and expand educational support programs within RCSD and Belle Haven.				
<p><b>Other Ideas for Consideration:</b></p> <ul style="list-style-type: none"> <li>Grow volunteer tutoring programs with residents and area employees</li> <li>Identify or provide more work spaces for students</li> <li>Support free or affordable homework programs</li> <li>Identify and organize volunteer counselors and tutors for students and families</li> <li>Support service learning and community service in neighborhood</li> </ul>			<ol style="list-style-type: none"> <li>Explore drop-in hours for computer lab at Onetta Harris Community Center and develop a teen work study program.</li> <li>Outreach to neighborhood residents, business owners and partners to explore tutoring and mentorship for youth options.</li> <li>Conduct inventory of existing youth and teen leadership programs available to BH youth in the neighborhood.</li> <li>Explore new programs and partnerships to provide teens an opportunity to develop leadership and give back to the community.</li> </ol>	
<b>Economic Opportunity and Job Training</b>				
<b>Goal</b>	<b>Actions</b>	<b>Measure</b>	<b>Impacts / Result</b>	<b>Next Steps</b>
10. Pursue or expand partnerships with local businesses to support internships, mentoring or hiring opportunities.	Pending	Pending	Pending	<ol style="list-style-type: none"> <li>Engage resident leaders and neighborhood groups to address this goal in winter '14.</li> <li>Convene meeting of neighborhood and community leaders,</li> </ol>

### Belle Haven Action Plan – Progress Toward Goals Outcome Measures Table

				businesses or liaisons to identify opportunities and next steps.
<b>Other Ideas for Consideration:</b> <ul style="list-style-type: none"> <li>Continue to support Job Train</li> <li>Engage middle school students in community service through the City of Menlo Park</li> <li>Identify paid opportunities for community members to share services and expertise</li> <li>Promote summer employment and internships for Belle Haven youth</li> <li>Work with local employers to pursue priority hiring agreements and/or additional outreach to Belle Haven residents</li> </ul>		<ul style="list-style-type: none"> <li>Resident and local contractors will be recruited to support the mini-grant program.</li> </ul>	<ul style="list-style-type: none"> <li>✓ 10 Belle Haven and local contractors identified and approved to perform work as a part of the mini-grant program.</li> </ul>	<ol style="list-style-type: none"> <li>1. Pursue youth leadership development program, community service program.</li> <li>2. Investigate opportunities to partner with Job Train to offer classes at the Onetta Harris Community Center.</li> <li>3. Promote the City’s Community Funding Process to support Job Train.</li> </ol>
<b>City Services and Programs</b>				
<b>Goal</b>	<b>Actions</b>	<b>Measure</b>	<b>Impacts / Result</b>	<b>Next Steps</b>
11. Provide more afternoon and evening activities for youth and high-school age students including drop-in programs and places.	<ul style="list-style-type: none"> <li>Promoted existing drop-in programs and places in the neighborhood and identified opportunities for expansion.</li> <li>Continued to promote existing drop-in programs that include Basketball and the Fitness Center.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Expand drop-in programs offered by the Community Services Department.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Expanded drop-in option for fitness and recreation classes at Onetta Harris Community Center</li> </ul>	<ol style="list-style-type: none"> <li>1. Conduct inventory of existing youth and teen leadership programs available to BH youth in the neighborhood.</li> <li>2. Explore new programs and partnerships to provide teens an opportunity to develop leadership and give back to the community.</li> <li>3. Explore drop-in hours for computer lab at Onetta Harris Community Center and development of teen work study program.</li> </ol>
12. Improve the quality and diversity of programs and classes.	Pending	Pending	Pending	<ol style="list-style-type: none"> <li>1. Survey and evaluate current Community Services programs and explore opportunities to enhance and increase offerings to reflect the diversity of the neighborhood.</li> <li>2. Conduct needs assessment for programs and services and recommend changes during the budget process</li> </ol>
<b>Other Ideas for Consideration:</b>		<ul style="list-style-type: none"> <li>Library services are expanded in</li> </ul>	<ul style="list-style-type: none"> <li>✓ The “Little Library” was opened</li> </ul>	<ol style="list-style-type: none"> <li>1. Expand “Little Libraries” around</li> </ol>

### Belle Haven Action Plan – Progress Toward Goals Outcome Measures Table

<ul style="list-style-type: none"> <li>Consider moving and/or improving the branch library</li> <li>Improve resident access to fields in the neighborhood</li> <li>Make more computers available in public places</li> <li>Increase the number and hours of current popular programs</li> <li>Ensure responsiveness to resident requests</li> </ul>	<p>the BH neighborhood</p>	<p>for business at the Neighborhood Services Center with the opportunity to expand to other locations.</p>	<p>the Belle Haven Neighborhood.</p> <ol style="list-style-type: none"> <li>2. Upgrades are planned for the Onetta Harris Community Center Computer Lab to increase its appeal and usefulness to youth and adults.</li> </ol>	
Neighborhood Infrastructure and Aesthetics				
Goal	Actions	Measure	Impacts / Result	Next Steps
<p>13. Identify resources and programs to help property owners and residents maintain their property.</p>	<ul style="list-style-type: none"> <li>Implemented neighborhood mini-grant program.</li> <li>Established resident-led mini-grant orientation, application and review process.</li> <li>Consulted and collaborated with residents on mini-grant best practices.</li> <li>Assisted the promotion and outreach of the mini-grant program.</li> </ul>	<ul style="list-style-type: none"> <li>Implement neighborhood mini-grant program in collaboration with BH residents.</li> <li>Develop and implement a grant review process in collaboration with BH residents.</li> <li>Receive 7-10 mini grant applications in the first grant cycle.</li> <li>Before/After photos of projects and community events.</li> <li>Complete 6 month survey of resident perception of involvement and pride in the neighborhood.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Belle Haven Community Development Fund made up of mostly BH residents took the lead on the mini-grant program</li> <li>✓ Grant review committee was composed of 7 members, 5 of which are BH residents.</li> <li>✓ 23 eligible mini-grant applications received in first round of funding</li> <li>✓ 18 mini-grants awarded for a total of \$13,000</li> <li>✓ 72% of BH residents surveyed report they feel increased pride to live in the neighborhood over the past 6 months.</li> <li>✓ 73% of BH residents surveyed report they have seen others taking pride in the BH neighborhood over the past 6 months.</li> </ul>	<ol style="list-style-type: none"> <li>1. Next round of mini-grant funding scheduled for September-October.</li> <li>2. Document and report on results of first round of mini-grant awards.</li> <li>3. Identify key maintenance issues and barriers to upkeep of resident properties and public areas.</li> </ol>
<p>14. Organize resident efforts to clean up the neighborhood and make minor property improvements.</p>	<ul style="list-style-type: none"> <li>Collaborated with residents and resident groups to conduct neighborhood clean-up activities.</li> <li>Implemented neighborhood mini-grant program to assist residents on minor property improvements.</li> </ul>	<ul style="list-style-type: none"> <li>1-2 neighborhood clean-up events will be held in the BH neighborhood.</li> <li>Complete 6 month survey of resident perception of involvement and pride in the neighborhood.</li> </ul>	<ul style="list-style-type: none"> <li>✓ 3 neighborhood clean-up events held over the past 6 months.</li> <li>✓ 71% of BH residents report that they feel more/somewhat more vested and connected to the BH community over the past 6 months.</li> <li>✓ 73% of BH residents report that they feel increased pride to live in the neighborhood over the</li> </ul>	<ol style="list-style-type: none"> <li>1. Distribute "Who to Call" resource to neighborhood that was developed by the Public Safety Action Team.</li> </ol>

Belle Haven Action Plan – Progress Toward Goals  
Outcome Measures Table

			past 6 months.	
<b>Other Ideas for Consideration:</b>				
<ul style="list-style-type: none"> <li>• Enforce crew clean up after landscape maintenance</li> <li>• Provide more public trash cans and plastic bags for dog waste</li> <li>• Locate cameras along major streets</li> <li>• Locate a dog park in Belle Haven</li> </ul>				
<b>Working Effectively with the City</b>				
Goal	Actions	Measure	Impacts / Result	Next Steps
15. Meet with neighborhood groups to discuss neighborhood history and issues of distrust.	<ul style="list-style-type: none"> <li>• Identified neighborhood resident leaders and groups for this effort.</li> <li>• City staff convened meetings with Belle Haven and other interested residents regarding the history of the City's RDA funds for Belle Haven.</li> <li>• Held community dialogues for relationship building and trust development between residents, PD and City staff.</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct community dialogues with residents, PD, City staff, business owners, and other neighborhood stakeholders.</li> <li>• Complete 6 month survey on resident perception of trust between the City and other residents.</li> </ul>	<ul style="list-style-type: none"> <li>✓ The following dialogues were conducted in the community: My changing Community, Then and Now (June 12) City staff/Resident Relationship building dialogue (June 17th), PhotoVoice Project Reception on July 16. Action plan kick off meeting (February 13), Public Safety and Traffic Community Meeting (March 26)</li> <li>✓ 69% of BH residents surveyed report that their trust with other residents has/somewhat has increased with other residents in the past 6 months.</li> <li>✓ 67% of BH residents surveyed report that their trust with the MPPD has/somewhat has increased in the past 6 months.</li> </ul>	<ol style="list-style-type: none"> <li>1. Consider hosting a follow-up dialogue between City staff and BH residents on the topic of RDA funding and support of Belle Haven.</li> </ol>
16. Consider providing a dedicated Council position for Belle Haven	Pending	Pending	Pending	Pending
17. Disseminate information about City resources to support implementation of Visioning Process action items.	<ul style="list-style-type: none"> <li>• Annual reporting of City community grant funding of community organizations has been completed.</li> <li>• Completed neighborhood mini-</li> </ul>	<ul style="list-style-type: none"> <li>• Various media will be used to disseminate information about the Visioning Process, Neighborhood Action Plan and City resources.</li> <li>• Marketing collateral materials and</li> </ul>	<ul style="list-style-type: none"> <li>✓ Published 3 neighborhood newsletters during the past year in both English/Spanish.</li> <li>✓ Use of NextDoor by BH residents has increased by 90% over the</li> </ul>	<ol style="list-style-type: none"> <li>1. Promotion of City's Community Funding Process through various media sources.</li> <li>2. Continue to promote City's Community Funding Program</li> </ol>

### Belle Haven Action Plan – Progress Toward Goals Outcome Measures Table

	grant program orientation and promotion to residents was conducted.	<p>neighborhood communication will be in both English and Spanish.</p> <ul style="list-style-type: none"> <li>• There will be a measurable increase in communication to BH residents regarding events and services.</li> <li>• Residents will begin to use Nextdoor with greater frequency.</li> </ul>	<p>past year.</p> <ul style="list-style-type: none"> <li>✓ Resident database has increased to 270 email addresses.</li> <li>✓ The Public Safety Action Team produced “Who to Contact” list for BH residents.</li> <li>✓ 70% of BH residents surveyed report they have an increased knowledge of where to go when they want information about BH events over the past 6 months.</li> <li>✓ 56% of BH residents surveyed report they are more aware and have accessed services provided by the City over the past 6 months.</li> </ul>	through various media to BH organizations.
<p><b>Other Ideas for Consideration:</b></p> <ul style="list-style-type: none"> <li>• Create new forums for submitting ideas and issues to the City</li> <li>• Create additional neighborhood action committees</li> <li>• Increase awareness of existing opportunities for engaging and working with the City</li> <li>• Identify resources to support Belle Haven residents' elections</li> <li>• Consider using OHCC staff as liaisons and for referrals to City services and staff</li> <li>• Create signs in both Spanish and English in Belle Haven</li> </ul>		<ul style="list-style-type: none"> <li>• Hold community events and meetings to provide opportunities for residents to share ideas and communicate issues to the City.</li> </ul>	<ul style="list-style-type: none"> <li>✓ 32 community meetings and neighborhood events held in the past 6 months (Feb-July).</li> <li>✓ 56% of BH residents surveyed report that they have increased/somewhat increased and strengthened their network in the community over the past 6 months.</li> </ul>	<ol style="list-style-type: none"> <li>1. Sponsor capacity-building workshop for BH residents to identify neighborhood representatives from various levels of governmental agencies and how to engage them effectively.</li> <li>2. Consider forming neighborhood advisory group that reflects the diversity of the neighborhood.</li> </ol>

**Additional Outcomes and Impacts over the past 6 months**

- 32 community meetings and events hosted in first 6 months (February and July). Average of 4 events/month and 1 event/week
- Increase in new residents (1-5 years) participating in community events
- New leaders emerged/identified during the Action Plan implementation
- Increase in BH residents accessing mediation services to resolve neighbor conflicts creating a stronger community and decreasing calls to PD and City departments
- 47% of residents report that they have or somewhat have taken leadership on one or more meetings/projects in the community over the past 6 months
- 64% of residents are more aware or somewhat more aware of and have utilized services of community based groups within Belle Haven over the past 6 months
- 78% of residents report they have taken on more responsibility to find out what’s happening in their community over the past 6 months
- 68% of residents report that they have gotten to know new people in the past 6 months

Belle Haven Action Plan – Progress Toward Goals  
Outcome Measures Table

- 77% of residents report they have felt the neighborhood to be more vibrant and active in the past 6 months

\*The survey conducted as part of this 6 month report had approximately 80 respondents with 72% responding in English and 28% in Spanish. Surveys were available online and on paper in both languages. Although there were a total of 80 surveys completed, some questions on individual surveys did not receive a response.



**Provider: Peninsula Conflict Resolution Center**  
**Program: Belle Haven Action Team Support and Community Capacity Building**  
**September 2014-June 2015**

	<b>INPUTS</b> <i>(What we invest)</i>	<b>OUTPUTS</b> Activities <i>(What we do)</i> Engagement <i>(Who we reach)</i>	<b>OUTCOMES – IMPACT</b> Short Term <i>(Learning)</i> Intermediate <i>(Action)</i>	<b>DATA COLLECTION</b> Instruments <i>(What tools shall we use?)</i> Who’s Responsible <i>(Who will collect the data?)</i>
<b>Coordinate and facilitate Action Team</b>	.20 FTE	<ul style="list-style-type: none"> <li>-facilitate monthly meetings for the action team</li> <li>-develop agenda, supporting material, generating notes,</li> <li>-One-on-one meetings with community leaders when needed</li> <li>-work with volunteers to ensure full and authentic participation for action team</li> <li>-work with the City to ensure full participation and representation from Belle Haven community</li> <li>-work with City and residents to support communication between the neighborhood and residents</li> <li>-work with local resources and community partners to engage them on the action team.</li> <li>-provide regular updates to city staff/representatives on community trends, activities, etc.</li> <li>-work with participants from the action team to define roles, responsibilities etc.</li> <li>-Coordinate with other community building activities in the neighborhood connected to public</li> </ul> <p>Community residents who live throughout the Belle Haven neighborhood. Partners, etc. Engaging approximately 20-25 on the action team</p> <p>City staff</p> <p>Nonprofit and community partners</p>	<ul style="list-style-type: none"> <li>-More residents will be aware of content of the action team</li> <li>-Residents will feel empowered to create change in their community</li> <li>-Residents will have increased depth of engagement and have ownership over short and long term goals</li> <li>Residents gain understanding of the impact in the community.</li> <li>Increased partnership between residents and city staff to address public safety issues in the neighborhood</li> </ul> <p>Development of Action Team Priorities</p> <p>-2-4 community leaders will take leadership roles within the action team</p> <p>-10-15 residents become trained facilitators</p> <p>-1-2 community and non-profit partners will be identified and recruited by action team</p> <p>-50% of individuals who participate in resident involvement activities will report an increase in their confidence and knowledge of working with the city</p> <p>-50% of action team members will increase their roles and engagement within community building activities</p>	<p>Quarterly Evaluation forms for meetings or trainings.</p> <p>Surveys re satisfaction, experience, level of engagement</p> <p>Anecdotal feedback</p> <p>Meeting agendas, attendance sign-in sheets and follow-up action items will be submitted to the City</p> <p>Actions and outputs created/determined by the action team.</p> <p align="right">Project Manager</p>

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	<b>INPUTS</b> <i>(What we invest)</i>	<b>OUTPUTS</b> Activities <i>(What we do)</i> Engagement <i>(Who we reach)</i>		<b>OUTCOMES – IMPACT</b> Short Term <i>(Learning)</i> Intermediate <i>(Action)</i>		<b>DATA COLLECTION</b> Instruments <i>(What tools shall we use?)</i> Who's Responsible <i>(Who will collect the data?)</i>	
<p><b>Work with city staff to address juvenile offenders and at-risk youth that will benefit from community-services</b></p>	<p>.25 FTE</p>	<p><b>WITH FAMILIES:</b></p> <ul style="list-style-type: none"> <li>-receive on-going referrals from PD, schools and other service departments to identify eligible families</li> <li>-meet for an assessment meeting with each participating youth and their families in partnership with Diversion Officer.</li> <li>-provide family a resource and referral guide according to their needs</li> <li>-coordinate, facilitate Family Group Conference that engages all participants in developing a plan to support the youth's future success .</li> <li>-when appropriate offer family mediation services to help to resolve any issues related to the youth and their family</li> <li>- serving families up to 6 months. Thereafter, slowly ramping down in terms of intensity of engagement.</li> </ul>	<p>Depending on referrals, the individual work can range from 20-25 families</p>	<p>-parents feel more in tune with the needs of their youth</p>	<p>65% of those parents participating in the project will report utilizing new skills</p> <p>50% of those youth who participate in a Family Group conference will report 4-6 months later that the plan has been effectively implemented</p>	<p>Database</p> <p>Pre/Post Assessments</p> <p>Family Group Conference plan</p> <p>Evaluation forms for meetings or trainings.</p> <p>Surveys re satisfaction, experience, comfort.</p> <p>Meeting agendas, follow-up action items and attendance sign-in sheets will be submitted to the City.</p>	<p>PCRC Staff</p> <p>Probation (when applicable)</p>

**Provider: Peninsula Conflict Resolution Center**  
**Program: Belle Haven Action Team Support and Community Capacity Building**  
**September 2014-June 2015**

	<b>INPUTS</b> <i>(What we invest)</i>	<b>OUTPUTS</b> Activities <i>(What we do)</i> Engagement <i>(Who we reach)</i>		<b>OUTCOMES – IMPACT</b> Short Term <i>(Learning)</i> Intermediate <i>(Action)</i>		<b>DATA COLLECTION</b> Instruments <i>(What tools shall we use?)</i> Who's Responsible <i>(Who will collect the data?)</i>	
<p style="text-align: center;"><b>Lead Belle Haven's Community Building and Leadership Development efforts</b></p>	<p>Community Engagement Specialist  .15 FTE</p>	<p>--in collaboration with the City, provide support to neighborhood-wide community building activities that are generated by community residents</p> <p>-provide regular updates to city staff/representatives on community trends, activities, etc</p> <p>-focus attention on outreaching to a more residents, with specific emphasis on those who are typically unengaged in the process.</p> <p>-provide regular updates to city staff/representatives on community trends, activities, etc</p> <p>PCRC will work provide facilitation support for City to host 3-4 community dialogues of 20-40 participants each. Dialogue effectively builds connection among individuals from different</p>	<p>Engaging approximately 100-200</p> <p>City staff</p> <p>Nonprofit and community partners</p>	<p>-residents feel supported by city program</p> <p>-neighborhood groups are successful at accomplishing their goals</p> <p>-increase in community building activities that engage larger more diverse populations</p>	<p>-Annual 10% increase in the number of hours community volunteer at events</p> <p>-Annual 10% increase in the number of parents volunteering</p> <p>-increase resident access to services</p>	<p>See above</p>	<p>See above</p>

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**Program: Belle Haven Action Team Support and Community Capacity Building**  
**September 2014-June 2015**

	<b>INPUTS</b> <i>(What we invest)</i>	<b>OUTPUTS</b> Activities <i>(What we do)</i> Engagement <i>(Who we reach)</i>		<b>OUTCOMES – IMPACT</b> Short Term <i>(Learning)</i> Intermediate <i>(Action)</i>		<b>DATA COLLECTION</b> Instruments <i>(What tools shall we use?)</i> Who's Responsible <i>(Who will collect the data?)</i>	
		backgrounds and experiences through acknowledging and celebrating differences while highlighting common interests and objectives.					
<b>Program Management and Support, Program Evaluation</b>	Project Manager  .10 FTE	<p>Weekly supervision meetings with each staff to assess progress towards goals, challenges, document successes</p> <p>Collaboration meetings 1x per month to ensure seamless collaboration between partners</p> <p>Monthly PCRC team meetings to share experiences, learn from each others, consult on challenges, monitor progress towards programmatic goals.</p> <p>PCRC staff will have bi-weekly check-in meetings with the Community Services Administration</p> <p>Provide oversight and management of annual evaluation community survey to track impact and outcomes.</p>	<p>PCRC staff</p> <p>City Staff</p> <p>Partner Organization</p> <p>Through Survey report, collect 100-150 from participants.</p>	<p>Staff learn about the experiences of others and expand their own expertise.</p>	<p>Staff feel support in implementing their work plan and achieving the program goals.</p> <p>Staff feel highly competent in their job and supported by PCRC.</p> <p>Program is improved by shared experiences and learning.</p> <p>Program progress towards outcomes, objectives and measurements are evaluated on an on-going basis</p>	<p>Manager notes</p> <p>Partner notes</p> <p>Next Steps</p> <p>Summary Reports</p> <p>Databases</p> <p>Evaluations</p>	<p>PCRC Staff</p>

**Provider: Peninsula Conflict Resolution Center**  
**Action Team Facilitation, Family Support & Community Building**  
**Project Proposed Budget September 2014- June 2015**

<b>Expense Description</b>	<b>Annual Cost (12-month)</b>	<b>Request to City of Menlo Park For September 2014 – June 2015</b>
<u>Personnel Costs:</u> Action Team Facilitator .20 FTE Family Support Staff (Youth Diversion) .25 FTE Community Engagement Specialist .15 FTE	24,000 28,850 18,000	19,000 23,850 15,000
<b><i>Total Personnel Cost</i></b>	<b><i>70,850</i></b>	<b><i>57,850</i></b>
<u>Program Operational Costs:</u> - Meeting costs: easels, paper, markers - Refreshments - Mileage - Printing, postage and copying	750	750
<b><i>SUBTOTAL</i></b>	<b><i>71,600</i></b>	<b><i>58,600</i></b>
Administrative Overhead @ 10%	7100	5800
<b><i>Total</i></b>	<b><i>78,700</i></b>	<b><i>64,400</i></b>

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**Provider: Peninsula Conflict Resolution Center  
 Program: Belle Haven Action Team Support and Community Capacity Building  
 September 2014-June 2015  
 YOUTH DIVERSION ADDITIONAL COMPONENT**

<b>Project Goal</b>	<b>INPUTS</b> <i>(What we invest)</i>	<b>OUTPUTS</b> Activities <i>(What we do)</i> Engagement <i>(Who we reach)</i>		<b>OUTCOMES – IMPACT</b> Short Term <i>(Learning)</i> Intermediate <i>(Action)</i>		<b>DATA COLLECTION</b> Instruments <i>(What tools shall we use?)</i> Who’s Responsible <i>(Who will collect the data?)</i>	
<p><b>Work with city staff to address juvenile offenders and at-risk youth that will benefit from community-services</b></p>	<p>.25 FTE</p>	<p>WITH YOUTH:</p> <ul style="list-style-type: none"> <li>-meet one on one with the youth in the diversion program</li> <li>-connect with the Diversion officer to hear more specifics about each case.</li> <li>-provide low level case management for youth and resources he/she is connecting to.</li> <li>-coordinate and implement a “restorative circle” is a community process for supporting those in conflict. It brings together the three parties to a conflict – those who have acted, those directly impacted and the wider community – within an intentional systemic context, to dialogue as equals. Participants invite each other and attend voluntarily. The dialogue process</li> </ul>	<p>20-25 youth cases will be solicited for engagement. Serving approximately 12-15 after screening</p>	<ul style="list-style-type: none"> <li>-youth feel better equip to deal with community pressures</li> <li>-youth feel supported</li> <li>-youth have a plan of action and a team of individuals helping them to reach that goal</li> </ul>	<p>75% of those youth participating in the project will report an increase in support and success</p> <p>60% of youth who participate in a restorative circle have a deeper understanding of how their decisions impact others around them.</p>	<p>Database</p> <p>Pre/Post Assessments</p> <p>Family Group Conference plan</p> <p>Evaluation forms for meetings or trainings.</p> <p>Surveys re satisfaction, experience, comfort.</p> <p>Meeting agendas, follow-up action items and attendance sign-in sheets will be submitted to the City.</p>	<p>PCRC Staff</p> <p>Probation (when applicable)</p>

**Provider: Peninsula Conflict Resolution Center**  
**Program: Belle Haven Action Team Support and Community Capacity Building**  
**September 2014-June 2015**  
**YOUTH DIVERSION ADDITIONAL COMPONENT**

	<b>INPUTS</b> <i>(What we invest)</i>	<b>OUTPUTS</b> Activities <i>(What we do)</i> Engagement <i>(Who we reach)</i>		<b>OUTCOMES – IMPACT</b> Short Term <i>(Learning)</i> Intermediate <i>(Action)</i>		<b>DATA COLLECTION</b> Instruments <i>(What tools shall we use?)</i> Who's Responsible <i>(Who will collect the data?)</i>	
		used is shared openly with all participants, and guided by a community member. The process ends when actions have been found that bring mutual benefit.					



**Provider: Peninsula Conflict Resolution Center**  
**Action Team Facilitation, Family Support & Community Building**  
**Project Proposed Budget September 2014- June 2015**  
**YOUTH DIVERSION ADDITIONAL COMPONENT**

<b>Expense Description</b>	<b>Annual Cost (12-month)</b>	<b>Request to City of Menlo Park For September 2014 – June 2015</b>
<u>Personnel Costs:</u> Youth Support Staff (Youth Diversion) .25 FTE	28,850	24,000
<b><i>Total Personnel Cost</i></b>	28,850	24,000
<u>Program Operational Costs:</u> <ul style="list-style-type: none"> <li>- Meeting costs: easels, paper, markers</li> <li>- Refreshments</li> <li>- Mileage</li> <li>- Printing, postage and copying</li> </ul>	500	500
<b><i>SUBTOTAL</i></b>	<b><i>29,350</i></b>	<b><i>24,500</i></b>
Administrative Overhead @ 10%	2900	2400
<b><i>Total</i></b>	<b><i>32,250</i></b>	<b><i>26,900</i></b>

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## OFFICE OF THE CITY MANAGER

Council Meeting Date: October 7, 2014  
Staff Report #: 14-181

Agenda Item #: I-1

**INFORMATIONAL ITEM: Update on City Council Goals**

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### RECOMMENDATION

This is an informational item and does not require City Council action.

### BACKGROUND

The City Council held a Special Meeting on January 27, 2014, at the Arrillaga Family Recreation Center to discuss and identify the priority goals for the year. The workshop was facilitated by Jan Perkins, Senior Partner with Management Partners, and included public comments and input from several members of the public. Following the adoption of the goals by the City Council on February 25, 2014, staff used the City Council's identified priorities to help craft the FY2014-15 budget which Council adopted on June 17, 2014.

### ANALYSIS

The City Council identified several ongoing and new goals for 2014. These included items that have received prior City Council direction and are in progress, and others were added to the list at the City Council's direction during the goal setting workshop.

The adopted goals list identified tasks, strategies, and milestones for each of the items. During the goal setting meeting, it was agreed that as new ideas or needs arise, they will be gathered and considered at the time of the quarterly goals update reports. No new projects (other than emergencies) will be approved except through this quarterly discussion process. The intent was to enable staff to stay focused on the identified City Council priorities established at the beginning of the year

The specific status update for each goal is included in the attached table.

### IMPACT ON CITY RESOURCES

Several of the adopted goals required resources which the City Council approved during the 2014-15 budget process in June 2014.

## **POLICY ISSUES**

It has been the City Council's policy to adopt City Council goals annually. Any policy issues that may arise from the implementation of individual goals will be considered at that time.

## **ENVIRONMENTAL REVIEW**

Environmental review is not applicable.

## **PUBLIC NOTICE**

Public Notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting.

## **ATTACHMENTS**

- A. 2014 Adopted City Council Goals List and Status Update

Report prepared by:

*Clay Curtin*

*Assistant to the City Manager*

*Adopted 2014 City Council Goals – Status Update of October 1, 2014*

The top goals from each Councilmember were identified, consolidated and discussed during the January 27, 2014, workshop. The following table summarizes the goals as adopted by the City Council on February 25, 2014, and includes an update as of October 7, 2014.

Item	Goal Description	Department	Key Next Steps /Initiatives	Status Update
1.	Continue work on the General Plan update.	Community Development/Public Works/Economic Development (Heineck – Lead)	<ul style="list-style-type: none"> <li>• Focus on an M-2 Area plan, including Zoning Ordinance amendments.</li> <li>• Consider circulation, including roadway classifications, Complete Streets, the City’s Transportation Impact Analysis Guidelines (multi-modal level of service), and transportation management associations on a citywide basis.</li> <li>• Develop and consider ways to streamline the development review process, including flowcharting of the current process, identification of administrative improvements, and identification of policy and/or ordinance changes.</li> <li>• Develop and implement a community outreach and engagement plan, including ways to “tell the story” of the General Plan.</li> <li>• Work with the Council Subcommittee to help guide the process and keep focus on the General Plan.</li> <li>• Themes of sustainability, integration and connection will be included.</li> <li>• Consider an optional element for Community Character, on which future work related to residential neighborhoods would be based, assuming the work would not impact the completion of an M-2 Area plan.</li> </ul>	<p>Scope development and consultant selection conducted December 2013 through June 2014 with final scope and consultant contract approved June 17.</p> <p>GPAC appointments on August 19, 2014 with first meeting held August 25.</p> <p>Milestones include:</p> <ul style="list-style-type: none"> <li>• Community Workshops during Fall 2014/first workshop held on September 11 and 17, 2014</li> <li>• Complete Visioning by Spring 2015</li> <li>• Public review drafts in Spring 2016</li> <li>• Adoption in Summer 2015</li> </ul> <p>Other outreach events planned:</p> <ul style="list-style-type: none"> <li>• Surveys</li> <li>• Symposia</li> <li>• Focus Groups</li> <li>• Stakeholder Interviews</li> <li>• Mobile Tours</li> </ul>

Item	Goal Description	Department	Key Next Steps /Initiatives	Status Update
2.	Enhance economic development efforts, particularly in the downtown and industrial areas.	Economic Development/Community Development/Public Works (Cogan – Lead)	<p>Update the Economic Development Strategic Plan, which will include the following elements:</p> <ul style="list-style-type: none"> <li>• Business Retention/Expansion: <ul style="list-style-type: none"> <li>➤ Promotion of existing businesses.</li> <li>➤ Assistance for small businesses.</li> <li>➤ Business Retention meetings.</li> </ul> </li> <li>• Business Attraction: <ul style="list-style-type: none"> <li>➤ Identify desirable new types of businesses.</li> <li>➤ Identify appropriate business types for the Eight (8) Economic Activity Centers in Menlo Park.</li> <li>➤ Assess potential incentives necessary for attracting desired businesses.</li> </ul> </li> <li>• Reinstate Quarterly Economic Development Subcommittee Meetings.</li> </ul>	<p>Economic Trends Report presented to City Council in May 2014</p> <p>Revised Economic Development Plan completion scheduled to December 2014.</p> <p>Facilitated the opening of a new startup: HelloStartups</p> <p>Published three quarterly Informational Economic Development newsletters (Q1, Q2, Q3)</p> <p>Installed Downtown Pilot Seating Program in August 2014</p> <p>Held two quarterly Small Business Roundtable meetings (Q2, Q3)</p>

Item	Goal Description	Department	Key Next Steps /Initiatives	Status Update
3.	<p>Process and/or complete development projects, including:</p> <ul style="list-style-type: none"> <li>• Facilitate completion of Facebook project.</li> <li>• Implement Stanford development plans.</li> <li>• Implement Greenheart development plans.</li> <li>• Implement Bohanan/Gateway project.</li> <li>• SRI Project.</li> <li>• Commonwealth Project.</li> <li>• Implement various residential projects including: CORE Housing &amp; Mid Peninsula Willow Road Projects.</li> </ul>	Community Development/Public Works/Economic Development (Heineck – Lead)	<p>Key next steps vary depending on the status of each project.</p> <ul style="list-style-type: none"> <li>• For projects in plan check or under construction (Facebook, Anton Menlo/Haven), the primary focus is on ensuring ongoing progress by: <ul style="list-style-type: none"> <li>➢ Phasing building permit review;</li> <li>➢ Reviewing offsite construction improvements;</li> <li>➢ Coordination with Caltrans;</li> <li>➢ Quick resolution of issues;</li> <li>➢ Timely issuance of permits; and</li> <li>➢ Continuous inspection services.</li> </ul> </li> <li>• For projects undergoing development review and located on R-4-S zoned property ( Greenheart/Hamilton, Greystar/Haven, and Mid-Peninsula/Willow) key steps include: <ul style="list-style-type: none"> <li>➢ Staff review for compliance with R-4-S Design Standards;</li> <li>➢ Review and coordination of offsite construction plans;</li> <li>➢ Advisory review by the Planning Commission; and</li> <li>➢ Final determination of compliance by the Community Development Director.</li> </ul> </li> <li>• For projects undergoing development review and located within the Specific Plan Area (500 ECR, Derry/1300 ECR) and other projects being considered in the area (612 College, 840 Menlo, 115 ECR, 1400 ECR, Park Theater and Roger Reynold’s) key steps include: <ul style="list-style-type: none"> <li>➢ Environmental review to determine compliance with Specific Plan EIR (may require supplemental environmental review, traffic analysis), including Mitigation Measures;</li> </ul> </li> </ul>	<p>Status of Development projects:</p> <ul style="list-style-type: none"> <li>• 389 El Camino Real (26 residential units) – Complete</li> <li>• 1460 El Camino Real (mixed use office and 16 residential units) – Expected to be complete in October 2014</li> <li>• Marriott Residence Inn – Opening targeted for December 2014</li> <li>• Facebook West Campus – Completion targeted for March 2015</li> <li>• Beechwood School – Phase 1 complete; Phase 2 targeted to be complete in the Spring 2015</li> <li>• 115 El Camino Real (hotel renovation and expansion) – in construction)</li> <li>• Anton Menlo (394 apartment units) – grading and utility work is underway</li> <li>• Greenheart (Hamilton) (195 apartment units) – Demolition is complete; preparing to issue grading and utility permits</li> <li>• Greystar (Haven) (146 apartments) – Undergoing building permit review</li> <li>• CORE housing (60 units) – Expected to begin construction in November 2014</li> <li>• Commonwealth Corporate center – Final land use entitlements granted</li> <li>• 612 College (4 residential units) – Final land use entitlements granted</li> <li>• SRI Campus Renovation – EIR underway</li> </ul>

Item	Goal Description	Department	Key Next Steps /Initiatives	Status Update
3.	(continued)	(continued)	<ul style="list-style-type: none"> <li>➤ Architectural Control Review by the Planning Commission to verify full compliance with detailed standards/guidelines and overall compatibility;</li> <li>➤ May require negotiation of public benefit and/or other permits ;</li> <li>➤ May require public outreach or other unique process (i.e., public process for design of the Middle Avenue plaza);</li> <li>➤ Implementation of Plan related elements to improve project processing (incorporation of Council-directed changes, establishment of a LEED auditor program, and Mitigation Measure compliance reporting).</li> </ul> <p>Additionally, the Specific Plan requires the implementation time to implementation Council-directed changes.</p> <ul style="list-style-type: none"> <li>• For projects undergoing general development review (Commonwealth, SRI), key steps include: <ul style="list-style-type: none"> <li>➤ Environmental review, including traffic and other technical studies;</li> <li>➤ Community outreach;</li> <li>➤ Planning Commission review;</li> <li>➤ May include negotiation of public benefit; and</li> <li>➤ City Council review.</li> </ul> </li> </ul> <p>Two of the projects are unique:</p> <ol style="list-style-type: none"> <li>1. CORE housing due to its location on Federal land.</li> <li>2. Menlo Gateway since the review process will depend on the project submittal.</li> </ol>	<ul style="list-style-type: none"> <li>• 1300 El Camino Real (mixed use) - EIR underway</li> <li>• 500 El Camino Real (mixed use) – Applicant is working with a Council subcommittee to refine proposal</li> <li>• 1295 El Camino Real (mixed use commercial with 15 residential units) – Undergoing land use entitlement review</li> <li>• 133 Encinal (26 residential units) – Undergoing land use entitlement review</li> <li>• Menlo Gateway – Waiting for applicant to submit for possible project revisions</li> <li>• Mid-Peninsula (Willow Housing) – Received loan commitment from City; Continuing to pursue remainder of funding; preparing to submit for R-4-S zoning compliance</li> </ul>



Item	Goal Description	Department	Key Next Steps /Initiatives	Status Update
4.	Explore modifying parking in the downtown.	Public Works (Quirion – Lead)	<ul style="list-style-type: none"> <li>Analyze and report on parking plan implemented in 2011 and consider modifications.</li> </ul>	A City Council study session was held April 29, 2014.
5.	Evaluate the City’s Water Policy, including sources, uses, and conservation.	Public Works (Quirion – Lead)	<ul style="list-style-type: none"> <li>Provide information to the public about the current local and regional water policy, including status of large, regional, and long-term issues.</li> </ul>	<p>A City Council study session focusing on water supply and the opportunity for additional water wells in the City was held June 3, 2014.</p> <p>In August 2014, the City Council took emergency actions to implement State-mandated water conservation measures in response to the ongoing drought.</p> <p>Additional updates/revisions will be reviewed by the Council in November.</p>
6.	Enhance citywide public safety.	Police/Community Services (Jonsen – Lead)	<ul style="list-style-type: none"> <li>Open Neighborhood Services Center.</li> <li>Strengthen Neighborhood Watch.</li> <li>Implement Belle Haven Action Plan.</li> <li>Implement Surveillance cameras.</li> <li>Implement License Plate Readers.</li> <li>Deploy motorcycle traffic officers.</li> </ul>	<p>Neighborhood Service Center opened in April 2014.</p> <p>Neighborhood Watch has held two meetings, including captain training.</p> <p>Implementation of the Belle Haven Neighborhood Action plan is continuing, with several action team meetings, community dialogues, and specific outreach regarding the general plan update.</p>

Item	Goal Description	Department	Key Next Steps /Initiatives	Status Update
				<p>Surveillance cameras and License Plate Readers are operational and have proven extremely helpful in investigating crimes in the area.</p> <p>Increased enforcement efforts, supported by the reinstated motorcycle unit, has resulted in a 17% decline in traffic collisions.</p>
7.	Improve traffic flow on El Camino Real.	Public Works/Planning/Police (Quirion – Lead)	<ul style="list-style-type: none"> <li>Traffic studies of vehicle, bicycle, and pedestrian flow are underway.</li> </ul>	<p>Data collection was completed in April 2014, and the Existing Conditions Report released in September 2014.</p> <p>A second public workshop was held October 2, 2014, which was the first step in identifying alternatives for further evaluation to occur through Fall 2014.</p> <p>Next steps include scheduling updates to the Bicycle Commission, Transportation Commission and City Council to review the community input gathered to-date.</p> <p>Additionally, a third community workshop will be held to review the alternatives analysis and results, before returning to the City Council for consideration of a preferred alternative and to finalize the Study in early 2015.</p>

8.	Improve public relations and communications.	All Departments (McIntyre – Lead)	<ul style="list-style-type: none"> <li>• Update the communications plan to enhance proactive communications &amp; public relations.</li> <li>• City Manager dialogue with reporters.</li> <li>• Proactive communication coaching session for City Council and staff.</li> </ul>	<p>A staff Communications Team has been formed with representatives from various departments to proactively address communications opportunities.</p> <p>Communications training for City Council and staff is planned for Winter 2015.</p> <p>Greater direct outreach from City Manager to local reporters.</p> <p>Formed City Council working group on communications.</p>
9.	Strengthen internal administrative systems to improve efficiency and effectiveness.	Administrative Services (Jerome-Robinson – Lead)	<ul style="list-style-type: none"> <li>• Implement the completed administrative services study.</li> <li>• Establish a modern human resources system that meets legal &amp; efficiency requirements (needs major updates, many old policies).</li> <li>• Develop an IT Master Plan.</li> </ul>	<p>The Administrative Services study results will be presented to the City Council on November 18.</p> <p>Human Resources staffing now includes a new HR Analyst and Office Assistant that were previously approved to improve operations and department capacity.</p> <p>Planning for the IT Master Plan will follow the review of the Administrative Services study.</p>

10.	Conduct more community events.	Economic Development / Community Services / Public Works (Cogan – Lead)	<ul style="list-style-type: none"> <li>• Increase number of community events (For example: movies in the park, additional PAC events, block parties, downtown events, and activities in the Belle Haven Action Plan).</li> </ul>	<p>New Events since January 2014:</p> <ul style="list-style-type: none"> <li>• Menlo Movie Series</li> <li>• Off The Grid</li> <li>• Downtown Family Fitness Extravaganza</li> <li>• 100 OCT Car Shows</li> <li>• Mayor’s State of the City to be held at the Chestnut Paseo</li> </ul> <p>Promotional videos for events (including participating business sponsors/partners) has been well received.</p>
11.	Maintain positive employee-employer relations.	Human Resources (Donnelly – Lead)	<ul style="list-style-type: none"> <li>• Complete SEIU and POA contract negotiations.</li> <li>• Initiate Police Sergeants contract.</li> </ul>	<p>SEIU contract negotiations were completed. Meetings with the POA are continuing.</p> <p>Fall 2014, initiate PSA negotiations.</p>
12.	Explore shared services with other agencies.	All Departments (McIntyre – Lead)	<ul style="list-style-type: none"> <li>• Look for opportunities to: <ul style="list-style-type: none"> <li>➢ Contract out</li> <li>➢ Provide contract services to other agencies, or</li> <li>➢ Share services.</li> </ul> </li> </ul>	<p>Through the budget deliberations, staff identified several areas worth exploring for alternative service delivery options. These programs will be presented to City Council in January 2015.</p> <p>Although so far fruitless, staff continues to discuss opportunities with neighboring communities for shared services.</p>

13.	Make gains in our climate action plan, reducing greenhouse emissions.	Public Works (Quirion – Lead)	<ul style="list-style-type: none"> <li>Consider approval of strategies from the Climate Action Plan to meet the greenhouse gas reduction target.</li> </ul>	<p>In the FY2014-15 budget, funds were for an Environmental Programs Specialist, which was filled in July 2014. This provided additional staff capacity to advance the City’s climate-focused programs, however, the Public Works Department experienced the resignation of the Environmental Programs Manager in June 2014. Despite this loss, staff has made gains in advancing the Regional Renewable Energy Procurement (solar) project, as well as the installation of electric vehicle chargers through the Bay Area Climate Collaborative’s program to meet grant funding and rebate requirements. Still, many of the other environmental programs are on hold while the manager vacancy is filled. Adding to the staffing challenge in the Environmental Programs Division are the state-mandated water restrictions and necessary outreach, which has impacted the department’s ability to advance climate and other non-water projects.</p>
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