



**BOARD OF SUPERVISORS AGENDA ITEM REPORT
CONTRACTS / AWARDS / GRANTS**

Requested Board Meeting Date: 06/02/2015

or Procurement Director Award

Contractor/Vendor Name (DBA): Oakleaf Energy Partners Ohio, LLC

Project Title/Description:

Solar Electricity for Three Wastewater Reclamation Facilities (WRF)

Purpose:

This amendment is required due to uncertainties related to net metering tariff changes requested by the utilities; an acceptable site for the Avra Valley facility could not be identified; to enable recovery of fixed costs contemplated by the initial agreement consequent to the termination of the Avra Valley facility. Amendment of Award of Contracts, Requisition 15-003, Oakleaf Energy Partners of Ohio, LLC for MA 15-127 Green Valley WRF (GVWRF); MA 15-128 Avra Valley WRF (AVWRF) and MA 15-129 Corona de Tucson WRF (CTWRF) for electricity to be provided from solar facilities designed, financed, installed, operated and maintained by Oakleaf. As requested by RWRD this amendment 1) Terminates MA 15-128 for AVWRF; 2) Increases the contract amount of MA 15-127 for the GVWRF by \$574,460.00 to \$2,808,311.00; 3) Increases the contract amount of MA 15-129 for the CTWRF by \$242,850.00 to \$1,279,359.00. Attached are the contract amendment documents, including the revised exhibits illustrating changes in expected costs and savings, approved by the RWRD Director, County Attorney and Contractor.

Procurement Method:

Not Applicable (amendment)

Program Goals/Predicted Outcomes:

To reduce RWRD electricity expenses by \$3,395,908.00 over the 20-year term of the contracts

Public Benefit:

Control RWRD fees

Metrics Available to Measure Performance:

Contractual performance will be monitored by Regional Wastewater Reclamation Department (RWRD).

Retroactive:

No

ok
Justin J...
5/21/15

Original Information

Document Type: _____ Department Code: _____ Contract Number (i.e., 15-123): _____

Effective Date: _____ Termination Date: _____ Prior Contract Number (Synergen/CMS): _____

Expense Amount: \$ _____ Revenue Amount: \$ _____

Funding Source(s): _____

Cost to Pima County General Fund: _____

Contract is fully or partially funded with Federal Funds? Yes No Not Applicable to Grant Awards

Were insurance or indemnity clauses modified? Yes No Not Applicable to Grant Awards

Vendor is using a Social Security Number? Yes No Not Applicable to Grant Awards

If Yes, attach the required form per Administrative Procedure 22-73.

Amendment Information

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 15-127, 128 & 129

Amendment No.: 1 AMS Version No.: 4, 4 and 3 respectively

Effective Date: 06/02/2015 New Termination Date: 12/08/2034

Expense Revenue Increase Decrease Amount This Amendment: \$817,310.00

Funding Source(s): RWRD Enterprise Fund. Reduce expected savings from \$7,713,828 to \$3,395,908 Increase GV & CDT contract expense amounts from \$3,270,360 to \$4,087,670

Cost to Pima County General Fund: \$ 0.00

Contact: John Nanosky *John Nanosky* 5/21/15

Department: Procurement *L.A. Dodig* 5/26/15 Telephone: 520-724-8165

Department Director Signature/Date: *John H. Smith* 5/27/15

Deputy County Administrator Signature/Date: *Jon B. Smith* 5/27/15

County Administrator Signature/Date: *C. Deibel* 5/27/15
(Required for Board Agenda/Addendum Items)

**Amendments to
Solar Services Agreement and Solar License Agreements for
Green Valley(MA-PO-15*127),
Avra Valley(MA-PO-15*128),
and Corona de Tucson(MA-PO-15*129)**

| CONTRACT |
|--|
| NO. MA-PO-1500000000000000/27 |
| AMENDMENT NO. <u>01</u> |
| This number must appear on all invoices, correspondence and documents pertaining to this contract. |

| CONTRACT |
|--|
| NO. MA-PO-1500000000000000/28 |
| AMENDMENT NO. <u>01</u> |
| This number must appear on all invoices, correspondence and documents pertaining to this contract. |

| CONTRACT |
|--|
| NO. MA-PO-1500000000000000/29 |
| AMENDMENT NO. <u>01</u> |
| This number must appear on all invoices, correspondence and documents pertaining to this contract. |



MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: 1500000000000000127

MA Version: 4

Page: 1

Description: Solar Electricity for Green Valley WRF IFB 147692

| | |
|----------------------------|---|
| I S S U E R | <p>Pima County Procurement Department 130 W. Congress St. 3rd Fl Tucson AZ 85701</p> <p>Issued By: JOHN NANOSKY Phone: 5207248165 Email: john.nanosky@pima.gov</p> |
|----------------------------|---|

| | | | | | |
|-----------------------|---|--------------------|-----------------------|---------------------|---------------|
| T E R M S | <p>Initiation Date: 06-02-2015 Expiration Date: 06-01-2035</p> <table style="width: 100%; border: 1px solid black; background-color: #e0e0e0;"> <tr> <td style="padding: 2px;">NTE Amount:</td> <td style="padding: 2px; text-align: right;">\$2,808,311.00</td> </tr> <tr> <td style="padding: 2px;">Used Amount:</td> <td style="padding: 2px; text-align: right;">\$0.00</td> </tr> </table> | NTE Amount: | \$2,808,311.00 | Used Amount: | \$0.00 |
| NTE Amount: | \$2,808,311.00 | | | | |
| Used Amount: | \$0.00 | | | | |

| | | |
|----------------------------|---|--|
| V E N D O R | <p>Oak Leaf Energy Partners Ohio, LLC</p> <p>2645 E. 2nd Avenue Suite 206 Denver CO 80206</p> | <p>Contact: Michael McCabe Phone: 303-893-6945 Email: mike@oakleafep.com Terms: 0.0000 % Days: 30</p> |
|----------------------------|---|--|

| |
|--|
| <p>Shipping Method:</p> <p>Delivery Type: STANDARD GROUND</p> <p>FOB:</p> <p>Modification Reason Amendment #1 increased the cumulative contract amount from \$2,233,851.00 to \$2,808,311.00. Attachment #1- REQ 15_003_AM1_061615</p> |
|--|

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All Transactions and conduct are required to conform to these documents.

Number of Attachments: 3

Attachment Names: IFB 147692 Green Valley WRF SLA. Part II (22-44).pdf, IFB 147692 Green Valley WRF SLA. Part I (1-21).pdf, IFB 147692 Green Valley WRF SAA.approved..pdf



MASTER AGREEMENT DETAILS

Master Agreement No: 1500000000000000127

MA Version: 4

Page: 2

| Line | Description | | | | | |
|------|---|-----|------------|--------------|-------|------------|
| 1 | Solar Electricity for Green Valley WRF Free Form Line | | | | | |
| | Service Contract Amt | | | Service From | | Service To |
| | \$0.00 | | | -- | | -- |
| 2 | CL Solar Electricity for Green Valley WRF | | | | | |
| | Discount | UOM | Unit Price | Stock Code | VPN | MPN |
| | 0.0001 % | KW | \$0.072 | | 28522 | |



MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: 1500000000000000128

MA Version: 4

Page: 1

Description: Solar Electricity for Avra Valley WRF IFB 147692

| | |
|--|---|
| I S S U E R | Pima County Procurement Department 130 W. Congress St. 3rd Fl Tucson AZ 85701 |
| | Issued By: JOHN NANOSKY |
| | Phone: 5207248165 |
| | Email: john.nanosky@pima.gov |

| | |
|----------------------------------|------------------------------------|
| T E R M S | Initiation Date: 12-09-2014 |
| | Expiration Date: 06-02-2015 |
| | NTE Amount: \$0.00 |
| | Used Amount: \$0.00 |

| | | |
|--|---|----------------------------------|
| V E N D O R | Oak Leaf Energy Partners Ohio, LLC | Contact: Michael McCabe |
| | 2645 E. 2nd Avenue | Phone: 303-893-6945 |
| | Suite 206 | Email: mike@oakleafep.com |
| | Denver CO 80206 | Terms: 0.0000 % |
| | | Days: 30 |
| | | |

| | |
|----------------------------|--|
| Shipping Method: | |
| Delivery Type: | STANDARD GROUND |
| FOB: | |
| Modification Reason | Amendment #1 terminates this agreement effective 06/02/2015. Attachment #1 Req 15_003_AM1_061615 |

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All Transactions and conduct are required to conform to these documents.

Number of Attachments: 3

Attachment Names: IFB 147692 Avra Valley WRF SLA Part II (22-44).pdf, IFB 147692 Avra Valley WRF SLA Part I (1-21).pdf, IFB 147692 Avra Valley WRF SSA Approved..pdf



MASTER AGREEMENT DETAILS

Master Agreement No: 1500000000000000128

MA Version: 4

Page: 2

| Line | Description | | | | | |
|------|--|-----|------------|--------------|-----|------------|
| 1 | Solar Electricity for Avra Valley Plant - Free Form Line | | | | | |
| | Service Contract Amt | | | Service From | | Service To |
| | \$0.00 | | | -- | | -- |
| 2 | Solar Electricity for Avra Valley Plant - | | | | | |
| | Discount | UOM | Unit Price | Stock Code | VPN | MPN |
| | 0.0000 % | KW | \$0 | | | |



MASTER AGREEMENT

PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES CONTRACT EXECUTION

Master Agreement No: 1500000000000000129

MA Version: 3

Page: 1

Description: Solar Electricity for Corona De Tucson WRF IFB 147692

| | |
|--|---|
| I S S U E R | <p>Pima County Procurement Department 130 W. Congress St. 3rd Fl Tucson AZ 85701</p> <p>Issued By: JOHN NANOSKY Phone: 5207248165 Email: john.nanosky@pima.gov</p> |
|--|---|

| | | | | | |
|----------------------------------|---|--------------------|-----------------------|---------------------|---------------|
| T E R M S | <p>Initiation Date: 06-02-2015 Expiration Date: 06-01-2035</p> <table style="width: 100%; border: 1px solid black; background-color: #f0f0f0;"> <tr> <td style="padding: 2px;">NTE Amount:</td> <td style="text-align: right; padding: 2px;">\$1,279,359.00</td> </tr> <tr> <td style="padding: 2px;">Used Amount:</td> <td style="text-align: right; padding: 2px;">\$0.00</td> </tr> </table> | NTE Amount: | \$1,279,359.00 | Used Amount: | \$0.00 |
| NTE Amount: | \$1,279,359.00 | | | | |
| Used Amount: | \$0.00 | | | | |

| | | |
|--|--|--|
| V E N D O R | <p>Oak Leaf Energy Partners Ohio, LLC</p> <p>2645 E. 2nd Avenue Suite 206 Denver CO 80206</p> | <p>Contact: Michael McCabe Phone: 303-893-6945 Email: mike@oakleafep.com Terms: 0.0000 % Days: 30</p> |
|--|--|--|

| |
|--|
| <p>Shipping Method:</p> <p>Delivery Type: STANDARD GROUND</p> <p>FOB:</p> <p>Modification Reason Amendment #1 increased the cumulative contract amount from \$1,036,509.00 to \$1,279,359.00. Attachment #1- REQ 15_003_AM1_061615</p> |
|--|

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All Transactions and conduct are required to conform to these documents.

Number of Attachments: 4

Attachment Names: IFB 147692 Corona de Tucson SLA Part II (22-44).pdf, IFB 147692 Corona de Tucson SLA Part I (1-21).pdf, IFB 147692 Corona de Tucson SSA. approved..pdf, BOSAIS_Solicitation-15_003_Solar Electricity for RWRD_12_09_14 (2).doc



MASTER AGREEMENT DETAILS

Master Agreement No: 15000000000000000129

MA Version: 3

Page: 2

| Line | Description | | | | | |
|------|--|-----|------------|--------------|-----|------------|
| 1 | Solar Electricity- Corona De Tucson WRF - Free Form Line | | | | | |
| | Service Contract Amt | | | Service From | | Service To |
| | \$0.00 | | | -- | | -- |
| 2 | Solar Electricity- Corona De Tucson WRF | | | | | |
| | Discount | UOM | Unit Price | Stock Code | VPN | MPN |
| | 0.0000 % | KW | \$0.11 | | | |

**Amendments to
Solar Services Agreement and Solar LICENSE Agreements for
Green Valley(MA-PO-15*127),
Avra Valley(MA-PO-15*128),
and Corona de Tucson(MA-PO-15*129)**

This Amendment to Solar Services Agreements and Site License Agreements for the Avra Valley, Green Valley and Corona de Tucson Wastewater Reclamation Facilities (the "Amendment") by and between the Oak Leaf Energy Partners Ohio, LLC, a Delaware limited liability company ("Oak Leaf"), and Pima County, a body politic and corporate of the State of Arizona ("Pima County") is effective on the date executed by both parties. Oak Leaf and Pima County may sometimes hereinafter be individually referred to as a "Party," or collectively as the "Parties."

BACKGROUND

1. The Parties entered into a Solar Services Agreement and Solar License Agreement, MA-PO-15*127, for the Green Valley Wastewater Reclamation Facility ("GVWRF") dated December 9, 2014, relating to the purchase and sale of solar energy generated at the GVWRF and the location of the solar generating facility on the Pima County property.
2. The Parties entered into a Solar Services Agreement and Solar License Agreement, MA-PO-15*129, for the Corona de Tucson Wastewater Reclamation Facility ("CTWRF") dated December 9, 2014, relating to the purchase and sale of solar energy generated at the CTWRF and the location of the solar generating facility on the Pima County property.
3. The Parties entered into a Solar Services Agreement and Solar License Agreement, MA-PO-15*128, for the Avra Valley Wastewater Reclamation Facility ("AVWRF") dated December 9, 2014, relating to the purchase and sale of solar energy generated at the AVWRF and the location of the solar generating facility on the Pima County property.
4. Since the three above-referenced Solar Service Agreements/Solar License Agreements were executed, the electrical utilities serving the subject wastewater reclamation facilities (WRFs) have filed applications seeking to change the tariffs applicable to net metered customers.
5. Pursuant to this Amendment, the Parties desire to address the uncertainties related to the proposed tariff revision by amending the Solar Services Agreements for the GVWRF and CTWRF facilities.

6. The Parties have also been unable to reach agreement on an appropriate site for the AVWRF solar generating facility and desire to terminate the Solar Service Agreement and Solar License Agreement (County Contract No. MA-PO-15**128) for that WRF.
7. In consideration for Oak Leaf's agreement to terminate the AVWRF Solar Service Agreement and Solar License Agreement, resulting in a reduction in the recovery of contemplated fixed costs associated with all three contracts and costs expended for the AVWRF project, the Parties agree to amend the Solar Services and License Agreements for the GVWRF and CTWRF facilities to correspondingly revise unit prices and thereby increase the cumulative expected total annual cost of electricity from the Supplier specified in column D of the 1.2 Exhibits for the GVWRF and CTWRF contracts revised by and included in this amendment.

AMENDMENTS

Now therefore, the Parties agree as follows:

SECTION 1. AMENDMENT TO THE GREEN VALLEY SOLAR SERVICES AGREEMENT.

The Solar Services Agreement for the GVWRF is hereby amended as follows:

1. Exhibit 1.2 in the Green Valley Solar Services Agreement is hereby deleted in its entirety and replaced by the attached "Revised and Amended Exhibit 1.2"
2. Due to the uncertainty around the net metering tariff revision applied for by the TEP utility, the Parties agree that the Solar Services Agreement for the Green Valley WRF will not be binding upon Pima County if Oak leaf fails to submit the Green Valley WRF Interconnections Application to TEP by the June 1, 2015 deadline and thus secure the applicability to the Green Valley WRF solar facility of the net metering tariff existing as of November, 2014.

SECTION 2. AMENDMENTS TO THE CORONA DE TUCSON SOLAR SERVICES AGREEMENT.

The Solar Services Agreement for the CTWRF is hereby amended as follows:

1. Exhibit 1.2 in the Corona de Tucson Solar Services Agreement is hereby deleted in its entirety and replaced by the attached "Revised and Amended Exhibit 1.2".
2. Due to the uncertainty around the net metering tariff revision applied for by the TRICO utility, the Parties agree that the Solar Services Agreement for Corona de Tucson will not be binding upon Pima County until and unless TRICO or the Arizona Corporation Commission ("ACC") confirms the applicability to the Corona de Tucson WRF solar facility of the net metering tariff existing as of November, 2014. Oak Leaf will provide timely confirmation to County once it learns that a TRICO or ACC decision has been reached.

SECTION 3. AMENDMENT TO THE CORONA DE TUCSON SOLAR LICENSE AGREEMENT

The Solar License Agreement for the CTWRF is hereby amended as follows:

1. Exhibit VIII ("Project Schedule") in the Corona de Tucson Site License Agreement is hereby deleted in its entirety and replaced by the attached "Revised and Amended Exhibit VIII";

SECTION 4. AMENDMENT TO THE GREEN VALLEY SOLAR LICENSE AGREEMENT

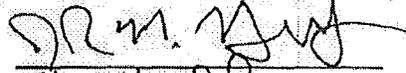
The Solar License Agreement for the GVWRF is hereby amended as follows:

1. Exhibit VIII ("Project Schedule") in the Green Valley Site License Agreement is hereby deleted in its entirety and replaced by the attached "Revised and Amended Exhibit VIII".

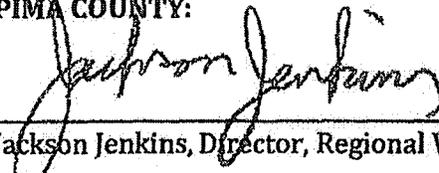
SECTION 5. TERMINATION OF THE AVRA VALLEY SOLAR SERVICE AGREEMENT AND SOLAR LICENSE AGREEMENT

The Solar Service Agreement and Solar License Agreement for the Avra Valley WRF (County Contract No. MA-PO-15**128) is hereby terminated.

OAK LEAF ENERGY PARTNERS OHIO, LLC

By: 
Name: John M. Hereford
Title: Partner

PIMA COUNTY:

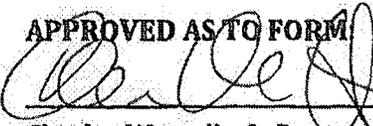

Jackson Jenkins, Director, Regional Wastewater Reclamation Department

Sharon Bronson, Chair, Board of Supervisors

ATTEST

Robin Brigode, Clerk of the Board

APPROVED AS TO FORM



Charles Wesselhoft, Deputy County Attorney

Green Valley Solar Services Agreement Revised Exhibit 1.2

102631 / 00273796 / v7

Exhibit 1.2 - Expected & Guaranteed Performance Output for the Green Valley WRF project.

- a. The actual Expected Performance Output (kWh) (Column A) shall not exceed in any given year 2,045,610 kWh
- b. The Guaranteed Minimum Output (kWh) (Column B) shall be calculated at a minimum of 85% of Expected Performance Output (Column A); a greater percentage is acceptable
- c. First year Expected Performance Output will be calculated for the 12 month period that commences on the Commercial Operation Date defined by Section 6.3 of the SLA and Exhibit VIII.
- d. The actual cost of electricity purchased from the utility during the calendar year 2013 for the Green Valley WRF was approximately \$.209/kWh.
- e. The Total for Column C (Average weighted SSA price of Guaranteed Minimum Output) shall be calculated as the Total of Column E divided by the Total of Column B. The Total for Column F (Average weighted TEP price of Guaranteed Minimum Output) shall be calculated as the Total of Column G divided by the Total of Column B.

| Column | A | B | C | D | E | F | G | H |
|--------|-----------------------------------|---------------------------------|-------------------------|--|---|-------------------------------|--|--|
| YEAR | Expected Performance Output (kWh) | Guaranteed Minimum Output (kWh) | Supplier Price (\$/kWh) | Total Annual Cost for Expected Perf. Output Electricity (\$) from Supplier Columns (A X C) | Total Annual Cost For Guaranteed Electricity (\$) From Supplier Columns (B X C) | Est. TEP Cost \$/kWh +3%/year | Total Annual Cost For Guaranteed Electricity (\$) From TEP Columns (B X F) | Pima County Savings per year Columns (G-E) |
| 1 | 2,044,476 | 1,840,028 | \$ 0.0720 | \$ 147,202 | \$ 132,482 | \$ 0.109 | \$ 200,963 | \$ 68,081 |
| 2 | 2,034,254 | 1,830,828 | \$ 0.0720 | \$ 145,466 | \$ 131,820 | \$ 0.112 | \$ 205,547 | \$ 73,727 |
| 3 | 2,024,082 | 1,821,674 | \$ 0.0720 | \$ 143,794 | \$ 131,161 | \$ 0.116 | \$ 210,655 | \$ 79,494 |
| 4 | 2,013,962 | 1,812,566 | \$ 0.0720 | \$ 145,005 | \$ 130,505 | \$ 0.119 | \$ 215,890 | \$ 85,385 |
| 5 | 2,003,892 | 1,803,503 | \$ 0.0720 | \$ 144,280 | \$ 129,852 | \$ 0.123 | \$ 221,255 | \$ 91,402 |
| 6 | 1,993,873 | 1,794,485 | \$ 0.0720 | \$ 143,559 | \$ 129,203 | \$ 0.126 | \$ 226,753 | \$ 97,550 |
| 7 | 1,983,903 | 1,785,513 | \$ 0.0720 | \$ 142,841 | \$ 128,557 | \$ 0.130 | \$ 232,388 | \$ 103,891 |
| 8 | 1,973,984 | 1,776,585 | \$ 0.0720 | \$ 142,127 | \$ 127,914 | \$ 0.134 | \$ 238,162 | \$ 110,248 |
| 9 | 1,964,114 | 1,767,702 | \$ 0.0720 | \$ 141,416 | \$ 127,275 | \$ 0.138 | \$ 244,081 | \$ 116,806 |
| 10 | 1,954,293 | 1,758,864 | \$ 0.0720 | \$ 140,709 | \$ 126,638 | \$ 0.142 | \$ 250,146 | \$ 123,508 |
| 11 | 1,944,522 | 1,750,070 | \$ 0.0720 | \$ 140,006 | \$ 126,005 | \$ 0.146 | \$ 256,362 | \$ 130,357 |
| 12 | 1,934,799 | 1,741,319 | \$ 0.0720 | \$ 139,306 | \$ 125,375 | \$ 0.151 | \$ 262,733 | \$ 137,358 |
| 13 | 1,925,125 | 1,732,613 | \$ 0.0720 | \$ 138,609 | \$ 124,748 | \$ 0.155 | \$ 269,262 | \$ 144,514 |
| 14 | 1,915,500 | 1,723,950 | \$ 0.0720 | \$ 137,916 | \$ 124,124 | \$ 0.160 | \$ 275,953 | \$ 151,829 |
| 15 | 1,905,922 | 1,715,330 | \$ 0.0720 | \$ 137,226 | \$ 123,504 | \$ 0.165 | \$ 282,810 | \$ 159,307 |
| 16 | 1,896,392 | 1,706,753 | \$ 0.0720 | \$ 136,540 | \$ 122,886 | \$ 0.170 | \$ 289,838 | \$ 166,952 |
| 17 | 1,886,911 | 1,698,219 | \$ 0.0720 | \$ 135,858 | \$ 122,272 | \$ 0.175 | \$ 297,041 | \$ 174,769 |
| 18 | 1,877,476 | 1,689,728 | \$ 0.0720 | \$ 135,178 | \$ 121,660 | \$ 0.180 | \$ 304,422 | \$ 182,762 |
| 19 | 1,868,089 | 1,681,280 | \$ 0.0720 | \$ 134,502 | \$ 121,052 | \$ 0.186 | \$ 311,987 | \$ 190,935 |
| 20 | 1,858,748 | 1,672,873 | \$ 0.0720 | \$ 133,830 | \$ 120,447 | \$ 0.191 | \$ 319,740 | \$ 199,293 |
| Total | 39,004,317 | 35,103,885 | \$ 0.0720 | \$ 2,808,311 | \$ 2,527,480 | \$ 0.146 | \$ 5,115,587 | \$ 2,588,107 |

102631 / 00273796 / v7

Exhibit 1.2 - Expected & Guaranteed Performance Output for the Corona de Tucson WRF project.

- a. The actual Expected Performance Output (kWh) (Column A) shall not exceed in any given year 610,130 kWh.
- b. The Guaranteed Minimum Output (kWh) (Column B) shall be calculated at a minimum of 85% of Expected Performance Output (Column A); a greater percentage is acceptable.
- c. First year Expected Performance Output will be calculated for the 12 month period that commences on the Commercial Operation Date defined by Section 6.3 of the SLA and Exhibit VIII.
- d. The actual cost of electricity purchased from the utility during the calendar year 2013 for the Corona de Tucson WRF was approximately \$.14/kWh.
- e. The Total for Column C (Average weighted SSA price of Guaranteed Minimum Output) shall be calculated as the Total of Column E divided by the Total of Column B. The Total for Column F (Average weighted Trico price of Guaranteed Minimum Output) shall be calculated as the Total of Column G divided by the Total of Column B.

| Column | A | B | C | D | E | F | G | H |
|--------|-----------------------------------|---------------------------------|-------------------------|--|---|---------------------------------|--|--|
| YEAR | Expected Performance Output (kWh) | Guaranteed Minimum Output (kWh) | Supplier Price (\$/kWh) | Total Annual Cost for Expected Perf. Output Electricity (\$) from Supplier Columns (A X C) | Total Annual Cost For Guaranteed Electricity (\$) From Supplier Columns (B X C) | Est. Trico Cost \$/kWh +3%/year | Total Annual Cost For Guaranteed Electricity (\$) From Trico Columns (B X F) | Pima County Savings per year Columns (G-E) |
| 1 | 609,634 | 548,671 | \$ 0.1100 | \$ 67,060 | \$ 60,354 | \$ 0.140 | \$ 76,814 | \$ 16,460 |
| 2 | 606,586 | 545,927 | \$ 0.1100 | \$ 66,724 | \$ 60,052 | \$ 0.144 | \$ 78,723 | \$ 18,671 |
| 3 | 603,553 | 543,198 | \$ 0.1100 | \$ 66,391 | \$ 59,752 | \$ 0.149 | \$ 80,679 | \$ 20,927 |
| 4 | 600,535 | 540,482 | \$ 0.1100 | \$ 66,059 | \$ 59,453 | \$ 0.153 | \$ 82,684 | \$ 23,231 |
| 5 | 597,532 | 537,779 | \$ 0.1100 | \$ 65,729 | \$ 59,156 | \$ 0.158 | \$ 84,739 | \$ 25,583 |
| 6 | 594,545 | 535,090 | \$ 0.1100 | \$ 65,400 | \$ 58,860 | \$ 0.162 | \$ 86,844 | \$ 27,984 |
| 7 | 591,572 | 532,415 | \$ 0.1100 | \$ 65,073 | \$ 58,566 | \$ 0.167 | \$ 89,002 | \$ 30,437 |
| 8 | 588,614 | 529,753 | \$ 0.1100 | \$ 64,748 | \$ 58,273 | \$ 0.172 | \$ 91,214 | \$ 32,941 |
| 9 | 585,671 | 527,104 | \$ 0.1100 | \$ 64,424 | \$ 57,981 | \$ 0.177 | \$ 93,481 | \$ 35,499 |
| 10 | 582,743 | 524,469 | \$ 0.1100 | \$ 64,102 | \$ 57,692 | \$ 0.183 | \$ 95,804 | \$ 38,112 |
| 11 | 579,829 | 521,846 | \$ 0.1100 | \$ 63,781 | \$ 57,403 | \$ 0.188 | \$ 98,184 | \$ 40,781 |
| 12 | 576,930 | 519,237 | \$ 0.1100 | \$ 63,462 | \$ 57,116 | \$ 0.194 | \$ 100,624 | \$ 43,508 |
| 13 | 574,045 | 516,641 | \$ 0.1100 | \$ 63,145 | \$ 56,830 | \$ 0.200 | \$ 103,125 | \$ 46,294 |
| 14 | 571,175 | 514,058 | \$ 0.1100 | \$ 62,829 | \$ 56,546 | \$ 0.206 | \$ 105,688 | \$ 49,141 |
| 15 | 568,319 | 511,487 | \$ 0.1100 | \$ 62,515 | \$ 56,264 | \$ 0.212 | \$ 108,314 | \$ 52,050 |
| 16 | 565,478 | 508,930 | \$ 0.1100 | \$ 62,203 | \$ 55,982 | \$ 0.218 | \$ 111,005 | \$ 55,023 |
| 17 | 562,650 | 506,385 | \$ 0.1100 | \$ 61,892 | \$ 55,702 | \$ 0.225 | \$ 113,764 | \$ 58,062 |
| 18 | 559,837 | 503,853 | \$ 0.1100 | \$ 61,582 | \$ 55,424 | \$ 0.231 | \$ 116,591 | \$ 61,167 |
| 19 | 557,038 | 501,334 | \$ 0.1100 | \$ 61,274 | \$ 55,147 | \$ 0.238 | \$ 119,488 | \$ 64,342 |
| 20 | 554,253 | 498,827 | \$ 0.1100 | \$ 60,968 | \$ 54,871 | \$ 0.245 | \$ 122,458 | \$ 67,587 |
| Total | 11,630,599 | 10,467,485 | \$ 0.1100 | \$ 1,279,359 | \$ 1,151,423 | \$ 0.187 | \$ 1,959,224 | \$ 807,801 |

Exhibit "VIII" to Green Valley Site License Agreement

Project Schedule

The Project Schedule will be completed and added to this agreement without the need for formal amendment of signed/initialed as accepted by both parties no later than two (2) months after execution of contract by the Chair of the Pima County Board of Supervisors.

Project Schedule

| Owner | Task | Date |
|--------------|--|--------------------------------------|
| 1. Supplier | Bid Submittal | 11-12-2014 |
| 2. County | Expected Award Date | 11-04-2014 |
| 3. County | Authorized to Proceed Issued | 11-05-2014 |
| 4. County | Board of Supervisors Approves SSA/SLA Amendments | 6-10-2015 |
| 5. Supplier | Provides proof to County that the County will receive net metering treatment consistent with the net metering rules in place as of November 2014 | No later than 12-31-2015 |
| 6. Supplier | Cultural Resources Study Complete & Site Preparation Commences | No later than 120 days after Task 5. |
| 7. Supplier | Facility Construction (modules, Inverters, Interconnects, etc.) commences | No later than 60 days after task 6. |
| 8. Supplier | Construction, including Interconnect completed | No later than 120 days after task 7. |
| 9. Supplier | Testing, including Utility Acceptance completed | No later than 30 days after task 8. |
| 10. Supplier | All Test issues resolved | No later than 15 days after task 9. |
| 11. Supplier | Commercial Operation Date | No later than 15 days after task 10. |

Note: Supplier can add terms to above if significant to completion of Project.

Exhibit "VIII" to Corona de Tucson Site License Agreement

Project Schedule

The Project Schedule will be completed and added to this agreement without the need for formal amendment of signed/initialed as accepted by both parties no later than two (2) months after execution of contract by the Chair of the Pima County Board of Supervisors.

Project Schedule

| Owner | Task | Date |
|--------------|--|--------------------------------------|
| 1. Supplier | Bid Submittal | 11-12-2014 |
| 2. County | Expected Award Date | 11-04-2014 |
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| 7. Supplier | Facility Construction (modules, Inverters, Interconnects, etc.) commences | No later than 60 days after task 6. |
| 8. Supplier | Construction, including Interconnect completed | No later than 120 days after task 7. |
| 9. Supplier | Testing, including Utility Acceptance completed | No later than 30 days after task 8. |
| 10. Supplier | All Test issues resolved | No later than 15 days after task 9. |
| 11. Supplier | Commercial Operation Date | No later than 15 days after task 10. |

Note: Supplier can add terms to above if significant to completion of Project.

| |
|---|
| CONTRACT |
| MA-10 NO. <u>1500000000000000000127</u> |
| AMENDMENT NO. _____ |
| This number must appear on all invoices, correspondence and documents pertaining to this contract. |

Solar PV Energy Project
SOLAR SERVICES AGREEMENT
GREEN VALLEY WRF

Solar Services Agreement Attachments and Exhibits

Solar Services Agreement ("SSA")

Exhibit 1 - Electricity Pricing, Minimum Output Guarantees and Billing Methodology

Exhibit 2 - Billing Formulas and Examples

Exhibit 3 - Sample Solar Invoice

Exhibit 4 - Termination Fee Schedule and Purchase Option

Exhibit 5 - Solar License Agreement ("SLA")

Exhibit 6 - Lender Accommodations

SOLAR SERVICES AGREEMENT

THIS SOLAR SERVICES AGREEMENT ("SSA" or this "Agreement") is made this 9th day of December 2014 (the "Effective Date") by and between PIMA COUNTY (hereinafter "COUNTY"), a body politic and corporate of the State of Arizona, and Oak Leaf Energy Partners Ohio, LLC ("LICENSEE"). COUNTY and LICENSEE are sometimes individually referred to herein as a "Party" or, collectively, as the "Parties." Any terms not defined herein shall have the meaning ascribed to them in the SLA (as defined below).

Whereas, COUNTY and LICENSEE desire to agree to terms whereby LICENSEE will supply certain services to COUNTY including the sizing and placement of a solar power generation facility, the financing of costs, including the possible monetizing of tax benefits, the production of solar generated electricity to serve COUNTY's facilities by way of this SSA and the continuing maintenance in connection with the solar facility; and

Whereas, concurrent with this SSA the COUNTY will grant to LICENSEE a license pursuant to a Solar License Agreement ("SLA") to design, finance, construct, own, maintain, and operate solar electric generating System(s) on COUNTY's facilities to serve COUNTY's electric loads;

Now, therefore, COUNTY and LICENSEE agree as follows:

1. DEFINITIONS

In addition to the terms that are defined elsewhere in this SSA, the following terms have the following meanings when used herein:

- 1.1 "Access Procedures" has the meaning set forth in Section 6.7 of the SLA and in its Exhibit "IV."
- 1.2 "Alterations" has the meaning set forth in Section 6.8 of the SLA.
- 1.3 "Applicable Laws" has the meaning set forth in Section 12.11 of the SLA.
- 1.4 "Commercial Operation Date" means the date that the COUNTY has issued a Certification of Completion for the construction and installation of the System(s) pursuant to Section 6.3 of the SLA.
- 1.5 "Contract Price" means the price of Electricity pursuant to Exhibit 1, Section 2 of the SSA.
- 1.6 "Day" means calendar day unless otherwise specified herein.
- 1.6 "Electricity" means electrical energy, measured in kilowatts and kilowatt-hours that (a) is produced by the System, (b) is delivered by LICENSEE to COUNTY at the Electrical Interconnection Point, (c) meets the Green-e standard and (d) conforms to applicable utility and/or authoritative regulatory body standards.
- 1.7 "Electrical Interconnection Point" means the point(s) specified in the Project Design where the System connects to the existing electrical systems serving the Facility.
- 1.8 "Energy Management System" means County's automatic controls system capable of receiving energy production data from the System
- 1.9 "Energy Service Provider" means an investor owned utility, a municipal utility or other electricity provider that serves electricity commodity to the Facility or to the campus where the Facility is located.

1.10 "Environmental Law(s)" means each and every applicable federal, state, county and local law, statute, ordinance, regulation, rule, judicial or administrative order or decree, permit, license, approval, authorization or similar requirement of each and every federal, state, county and local governmental agency or other governmental authority pertaining to the protection of human health and safety or the environment.

1.11 "Facility" or "Facilities" means the land or improvements owned and operated by COUNTY on which the System will be installed. Facility and Facilities may be used interchangeably.

1.12 "Fiscal Year" means the COUNTY's Fiscal Year, beginning on July 1 of each calendar year and ending on June 30 of the following calendar year.

1.13 "Force Majeure" means an act of God (such as earthquakes, fires, riots), actions or inactions of a regulatory authority, or actions of others such as strikes, lockouts, or other industrial disturbances, not within the control or arising from the fault of the party claiming Force Majeure. Any party claiming Force Majeure shall advise the other party as soon as possible of the occurrence of the event and shall provide the other party with the basis of the claim, in writing, within ten (10) days of the occurrence of the event. Parties shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

1.14 "Interest Rate" means the then-current prime rate for Bank of America, N.A., as that rate is announced from time to time.

1.15 "Hazardous Material" means, without limitation, any substance defined as "hazardous substance," "hazardous waste," "extremely hazardous waste," under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. Section 1317 et seq.; Ariz. Rev. Stat. §§ 49-201(19) and 49-921(5); and any substance regulated pursuant to any federal or Arizona Environmental Law(s). The term "Hazardous Material" includes, but is not restricted to, asbestos, polychlorinated biphenyls (PCBs), and petroleum.

1.16 "Lender" has the definition provided for in Section 19.1.

1.17 "Licensed Area" means the area of the Facility used by LICENSEE to install, operate and maintain the System, as described in Exhibit "II" of the SLA.

1.18 "LICENSEE" means the party to this SSA that will install, own and operate the System and sell Electricity to COUNTY at the Facility.

1.19 "Lost Savings" means the cost to COUNTY of Electricity not provided by the System as calculated in Exhibit 1 to the SSA, Section 3.

1.20 "Operational Year" means each twelve-month period commencing on the Commercial Operation Date.

1.21 "Renewable Energy Credit" means renewable energy credit(s) or certificates, emission reduction credits, emission allowances, green tags, tradable renewable credits, related to renewable energy productions or environmental characteristics that are attributed to the electricity produced by the System or is a commodity that is separated or unbundled from the underlying electricity supplied System.

1.22 "Savings Value" means the difference between the annual average otherwise applicable tariff prices as calculated per Exhibit 1 to the SSA, Section 3, and the contract

price for Electricity.

1.23 "Solar License Agreement" or "SLA" means that certain Solar License Agreement between COUNTY and LICENSEE, of even date herewith, for the installation and operation of the System at the Facility.

1.24 "SSA" means this agreement between the COUNTY and LICENSEE as described in the recitals above and incorporates the Pima County solicitation documents, including all published addenda, used to establish this contract by reference.

1.25 "State" means the State of Arizona.

1.26 "System" means the integrated assembly of any solar concentrator components, photovoltaic panels, mounting assemblies, inverters, converters, meters, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices and wiring, installed in the Licensed Area for the purpose of generating Electricity for purchase by the COUNTY, as more particularly described in Exhibit III of the Solar License Agreement.

1.27 "Term" means the term of this SSA as set forth in Section 3.

1.28 "Termination Fee" means the payment by the COUNTY, described in Exhibit 5 hereof, upon early termination of this SSA.

1.29 "Utility" means the local provider of electric transmission and distribution services to the COUNTY in the absence of the System.

2. AGREEMENT

2.1 Sale of Electricity by LICENSEE. LICENSEE will sell to COUNTY all Electricity supplied by the System during the Term, at the price per kilowatt-hour as specified in Exhibit 1 Section 2. So long as no Event of Default (as defined in Section 11.4 hereof) by COUNTY has occurred and is continuing LICENSEE shall not offer or sell such Electricity to anyone other than COUNTY without the prior written consent of COUNTY.

2.2 Purchase of Electricity by COUNTY. Consistent with LICENSEE's obligations above to sell to COUNTY all Electricity supplied by the System during the Term, COUNTY will purchase from LICENSEE all Electricity supplied by the System during the Term, with pricing as set forth in Exhibit 1. COUNTY represents and warrants that it has received all necessary authorizations and approvals required to enter into this SSA and when executed the SSA and SLA will be binding upon COUNTY.

2.3 Installation of System. LICENSEE will install the System at or on the Facility in accordance with the SLA attached hereto as Exhibit 5.

2.4 LICENSEE will provide the services as set forth below in this Section.

2.4.1 Meter. LICENSEE will measure the actual amount of Electricity delivered to COUNTY by the System at the solar site 480 volt meter utilizing a commercially available revenue grade interval data-recording meter (the "Meter").

2.4.1.1 The Meter shall be installed and maintained at LICENSEE's expense and shall have standard industry telemetry capabilities that will provide COUNTY with the ability to monitor the Meter for the purpose of incorporating the System electrical output data into the energy usage database.

2.4.1.2 LICENSEE will have the Meter tested every three years at LICENSEE's expense by a certified, independent, third party approved by COUNTY. COUNTY shall be allowed to observe the Meter test, and LICENSEE shall provide notice of the testing to COUNTY at least ten (10) business days prior to the test date. LICENSEE shall provide signed copies of the results of the Meter test to COUNTY. In addition to the triennial test, LICENSEE shall test the Meter at any reasonable time upon the request of COUNTY. COUNTY shall reimburse LICENSEE for the cost of any test requested by COUNTY, unless such testing demonstrates that the Meter was operating outside of industry standard tolerance allowances or as such are defined by the Arizona Corporation Commission for meter calibration and operation.

2.4.1.3 If a Meter is determined to be inaccurate and such inaccuracy exceeds industry standard tolerance allowances, as such are defined by the Arizona Corporation Commission for electric meters, and if it is unknown when the Meter inaccuracy commenced, then the invoices covering the period of time since the last Meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one half of such period. Adjustments that benefit COUNTY shall be reflected on the next invoice following the date of determination of the inaccuracy. Adjustments that benefit LICENSEE shall be included on LICENSEE's next invoice to COUNTY.

2.4.2 Billing System: LICENSEE will bill COUNTY and COUNTY will pay LICENSEE for Electricity at the rate and in the manner set forth in Exhibits 1, 2, and 3.

2.4.3 Customer Service: LICENSEE will provide the following during the Term:

2.4.3.1 LICENSEE will produce and send bills to COUNTY or its designee within fifteen (15) business days after the end of each billing cycle. Invoices shall be sent to:

| | |
|--|--|
| <p>County Billing: Accounts Payable 201 N. Stone Avenue Tucson, AZ 85701</p> | <p>Copy Invoice To: Green Valley WRF Plant Manager 20001 S. Old Nogales Hwy. Green Valley, 85614</p> |
|--|--|

2.4.3.2 LICENSEE will post meter reads to a password protected web site and make this web site available to COUNTY.

2.5 Billing Validation and Verification. COUNTY may during the Term conduct

occasional billing inquiries, validation and verification activities, or reconciliation procedures. During such COUNTY inquiries, activities, and procedures, LICENSEE shall provide COUNTY with the data and other information, including any billing algorithms and interval Meter data representing System output, used to generate billing determinants. COUNTY will use its best efforts to provide or arrange for Utility metered interval data and billing data and information that can support LICENSEE's billing process, either directly through a data file transmission, receipt through regular mail services, or through the appropriate and established arrangement with the Utility. For purposes of this paragraph, Parties agree that "best efforts" means that COUNTY will authorize the applicable Utility to provide metered interval data and billing data and information directly to LICENSEE, as per the Utility's rules and applicable regulations.

3. TERM AND TERMINATION

The Term of this SSA shall commence on the Effective Date and end at 11:59 P.M. of the day preceding the twenty (20th) anniversary of the Commercial Operation Date unless earlier terminated by a Party pursuant to the terms of this SSA, or pursuant to termination of the SLA. Exhibit 4 of this SSA sets forth a Termination Fee and Purchase Option Price for the System in connection with termination of this SSA. For the sake of clarity, the Purchase Option Price set forth in Exhibit 4 shall only be paid in the event that COUNTY intends to purchase the System, consistent with the terms of this SSA, and such Purchase Option Price would be in addition to the Termination Fee owed, if any.

3.1 COUNTY Termination Rights. COUNTY shall have the right to terminate the SSA as follows:

3.1.1 For Cause. COUNTY may terminate this SSA (a) pursuant to Section 11.2, below as a result of LICENSEE's material default; or (b) thirty (30) days after delivery of written notice to LICENSEE and any Lender if a Force Majeure event has occurred and LICENSEE is unable to produce Electricity for more than 180 consecutive days.

3.1.2 For Convenience. In addition to the termination rights in Section 3.1.1 above, COUNTY may terminate this SSA for convenience, sixty (60) days after delivery of written notice to LICENSEE and any Lender. If COUNTY terminates this SSA for convenience pursuant to this section, COUNTY shall pay LICENSEE a Termination Fee as described and calculated in Exhibit 4 hereto.

3.1.3 Both parties acknowledge that the Arizona Constitution, Art. 15, § 2 defines the term "public service corporation" ("PSC") and the Arizona Corporation Commission ("ACC") has broad authority to regulate any such PSC. The parties further acknowledge that clear guidance does not exist regarding whether LICENSEE may be considered a PSC by the ACC based on the services provided under this SSA. Due to the foregoing, there is a level of uncertainty that the ACC could determine that LICENSEE as a provider under this SSA is subject to regulation by the ACC as a PSC. Each party hereto covenants and agrees that in the event that the ACC determines that LICENSEE is subject to its regulation as a PSC or the ACC makes any other determination that would make it commercially unreasonable, in the sole discretion of LICENSEE, to fulfill its obligations under this Agreement or the SLA (each of the foregoing ACC determinations

is referred to herein as an "ACC Determination"), both parties will discuss all commercially reasonable steps to amend this Agreement (and the SLA) or may negotiate in good faith to establish an alternative structure, arrangement and agreement whereby each party receives substantially similar consideration provided for under this Agreement. Notwithstanding the foregoing, either party may immediately terminate this SSA in the event of an ACC Determination. Furthermore, each party hereto covenants and agrees that in the event that the ACC has issued an order or guidance that declares that providers of services under agreements similar to this SSA that conform to certain criteria are not PSCs and are not subject to the ACC's regulations related thereto then both parties will take commercially reasonable steps to amend this SSA and the SLA to implement and reflect the ACC's order, guidance and criteria as soon as reasonably practicable following the issuance thereof. Notwithstanding the foregoing, COUNTY and LICENSEE shall not be required to make any amendments to this SSA or the SLA pursuant to this Section 3.1.3 that would put them in a materially adverse position to the terms and conditions of this Agreement as originally executed.

3.1.4 Termination of SLA. This SSA shall terminate simultaneously with any termination of the SLA.

3.2 LICENSEE Termination Rights. LICENSEE shall have the right to terminate this SSA at any time upon written notice to COUNTY, without further liability, if any of the following occur: a) If, prior to the first date of scheduled delivery of Electricity, LICENSEE determines that the System cannot be built as planned or that its construction and operation would not be economically viable for the LICENSEE, including LICENSEE's determination that (i) the installation of the System is not economically viable as a result of the need to comply with any environmental regulation or (ii) LICENSEE does not obtain third-party financing for the System acceptable to LICENSEE in its sole discretion or (iii) LICENSEE has not received assurance reasonably acceptable to it that LICENSEE will be able to enter into an interconnection agreement with the Utility. LICENSEE will be responsible for repairing any damage to the Facility arising from activities conducted by LICENSEE pursuant to the SSA or SLA and shall reimburse COUNTY for any direct costs associated with negotiation, review, and approval of the SSA and SLA, reasonable alteration to the physical area in or around the Facility site, and installation of the System; b) Upon occurrence of a Force Majeure event, including, but not limited to, LICENSEE's inability, after diligent efforts, to obtain or maintain required approval or permits from any governmental authority for the installation or operation of the System; c) In the event that, through no fault of LICENSEE and for other than a Force Majeure event, the System is permanently shut down due to renovation, damage, destruction, or closure of the Facility, and COUNTY and LICENSEE cannot agree upon an alternative location for the System; or d) Upon an Event of Default by COUNTY (as defined in Section 11.4). COUNTY shall pay LICENSEE a Termination Fee as described and calculated in Exhibit 5 in the event of a termination by COUNTY under Section 3.1.2 above or as remedy for COUNTY default under Sections 11.4.1, 11.4.4 as limited by Section 11.5.2, and 11.4.6 as limited by Section 11.5.2, or otherwise as compensation under Sections 13.2, 14 or 18.6 below.. Appropriate remedies in connection with other termination events triggered by this provision will be determined pursuant to Section 11.8.

4. CONFLICT OF INTEREST

This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

5. GUARANTEE OF MINIMUM OUTPUT PERFORMANCE/TECHNOLOGY ASSESSMENTS AND UPGRADES

LICENSEE has estimated that the System will deliver the Expected Performance Output as indicated in Exhibit 1. LICENSEE guarantees a Minimum Output Performance from the System of eighty-five percent (85%) of the Expected Performance Output from the System over the course of an Operational Year commencing with the Commercial Operation Date. If LICENSEE fails to meet the Minimum Output Performance requirement on an Operational Year basis, for reasons other than COUNTY's shading of the System, as described in Section 13 below, LICENSEE will pay COUNTY, or COUNTY may, at its option, offset against future payments due LICENSEE, an amount equal to COUNTY's Lost Savings. The formula for calculating Lost Savings is found in Exhibit 1 to this SSA. If LICENSEE fails to pay COUNTY the amount due for any annual shortfall of the Guaranteed Minimum Output Performance within sixty (60) days after notice to make such payment (and such shortfall is not under dispute by LICENSEE pursuant to written notice to COUNTY), COUNTY shall have the express right to withhold payment, up to the shortfall amount due, from any payments otherwise payable to LICENSEE for Electricity, regardless of any mortgage or assignment of payments given as security by LICENSEE under the provisions hereof. LICENSEE and COUNTY agree that System performance will degrade by an Annual Degradation Factor as indicated in Exhibit 1 Section 2 of this SSA for every year of operation. The Expected Performance Output will be reduced by the Annual Degradation Factor every Operational Year for the term of this SSA. The degradation factor will be applied to the kWh energy values of the Expected Performance Output at the beginning of each Operational Year to determine whether or not the LICENSEE has met the Minimum Output Performance guarantee at the end of the Operational Year. The degradation factor will be applied on a pro rata basis for System operations that do not span an entire Operational Year by multiplying the Annual Degradation Factor times the fraction of the Operational Year.

All services, equipment, materials or parts shall be models of current production. The output from the System shall not have any adverse effects on County electrical distribution systems or the operations or performance of existing electrical equipment and shall be free of any quality issues, including surges, undervoltage, overvoltage or harmonics conditions.

LICENSEE may perform technological and financial reviews at its discretion to determine the feasibility of upgrading the existing System utilizing improved solar products, strategies and/or solutions. Should an upgrade be deemed advantageous to LICENSEE (in its sole discretion), LICENSEE may upgrade the System or processes associated with the same at its sole expense and LICENSEE shall be entitled to the entirety of the benefit associated with or related to such upgrades. Notwithstanding anything to the contrary in this Section 5, LICENSEE may not materially alter the System in a manner that increases the obligations or burden on COUNTY as set forth in this SSA and the SLA, and, in particular, LICENSEE cannot undertake any upgrade that results in an increase in COUNTY's rates for power purchased from Tucson Electric Power (TEP).

as the result of such upgrade shall be allocated to LICENSEE and COUNTY in proportion to the amount each contributed to the upgrade.

6. POTENTIAL REVENUE FROM RENEWABLE ENERGY CREDITS (RECs)

Unless otherwise set forth herein, all right title and interest to the RECs shall be transferred from LICENSEE to COUNTY under this Agreement.

7. REBATES AND OTHER INCENTIVES

Any grantor incentive payment, rebate or credit by the Utility, the Federal Government, the State of Arizona, or any other agency paid as a result of the design, construction, and operation of the System shall inure to the benefit of LICENSEE except that COUNTY shall be granted possession and control of the RECs as set forth in Article 6 above. COUNTY will cooperate in good faith by, among other things, taking all reasonable actions requested by LICENSEE, at no cost to COUNTY, as necessary to enable LICENSEE to obtain all available incentives and rebates, including assignment to LICENSEE of any incentive received by COUNTY, as consistent with this SSA and the SLA.

8. INDEMNIFICATION

LICENSEE shall indemnify, defend, and hold harmless COUNTY, its officers, employees, and agents from and against any and all suits, actions, legal administrative proceedings, claims, or demands and all costs attendant thereto, arising out of any negligence or intentional misconduct by LICENSEE, its agents, employees, or anyone under its direction or control or on its behalf in connection with performance of this Agreement. Notwithstanding anything to the contrary contained herein, no individual representative of LICENSEE shall have any personal liability to the other party as a result of a breach of any representation, warranty, covenant or agreement contained herein.

LICENSEE warrants that the System provided under this Agreement does not infringe third-party intellectual property rights. LICENSEE will indemnify, defend, and hold COUNTY harmless from any claim of infringement of intellectual property arising from the System provided for under this Agreement.

9. EMERGENCIES

In cases of emergency in which COUNTY determines that the continued operation of the System presents an imminent threat requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services, the Parties agree that COUNTY may disconnect the System from the Facility prior to notification of LICENSEE. If COUNTY disconnects the System pursuant to this provision, COUNTY will notify LICENSEE no later than eight (8) hours after the System is disconnected. The Parties agree that only LICENSEE or an agent designated by LICENSEE will be authorized to reconnect the System after the System is disconnected by COUNTY pursuant to this emergency section.

10. COMMUNICATIONS AND CONTACTS

10. COMMUNICATIONS AND CONTACTS

The representatives of the Parties during the term of this SSA will be:

| COUNTY | LICENSEE |
|--|---|
| Name: Jackson Jenkins | Name: Michael McCabe |
| Address: Regional Wastewater Reclamation Department 201 N. Stone, 8 th Floor Tucson AZ 85701 | <i>Oak Leaf Energy Partners Ohio, LLC</i> Address: <i>2645 E 2nd Ave, Ste. 206</i> <i>Denver, CO 80206</i> |
| Phone: 520-724-6549 | Phone: <i>303-893-6945</i> |
| Email: jackson.jenkins@pima.gov | Email: <i>mike@oakleafep.com</i> |
| With a copy to: Jing Luo Regional Wastewater Reclamation Department 201 N. Stone, 3 rd Floor Tucson, AZ 85701 Phone: 520-724-6537 | <i>John Hereford</i> With a copy to: <i>Oak Leaf Energy Partners Ohio, LLC</i> <i>2645 E. 2nd Ave, Ste. 206</i> <i>Denver, CO 80206</i> |

11. DEFAULT

11.1 Waiver. A waiver by either party of any term, covenant, or condition of this SSA shall not constitute a subsequent waiver of the same or any performance thereof by the other party.

11.2 Default by LICENSEE. At the option of COUNTY as the non-defaulting party, the occurrence of any of the following shall constitute a material default and breach of this SSA:

11.2.1 LICENSEE's failure to deliver Electricity from the System for a continuous period of sixty (60) days or for a cumulative ninety (90) days within any continuous six (6) month period.

11.2.2 Unreasonable interference by LICENSEE with the operations of COUNTY at the Facility if the interference is curable by suspension of operation of the System and LICENSEE fails to suspend operation of the System within forty-eight (48) hours of COUNTY's notice to LICENSEE regarding the unreasonable interference.

11.2.3 The making by LICENSEE of any general assignment for the benefit of

creditors, or the filing of a petition to have LICENSEE adjudicated as bankrupt, or the filing of a petition for reorganization or arrangement under any law relating to bankruptcy unless in the case of a petition filed against LICENSEE, the same is dismissed within sixty (60) days; or the appointment of a trustee or receiver to take possession of substantially all of LICENSEE's assets located on the Facility or of LICENSEE's interest in this SSA, when possession is not restored to LICENSEE within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of LICENSEE's assets located on the Facility or of LICENSEE's interest in this SSA, when such seizure is not discharged within sixty (60) days.

11.2.4 Failure by LICENSEE to perform, comply with any other material term of the SSA within ninety (90) days after written notice to LICENSEE and any Lender by COUNTY, unless COUNTY agrees in writing to a longer period to cure the default.

11.2.5 Occurrence of an Event of Default" as defined in Section 10.1 of the SLA.

11.2.6 LICENSEE's failure to pay any undisputed amount owing to COUNTY for a continuous period of sixty (60) or more days.

11.3 COUNTY Remedies. If any default by LICENSEE shall continue uncured, following notice of default where required herein, for the period applicable to the default alleged, COUNTY may resort to any one or more of the following remedies:

11.3.1 Termination. COUNTY may terminate the SSA by providing written notice to LICENSEE indicating that the SSA and the SLA have been terminated and requesting that the System be removed and the Facility restored to the pre-installation condition subject to ordinary wear and tear. If LICENSEE fails to remove the System and restore the Facility within one hundred twenty (120) days of notice by COUNTY, COUNTY may dispose of the System subject to applicable law.

11.3.2 Recovery of Damages and Expenses. Subject to the limitations of Section 8, COUNTY may recover from LICENSEE any damages and expenses reasonably incurred as a result of LICENSEE's Default, including attorneys' fees and the cost to repair the Facility to pre-installation condition.

11.3.3 Right of Offset. COUNTY may elect to offset any damages resulting from LICENSEE's default against any monies owing or to be owed to LICENSEE under this SSA. If COUNTY elects not to terminate the SSA and SLA following an Event of Default by LICENSEE, this election shall not constitute a waiver by COUNTY as to any subsequent Event of Default by LICENSEE.

11.4 Default by COUNTY. At the option of LICENSEE as the non-defaulting party, the occurrence of any of the following shall constitute a material default and breach of this SSA:

11.4.1 COUNTY's failure to pay undisputed invoices for a continuous period of sixty (60) or more days. LICENSEE acknowledges that any payment (or portion thereof) shall be considered disputed under this Agreement for so long as COUNTY disputes such payment (or portion thereof) in good faith, and until such time as either COUNTY agrees

in writing that such payment is undisputed or until a final determination has been rendered pursuant to Section 11.8 that such payment (or portion thereof) is due and owing by COUNTY. For so long as a payment remains in dispute, LICENSEE may not terminate this Agreement on the basis of non-payment by COUNTY of such amount, and COUNTY shall not be subject to any Termination Fees under Exhibit 4 to this Agreement as the result of the non-payment of the disputed amount.

11.4.2 The renovation, damage, destruction, or closure of the Facility for other than a Force Majeure event, which results in the permanent shutdown of the System at the Facility, if COUNTY and LICENSEE are unable to agree upon an alternative location for the System as defined in Section 13 below.

11.4.3 COUNTY's refusal to sign authorizations (and other documents) reasonably required by LICENSEE to obtain any rebate or subsidy contemplated in Section 7 above or COUNTY's refusal to sign or comply with any material term of the approved interconnection agreement required by the Utility for interconnection of the System.

11.4.4 Failure by COUNTY to perform or comply with any other material term of the SSA within sixty (60) days after written notice by LICENSEE, unless LICENSEE agrees to a longer period to cure the default.

11.4.5 COUNTY's material alteration or interference with the Electrical Interconnection Point and such failure does not result from LICENSEE's negligence or willful misconduct or failure to comply with its interconnection agreement; provided that in the event of any such material alteration or interference with the Electrical Interconnection Point by COUNTY, including relating to growth plans or changes in circumstances, COUNTY shall reimburse LICENSEE for additional Utility demand fees, labor and materials, including additional equipment related to establishing a new electrical interconnection point, and lost revenue or lost profits during the period in which the System does not operate.

11.4.6 The occurrence of any default by COUNTY pursuant to Section 10.3 of the SLA.

11.5 LICENSEE Remedies. If any default by COUNTY shall continue uncured, following notice of default where required herein, for the period applicable to the default alleged, LICENSEE may resort to any one or more of the following remedies:

11.5.1 Termination. LICENSEE may terminate the SSA and the SLA by providing written notice to COUNTY indicating that the SSA and the SLA have been terminated.

11.5.2 Damages.

- a. In the event of a termination pursuant to Section 11.5.1 as a consequence of a (i) a default by COUNTY described in Section 11.4.1 for failure to pay undisputed invoices; (ii) a default by COUNTY described in Section 11.4.4 as a consequence of COUNTY's intentional interference with, or infliction of damage to, the System; or

(iii) a default by COUNTY described in Section 11.4.6 as a consequence of COUNTY's failure to provide access to the Licensed Area (as defined in the SLA) for a Permitted Use (as defined in the SLA), then in any such case described in clauses (i) through (iii), COUNTY shall pay to LICENSEE the Termination Fee, as set forth in Exhibit 4. The Parties acknowledge and agree that in the event of such termination, the actual damages would be difficult or impossible to compute and that this Termination Fee calculation provision represents the reasonable estimate of such damages established by the parties in good faith consideration of the facts and circumstances surrounding the transactions contemplated by this SSA as of the effective date.

- b. In circumstances other than as described in Section 11.5.2(a), LICENSEE may recover from COUNTY any damages and expenses reasonably incurred as a result of COUNTY's default, subject to the limitation of damages provisions otherwise set forth in this Agreement." The parties further agree that in the event COUNTY is subject to payment of Termination Fees as set forth in this Agreement, such Termination Fees shall represent LICENSEE's and LENDER's sole remedy for the default associated with the payment of such Fees, provided that this clause (b) shall not limit any right LICENSEE may otherwise have to recover any costs LICENSEE may incur to enforce its right to receive such Termination Fees.

11.5.3 Removal. In addition to the other remedies specified herein, LICENSEE may remove the System at LICENSEE's cost, provided the Facility is restored to a condition substantially similar to the pre-installation condition subject to ordinary wear and tear as called for by this SSA.

11.6 Force Majeure. Any Party claiming Force Majeure with respect to its performance hereunder shall advise the other Party as soon as possible of the occurrence of the event and shall provide the other Party with the basis of the claim, in writing, within ten (10) days of the occurrence of the event. Each Party shall make reasonable efforts to avoid the adverse impacts of a Force Majeure event and to resolve the event or occurrence once it has occurred in order to resume performance

11.7 Disputes. Each party shall continue to perform its responsibilities under this SSA during any dispute. In the event that disputes arise between the Parties which cannot be resolved through conference and negotiation, such disputes shall be controlled by Arizona law and both Parties shall have the right to have the dispute adjudicated by the Arizona courts in Pima County, provided however, that it shall be a condition precedent to the filing of any lawsuit that the Parties shall first submit the dispute to non-binding mediation with a qualified mediator, with relevant experience in the industry, mutually agreed to by the Parties as governed by the rules and procedures of the American Arbitration Association. The Parties shall be bound to participate in such non-binding mediation in good faith and in confidence.

12. TEMPORARY SHUTDOWN OF SYSTEM

12.1 In-lieu Payments. If, during the Term, renovation or damage to the Facility occurs, for reasons other than a Force Majeure and through no fault of LICENSEE, which reduces to a level less than 98% of Expected Performance Output or eliminates the use by COUNTY of

Electricity from the System or requires the temporary shutdown of the System, LICENSEE may, in its sole discretion, choose to do the following as a means of avoiding default under this SSA:

12.1.1 If such renovation or damage can be completed during the Term hereof, and if COUNTY elects to proceed with such renovation or repair, then COUNTY shall pay in lieu fees to LICENSEE during the duration of the reduction or shutdown as set forth in the next sentence. Such in-lieu fees shall equal the actual payments made by COUNTY during the same period on a daily basis in the previous calendar year less the appropriate system degradation factor unless the COUNTY and LICENSEE mutually agree to an alternative in-lieu fee methodology. The in lieu payments are made to LICENSEE to offset foregone consideration in this SSA and do not entitle COUNTY to Electricity at a later date. A corresponding reduction shall be made to the Guaranteed Minimum Output required under this SSA to reflect the reduction in performance or production of Electricity, if any, due to such renovation or damage or temporary shutdown to the Facility discussed in this Section 12.

12.2 Notice. COUNTY will make a good faith effort to give as much notice as possible to LICENSEE prior to any act or omission to act which may result in a shutdown of the System or reduction in the Expected Performance Output of the System below the threshold specified in Section 12.1.

13. PERMANENT SHUTDOWN OF THE SYSTEM AT FACILITY

If, through no fault of LICENSEE and for reasons other than Force Majeure, the System is permanently shut down due to renovation, damage, destruction, or closure of any of the Facilities, or if COUNTY elects to relocate the System, LICENSEE shall be entitled to the following:

13.1 Notice of Shutdown. Within thirty (30) days after permanent shutdown of the System, COUNTY shall provide written notice to LICENSEE indicating whether or not the COUNTY intends to restore operation of any of the Facilities or whether relocation(s) of the System will be pursued.

13.2 Alternative Location(s) If, within ninety (90) days after permanent shutdown of the System, COUNTY and LICENSEE agree on an alternative location(s) from which LICENSEE can provide Electricity to COUNTY, then COUNTY shall pay the costs associated with relocation of the System. This alternative location(s), in the reasonable opinion of LICENSEE, shall have the potential to provide substantially similar overall system output as the original Facility, measured in total kilowatt-hours over a 12-month period, unless COUNTY and LICENSEE mutually agree that this output level is not required. If COUNTY and LICENSEE mutually agree upon an alternative location(s) that is substantially inferior to the Facility for purposes of installation or Utility rates (assuming different portions of the Facility have different Utility rates), then the pricing formula identified in Exhibits 2 and 3 will be equitably adjusted to compensate for the alternative location(s) such that LICENSEE receives payments comparable to those which it would have received from the System at the Facility. LICENSEE shall be reimbursed for the period of System shutdown prior to relocation, if any, under the payment mechanisms specified in Section 12.1 above for Temporary Shutdown of the System. If, within sixty (60) days after permanent shutdown of the System, COUNTY and LICENSEE have not

agreed upon an alternative location(s) for the System, LICENSEE may terminate this SSA and receive a Termination Fee (as defined in Section described in section 11.5.2, above, and in Exhibit 4). A corresponding reduction shall be made to the Guaranteed Minimum Output required under this SSA to reflect the reduction in performance or production of Electricity, if any, due to any shutdown period that occurs pursuant to this Section 13.

14. RESTRICTIONS ON SHADING

COUNTY will make all good faith efforts to avoid activities which result in overshadowing or shading of the System in a manner that would prevent LICENSEE from meeting the Expected Performance Output as described in Exhibit 1. In the event that COUNTY's activities result in the System being overshadowed in manner that causes the System to produce less than ninety eight percent (98%) of the Expected Performance Output on a kWh basis over any twelve (12) month period, COUNTY agrees to pay "in lieu" fees up to the Expected Performance Output as described in Section 12.1.1 above for the duration of the period for which the shadowing occurs. LICENSEE shall provide and justify data that reasonably demonstrates the approximate loss of generation that occurred due to shading. In the event COUNTY reasonably determines that additional information is necessary to support LICENSEE's calculations of lost generation due to shading, COUNTY may submit a written request to LICENSEE within thirty (30) days of receipt of LICENSEE's calculations that specifies what information it believes necessary to confirm the accuracy of such calculations. If COUNTY does not deliver such written request for additional information, then COUNTY shall be deemed to agree to LICENSEE's calculations of lost generation due to shading, including any in lieu fees associated with the same. If COUNTY delivers a written request to LICENSEE for additional information, then LICENSEE and COUNTY shall work in good-faith to timely agree to an amount of lost generation due to shading, including the in lieu fees associated with the same. If LICENSEE and COUNTY cannot come to an agreement on such amounts within thirty (30) days of the delivery of COUNTY's notice, then the matter shall be submitted to binding mediation or arbitration with the proceedings governed under the provisions of the American Arbitration Association, the costs of which shall be paid by LICENSEE and COUNTY equally. Any mediator or arbitrator chosen by mutual agreement of the parties shall have requisite knowledge of the industry in which LICENSEE operates. Notwithstanding any other provision of this SSA, the Parties agree that if COUNTY's actions, directly or indirectly, result in shadowing of the System such that the System produces less than ninety eight percent (98%) of the Expected Performance Output, the Parties shall make every effort to relocate the System to a mutually agreeable location. If the Parties cannot agree on an alternative location for the System and the shadowing of the System is a result of COUNTY's action, then LICENSEE is entitled to a Termination Fee pursuant to Section 13, "Permanent Shutdown of the System at the Facility," and Exhibit 4. The Parties agree that shading resulting from actions outside of the control of COUNTY shall not give rise to a Termination Fee provided for in this Section.

15. COMPLIANCE WITH APPLICABLE LAWS, INCLUDING UTILITY INTERCONNECTION STANDARDS

LICENSEE, at its own cost and expense, shall comply with all Applicable Laws relating to the operation of the System and the generation and sale of Electricity to COUNTY, including obtaining and maintaining all relevant approvals and permits. In particular, LICENSEE,

throughout the Term of the SSA, will fully comply with any and all operational standards and requirements imposed by the Utility, and comply with the electrical interconnection requirements as stated in the applicable and controlling Utility tariff. COUNTY will cooperate with LICENSEE and, if necessary, will provide consents and execute with the Utility such agreements (if such agreements do not have unacceptable or prohibited terms and/or conditions, or impose additional costs on COUNTY) as are necessary to permit the interconnection of the System. This electrical interconnection shall be done at no cost or liability to COUNTY, and LICENSEE shall reimburse COUNTY for all reasonable out of pocket costs incurred in connection with any interconnection agreement. Should the Utility demand fees or equipment at a cost exceeding twenty-five thousand dollars (\$ 25,000.00) for electrical interconnection requirements, LICENSEE may at its sole discretion cease to proceed with installation of the System without further obligation to COUNTY other than obligations which were incurred prior to notice from the Utility of the fees or the equipment costs and the obligation to restore the Facility to pre-installation condition if installation was initiated.

16. NON-DISCRIMINATION AND AMERICANS WITH DISABILITIES ACT

16.1 LICENSEE agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 including flow down of all provisions and requirements to any subcontractors. Executive Order 2009-09 supersedes Executive order 99-4 and amends Executive order 75-5 and may be viewed and downloaded at the Governor of the State of Arizona's website http://www.azgovernor.gov/dms/upload/EO_2009_09.pdf which is hereby incorporated into this Agreement as if set forth in full herein. During the performance of this Agreement, LICENSEE shall not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin. LICENSEE shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

16.2 LICENSEE shall comply with all applicable provisions of the Americans with Disabilities Act (or "ADA") (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.

16.3 Inclusion in Subcontracts. LICENSEE represents and warrants that it shall include the substance of the nondiscrimination, ADA, and compliance provisions of this clause in all subcontracts in connection with its obligations hereunder.

17. TAXES

LICENSEE shall pay all taxes, assessments or charges that at any time may be lawfully imposed upon LICENSEE as the owner of the System. COUNTY shall pay all taxes, assessments or charges that at any time may be lawfully imposed upon County including any taxes, assessments, or charges imposed upon COUNTY where LICENSEE is required to withhold or collect such imposed taxes, assessments, or charges and pay over such taxes, assessments, or charges to the taxing authorities such as any excise taxes (if any) that are levied upon the user of Electricity and are collected by LICENSEE as the producer of such electricity and paid over to the taxing jurisdiction.

18. ASSIGNMENT

The duties and obligations of LICENSEE under this SSA shall not be assignable by the LICENSEE in whole or in part without the written consent of COUNTY, which consent shall not be unreasonably withheld after due diligence confirms the ability of the proposed assignee to operate and maintain the System in a manner consistent with independent solar power producers using similar standards and practices to LICENSEE. COUNTY's consent to one assignment shall not be deemed consent to any subsequent assignment. Any assignment of this SSA by LICENSEE (or any future assignees) shall also be deemed an assignment of the SLA (unless otherwise agreed in writing by the parties) and consent to assignment of this SSA by COUNTY shall also be deemed a consent to assignment of the SLA.

18.1 Event of Default. In the event of default by any assignee of LICENSEE or any successor to LICENSEE in the performance of the terms hereof, COUNTY may proceed directly against LICENSEE for any claims that it may have against LICENSEE for its actions without the necessity of exhausting remedies against such assignee.

18.2 Unique Expertise. Notwithstanding the foregoing, LICENSEE acknowledges that COUNTY is relying upon the unique expertise and capability of LICENSEE. LICENSEE must demonstrate that any proposed assignee has both the financial capacity and the technical ability to perform the obligations required under the SSA at a level deemed reasonably appropriate by COUNTY and the proposed assignee is willing and sufficiently funded to assume the indemnification obligations set forth in this SSA, as reasonably determined by COUNTY

18.3 Definition of Assignment. For purposes of this section, the sale, assignment, transfer, or disposition, directly or indirectly, of any type which results in a change of control of LICENSEE shall be deemed an assignment of this SSA. Change of control shall be as defined in common law, and may be the result of a single or multiple related transactions which result in the cumulative transfer of more than fifty percent (50%) of the voting stock or equity interests of LICENSEE. However, in no event shall the transfer of shares: (i) to a Lender which assumes LICENSEE's obligations hereunder; or (ii) to another limited liability company of which LICENSEE is the managing member; or (iii) in an open market transaction sale of shares of a public held company be considered an assignment needing COUNTY's approval. LICENSEE shall have a continuing duty to provide COUNTY with written notice of any material change in the LICENSEE'S business structure and/or financial status.

18.4 Consent to Assignment. COUNTY shall consent to the assignment by LICENSEE to the Lender, of LICENSEE's right, title, and interest in and to this SSA, provided that, in the reasonable opinion of the COUNTY, the proposed assignee is reasonably capable of fulfilling LICENSEE's financial and System management obligations hereunder.

18.5 Assignment for Security. Nothing in this paragraph 18 shall: (i) prohibit LICENSEE from assigning or granting a lien on LICENSEE's rights to payments under this SSA for purposes of collateral security; or (ii) except as permitted under section 18.3 above or with COUNTY's consent in accordance with section 18.4, above, allow LICENSEE to assign its duties and obligations under this SSA.

18.6 Assignment by COUNTY. COUNTY may assign or otherwise transfer any of its rights under this Agreement; provided, however, that if COUNTY sells, assigns or otherwise

transfers ownership of the Facilities or the Licensed Area and it is determined (by an independent mediator or pursuant to the procedures in Section 11.8 hereof) that this sale, assignment or transfer materially affects LICENSEE's ability to perform its obligations hereunder or under the SLA or the creditworthiness of the person obligated to perform COUNTY's obligations hereunder following any such assignment is insufficient to pay Termination Fees as set forth in Exhibit 4 as of the date of assignment or transfer of rights, then LICENSEE may terminate the SSA and SLA, COUNTY shall pay LICENSEE a Termination Fee, and the termination schedule set forth in Exhibit 4 hereto shall apply to any such termination by LICENSEE pursuant to this Section 18.6.

19. FINANCING

19.1 Non-Subordination. COUNTY will not subordinate its interest in the Facility as security for any loans or financing (a "LICENSEE Loan") provided to LICENSEE by one or more financial institutions (each a "Lender") in connection with LICENSEE's acquisition, development, construction and installation of the System; provided, however, notwithstanding the provisions of Section 19.2 below, LICENSEE may pledge or otherwise encumber LICENSEE's right, title and interest in the SSA, including any rights to payment from COUNTY under the SSA, and LICENSEE's right, title and interest in the System as security for any LICENSEE Loan. If a Lender requests additional terms and conditions to those already provided for in this SSA, COUNTY will consider any such requests, but may refuse such requests in its reasonable discretion and may withhold consent or approval of such additional terms and conditions in its reasonable discretion.

19.2 Security Interests in System. COUNTY acknowledges that LICENSEE may finance LICENSEE's acquisition, development, construction and installation of the System with a LICENSEE Loan from one or more Lenders and that LICENSEE's obligations to a Lender may be secured by, among other property, a pledge or collateral assignment of this SSA and LICENSEE's rights to payment and a first priority security interest in the System. In order to facilitate a LICENSEE Loan, and with respect to any LICENSEE Lender of which LICENSEE has notified COUNTY in writing, COUNTY agrees as follows:

19.2.1 Classification of System as Personal Property. COUNTY acknowledges that as part of the collateral securing the LICENSEE Loan, LICENSEE may grant a first priority security interest ("Security Interest") in the System to a Lender, which Security Interest may require, among other things, the filing of financing statement(s) ("Financing Statements") under the Uniform Commercial Code ("UCC") to perfect such Security Interest. COUNTY consents to the filing of any Financing Statements so long as such filings reflect the Parties' intent that the System is personal property only and is not a fixture to the Facility.

19.2.2 Neither the filing of the Financing Statements, nor any other document or instrument executed in connection with the LICENSEE Loan shall create any interest in or lien upon the real property underlying the Facility, the Facility, or the interest of COUNTY therein and shall expressly disclaim the creation of such an interest or a lien.

19.2.3 COUNTY will notify its successors and assigns of the ownership of the

System by LICENSEE, the existence of the Lender's Security Interest, and the fact that the System is not part of the Facility or a fixture thereof.

19.2.4 With the exception of its revenue bond covenants and the conditions of its Water Infrastructure Authority of Arizona ("WIFA") loan, no lease, mortgage, security interest or other interest in or lien upon the Facility currently exists and, so long as this SSA or the SLA have not been terminated, COUNTY shall not sign any lease, mortgage, document or instrument that creates a security interest or other interest in, or lien upon, the System without LICENSEE's written consent.

19.2.5 In connection with any collateral assignment of this SSA and/or the SLA to a Lender, COUNTY will be bound by the "lender accommodations" described in Exhibit 8. LICENSEE's Lender shall be a third party beneficiary of this Section 19.2.5.

20. AMENDMENT

No amendment or variation of the terms of this SSA shall be valid unless made in writing, signed by the Parties and approved as required; provided, however, that the Chair of the Pima County Board of Supervisors and authorized representatives of LICENSEE are hereby authorized to execute additional agreements that are determined by both parties to be necessary to meet the goals and objectives of this Agreement. No oral understanding or agreement not incorporated in this SSA is binding on either Party.

21. LEGAL ARIZONA WORKERS COMPLIANCE

LICENSEE hereby warrants and represents that it will, at all times during the term of this Agreement, comply with all federal immigration laws applicable to LICENSEE'S employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). LICENSEE shall further ensure that each subcontractor who performs any work for LICENSEE under this Agreement likewise complies with the Federal Immigration Laws. COUNTY shall have the right to inspect the records of LICENSEE and any subcontractor at any time in order to verify such party's compliance with the Federal Immigration Laws.

Any material breach of LICENSEE'S or any subcontractor's warranty of compliance with the Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Agreement and may, at COUNTY'S sole option, result in termination of this Agreement. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, LICENSEE shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion.

LICENSEE shall advise each subcontractor of COUNTY'S rights, and the subcontractor's obligations, under this Article.

22. AUDIT

Each Party has the right, at its sole expense and during normal working hours, to examine copies of the records and supporting documentation of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this

SSA. Each Party will maintain such records for possible audit for a minimum of three (3) years, unless a longer period of records retention is stipulated. Each Party will allow the auditor(s) access to such records during normal business hours after reasonable notice and to allow interviews of any employees who might reasonably have information related to such records. If any examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

23. INDEPENDENT CONTRACTOR

LICENSEE, and its agents and employees, shall act in an independent capacity and not as officers or employees or agents of COUNTY in the performance of this SSA.

24. TIMELINESS

Time is of the essence in this SSA.

25. GOVERNING LAW

This contract is governed by and shall be interpreted in accordance with the laws of the State of Arizona. All actions pursuant to this Agreement must be brought and maintained in the Superior Court of Arizona in Pima County.

26. UNENFORCEABLE PROVISION

In the event that any provision of this SSA is unenforceable or held to be unenforceable, then the parties agree that all other remaining provisions of this SSA that can be given effect without unenforceable provision have force and effect and shall not be affected thereby.

27. COUNTERPARTS

This SSA may be executed in multiple copies, each of which shall be deemed an original, but all of which shall constitute one agreement after each Party has signed such a counterpart.

28. PUBLIC INFORMATION:

Pursuant to A.R.S. § 39 -121 et seq., and A.R.S. § 34-603(G) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted to COUNTY by LICENSEE, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

Any records submitted to COUNTY that LICENSEE reasonably believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by LICENSEE prior to the execution of this SSA.

Notwithstanding the above provisions, in the event records marked CONFIDENTIAL are requested for public release pursuant to A.R.S. § 39-121 et seq., COUNTY shall release records marked

CONFIDENTIAL ten (10) business days after the date of notice to the LICENSEE of the request for release, unless LICENSEE has, within the ten day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release shall not be counted in the time calculation. LICENSEE shall be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable.

COUNTY shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor shall COUNTY be in any way financially responsible for any costs associated with securing such an order.

29. INTERNAL REVENUE CODE SECTION 7701(e)

It is the intention of the parties that the provisions in this SSA meet all of the requirements set forth in Section 7701(e)(4) of the Internal Revenue Code of 1986, as amended (the "Code"), and any related Treasury Regulations and IRS administrative pronouncements, so that the SSA is deemed to be treated as a "service contract" and not as a "lease" pursuant to Code Section 7701(e). All duty and responsibility for such compliance rests with LICENSEE. Amendments to this SSA required to achieve such compliance require COUNTY approval, with such approval not to be unreasonably withheld.

30. INTEGRATION

This Agreement, along with the SLA and the Operation and Maintenance Agreement entered into on the date hereof, constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings of the parties hereto in connection herewith and therewith, and no covenant, representation or condition not expressed in this Agreement or in the SLA shall affect, or be effective to interpret, change or restrict the express provisions of this Agreement.

IN WITNESS WHEREOF and in confirmation of their consent to the terms and conditions contained in this SSA and intending to be legally bound hereby, COUNTY and LICENSEE have executed this SSA as of the Effective Date.

COUNTY:

Sharon Blanson DEC 09 2014
Chair, Board of Supervisors

Attest:

Robin Brugide
Clerk, Board of Supervisors

Date: DEC 09 2014

Approved as to Content:

Justin Jenkins

LICENSEE:

By: [Signature]
TITLE: President

Date: November 12, 2014

Director,

Approved as to Form:

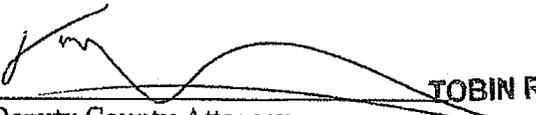

TOBIN ROSEN
Deputy County Attorney

EXHIBIT 1

ELECTRICITY PRICING, MINIMUM OUTPUT GUARANTEES AND BILLING METHODOLOGY

1. Electricity Pricing:

Site Name: Pinu County Green Valley WRF

LICENSEE:

Term: Twenty (20) Years

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Exhibit 1.2 - Expected & Guaranteed Performance Output for the Green Valley WRF project.

- a. The actual Expected Performance Output (kWh) (Column A) shall not exceed in any given year 2,045,610 kWh *OK*
- b. The Guaranteed Minimum Output (kWh) (Column B) shall be calculated at a minimum of 85% of Expected Performance Output (Column A); a greater percentage is acceptable
- c. First year Expected Performance Output will be calculated for the 12 month period that commences on the Commercial Operation Date defined by Section 6.3 of the SLA and Exhibit VIII.
- d. The actual cost of electricity purchased from the utility during the calendar year 2013 for the Green Valley WRF was approximately \$.109/kWh.
- e. The Total for Column C (Average weighted SSA price of Guaranteed Minimum Output) shall be calculated as the Total of Column E divided by the Total of Column B
The Total for Column F (Average weighted TEP price of Guaranteed Minimum Output) shall be calculated as the Total of Column G divided by the Total of Column B.

| Column | A | B | C | D | E | F | G | H |
|--------|-----------------------------------|---------------------------------|-------------------------|--|---|-------------------------------|--|--|
| YEAR | Expected Performance Output (kWh) | Guaranteed Minimum Output (kWh) | Supplier Price (\$/kWh) | Total Annual Cost for Expected Perf. Output Electricity (\$) from Supplier Columns (A X C) | Total Annual Cost For Guaranteed Electricity (\$) From Supplier Columns (B X C) | Est. TEP Cost \$/kWh +3%/year | Total Annual Cost For Guaranteed Electricity (\$) From TEP Columns (B X F) | Pima County Savings per year Columns (G-E) |
| 1 | 2,044,476 | 1,840,028 | \$ 0.0885 | \$ 181,000 | \$ 162,900 | \$ 0.109 | \$ 200,563 | \$ 37,663 |
| 2 | 2,034,254 | 1,830,828 | \$ 0.0841 | \$ 171,090 | \$ 153,981 | \$ 0.112 | \$ 205,547 | \$ 51,566 |
| 3 | 2,024,082 | 1,821,674 | \$ 0.0799 | \$ 161,723 | \$ 145,551 | \$ 0.116 | \$ 210,655 | \$ 65,104 |
| 4 | 2,013,962 | 1,812,566 | \$ 0.0759 | \$ 152,869 | \$ 137,582 | \$ 0.119 | \$ 215,890 | \$ 78,308 |
| 5 | 2,003,892 | 1,803,503 | \$ 0.0721 | \$ 144,499 | \$ 130,049 | \$ 0.123 | \$ 221,255 | \$ 91,205 |
| 6 | 1,993,873 | 1,794,485 | \$ 0.0685 | \$ 136,588 | \$ 122,929 | \$ 0.126 | \$ 226,753 | \$ 103,824 |
| 7 | 1,983,903 | 1,785,513 | \$ 0.0651 | \$ 129,109 | \$ 116,199 | \$ 0.130 | \$ 232,388 | \$ 116,189 |
| 8 | 1,973,984 | 1,776,585 | \$ 0.0618 | \$ 122,041 | \$ 109,837 | \$ 0.134 | \$ 238,162 | \$ 128,326 |
| 9 | 1,964,114 | 1,767,702 | \$ 0.0587 | \$ 115,359 | \$ 103,823 | \$ 0.138 | \$ 244,081 | \$ 140,258 |
| 10 | 1,954,293 | 1,758,864 | \$ 0.0558 | \$ 109,043 | \$ 98,139 | \$ 0.142 | \$ 250,146 | \$ 152,007 |
| 11 | 1,944,522 | 1,750,070 | \$ 0.0530 | \$ 103,073 | \$ 92,766 | \$ 0.146 | \$ 256,362 | \$ 163,597 |
| 12 | 1,934,799 | 1,741,319 | \$ 0.0504 | \$ 97,430 | \$ 87,687 | \$ 0.151 | \$ 262,733 | \$ 175,046 |
| 13 | 1,925,125 | 1,732,613 | \$ 0.0478 | \$ 92,095 | \$ 82,886 | \$ 0.155 | \$ 269,262 | \$ 186,376 |
| 14 | 1,915,500 | 1,723,950 | \$ 0.0454 | \$ 87,053 | \$ 78,348 | \$ 0.160 | \$ 275,953 | \$ 197,605 |
| 15 | 1,905,922 | 1,715,330 | \$ 0.0432 | \$ 82,287 | \$ 74,058 | \$ 0.165 | \$ 282,810 | \$ 208,752 |
| 16 | 1,896,392 | 1,706,753 | \$ 0.0410 | \$ 77,782 | \$ 70,004 | \$ 0.170 | \$ 289,838 | \$ 219,835 |
| 17 | 1,886,911 | 1,698,219 | \$ 0.0390 | \$ 73,523 | \$ 66,171 | \$ 0.175 | \$ 297,041 | \$ 230,870 |
| 18 | 1,877,476 | 1,689,728 | \$ 0.0370 | \$ 69,498 | \$ 62,548 | \$ 0.180 | \$ 304,422 | \$ 241,874 |
| 19 | 1,868,089 | 1,681,280 | \$ 0.0352 | \$ 65,693 | \$ 59,124 | \$ 0.186 | \$ 311,987 | \$ 252,863 |
| 20 | 1,858,748 | 1,672,873 | \$ 0.0334 | \$ 62,096 | \$ 55,887 | \$ 0.191 | \$ 319,740 | \$ 263,853 |
| Total | 39,004,317 | 35,103,885 | \$ 0.0573 | \$ 2,233,851 | \$ 2,010,466 | \$ 0.146 | \$ 5,115,587 | \$ 3,105,121 |

3. Calculation of Lost Savings Payment to County

The first year shall be defined as 12-months from the Commercial Operation date and will also define the commencement date of each subsequent year during the term of this agreement. Calculation for each complete prior year, and payment if due, shall be documented and submitted to County by the Licensee within 60 calendar days after the commencement of each year.

Annual Actual Production less Guaranteed Minimum Output (GMO), if Positive, indicates the GMO was satisfied. If "negative", the supplier shall issue a credit or payment equal to the County's average cost/kWh from the utility less the SSA supplier price/kWh for the SSA contract year times the quantity of GMO/kWh not produced.

4. Electricity Purchase and Sales.

a. General Provisions:

LICENSEE will generate, deliver and sell Electricity, when available from the System, to the COUNTY at the Electrical Interconnection Point during the term of this SSA.

LICENSEE agrees to generate, deliver and sell a quantity of Electricity as noted in Exhibit 1 Section 2 (above) and as guaranteed in SSA Section 5 to the COUNTY from the System and COUNTY agrees to purchase Electricity as measured at the Electrical Interconnection Point.

b. Formulas for Pricing:

LICENSEE shall prepare invoices in accordance with the formulas set forth in Exhibit 2 in the format set forth in Exhibit 3. LICENSEE shall render to COUNTY an invoice each month for the preceding billing period during the Term of this SSA setting forth the actual amount of kWh delivered ("Actual Production") and the amounts due LICENSEE for Electricity generated and delivered by the System. COUNTY will remit full payment with each invoice to LICENSEE, subject to any offsets for Guaranteed Minimum Output shortfalls, due under SSA, Section 5.

In the event COUNTY disputes all or any part of any bill submitted by LICENSEE under this SSA, COUNTY shall pay the undisputed portion of the invoice when due and shall notify LICENSEE in writing within three (3) months from the date of receipt of any disputed invoice or adjusted invoice. The Parties shall use best efforts to resolve the dispute amicably and promptly, and upon determination of the correct billing amount, COUNTY shall promptly pay or be paid the remaining portion or refund due (if any), with interest at the Interest Rate from the date payment was due until paid (in the case of an underpayment) or from the date paid until refunded (in the case of an overpayment). Late payment fees shall not be applied to amounts that are subject to a good faith dispute until the dispute is resolved and interest is calculated in accordance with this Section. In the event that disputed amounts cannot be resolved through the process of conference, disputes shall be addressed through the process provided in Section 11.8 of the SSA.

LICENSEE shall submit invoices to the COUNTY at the address as set forth below. LICENSEE shall also submit a duplicate invoice (copy only) to the COUNTY at the address as noted on the subsequent page.

Billing Contacts

| | |
|--|--|
| County Billing | Copy Invoice To: |
| Section/Unit: Pima County RWRD Financial Services | Section/Unit: Pima County RWRD Green Valley WRF |
| Accounts Payable | Attention: Plant Manager |
| Address: 201 N. Stone Avenue, Tucson, AZ 85701 | Address: 20001 S. Old Nogales Highway Tucson AZ 85614 |
| Phone: 520-724-6814 | Phone: 520-0625-0025 |
| Fax: 520-724-6553 | |
| | Email: John.Sherlock@wmm.pima.gov |

Payment Address Notice:

COUNTY shall submit all payments under this SSA to LICENSEE's project representative at the address listed in SSA Section 9. Parties agree that if COUNTY receives notification to change the LICENSEE's designated address for purposes of payment, COUNTY will notify the project representative at the address listed in SSA Section 9 and any Lender designated by LICENSEE pursuant to Section 12.1.1 of the SLA at least sixty (60) days prior to the first submittal of payment to the new address. Parties also agree that COUNTY will submit payments under this SSA by electronic funds transfer when electronic transfer becomes a readily available payment method for the COUNTY.

EXHIBIT 2

BILLING FORMULAS AND EXAMPLES

LICENSEE shall provide invoices as indicated in this Exhibit and shall indicate the source and calculation of each variable set forth below in a manner so that the COUNTY can readily confirm the accuracy and appropriateness of each invoice. An example of a monthly invoice is attached as Exhibit 3 to this SSA.

The total invoice for Electricity delivered by LICENSEE for the month in question shall be determined as follows:

$$P = AE * ACP$$

Where:

P = Monthly payment made to LICENSEE for electricity delivered during the billing period.

AE = The quantity of electricity in kWh actually delivered by the LICENSEE to the COUNTY during the billing period

ACP is the contract price for the monthly or quarterly billing period in \$/kWh as set forth in Exhibit 1.2

EXHIBIT 3

SAMPLE SOLAR INVOICE

Facility Name
Facility Contact Person
Facility Address

Account #
Meter #

| Start Date | End Date | Start Meter Read | End Meter Read | Total kWh |
|-------------|----------|------------------|----------------|-----------|
| Mo/Day/Year | | | | |

Contract Price: \$/kWh
Total Cost of Solar Power Delivered: \$
Net due to LICENSEE

Exhibit 4

Termination Fee Schedule And Purchase Option

In the event of a termination of this SSA pursuant to 3.1.2, 11.4.1, 11.4.4 as limited by Section 11.5.2, 11.4.6 as limited by Section 11.5.2, or otherwise as compensation under Section 13.2, 14 or 18.6 COUNTY shall pay to LICENSEE an Early Termination Payment corresponding to the year in which early termination occurs.

The Early Termination Payment shall be calculated as described below and specifically set forth in the second column of the table below.

Early Termination Payment = Net Present Value of the annual contract price (per site) multiplied by the Guaranteed Minimum Output, less the operating costs avoided due to the early termination, for each of the remaining years of the contract. The Early Termination Payment is also intended to include the amount of "recapture" damages imposed by the Internal Revenue Service upon LICENSEE (or its assigns or successors) in connection with the Investment Tax Credit (or related cash grants) as a result of an early termination by COUNTY.

If an early termination occurs on date other than an anniversary of the Commercial Operation Date, the unpaid amount for that year will be calculated by multiplying the Early Termination Payment by a simple ration of the number of months remaining until the anniversary of the Commercial Operation Date divided by 12 months.

| Year of Termination | Early Termination Payment |
|---------------------|---------------------------|
| 1 | \$2,140,583 |
| 2 | \$1,957,585 |
| 3 | \$1,793,769 |
| 4 | \$1,627,678 |
| 5 | \$1,451,643 |
| 6 | \$1,265,805 |
| 7 | \$1,221,517 |
| 8 | \$1,169,186 |
| 9 | \$1,108,898 |
| 10 | \$1,039,826 |
| 11 | \$961,068 |
| 12 | \$871,641 |
| 13 | \$834,048 |
| 14 | \$799,296 |
| 15 | \$764,544 |
| 16 | \$695,040 |
| 17 | \$625,536 |
| 18 | \$556,032 |
| 19 | \$486,528 |
| 20 | \$417,024 |

Exhibit 5

SOLAR LICENSE AGREEMENT

[AS ATTACHED]

Exhibit 6

LENDER ACCOMMODATIONS

Certain Agreements for the Benefit of the Financing Parties

Notwithstanding anything else contained in the SSA or SLA, COUNTY acknowledges that LICENSEE will be financing the installation of the System either through a lessor, Lender or with financing accommodations from one or more financial institutions and that the Licensee may sell or assign the System and/or may secure the Licensee's obligations by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any such financial institutions of which LICENSEE has notified COUNTY in writing COUNTY agrees as follows:

(a) Consent to Collateral Assignment. COUNTY consents to either the sale or conveyance to a lessor or the collateral assignment by LICENSEE to a Lender that has provided financing of the System, of the Licensee's right, title and interest in and to this Agreement.

(b) Notices of Default. COUNTY will deliver to the Lender, concurrently with delivery thereof to LICENSEE, a copy of each notice of default given by COUNTY under the Agreement, inclusive of a reasonable description of LICENSEE default. No such notice will be effective absent delivery to the Lender. COUNTY will not mutually agree with LICENSEE to terminate the Agreement without the written consent of the Lender, but notwithstanding any provision to the contrary in this Exhibit A, may unilaterally terminate this SSA or the SLA (collectively, the "Agreements") as provided for by the terms and conditions of the Agreements.

(c) Rights Upon Event of Default. Notwithstanding any contrary term of this Agreement:

i. The Lender, as collateral assignee, shall be entitled to exercise, in the place and stead of LICENSEE, any and all rights and remedies of LICENSEE under this Agreement in accordance with the terms of this Agreement and only in the event of LICENSEE's or COUNTY's (or any successor in interest for either party) default. The Lender shall also be entitled to exercise all rights and remedies of secured parties generally with respect to the Agreements and the System.

ii. The Lender shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Licensee thereunder or cause to be cured any default of Licensee thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Lender to cure any default of Licensee under this Agreement or (unless the Lender has succeeded to Licensee's interests under this Agreement) to perform any act, duty or obligation of Licensee under this Agreement, but COUNTY hereby gives it the option to do so.

iii. Upon the exercise of remedies under its security interest in the System, including any sale thereof by the Lender, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Licensee to the Lender (or any assignee of the Lender) in lieu thereof, the Lender shall give notice to COUNTY (or any successor in interest) of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement.

iv. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to LICENSEE under the United States Bankruptcy Code, at the request of the Lender made within ninety (90) days of such termination or rejection, COUNTY (or any successor in interest) shall enter into a new agreement with the Lender or its assignee having the same terms and conditions as this Agreement, provided that Lender or Lender's assignee, in sole discretion of COUNTY (or any successor in interest), is deemed reasonably capable of operating and maintaining the System

(d) Right to Cure.

i. COUNTY (or any successor in interest) will not exercise any right to terminate or suspend this Agreement unless it shall have given the Lender prior written notice by sending notice to the Lender (at the address provided by Licensee) of its intent to terminate or suspend this Agreement, specifying the condition giving rise to such right, and the Lender 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 Licensee default reasonably cannot be cured by the Lender within such period and the Lender commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional thirty (30) days.

ii. If the Lender (including any purchaser or transferee), pursuant to an exercise of remedies by the Lender, shall acquire title to or control of LICENSEE's assets and shall, within the time periods described in sub-section (c)(i) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement, then such person or entity shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

SOLAR LICENSE AGREEMENT

EXHIBIT 5 (to Solar Services Agreement executed the date hereof)

THIS SOLAR LICENSE AGREEMENT ("SLA"), dated December 9 2014 (the "Effective Date") is entered into by and between Pima County ("COUNTY") a body politic and corporate of the State of Arizona and OAKLEAF PARTNERS 0170 LLC, collectively referred to as "the Parties."

WHEREAS, COUNTY is the owner of certain real property known as Pima County RWRD Green Valley WRF-located within Pima County, Arizona, *portions of which include the real property improved with those certain facilities* (the "Facilities") as further described in Exhibit "I" attached hereto; and

WHEREAS, LICENSEE desires to obtain, and COUNTY desires to provide, a non-exclusive license for the use of that portion of the Facilities more particularly described in Exhibit "II.A." (the "System Licensed Area"), for the installation, maintenance, and operation of the System (as defined in the Solar Services Agreement);

WHEREAS, LICENSEE desires to sell, and COUNTY desires to purchase, electricity from the System, as set forth in that certain Solar Services Agreement between the Parties hereto and of even date herewith (the "SSA"); and

WHEREAS, this License is granted for the sole purpose of effectuating performances under the SSA; and

WHEREAS, capitalized terms not defined herein shall have the meaning ascribed to them in the SSA.

NOW, THEREFORE, in consideration of the above recitals and mutual promises set forth below, the Parties hereby agree as follows:

1. GRANT OF LICENSE

1.1 Grant. COUNTY hereby grants to LICENSEE and its agents, employees, contractors and subcontractors a non-exclusive, revocable License to enter upon and use the Licensed Area together with the right of ingress and egress to and from the Licensed Area, subject to the terms and conditions herein, for the purposes of installation, maintenance, and operation of the System and for no other purpose (the "Permitted Use"). COUNTY represents and warrants that it has received all necessary authorizations and approvals required to grant this License and to enter into the SLA and when executed the SLA will be binding upon the COUNTY.

2. TERM.

2.1 Duration. The term of this SLA ("Term") shall commence on the Effective Date and end at 11:59 P.M. of the day preceding the twentieth (20th) anniversary of the Commercial Operation Date (as defined herein) unless and until it is sooner terminated pursuant to sections

2.2, 3.5, 6.6, 9.2 or 10.2.2, or pursuant to termination of the SSA. The date on which this Agreement terminates shall be referred to herein as the "Termination Date."

2.2 Term Coterminous with SSA. The term of this SLA shall be contingent upon and coterminous with the term of the SSA and termination of the SSA shall terminate this SLA.

3. USE

3.1 Permitted Use: Permitted Use shall be as identified in Section 1.1 herein.

3.2 No COUNTY Warranties: Other than as specifically provided for in this SLA, LICENSEE acknowledges that COUNTY has not made any representations or warranties regarding the Facilities and LICENSEE is not relying upon any COUNTY representation or warranty by COUNTY or any third party regarding the Facilities, the fitness of the Facilities for any particular use of LICENSEE, or any other matter.

3.3 Limitation on Use: Other than as specifically provided for in this SLA, LICENSEE shall not permit or suffer any use of the Licensed Area or any part thereof, or provide the System for the use of others without first obtaining COUNTY's written consent, which shall not be unreasonably withheld. LICENSEE shall use the Licensed Area only for the Permitted Use, and shall not change or alter the electrical output of the System, except for expected degradation and weather fluctuations, without the prior written approval of COUNTY; provided that such written approval shall not be unreasonably withheld by.

3.4 Prohibited Uses: LICENSEE shall not use or allow the Facilities to be used for any improper, immoral, or unlawful purposes, nor shall LICENSEE cause, maintain, or permit any nuisance in, on, or about the Facilities. LICENSEE shall not do or permit anything to be done in or about the Facilities which will in any way obstruct or interfere with the rights or duties of COUNTY employees at the Facilities, or injure or annoy them, or use or allow the Facilities to be used for any improper, immoral, or unlawful purpose, nor shall LICENSEE cause, maintain, or permit any nuisance in, on, or about the Facilities. LICENSEE acknowledges and understands that this Agreement and all rights of LICENSEE hereunder are subject and subordinate to all existing declarations, restrictions, or other matters of record and all existing agreements of COUNTY with respect to the Facilities. LICENSEE will comply with all rules and regulations adopted by COUNTY for the Facilities. Such rules shall include, but not be limited to, the prohibition against the possession or use of firearms, liquor, or illegal drugs. Any willful violation of said rules and regulations may be grounds in COUNTY's sole discretion for immediate termination of the License and SSA; however, LICENSEE shall have the right to remove its System pursuant to Section 11.5.3 of the SSA. Upon such removal of the System, the SSA and this Agreement shall terminate, and the COUNTY shall have no obligation to pay LICENSEE a Termination Fee pursuant to Exhibit 4 of the SSA.

3.5 No Interference with COUNTY Uses: LICENSEE shall operate, maintain, and repair the System in a manner that will not obstruct or interfere with COUNTY's use of the Facilities or the rights or duties of any employees of the Facilities and LICENSEE will not injure any COUNTY employees at the Facilities. COUNTY agrees that the design and operation of the System, pursuant to the terms of this SLA and the SSA, in no way obstructs or interferes with COUNTY's use of the Facilities or the rights or duties of any employees of the Facilities. COUNTY further agrees that it will make no claim or assertion during the term of this SLA or the SSA that the design and operation of the System, pursuant to the terms of this SLA and the

SSA, in any way obstructs or interferes with COUNTY's use of the Facilities or the rights or duties of any employees of the Facilities. In the event such interference occurs, LICENSEE agrees to take all reasonable steps necessary to eliminate such interference promptly, but no later than ten (10) days from receipt of written notification by the COUNTY of such interference. LICENSEE will use its best efforts to maintain its System in a manner that does not interfere with the Facilities or improvements to the Facilities. COUNTY may construct, reconstruct, modify, or make alterations to the Facilities; provided that in no event shall any construction, reconstruction, or alterations to the Facilities in any way or to any extent interfere (including shading) with the operation of the System.

3.6 Subordination: This SLA and all rights of LICENSEE hereunder are subject and subordinate to all existing leases, easements, rights of way, declarations, restrictions, or other matters of record and all existing agreements of the COUNTY with respect to the Facilities. COUNTY reserves the right to grant additional licenses, easements, leases, or rights of way, whether recorded or unrecorded, as may be necessary, which do not unreasonably interfere (including shading) with LICENSEE's use of the Facilities and the System.

3.7 Applicable Laws, Regulations, Permits, and Approvals: LICENSEE's activities pursuant to this License shall comply with all applicable Federal, State, and local laws, ordinances, rules, regulations, and all issued permits and licenses, including any Interconnection Agreement between COUNTY and any public utility (collectively "Applicable Laws and Requirements"). LICENSEE shall not use or occupy the Licensed Area in violation of Applicable Laws and Requirements or any restriction affecting the Facilities and shall, upon notice from COUNTY, immediately discontinue any use of the Licensed Area which is declared by any governmental authority having jurisdiction to be a violation of Applicable Laws and Requirements. LICENSEE, at LICENSEE's own cost and expense, shall comply with all Applicable Laws and Requirements, which shall, by reason of the nature of LICENSEE's use or occupancy of the Licensed Area, impose any duty upon LICENSEE or COUNTY with respect to the Licensed Area or its use or occupation. In the event any Applicable Laws and Requirements have the effect of prohibiting the installation, maintenance and/or operation of the System by LICENSEE or potentially have the effect of making such installation, maintenance and/or operation of the System prohibitively expensive or onerous for LICENSEE in LICENSEE's sole discretion, LICENSEE shall have the option of terminating this SLA and the SSA at any time prior to the Commercial Operation Date at no expense to COUNTY. LICENSEE shall provide COUNTY with two (2) copies of any approvals or conditions issued by the applicable local utility service company. LICENSEE shall immediately suspend any use of the System upon notice by any governmental authority having jurisdiction that any of LICENSEE's activities under the License constitutes a violation of any of the Applicable Laws and Requirements until the violation, if any, is corrected and the applicable governmental authority concurs that the violation is corrected. LICENSEE shall immediately notify the COUNTY regarding any alleged violation. Failure of LICENSEE to immediately suspend use of the System and/or to notify COUNTY in accordance with this provision after receiving a notice of any violation shall be grounds for termination by COUNTY of this License with no obligation to pay a Termination Fee to LICENSEE under the SSA or this SLA; however, LICENSEE shall have the right to remove its System pursuant to Section 11.5.3 of the SSA. Upon such removal of the System, the SSA and this Agreement shall terminate, and COUNTY shall not have any obligation to pay LICENSEE a Termination Fee.

3.8 Compliance: LICENSEE shall comply with all rules, orders, regulations, requirements, and recommendations of COUNTY or any department, office, or division thereof, including without limitation any risk management department or office or any other department or office performing a similar function, provided that such rules, orders, regulations, requirements, and recommendations are consistent with the provisions of this SLA and the SSA.

3.9 No Infringement: LICENSEE's installation and operation of the System shall not infringe upon COUNTY's or any third party's intellectual property or other proprietary rights and LICENSEE shall defend and hold the COUNTY harmless from any third party claim of intellectual property right infringement related to installation and operation of the System.

4. **CONDITION OF LICENSED AREA.**

4.1 Inspection. LICENSEE acknowledges that, prior to the Effective Date, LICENSEE was provided access to the Facilities in order to conduct feasibility and configuration assessments and other inspections of the Facilities, as LICENSEE deemed necessary. LICENSEE has inspected the Licensed Area and every aspect thereof and represents to COUNTY that the Licensed Area is in acceptable condition for LICENSEE's anticipated use of the Licensed Area as provided in this SLA, subject to the terms of this SLA and the SSA.

4.2 As-Is Condition. The Licensed Area is delivered by COUNTY in an "as-is" condition, and LICENSEE hereby accepts the Licensed Area in its "as-is" condition and acknowledges that, subject to the terms of this SLA and the SSA, COUNTY has not made any statements or representations or warranties regarding the Licensed Area and LICENSEE is not relying upon any statement or representation or warranty by COUNTY or any third party regarding the Licensed Area, the fitness of the Licensed Area for any particular use of LICENSEE, or any other matter. COUNTY hereby expressly disclaims and LICENSEE hereby waives all implied warranties including, without limitation, any warranty of merchantability or warranty of fitness for a particular use or purpose, subject to the terms of this SLA and the SSA.

5. **OWNERSHIP, FINANCING AND POSSESSORY INTEREST TAXES.**

5.1 Title to the System. Unless ownership of the System is transferred from LICENSEE to COUNTY or another assignee in accordance with the terms of this SLA, title to the System and any equipment placed on the Licensed Area by LICENSEE shall be held by LICENSEE and all alterations, additions, improvements, or installations made thereto by LICENSEE and all LICENSEE property used in connection with the installation, operation, and maintenance of the System is, and shall during the Term remain, the personal property of LICENSEE ("LICENSEE Property"). In no event shall any LICENSEE Property be deemed a fixture, nor shall COUNTY, nor anyone claiming by, through, or under COUNTY (including but not limited to any present or future mortgagee of the Facilities) have any rights in or to the LICENSEE Property at any time except as otherwise provided herein.

5.2 Right and Responsibility to Finance. Subject to Section 19.2 of the SSA, COUNTY acknowledges that LICENSEE may enter into financing arrangements including promissory notes and financial and security agreements for the financing of the System (the "Collateral") with a third party financing entity and may in the future enter into additional

financing arrangements with other financing entities. In connection therewith, COUNTY: (i) consents to the installation of the Collateral to the extent that the Collateral is part of the approved System; (ii) disclaims any interest in the Collateral, as fixtures or otherwise; and (iii) agrees that the Collateral shall be exempt from execution, foreclosure, sale, levy, attachment, or distress for any payment due or to become due hereunder and that such Collateral may be removed at any time without recourse to legal proceedings. LICENSEE may further grant security interests in, or assign LICENSEE's interest in, the Collateral to lenders for purposes of securing the project debt. LICENSEE is solely responsible for obtaining and repaying all financing, at its own cost and risk and without recourse to COUNTY, necessary for the design, development, construction, equipping, operation, maintenance, modification, reconstruction, rehabilitation, restoration, renewal, and replacement of the System. LICENSEE exclusively bears the risk of any changes in the interest rate, payment provisions, or the other terms of its financing. COUNTY shall have no obligation to pay debt service on any debt issued or incurred by LICENSEE. COUNTY shall have no obligation to join in, execute, or guarantee any note or other evidence of indebtedness incurred in connection with the project. Notwithstanding anything to the contrary herein and for purposes of clarity, this Section 5.2 shall remain subject to Section 6.4 of this SLA.

5.3 Right of Refinancing. After the System is placed in service, LICENSEE may consummate refinancing of the project debt in compliance with this Section 5.3. COUNTY shall have no obligations or liabilities in connection with any refinancing except to deliver commercially reasonable estoppel certificates approved by the Pima County Director of Finance, pursuant to Section 12.12 of this SLA. If COUNTY renders any assistance or performs any requested activity in connection with a refinancing apart from delivering an estoppel certificate, then LICENSEE shall reimburse COUNTY all COUNTY's reasonable costs and other fees, costs, and expenses COUNTY incurs in connection with rendering any such assistance or performing any such activity.

5.4 Copyright and Patent Obligations. LICENSEE shall pay all royalties and license fees which may be required for the methodology, techniques, and for other intellectual property, in connection with operating the System.

6. DESIGN, INSTALLATION AND OPERATION OF THE SYSTEM

6.1 In General. Excepting minor field changes (as defined below), which may be made in LICENSEE's discretion, the construction and installation of the System and all related matters are subject to, and shall be completed in accordance with the terms and conditions of the SSA and SLA Exhibits "III" and "V". These Exhibits are incorporated by reference and made a part of this SLA. For purposes of this SLA, a "minor field change" is defined as a change or deviation from the approved System plans, System drawings, construction and installation plans, or bill of materials that does not significantly affect the construction, installation, or operation of the System or materially deviate from the design, construction, installation, quality of materials, generating capacity, or the operational intent or understanding of the System, as originally approved, or any change required as necessary to mitigate unforeseen or undetected site circumstances after design is completed. To the extent the specifications in Exhibit "III" or Exhibit "V" conflict with any other provision of this SLA, including any other Exhibit, the specifications in Exhibit "III" or Exhibit "V", as applicable, shall prevail. Pursuant to Exhibit

"V", upon issuance by the COUNTY of a notice authorizing LICENSEE to proceed, LICENSEE shall commence design, procurement, and construction of the System and shall proceed with reasonable diligence and continuity to construct the System for the Facilities and shall achieve the Commercial Operation Date (as defined in Section 6.3 herein) within the development time specified. The Parties acknowledge that LICENSEE may be required to complete some of the documents necessary for compliance with, and completion of, the above-referenced Exhibits after the Effective Date of this SLA. COUNTY agrees to cooperate with LICENSEE in securing any necessary permits, approvals or other requirements necessary for the construction, installation and operation of the System.

6.2 COUNTY Approval Limitations. No procurement, construction, or installation by LICENSEE shall be permitted to begin until the COUNTY has approved the completed plans and specifications for the System pursuant to the conditions set forth in Exhibit "V" and has issued a notice authorizing LICENSEE to proceed. However, COUNTY may incrementally issue approvals authorizing LICENSEE to proceed with specific portions of the project prior final approval of the completed plans and specifications. COUNTY's approval of the completed plans and specifications shall not be unreasonably withheld or delayed. Notwithstanding COUNTY approval of the System in accordance with these Exhibits, in no event shall such approval be interpreted as making the COUNTY responsible for, and LICENSEE acknowledges that the COUNTY is not responsible for, the design, construction, or operation of the System. LICENSEE shall at its sole cost and expense design, build, own, maintain, and operate the System in compliance with this SLA and the SSA.

6.3 Commercial Operation Date. The "Commercial Operation Date" shall be the date on which COUNTY issues a Certificate of Completion for the construction and installation of the System pursuant to Exhibit "V". LICENSEE shall achieve Commercial Operation within the allowed development schedule set forth in Exhibit "VIII". It is anticipated that all on-site construction and solar PV system installation will be completed no later than six (6) months after execution of this contract by the Chair of the Board of Supervisors.

6.4 LICENSEE Removal of Liens. LICENSEE shall not cause or permit any liens or stop notices to attach or to be placed upon or encumber the Facilities arising from or resulting out of any improvements, alterations, or other work performed by LICENSEE. If any such lien attaches, LICENSEE agrees to cause the lien to be removed within thirty (30) days of notification thereof by posting a bond, payment of the lien, or otherwise. If LICENSEE fails to remove the lien within such time period, in addition to its other remedies under this Agreement, COUNTY may undertake to cause such lien to be removed and charge to LICENSEE any costs and expenses incurred in connection with the removal of said lien. LICENSEE agrees to defend and indemnify COUNTY against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing any such lien.

6.5 Performance and Payment Bonds. Before starting any installation and at LICENSEE's cost, LICENSEE shall obtain and provide both a performance bond (or equivalent) and payment bond covering faithful performance and payment of the obligations arising from the installation of the System under this SLA. The performance bond shall be in the amount of the estimated cost of restoring the Facilities to original condition and shall run for the period of

construction. The payment bond shall be in the amount of one hundred percent (100%) of the cost of labor and must comply with the provisions of A.R.S. § 34-223.

6.6 ACC Ruling or Statutory Amendment. The provisions of Section 3.1.3 of the SSA are incorporated herein by this reference.

6.7 LICENSEE's and COUNTY's Access. LICENSEE's access to the Facilities shall be subject to all procedures reasonably adopted from time to time by COUNTY including, but not limited to, the procedures addressed in this Section and Exhibit "IV" (Access Procedures for Facilities) attached hereto and incorporated by reference. Only LICENSEE's employees, agents, contractors and/or subcontractors retained by LICENSEE and approved in writing by the COUNTY shall be permitted access to the Facilities; provided that such approval shall not be unreasonably withheld by COUNTY. Said representatives shall be required to show appropriate identification prior to the requested access. LICENSEE shall be permitted to access the System Licensed Area twenty-four (24) hours per day, seven (7) days a week as reasonably agreed to and defined by LICENSEE and COUNTY and further described in Exhibit "IV". LICENSEE shall use the provided or authorized access at LICENSEE's sole risk. Access to the Facilities by construction workers, material providers, and agents of LICENSEE during construction shall be conducted so as to minimize interference with the operations of COUNTY, in accordance with and as further described in Exhibits "IV" and "V". COUNTY reserves the right to revoke access privileges to any person employed or contracted by the LICENSEE that the COUNTY determines to be disruptive, intemperate, unsafe, or who violates any law or unreasonably disobeys any COUNTY directive. In the event COUNTY desires access to the System Licensed Area, COUNTY shall provide written notice to LICENSEE at least two (2) business days prior to the date of such desired entry, which shall include a list of all individuals that will be entering the Licensed Area. LICENSEE may require that any such individuals entering the System Licensed Area be accompanied by one or more employees or agents of LICENSEE, in which case COUNTY agrees to work in good faith to arrange a time of entry and duration of entry agreeable to LICENSEE. Notwithstanding the foregoing, COUNTY may access the System Licensed Area without notice in the case of an emergency. COUNTY shall have full and complete access to the Licensed Area at all times and without restriction.

6.8 Modifications/Alterations. Upon approval of the COUNTY of the installation and construction of the System pursuant to the terms of Exhibit "V" attached hereto, LICENSEE shall not materially change, replace or alter the System, nor attach fixtures or erect additions, structures or signs in or upon the System Licensed Area (collectively "Alterations") without notifying COUNTY in writing. Upon undertaking any such Alterations, LICENSEE shall submit to the COUNTY detailed and complete plans and specifications for the proposed Alterations. In its sole discretion, COUNTY may waive the requirement for detailed plans upon LICENSEE's demonstration that the proposed Alteration consists solely of modification or replacement of like-kind equipment. Any such Alterations performed by LICENSEE shall be performed in accordance with all Applicable Laws and Requirements, including any and all necessary permits and approvals obtained and a copy thereof provided to COUNTY. LICENSEE agrees to provide COUNTY with sufficient advance notice of any proposed Alterations to allow the coordination by COUNTY of the construction schedule for such Alterations.

6.9 Security. At all times during the construction and operations on the Facilities and any other authorized use areas, LICENSEE shall keep any and all areas of construction and operation adequately secured for safety and security purposes. LICENSEE shall coordinate with the Facilities' managers and comply with all security requirements for the Facilities when accessing the Facilities. COUNTY shall have no obligation whatsoever to provide guard services or other security measures for the benefit of LICENSEE (or its Lender) or its Systems. LICENSEE assumes all responsibility for the protection: (i) of LICENSEE, its employees, contractors, subcontractors, agents, invitees, and the property of the LICENSEE; and (ii) of LICENSEE's lenders and their contractors, subcontractors, agents, and invitees from acts of third parties or natural events.

6.10 COUNTY Inspection of the System. COUNTY shall be permitted non-emergency access to inspect the System upon seventy-two (72) hours prior written notice to LICENSEE. COUNTY personnel must be accompanied by personnel of LICENSEE during any non-emergency inspection of the System, unless LICENSEE agrees in writing to waive its right to accompany COUNTY personnel on all non-emergency inspections. This requirement in no way prohibits COUNTY from inspecting any and all portions of the Facilities other than the System. In the event of emergency, the COUNTY may inspect the System unaccompanied and must notify LICENSEE within twenty-four (24) hours after such inspection. Inspections of the System during construction shall be allowed, and in accordance with the construction schedule approved by COUNTY. LICENSEE understands that the COUNTY's inspection of the construction of the System is required to ensure compliance with the approved System's design and plans, and is a necessary condition precedent to the issuance of a Certificate of Completion.

6.11 Electrical Interconnection Point. The Electrical Interconnection Point shall comply with the specifications on Exhibit "IX" and be at the location specified on Exhibit "IX". In the event the Electrical Interconnection Point is relocated or the specifications thereof in any way changed or modified, COUNTY agrees to pay all costs and expenses of LICENSEE that may be associated with the relocation of the Electrical Interconnection Point. COUNTY also agrees to pay to LICENSEE for the relocation of the Electrical Interconnection Point an amount equal to the estimated lost revenue LICENSEE may have been entitled to from the SSA if the Electrical Interconnection Point had not been relocated. LICENSEE shall include any amounts owed by COUNTY pursuant to this Section 6.11 on the next periodic invoice to be delivered to COUNTY pursuant to the terms of the SSA, along with a calculation showing how such amounts were determined.

6.12. Use of Contractors, Subcontractors and Agents. Notwithstanding anything to the contrary in this SLA or the SSA, COUNTY acknowledges and agrees that LICENSEE may retain one or more contractors, subcontractors, and/or agents to perform the project design, installation, construction and maintenance associated with the System. All references in this SLA or the SSA to LICENSEE performing the project design, installation, construction and maintenance associated with the System shall refer to LICENSEE causing the applicable actions related to its obligations under this SLA or the SSA to occur, despite the fact that such actions may be undertaken by a contractor, subcontractor or agent. Contractors, subcontractors, and/or agents used by LICENSEE to perform any obligations under this SLA or the SSA shall be licensed as may be required by applicable law and shall perform their work with the degree of care, skill and responsibility ordinary and customary among such licensed personnel.

7. OPERATIONS AND MAINTENANCE

7.1 LICENSEE's Obligations

7.1.1 In General. LICENSEE shall, at LICENSEE's sole expense, operate the System in a commercially reasonable manner throughout the Term, and maintain the System (including electrical wiring, switches, and any special items and equipment installed by or at the expense of LICENSEE) in good order, condition, and repair. LICENSEE shall also be responsible for the cost of capital repairs and replacements pertaining to the System. LICENSEE warrants that all of its operating and maintenance personnel will be adequately qualified and trained throughout the Term. LICENSEE shall also be responsible for the cost of any maintenance and repairs to the Facilities if such maintenance and repairs are necessary as a result of the actions of LICENSEE and/or the Permitted Use.

7.1.2 Maintenance of Licensed Area and Facilities. Subject to the terms of this SLA and the SSA, LICENSEE shall be responsible for all repairs and Alterations in and to the Licensed Area and the Facilities, the need for which arises out of: (i) LICENSEE's use or occupancy of the Licensed Area, other than normal wear and tear; (ii) the installation, removal, use, or operation of the System by LICENSEE; (iii) the moving of equipment into or out of the Licensed Area by LICENSEE; or (iv) the act, omission, misuse, or negligence of LICENSEE (or its Lenders), its agents, contractors, employees, or invitees.

7.1.3 LICENSEE's Failure to Maintain. If LICENSEE fails to comply with its maintenance and repair obligations pursuant to this SLA, COUNTY shall give LICENSEE notice in writing to do such maintenance and repair activities as are reasonably required under this SLA. If within thirty (30) days thereafter, LICENSEE fails to commence and diligently attempt to complete the requested activities, then, in addition to its other remedies under this SLA, COUNTY shall have the right to have such work performed and expend such funds at the expense of LICENSEE as are reasonably required to perform such work. Any amount so expended by COUNTY shall be paid promptly by LICENSEE upon COUNTY's submittal of the work invoices to LICENSEE. If COUNTY has not received such reimbursement within thirty (30) days of the date of sending such invoices to LICENSEE, then COUNTY may deduct the cost thereof against any future payment due LICENSEE.

7.1.4 Protection of Facilities. LICENSEE shall not do or permit to be done anything which will invalidate any fire, extended coverage, or other insurance policy covering the Facilities, or substantially increase the risk of COUNTY's self-insurance program, or that will impair COUNTY's interest in the property located thereon and therein. However, COUNTY hereby agrees that the proper and reasonable installation, maintenance and operation of the System pursuant to the terms of this SLA and the SSA will not invalidate the insurance policies referenced in the foregoing sentence or increase the risk of COUNTY's self-insurance program.

7.1.5 Health and Safety. LICENSEE shall comply with all Applicable Laws pertaining to the safety of persons as well as the protection of all real and personal property and shall take all necessary and reasonable safety precautions in constructing, operating, and maintaining the System and providing Electricity. LICENSEE shall promptly report to COUNTY: (i) any death or lost-time injury concerning any person operating under LICENSEE's

direction or control at the Licensed Area; or (ii) any damage to COUNTY's property that occurs within the Facilities which is caused by LICENSEE or any person operating under LICENSEE's direction or control.

7.1.6 Losses/Damages. COUNTY will not be responsible for losses or damage to personal property, equipment, or materials of LICENSEE at the Facilities that are not attributable to COUNTY. All losses by LICENSEE at the Facilities that LICENSEE considers substantial and attributable to County shall be reported to COUNTY within two (2) business days after discovery by LICENSEE.

7.1.7 Hazardous Material. If LICENSEE's Permitted Uses require use, storage, generation, or disposal of any Hazardous Material, the parties acknowledge that LICENSEE has, prior to the execution of this SLA, provided a list of such Hazardous Materials for review and approval by COUNTY's Risk Management Division attached hereto as Exhibit "VII". Any Hazardous Material not listed on Exhibit "VII" must be approved by COUNTY prior to LICENSEE's use of such Hazardous Material at the Licensed Area or the Facilities. If LICENSEE causes any Hazardous Materials to be used, stored, generated, or disposed of on or in the Licensed Area or Facilities, or if the Licensed Area or Facilities become contaminated in any manner caused by LICENSEE, unless such contamination was the sole result of the acts or omissions of COUNTY their agents or employees or any future licensee, LICENSEE shall indemnify, defend and hold harmless the COUNTY from any and all liabilities and costs (including without limitation, a decrease in value of the Licensed Area or Facilities, and any and all sums paid for settlement of claims, litigation expenses, attorneys' fees, consultant, and expert fees) of whatever kind or nature, known or unknown, contingent or otherwise, arising during or after the Term. Without limitation of the foregoing, if LICENSEE causes or permits the presence of any Hazardous Material on the Licensed Area or Facilities that results in contamination, LICENSEE shall promptly, at its sole expense, take any and all necessary actions to return the Licensed Area or Facilities to the condition existing prior to the presence of any such Hazardous Material in the Licensed Area or Facilities. LICENSEE shall first obtain COUNTY's written approval for any such remedial action. If Hazardous Material are used, stored, generated, or disposed of on or in the Licensed Area or Facilities, or if the Licensed Area or Facilities become contaminated in any manner caused by the COUNTY, unless such contamination was the result of the acts or omissions of LICENSEE, its agents or employees, the COUNTY shall indemnify, defend and hold harmless LICENSEE from any and all liabilities and costs (including without limitation, any and all sums paid for settlement of claims, litigation expenses, attorneys' fees, consultant, and expert fees) of whatever kind or nature, known or unknown, contingent or otherwise, arising during or after the Term. These obligations of the Parties include, without limitation, any and all costs incurred because of any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision. The provisions of this Section shall be in addition to any other obligations and liabilities of the Parties at law or equity and shall survive the transactions contemplated herein and shall survive the termination of this SLA.

7.1.8 Hazard Communication Standard. In the event that LICENSEE, its agents, contractors, subcontractors, employees, or invitees knowingly use chemicals at any location within the Facilities that require employee notification under the OSHA hazard communication standard and that use may result in exposure of COUNTY employees to those chemicals,

LICENSEE shall notify COUNTY of the use and shall provide COUNTY with copies of all pertinent Material Safety Data Sheets.

7.1.9 Malfunctions and Emergencies. COUNTY and LICENSEE each shall notify the other within twenty-four (24) hours following their discovery of any material malfunction or emergency condition related to the operation of the System. LICENSEE and COUNTY shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring LICENSEE's repair or Alteration at all times, consistent with the SSA. LICENSEE and COUNTY each shall notify the other Party upon the discovery of a malfunction in any System. LICENSEE shall commence repairs to any malfunctioning System and restore the supply of Electricity as soon as reasonably possible after notice or upon its own discovery of any of such conditions during normal business hours and, subject to the Access Procedures in Exhibit "IV". If an emergency condition exists, LICENSEE shall promptly dispatch the appropriate personnel to perform the necessary repairs or corrective action in an expeditious and safe manner, subject to the COUNTY's emergency rights under the SSA. For routine and emergency repairs, the Parties shall contact the persons identified in the notice provisions in Section 12.1, below.

7.2 COUNTY's Obligations.

7.2.1 In General. Subject to any specific limitations in this SLA, COUNTY shall at all times during the Term use commercially reasonable efforts to maintain the Facilities, other than the System, in good condition and repair so as to be able to receive and utilize the Electricity delivered by LICENSEE. COUNTY will maintain in good working order and available at all times, its connection and service contract(s) with the relevant Utilities so that COUNTY can, upon any suspension or interruption of Electricity from the System, provide the Facilities with the full requirements for Electricity.

7.2.2 Maintenance. All obligations of COUNTY in this SLA regarding maintenance of the Facilities shall be subject to the right of COUNTY during periods of renovation of any part of the Facilities to issue a shut down order to the System, consistent with the SSA. COUNTY will use commercially reasonable efforts to remedy any interruption as soon as possible, consistent with these provisions. COUNTY will be responsible for the costs of any repairs or maintenance that result from the COUNTY's actions.

7.2.3 Health and Safety. COUNTY shall at all times maintain the Facilities consistent with all Applicable Laws pertaining to the health and safety of persons and property.

7.2.4 Notice of Damage. COUNTY shall promptly notify LICENSEE of any matter it is aware of pertaining to any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System.

7.2.5 COUNTY Removal of Liens. COUNTY shall not directly or indirectly cause, create, incur, assume, or suffer to exist, any liens on or with respect to the System or any interest therein. If any such lien attaches to the System in breach of COUNTY's obligations under this section 7.2.5, COUNTY shall immediately notify LICENSEE in writing and COUNTY agrees to cause the lien to be removed within thirty (30) days of the date it first had

knowledge of the attachment of the lien by posting a bond, payment of the lien, or otherwise. If COUNTY fails to remove the lien within such time period, in addition to its other remedies under this SLA, LICENSEE may undertake to cause such lien to be removed and charge to COUNTY any costs and expenses incurred in connection with the removal of said lien.

7.2.6 No Relocation Assistance. Other than any relocation payment mutually agreed upon by the Parties under Section 13.2 of the SSA, no relocation payment or relocation advisory assistance under Applicable Law will be sought by or provided to LICENSEE in any form as a consequence of this SLA. LICENSEE, its employees, contractors, subordinates, or assignees are not entitled to any relocation payment or relocation advisory assistance due to their occupancy at the Facilities. In the event an assignment of this SLA is permitted pursuant to the terms herein, LICENSEE shall incorporate the above paragraph into each assignment. Failure to do so may obligate LICENSEE for any damages and costs resulting from claims for relocation payments from its assignees.

8. INSURANCE AND INDEMNITY.

8.1 Prior to LICENSEE's access to the Licensed Area, LICENSEE, at its sole cost and expense, shall insure its activities in connection with this SLA and obtain, keep in force, and maintain insurance as follows:

8.1.1 Commercial Form General Liability Insurance (contractual liability included) with minimum limits as follows:

| | |
|---|-------------|
| (a) Each Occurrence | \$5,000,000 |
| (b) Products/Completed Operations Aggregate | \$5,000,000 |
| (c) Personal and Advertising Injury | \$2,000,000 |
| (d) General Aggregate | \$5,000,000 |

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this SLA. The insurance shall have a retroactive date of placement prior to or coinciding with the Effective Date.

8.1.2 Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit no less than Two Million Dollars (\$2,000,000.00) per occurrence.

8.1.3 Worker's Compensation as required by Arizona law. Policy shall contain a waiver of subrogation against COUNTY.

8.1.4 Property Insurance, Fire and Extended Coverage Form in an amount sufficient to reimburse LICENSEE for all of its System and personal property located on or in the Licensed Area including improvements hereinafter constructed or installed.