

## EXHIBIT 6

### SOLAR LICENSE AGREEMENT

(to Solar Services Agreement executed the date hereof)

(20 Pages)

THIS SOLAR LICENSE AGREEMENT ("SLA"), June 20, 2018 (the "Effective Date") is entered into by and between Pima County ("COUNTY") a body politic and corporate of the State of Arizona and SOLON Development, LLC ("LICENSEE"), collectively referred to as "the Parties."

**WHEREAS**, COUNTY is the owner of certain real property known as Pima Animal Care Center Phase II, 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" (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 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") is contingent upon and coterminous with the term of the SSA and termination of the SSA will terminate this SLA.

### 3. USE

3.1 Permitted Use: Permitted Use is as identified in Section 1.1.1 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 will 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 will not be unreasonably withheld. LICENSEE will use the Licensed Area only for the Permitted Use, and will 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 will not be unreasonably withheld.

3.4 Prohibited Uses: LICENSEE will not use or allow the Facilities to be used for any improper, immoral, or unlawful purposes, nor will LICENSEE cause, maintain, or permit any nuisance in, on, or about the Facilities. LICENSEE will 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 will 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 include, but are not limited to, the prohibition against the possession or use of firearms, liquor, any tobacco products, 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 will 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 will terminate, and the COUNTY will have no obligation to pay LICENSEE a Termination Fee pursuant to Exhibit 4 of the SSA.

3.5 No Interference with COUNTY Uses: LICENSEE will 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.

3.6 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 will any construction, reconstruction, or alterations to the Facilities in any way or to any extent interfere (including shading) with the operation of the System.

3.7 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.

3.8 Applicable Laws, Regulations, Permits, And Approvals: LICENSEE's activities pursuant to this License will 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 will not use or occupy the Licensed Area in violation of Applicable Laws and Requirements or any restriction affecting the Facilities and will, 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, will comply with all Applicable Laws and Requirements, which will, 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 will 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 will provide COUNTY with two (2) copies of any approvals or conditions issued by the applicable local utility service company. LICENSEE will 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 will 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 will 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 will 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 will terminate, and COUNTY will not have any obligation to pay LICENSEE a Termination Fee.

3.9 Compliance: LICENSEE will 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.

3.10 No Infringement. LICENSEE's installation and operation of the System will not infringe upon COUNTY's or any third party's intellectual property or other proprietary rights and LICENSEE will defend and hold the COUNTY harmless from any third party's 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 any other assignee in accordance with the terms of this SLA, title to the System and any equipment placed on the Licensed Area by LICENSEE will 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 will during the Term remain, the personal property of LICENSEE ("LICENSEE Property"). In no event will any LICENSEE Property be deemed a fixture, nor will 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 is 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 has no obligation to pay debt service on any debt issued or incurred by LICENSEE. COUNTY has 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 remains 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 has 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 will 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 will 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.** The construction and installation of the System and all related matters are subject to, and will be completed in accordance with the terms and conditions of the SSA and SLA Exhibits "III" and Exhibit "V". These exhibits are incorporated by reference and made a part of this SLA. To the extent the specifications in Exhibit "III" or Exhibit "V" conflict with daily provision of this SLA, including any other Exhibit, the specifications in Exhibit "III" or Exhibit "V", as applicable, will prevail. Pursuant to Exhibit "V", upon issuance by the COUNTY of a notice authorizing LICENSEE to proceed, LICENSEE will commence design, procurement, and construction of the System and will proceed with reasonable diligence and continuity to construct the System for the Facilities and will achieve the Commercial Operation Date (as defined in Section 6.3 herein) within the development time specified. 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 Limitations.** No construction or installation by LICENSEE may begin until COUNTY has reviewed the completed plans and specifications for the System pursuant to the conditions set forth in Exhibit "V". However, COUNTY may incrementally issue approvals authorizing LICENSEE to proceed with specific portions of the project prior to final approval of

the completed plans and specifications. COUNTY's review of the completed plans and specifications will not exceed more than five (5) business days after submittal. Notwithstanding COUNTY review of the System in accordance with these Exhibits, in no event will such review be interpreted as making COUNTY responsible for and LICENSEE acknowledges that COUNTY is not responsible for, the design, construction, or operation of the System. LICENSEE will 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" is the date on which COUNTY issues a Certificate of Completion for the construction and installation of the System pursuant to Exhibit "V". LICENSEE will 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 twelve (12) months or later as agreed to by each party for a specific site.

6.4 LICENSEE Removal of Liens. LICENSEE will 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 ACC Ruling or Statutory Amendment. The provisions of Section 3.1.3 of the SSA are incorporated hereby this reference.

6.6 LICENSEE's and COUNTY's Access. LICENSEE's access to the Facilities is 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 will be permitted access to the Facilities. During construction said representatives will be required to show appropriate identification prior to the requested access. LICENSEE will be permitted to access the System Licensed as reasonably agreed to and defined by LICENSEE and COUNTY and further described in Exhibit "IV". LICENSEE will 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 will be conducted so as to minimize interference with the operations of COUNTY, in accordance with and as further described in Exhibits "IV" and Exhibit "V". COUNTY reserves the right to revoke access privileges to any person employed or contracted by the LICENSEE that COUNTY determines to be disruptive, intemperate, unsafe, or who violates any law or unreasonably disobeys any COUNTY directive. LICENSEE will have full and complete access to the Licensed Area at all times and without restriction.

6.7 Modifications/Alterations. Upon review of COUNTY of the installation and construction of the System pursuant to the terms of Exhibit "V" attached hereto, LICENSEE will 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 will submit to 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 likekind equipment. LICENSEE will perform any such Alterations in accordance with all applicable laws and requirements, including any material, all necessary permits and approvals obtained and a copy thereof provided to COUNTY. LICENSEE will provide COUNTY with sufficient advance notice of any proposed Alterations to allow the coordination by COUNTY of the construction schedule for such Alterations.

6.8 Security. At all times during the construction and operations on the Facilities and any other authorized use areas, LICENSEE will keep any and all areas of construction and operation adequately secured for safety and security purposes. LICENSEE will coordinate with the Facilities' managers and comply with all security requirements for the Facilities when accessing the Facilities. COUNTY has 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.

6.9 Electrical Interconnection Point. The Electrical Interconnection Point will comply with the specifications 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 will include any amounts owed by COUNTY pursuant to this Section 6.10 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.

6.10 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 will 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 will be licensed as may be required by applicable law and will 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 will, at LICENSEE's sole expense, operate the System in a reasonable manner throughout the term, and maintain the System (including electrical wiring, canopy or other provided lighting, switches, and any special items and equipment installed by or at the expense of LICENSEE) in good order, condition, and repair. LICENSEE will 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 will 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 will be responsible for all repairs and Alterations in and to the Licensed Area and the Facilities.

7.1.3 LICENSEE's Failure to Maintain. If LICENSEE fails to comply with its maintenance and repair obligations pursuant to this SLA, COUNTY will 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 will 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. LICENSEE will promptly pay any amount so expended by COUNTY 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 will 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 will comply with all Applicable Laws pertaining to the safety of persons as well as the protection of all real and personal property and will take all necessary and reasonable safety precautions in constructing, operating, and maintaining the System and providing Electricity. LICENSEE will 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. LICENSEE will report to COUNTY all losses by LICENSEE at the Facilities that LICENSEE considers substantial and attributable 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 will 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 will 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 will 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 will 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 are in addition to any other obligations and liabilities of the Parties at law or equity and survive the transactions contemplated herein and survive the termination of this SLA.

7.1.8 Hazmat Communication Standard. In the event that LICENSEE, its agents, contractors, subcontractors, employees, or invitees knowingly use materials 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 materials, LICENSEE will notify COUNTY immediately of the use and will provide COUNTY with copies of all pertinent Material Safety Data Sheets.

7.1.9 Malfunctions and Emergencies. COUNTY and LICENSEE each will 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 will 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 will notify the other Party upon the discovery of a malfunction in any System. LICENSEE will 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 will 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 will contact the persons identified in the notice provisions in Section 12.1. If an emergency condition exists, LICENSEE will have unrestricted access 24 hours a day and 7 days a week.

## 7.2 COUNTY's Obligations.

7.2.1 In General. Subject to any specific limitations in this SLA, COUNTY will 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 will be subject to the right of COUNTY during periods of renovation of any part of the Facilities to issue a shutdown 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 will 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 will 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 will 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 will 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 will 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 Insurance**

The Insurance Requirements herein are minimum requirements for this Contract and in no way limit, the indemnity covenants contained in this Contract. LICENSEE's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. The COUNTY in no way warrants that the minimum insurer rating is sufficient to protect the LICENSEE from potential insurer insolvency.

### **8.2 Minimum Scope and Limits of Insurance**

LICENSEE shall procure and maintain, until all contractual obligations have been discharged, the insurance coverage with limits of liability not less than stated below. COUNTY in no way warrants that the minimum insurance limits contained herein are sufficient to protect the LICENSEE from liabilities that arise out of the performance of the work under this Contract. If necessary, LICENSEE may obtain commercial umbrella or excess insurance to satisfy the COUNTY's Insurance Requirements.

8.2.1 Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$5,000,000 General Aggregate. Policy shall include bodily injury, property damage, broad form contractual liability coverage, personal and advertising injury and products – completed operations.

8.2.2 Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$2,000,000 each accident.

8.2.3 Workers' Compensation (WC) and Employers' Liability - Statutory requirements and benefits for Workers' Compensation. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.

8.2.4 Claim-Made Insurance Coverage - If any part of the Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and LICENSEE must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.

### **8.3 Additional Insurance Requirements**

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

8.3.1 Additional Insured: The General Liability and Business Automobile Liability Policies shall each be endorsed to include COUNTY, its departments, districts, boards, commissions, officers,

officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the LICENSEE.

8.3.2 Subrogation: The General Liability, Business Automobile Liability, Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of COUNTY, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the LICENSEE.

8.3.3 Primary Insurance: The LICENSEE's policies shall stipulate that the insurance afforded the LICENSEE shall be primary and that any insurance carried by COUNTY, its agents, officials, or employees shall be excess and not contributory insurance

8.3.4 Insurance provided by the LICENSEE shall not limit the LICENSEE's liability assumed under the indemnification provisions of this Contract

8.4 Verification of Coverage:

LICENSEE shall furnish COUNTY with certificates of insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

8.4.1 All certificates and endorsements, as required by this written agreement, are to be received and approved by COUNTY before work commences. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

8.4.2 All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the COUNTY project or contract number and project description on the certificate. COUNTY reserves the right to require complete copies of all insurance policies required by this Contract at any time.

8.5 Approval and Modifications:

The Pima County Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the COUNTY's failure to obtain a required insurance certificate or endorsement, the COUNTY's failure to object to a non-complying insurance certificate or endorsement, the COUNTY's failure to object to a non-complying insurance certificate or endorsement, or the COUNTY's receipt of any other information from the LICENSEE, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

8.6 Indemnification. LICENSEE will 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 attributed 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 will 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 SLA 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 SSA by COUNTY for cause System provided for under this SLA.

## 9. DISPOSITION OF EQUIPMENT

9.1 Ownership and Removal of System. At the expiration of the term of this SLA provided that COUNTY is not in default under or in breach of the terms of either the SLA or SSA and further provided that a right of LICENSEE to relocate the System does not apply, COUNTY has an option to acquire the System from LICENSEE. Transfer of title or buyout will be at fair market value price as calculated by an independent appraiser that is mutually agreeable between LICENSEE and COUNTY and at a price that complies with the requirements set forth in Internal Revenue Code Section 7701 (e)(4)(A)(iv). If COUNTY and LICENSEE are able to agree on a price for the conveyance of the SYSTEM to COUNTY, LICENSEE will transfer ownership of the System, including all upgrades, improvements, and replacements, to the COUNTY and ownership of the System will vest in the COUNTY. In the event ownership of the System is transferred to COUNTY pursuant to the terms of this Section 9.1, LICENSEE will have no obligation to remove the System from the Facilities or return the Facilities to their pre-installation condition; however, LICENSEE will peaceably and quietly leave, surrender, and yield the Facilities to COUNTY. In the event ownership of the System is not transferred to COUNTY at the expiration of the term of this SLA, LICENSEE will, within one hundred eighty (180) days of expiration of this SLA, remove the System from the Facilities, remove any equipment above the level of the slab, and peaceably and quietly leave, surrender and yield the Licensed Area to COUNTY. In the event ownership of the System is not transferred to County at the expiration of the term of this SLA, LICENSEE will, within one hundred eighty (180) days of expiration of this SLA, remove the System from the Facilities, remove any equipment above the level of the slab, and peaceably and quietly leave, surrender and yield the Licensed Area to COUNTY.

9.2 Condemnation. In the event that the whole or any portion of the Facilities is acquired or condemned by any authority or sold by COUNTY in lieu thereof, then this SLA will terminate at COUNTY's election as of the date the condemning authority takes title or such earlier date as reasonably necessary. In such event, LICENSEE will be entitled to a termination fee pursuant to the SSA. COUNTY agrees to immediately notify LICENSEE in the event of such termination. The entire award in any such condemnation proceeding will be and remain the property of COUNTY, and LICENSEE hereby fully waives and relinquishes any right to seek an award or participate in the condemnation proceeding.

9.3 Clear Title. At the expiration of the term of this SLA, or in the event of a breach of the express terms of this SLA or this SSA by LICENSEE and termination of this SLA by COUNTY, LICENSEE will, at the request of COUNTY, execute and deliver to COUNTY within thirty (30) days a good and sufficient Quitclaim Deed to any real property rights arising under this SLA. If LICENSEE fails or refuses to deliver such Quitclaim Deed, a written notice by COUNTY documenting this failure will, after ten (10) days from the date of recordation of said notice, be conclusive evidence of such termination against LICENSEE and all persons claiming interest under this SLA.

## 10. DEFAULTS AND REMEDIES.

10.1 Default by LICENSEE. COUNTY has entered into this SLA upon the condition that LICENSEE will timely and faithfully perform all of LICENSEE's obligations hereunder. Each of the following events is an event of default ("Event of Default") hereunder:

10.1.1 Failure by LICENSEE to observe or perform any of the covenants or provisions of this SLA to be observed or performed by LICENSEE, where such failure continues for a period of ninety (90) days after written notice thereof is given by COUNTY to LICENSEE; provided, however, if such default is not reasonably curable within ninety (90) days, it is not deemed an Event of Default by LICENSEE if LICENSEE commences to cure such failure within said ninety (90) day period and thereafter diligently prosecutes such cure to completion.

10.1.2 Any termination of the SSA by COUNTY for cause.

10.1.3 LICENSEE becomes insolvent, generally not pays its debts as they mature, makes a general assignment for the benefit of creditors, commences any case or proceeding seeking to have an order for relief entered on its behalf as a debtor, or to adjudicate it bankrupt or insolvent or seeking a reorganization, arrangement, liquidation, or dissolution of it or its debts under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors or seeking the appointment of a receiver, trustee, or similar official, and such case or proceeding (a) results in entry of an order for relief which is not fully stayed within seven (7) business days, or (b) remains un-dismissed for a period of thirty (30) days.

10.1.4 At COUNTY's election, any default by LICENSEE under the provisions of Section 11.2 of the SSA.

10.2 COUNTY Remedies. Upon the occurrence of an Event of Default by LICENSEE, in addition to any other rights and remedies available to COUNTY at law or in equity and subject to the provisions of this Section, COUNTY has the option to pursue any one or more of the following remedies without any additional notice or demand whatsoever:

10.2.1 If the default relates to work to be performed by LICENSEE, perform such work or cause it to be performed, for the account of LICENSEE, without waiving such Event of Default, and without liability to LICENSEE for any loss or damage which may result to LICENSEE's equipment or business by reason of such work, and LICENSEE, on demand, will pay to COUNTY as a license fee hereunder, the cost of such work plus ten percent (10%) thereof as administrative costs, such amount not to exceed five-hundred dollars (\$500.00).

10.2.2 Terminate this SLA by providing a written notice to LICENSEE indicating that the Agreement has been terminated and, if LICENSEE fails to remove the System within sixty (60) days after receipt of such written notice, remove the System and any other property owned by LICENSEE from the Licensed Area.

10.3 Default by COUNTY. LICENSEE has entered into this SLA upon the condition that COUNTY will timely and faithfully perform all of COUNTY's obligations hereunder. Each of the following events is a default by COUNTY hereunder:

10.3.1 Failure by COUNTY to observe or perform any of the covenants or provisions of this SLA to be observed or performed by COUNTY, where such failure continues for a period of ninety (90) days after written notice thereof is given by LICENSEE to COUNTY; provided, however, if

such default is not reasonably curable within ninety (90) days, it is not an event of default by COUNTY if COUNTY commences to cure such failure within said ninety (90) day period and thereafter diligently prosecutes such cure to completion.

10.3.2 At LICENSEE's election, any default by COUNTY under the provisions of Section 11.4 of the SSA.

10.4 LICENSEE Remedies. Upon the occurrence of a default by COUNTY, in addition to any other rights and remedies available to LICENSEE at law or in equity and subject to the provisions of this Section, LICENSEE has the option to pursue any one or more of the remedies set forth in Section 11.5 of the SSA without any additional notice or demand whatsoever.

## 11. 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.

## 12. MISCELLANEOUS

12.1 Notices. Unless a provision in this SLA specifically provides otherwise, all notices and other communications required or permitted under this SLA will be in writing and will be given by United States first class mail, postage prepaid, registered or certified, return receipt requested, by overnight service or by receipted hand delivery (including by means of a professional messenger service) to the addresses set forth below, or sent by electronic facsimile to the facsimile numbers set forth below or by electronic mail. Any such notice or other communication will be effective on the date given if given by hand delivery, on the date received as confirmed by acknowledgement of receipt if by facsimile, or by electronic email on the day after the date sent if sent by overnight service, or three (3) days after the date sent if sent by first class mail. Either party may by similar notice given change the address to which future notices or other communications will be sent.

### 12.1.1 To LICENSEE:

ATTN:	Brian Seibel
TITLE:	President
ADDRESS:	3840 S. Palo Verde Road, #205
CITY, STATE, ZIP:	Tucson, AZ 85714
Email:	brian.seibel@solonamerica.com

### 12.1.2 To County

ATTN:	Patrick J. O'Leary, Jr., PE
TITLE:	Energy Manager

ADDRESS:	150 W. Congress, 3 <sup>rd</sup> Floor
CITY, STATE, ZIP:	Tucson, AZ 85701
FACSIMILE:	(520) 724-3900
Email:	patrick.olearyjr@pima.gov

12.2 Integration; Exhibits. This Agreement, together with the SSA, and the Exhibits and Schedules executed hereunder, constitutes the entire agreement and understanding between the COUNTY and LICENSEE with respect to the subject matter hereof. The Exhibits and Schedules referred to herein are integral parts hereof and thereof and are made a part of this SLA by reference. All modifications to this agreement must be made in writing and must be signed by both parties hereto.

12.3 Cumulative Remedies. Except as set forth to the contrary herein, any right or remedy of COUNTY or LICENSEE is cumulative and without prejudice to any other right or remedy, whether contained herein or not.

12.4 Limited Effect of Waiver. The failure of either COUNTY or LICENSEE to enforce any of the provisions of this SLA, or the waiver thereof in any instance is not a general waiver or relinquishment on that Party's part of any such provision, in any other instance or of any other provision in any instance.

12.5 Severability. If any term or provision of this Agreement is held invalid or unenforceable to any extent under applicable law by a court of competent jurisdiction, the remainder of this SLA will not be affected thereby, and each term and provision will be valid and enforceable to the fullest extent permitted by law.

12.6 Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together constitute one and the same instrument.

12.7 Survival. The obligations under Sections 5.4 (copyright and patent obligations), 6.4 (LICENSEE Removal of Liens), 7.1.7 (Hazardous Material), 7.2.5 (COUNTY Removal of Liens), and 8.5 (Indemnification) or pursuant to other provisions of this SLA that, by their sense and context, are intended to survive termination of this SLA survive the expiration or termination of this SLA for any reason.

12.8 Relation of Parties. The relationship between the COUNTY and LICENSEE is not that of partners, agents, or joint ventures for one another, and nothing contained in this Agreement constitutes a partnership or agency agreement between them for any purposes, including federal income tax purposes.

12.9 Successors and Assigns. This SLA may only be assigned in strict accordance with the provisions of the SSA relating to assignment. The assignment provisions of the SSA apply to this SLA.



12.10 Interpretation. The captions or headings in this SLA are strictly for convenience and will not be considered in interpreting this SLA. Words in this SLA that import the singular connotation will be interpreted as plural, and words that import the plural connotation will be interpreted as singular, as the identity of the parties or objects referenced to may require. The words "include", "includes", and "including" may include, includes, and including "without limitation" and "without limitation by specification." The words "hereof", "herein", and "hereunder" and words of similar import refer to this SLA as a whole and not to any particular provision of this SLA. Except as the context otherwise indicates, all references to "Exhibits," "Articles" and "Sections" refer to Exhibits, Articles and Sections of this SLA.

12.11 Applicable Law; Disputes. This Agreement and the performance thereof are governed, interpreted, construed, and regulated by the laws of the State of Arizona. Any action brought pursuant to this agreement must be brought and maintained in a court in Pima County, Arizona. In the event of any disputes between the Parties, the terms of Section 11.7 of the SSA apply to this SLA and in the event of conflict between the language of the SLA and the SSA, the SSA control.

12.12 Estoppel Certificate. COUNTY will, upon not less than thirty (30) days prior written request by LICENSEE or LICENSEE's Lender, execute, acknowledge, and deliver to LICENSEE or to such LICENSEE's Lender, in writing and in a commercially reasonable form, a factually accurate Estoppel Certificate not inconsistent with the form attached as Exhibit "VI" hereto (which may include such other commercially reasonable terms requested by a Lender), executed by the Pima County Director of Finance or Pima County Director of Facilities, which may be relied upon by any prospective Lender.

12.13 Attorneys' Fees. The prevailing party in any lawsuit or action under this SLA in addition to any other relief granted by the court or an arbitrator, is entitled to all reasonable attorneys' fees and costs.

12.14 No Recordation. LICENSEE will not record this SLA nor any memorandum or short-form hereof.

12.15 Time is of the Essence. Time is of the essence with respect to performance of every provision of this SLA.

12.16 Nondiscrimination and Americans with Disabilities Act.

12.16.1 Nondiscrimination. LICENSEE will not discriminate against any COUNTY employee, client, or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability, or national origin in the course of carrying out LICENSEE's duties pursuant to this Agreement. LICENSEE will comply with the provisions of Executive Orders 75-5, as amended by Executive Order 99-4, which are incorporated into this Agreement by reference as if set forth in full herein.

12.16.2 Disabilities. LICENSEE will comply with all applicable provisions of the Americans with Disabilities Act (hereinafter "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.

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

12.17 Authority. Each of the individuals executing this Agreement on behalf of the LICENSEE or the COUNTY represents to the other party that such individual is authorized to do so by requisite action of the party to this SLA.

12.18 Non-exclusive Contract. LICENSEE understands that this Contract is non-exclusive. COUNTY reserves the right to obtain like services from other sources for any reason.

12.19 Public Information. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted in response to this solicitation, including, but not limited to, pricing, product specifications, work plans, and supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors. Any records submitted in response to this solicitation that LICENSEE believes constitute proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as CONFIDENTIAL by LICENSEE prior to the close of the solicitation. 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 will 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 (10) 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 will not be counted in the time calculation. LICENSEE will 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 will not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked CONFIDENTIAL, nor will County be in any way financially responsible for the costs associated with securing such an order.

12.20 Legal Arizona Workers Act Compliance. LICENSEE hereby warrants 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 will further ensure that each subcontractor who performs any work for LICENSEE under this contract likewise complies with the State and Federal Immigration Laws. COUNTY will have the right at any time to inspect the books and records of LICENSEE and any subcontractor in order to verify such party's compliance with the State and Federal immigration Laws. Any breach of LICENSEE's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any

other provision of this section, will be deemed to be a material breach of this Agreement subjecting LICENSEE to penalties up to and including suspension or termination of this Agreement. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, LICENSEE will be required to complete 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. LICENSEE will advise each subcontractor of COUNTY's rights, and the subcontractor's obligations, under this Section by including a provision in each subcontract substantially in the following form:

"Any additional costs attributable directly or indirectly to remedial action under this Section will be the responsibility of LICENSEE. In the event that remedial action under this Section results in delay to one or more tasks on the critical path of LICENSEE's approved construction or critical milestones schedule, such period of delay will be deemed excusable delay for which LICENSEE will be entitled to an extension of time, but not costs."

12.21 Internal Revenue Code Section [770 ](e). It is the intention of LICENSEE that the provisions in this SLA meet all of the requirements set forth in Section 7701(e)(4) of the Internal Revenue Code of 1986, as amended (titled "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). However, all duty and responsibility for such compliance rests with LICENSEE and amendments to this SLA required to achieve such compliance require COUNTY approval, with such approval not to be unreasonably withheld.

12.22 Israel Boycott Certification. LICENSEE hereby certifies that it is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of Israel as defined by A.R.S. § 35-393.01. Violation of this certification by LICENSEE may result in action by the County up to and including termination of this Contract.

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

COUNTY:

LICENSEE:

\_\_\_\_\_  
Chair, Board of Supervisors

By: B. Sibel

Attest:

Name: Brian Sibel, President

Date: 6/14/18

\_\_\_\_\_  
Clerk, Board of Supervisors

Date: \_\_\_\_\_

Approved as to Content:

[Signature]  
Director, Lisa Josker, Facilities Management

Date: 6/14/18

Approved as to Form:

[Signature]  
Chris Straub, Deputy County Attorney

Date: 6-14-2018

## Solar License Agreement

### Exhibits

- I. Facilities Location Map
- II. System Licensed Area
- III. Requirements of System, including Equipment
- IV. Access Procedures for Facilities
- V. Project Requirements
- VI. Form of Estoppel Certificate
- VII. Hazardous Materials
- VIII. Project Schedule
- IX. Electrical Interconnection Point
- X. Commissioning Procedures
- XI. Lender Accommodations
- XII. Example of Parking Phasing Plan

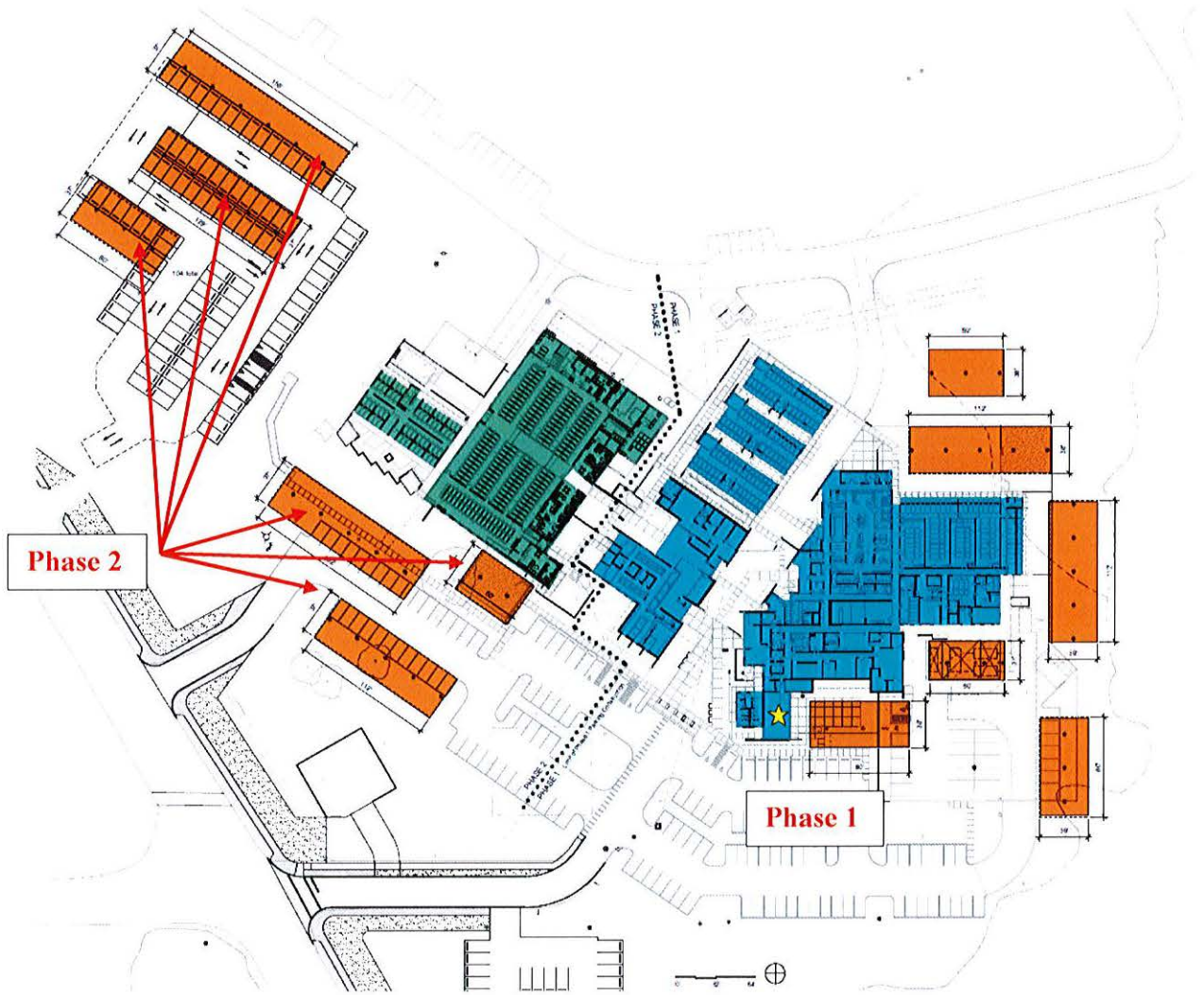
Exhibit "I" (to SLA) Facilities Location Map

Below is the site map for construction of the solar photovoltaic facilities at:  
Pima Animal Care Center (PACC) Phase II (4000 S. Silverbell Rd, Tucson, AZ)



**Exhibit "II" (to SLA)**  
**System Licensed Area**

Below is the site map for construction of the solar photovoltaic facilities at: Pima Animal Care Center (PACC) Phase II. The system-licensed area will be determined by final design.



**Exhibit "III" (to SLA)**

**Requirements of System, including Equipment**

System comprised of the following components:

- Approximately 1,198 solar modules
- Approximately 300 kW Inverter
- Associated equipment to assemble the above components into a working system:

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## **Exhibit "IV" (to SLA)**

### **Access Procedures for the Facilities**

County will provide LICENSEE with access, to the Licensed Area to allow LICENSEE to perform the Solar Services as contemplated herein, including ingress and egress rights to the Licensed Area for LICENSEE and its employees, contractors and subcontractors and access to solar panels and conduits to interconnect the System with the County's electrical systems. County will use commercially reasonable effort to provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during the furnishing, installation, testing, commissioning, deconstruction, disassembly, decommissioning and removal of the System and access for rigging and material handling. County and its authorized representatives will at all times have access to and the right to observe the construction of the System and other Solar Services, subject to compliance with County 's safety rules, but will not interfere with Solar Services or handle any LICENSEE's equipment or the System without written authorization from LICENSEE. In the event that this Agreement is terminated as a consequence of an Event of Default by LICENSEE, this Exhibit IV will serve such termination for the then remaining balance of the Term, and County may (but is not required) to keep the System at the Licensed Area provided that it continues to operate and maintain the System in accordance with prudent industry practice.

Some sites will require background checks for access. Pima COUNTY will manage these background checks at request of LICENSEE.

## **Exhibit "V" (to SLA)**

### **Project Requirements**

**(11 pages)**

#### **General**

This Exhibit will contain the System design documents, which will reflect the final installed System (As Built drawings).

LICENSEE will submit Professional Engineer certified design documents for signature in order to complete the SLA. (Note: Professional Engineer certified design documents which have been approved and signed by COUNTY Development Services will be submitted for COUNTY permitting as applicable.) LICENSEE understands that As Built drawings are required to be submitted for the purposes of full and complete compliance with the applicable provisions of this SLA.

Also to be listed in this Exhibit are project design, construction and installation considerations that are deemed to be necessary by the COUNTY, LICENSEE understands that the project design, construction and installation documents will address these special considerations and be included in the review process by COUNTY.

#### **1.1 Design**

LICENSEE understands that all System design documents and engineering calculations will be submitted to and approved by a licensed Professional Engineer (or engineers) certified to practice in the State of Arizona and is a Professional Engineer in good standing. LICENSEE also understands that System design documents and engineering calculations that are submitted for final review without the appropriate professional engineering stamp will not be reviewed and will be returned to LICENSEE as incomplete and insufficient System documentation.

System design documents for each site will include, but not be limited to, the following:

1. System layout, to include shading diagram of designed system. Shading diagram will account for all 365 days of the year
2. Permitted plans
3. System capacity calculations
4. Single line electrical diagram
5. Electrical Interconnection Point schematics
6. Electrical Interconnection Point single line electrical diagram

7. Construction plans (structural, civil, mechanical, etc.), to include demolition plan showing any obstructions to designed structures, and mitigation thereof; and to include lighting lay out and photometric area values.
8. Lighting Layout and Photometric
9. Structural calculations and structural mounting details
10. Wind loading and seismic calculations (Manufacturer's PE Stamp Acceptable)
11. Critical path schedule (No PE Stamp Required)
12. Geotechnical Report

LICENSEE acknowledges that the System will be designed to comply with all applicable Pima County Building Codes and Standards. System design documents will expressly identify the applicable building codes and standards. Likewise, the system design documents will be submitted for review to the COUNTY's Facilities Management Department.

LICENSEE will:

1. Complete the design for all elements of the project, including but not limited to: civil, structural, architectural, mechanical, electrical, and specialty consulting areas. Drawings will be stamped by a Professional Engineer registered in the State of Arizona.
2. Incorporate the requirements of permitting agencies as may become apparent in the course of design. The LICENSEE will apply for and pay all permits at LICENSEE expense and provide all necessary reports, studies and support required to obtain any permits for any agencies that have jurisdiction.
3. Coordinate site inspections, and ensure permit compliance.
4. Furnish documentation to a plan review team furnished by COUNTY at the ten percent (10%), sixty percent (60%), ninety percent (90%), and one hundred percent (100%) design completion stage. Each design completion stage should include the following components:
  - a. The ten percent (10%) design documents will include a site plan with existing obstructions noted and addressed and also include shading diagram of designed system. Shading diagram will account for all 365 days of the year. A photovoltaic plan and cross section of the rack or mounting concepts and single line electrical drawings. All documents at this stage are not required to be stamped by a Professional Engineer.
  - b. The sixty percent (60%) design will include equipment information sheets on all major equipment and drawings illustrating any structural work, roof penetrations, foundations details, civil plans, electrical conduit runs and equipment layout and electrical mounting drawings. All documents at this stage are not required to be stamped by a Professional Engineer.

- c. The ninety percent (90%) drawings will be complete drawings ready for the COUNTY's review. All documents at this stage are not required to be stamped by a Professional Engineer.
  - d. The one hundred percent (100%) drawing will include all the documents identified previously in this section.
5. Prepare draft Operations Manual to serve as the basis for preparing the final Operations Manual during the Construction phase.
  6. Provide all submittals in a minimum of 34 x 22 - inch size format. All submittals will be on CD or flash drive and will be in AutoCAD 2016 ".DWG" format, or latest version.
  7. After each submittal the LICENSEE will attend "review meeting." The LICENSEE will review the COUNTY's comments prior to this meeting and will be prepared, with the proper people in attendance at the meeting
  8. LICENSEE will be required to accept design modifications that are required by or included in the current building codes as adopted and enforced by Pima County Development Services or any other governmental Authority Having Jurisdiction at the time of building permit approval.

## **1.2 Construction**

The LICENSEE will construct the System in accordance with permitted plans, specifications and submittals prepared by the LICENSEE to meet or exceed all requirements of the COUNTY. The LICENSEE will:

1. Ensure that the following construction methods are followed.
2. Hours of operation for construction activities will be determined by Pima COUNTY. Pima COUNTY will authorize a minimum of ten (10) hours per day and 5 days per week for construction.
3. Ensure that hard hats, reflective vest, safety glasses, steel toed shoes along with identification displaying workers identification and company logo will be worn at all times on the construction site.
4. Ensure that barricades, flagging and traffic control are addressed during construction.
5. Ensure that no profanity is used on the job site.
6. Ensure that workers do not interact with juveniles on site.
7. Ensure that photographs of the pre-construction site are included in daily report.

8. Ensure that site cleanup and housekeeping outside of barricade areas occur every workday, to include sweeping of the site to ensure that there are no foreign object damages associated with the project.
9. Ensure that any existing lighting that is removed/relocated provides the same or better luminosity levels.
10. Ensure that any security devices (cameras) removed/relocated will cover the same security zone/zones that they did before relocation.
11. Ensure that the paint plan is presented to Pima COUNTY prior to painting. Pima COUNTY must approve color and product selection, which will not be unreasonably withheld. Licensee is responsible for correcting any and all overspray.
12. Unless otherwise stipulated, the minimum clearance height to bottom of horizontal structure will be eight feet.
13. Ensure that the risk assessment plan for buried utilities is reviewed by Pima COUNTY prior to excavation. Assessment plan will include contingency plan for utility interruption.
14. Ensure plumb and level construction.
15. Backfill and compaction are to ensure a 95% of maximum density.
16. Ensure that columns are protected in accordance with the structural engineer of record in any parking area housing COUNTY vehicles over one-ton.
17. Conduct weekly meetings, at a time and place acceptable to the COUNTY, to provide schedules, status updates and technical input. The LICENSEE is responsible to provide meeting notes, in electronic format within three (3) working days from conclusion of the meeting.
18. Provide required shop drawings and material data submittals in electronic format. During the review process and when requested, the LICENSEE will provide drawings reduced a minimum 34 x 22- inch size, for review.
19. Provide full time site superintendent reporting daily on all aspects of the construction of this Project, including but not limited to scheduling and conducting weekly meetings with the COUNTY.
20. Provide resident engineering and contract administration, and inspection staff, including specialists, and a third party inspector to include arc flash certified necessary for the functional, safe, and on-schedule completion of the Project, starting with the issuance of a Notice To Proceed from the COUNTY and extending

through issuance of Certificate of Completion and Acceptance. COUNTY Facilities Management Department and Development Services staff will perform inspections to verify compliance with the plans and specifications and contract documents.

21. Ensure construction compliance with applicable local, state, and federal codes, building and environmental permit requirements, and construction mitigation documents and enforcement of the Contract Documents.
22. Provide any laboratory, surveying, and other contracted services as required to complete project construction inspection and testing tasks for all equipment. Provide electronic PDF copies to the COUNTY.
23. Prepare three (3) week look-ahead schedule for the duration of a project. The three (3) week look-ahead schedules will be updated and presented at the weekly meeting with the COUNTY. It will contain sufficient detail to evaluate daily progress and will identify and tie into the monthly updated Contract Schedule. The schedule will be critical path format. Parking phasing plan (EXHIBIT XII) will be included in schedule. Parking phasing plan will include the following:
  - a. A forty-eight (48) hour notice to move vehicles. Applies only to work week hours excluding holidays.
  - b. Work within ten (10) feet of county or personally owned vehicles is prohibited.
  - c. It is anticipated that Fifty (50%) percent of site parking must be available at all times.
24. Implement and maintain an internal records management and document control system as required, to support project operations. LICENSEE will prepare and implement an integrated waste management plan to re-use, recycle, and/or compost any consumable materials, utilized in the performance of this Agreement.
25. Implement a Safety Program. This includes but is not limited to the following activities:
  - a. Assign a Site Supervisor to monitor and control this program for the Project.
  - b. Develop an on-site Project Safety Plan.
  - c. Administer and enforce the COUNTY reviewed on-site Project Safety Plan for the Project.
  - d. Ensure its Contractor performance for safety and health issues relating to their workers at the Project Site. This will include workers in direct employment to the LICENSEE and workers involved in a subcontracting,

equipment supply, or any other project related oral or written arrangement with the LICENSEE.

- e. Report accidents, claims, and other on-going safety related issues to the COUNTY.

26. CONTRACTOR will report environmental issues to the COUNTY.

As part of the closeout process, prior to the commissioning of the system, the LICENSEE will:

1. Provide walk through and address comments as necessary with the COUNTY to generate a completion punch list and confirm all items are complete.
2. Report progress of completion punch list to the COUNTY.

### **1.3 Solar PV System Specifications**

The LICENSEE will provide the solar modules, inverters, and balance of systems, referred to as the solar PV system that meets the following minimum technical specifications and the DGIR/Interconnection requirements of TEP:

PV Modules and inverters specified must be UL Listed.

1. UL 1703 – “Flat-Plate Photovoltaic Modules and Panels”.
2. IEEE 929-2000 – “Recommended practice for utility interface of photovoltaic systems” as applicable to meet Tucson Electric Power (TEP) interconnection agreement.
3. UL 1741 – “Standard for static inverters and charge controllers for use in photovoltaic systems”.
4. IEC 61215 (solar PV performance)
5. IEC61730 (solar PV performance)

Other technical codes that may apply include:

1. ANSI Z 21.83 (solar performance and safety)
2. ANSI C84.1 (electric power systems and equipment – voltage ratings 60Hz)
3. NFPA 70 (electrical components)
4. IEEE 1547 or as required by TEP (interconnection)

5. National Electrical Safety Code – ANSI C2 – 1999
6. All applicable state building codes and requirements.
7. IEEE 1262 “Recommended Practice for qualifications of photovoltaic modules.

System must be designed and installed using UL listed/manufactured components, including mounting systems (electrical controller only).

Technical specifications - Quality Industry Standards:

1. Linear power warranty (Stair Stepped warranty may only be offered if it is equivalent or better than Linear Power warranty)
2. Facilities certified to ISO 9001 and ISO 14001
3. Solar modules and cells may be manufactured and assembled inside or outside of China.
4. Modules cannot be shaded from 9AM – 3PM on December 21<sup>st</sup>.
5. Modules must use anti-reflective coating tempered glass.
6. System must eliminate Potential Induced Degradation (PID).
7. Inverters must not contain any electrolytic capacitors.
8. 320W modules or higher.
9. Minimum 3 busbar modules.
10. Transformer less, string inverters

#### **1.4 Solar PV System Installation**

The LICENSEE will provide the labor necessary to install all solar PV equipment, materials, and components to interconnect to the local utility grid with the exception of required equipment supplied and/or installed by the Utility.

Installation must comply with the following codes and regulations:

1. PV systems must be installed in compliance with all applicable state building codes including OSHA and the State Building Standards Code
2. PV system must be installed in compliance with all applicable local building codes, including the National Electrical Code:



- a. Article 690 -Solar Photovoltaic Systems
- b. Article 705 -Interconnected Electrical Power Production Sources
3. IEEE 929-2000 -Recommended Practice for Utility Interface of Photovoltaic (PM) Systems, as applicable to meet TEP interconnection agreement
4. National Electrical Safety Code -ANSI C2-1999, ANSI/IEEE 519 1992

The System must be installed in accordance with all applicable requirements of local electrical codes and the National Electrical Code (NEC), including but not limited to Article 690, "Solar Photovoltaic Systems" and Article 705, "Interconnected Electrical Power Production Sources." Notwithstanding anything to the contrary in this SLA, this Exhibit V, or the SSA, LICENSEE's responsibility with respect to local electrical codes and the NEC will extend solely to the System and LICENSEE will have no responsibility or liability with respect to whether other equipment located at the Facilities (whether now existing or installed in the future) is installed in accordance with all applicable requirements of local electrical codes and the NEC. County reserves the right to use third party verifications process to include electrical and mechanical engineer of record for verification.

All Balance of Systems (wiring, electrical components, poles, conduits, and connections) must be suited for conditions for which they are to be installed. The System data acquisition production meter will be installed to measure the AC output of the inverters. This production meter will be before the step up transformer near the TEP meter. While this location is within the Solar System fenced area, trained COUNTY Facilities personnel will have keyed access to the Site for reading the production meter. In addition, COUNTY Facilities personnel will have full access to the System data acquisition system data via web access.

The Licensee will provide a System disconnect that can be accessed by trained, authorized COUNTY Facility personnel in case of an emergency or shutdown.

Installation of the System will not alter the existing storm water management plan and activities at the Facility. After System permitting, the Facility will not alter the as-built storm water management plan for the System.

Licensee is responsible for security of the System.

### **1.5 Utility Grid Interconnection**

The LICENSEE will supply, install, and deliver all electrical equipment required to interconnect to the Facility distribution system and the local utility grid. The LICENSEE will fulfill all application, study, mid testing procedures as required, to complete the Tucson Electric Power ("TEP") interconnection agreement process. All costs associated with the interconnection will be borne by the LICENSEE, with the exception of the equipment transferred from TEP to the COUNTY as a result of switching to primary metering.

The conductors at the POI will be copper.

Interconnection installation will comply with all NEC codes and regulations listed in the Solar PV System Installation Section in this Exhibit above and with the local power company's "Interconnection standards for non-Utility Generation". LICENSEE will assist the COUNTY in preparing and submitting appropriate interconnection agreements with the local utility company. This will be done at no cost or liability to the County.

The tie-in of the interconnection will be scheduled with COUNTY Facility personnel at least two (2) weeks prior to the connection being made. Interconnection activity must be a part of the project schedule.

LICENSEE, at their expense, will make provisions to support connection of the solar PV data acquisition system to the internet accessible to the COUNTY. COUNTY will provide internet connection and IP address which LICENSEE will pay for.

LICENSEE will invoice the COUNTY monthly pursuant to the System meter readings and the calculations of Lost Savings described in Exhibit 1 of the SSA.

## **1.6 Commissioning**

During the commissioning process, the COUNTY reserves the right to both observe and have third party verification of system operation and performance.

Required commissioning and acceptance test services are outlined in Exhibit X. A Certification of Completion will be issued by the COUNTY to the LICENSEE upon the approval of the Commissioning and Acceptance Test.

## **1.7 Operation & Maintenance Manuals and As-Built Drawings**

LICENSEE will provide to the COUNTY two (2) sets hard bound and one (1) electronic set of site-specific operation, maintenance, and parts manuals (O&M) for each installed solar PV system. The formats for these are to be pdf format. These O&M Manuals will cover all components, and accessories supplied. The Manuals will include maintenance, module removal and replacement and safety precautions specific to the supplied equipment at the site. The O&M Manuals will include installation and maintenance documentation for the solar photovoltaic facilities, inverter and low and medium voltage system equipment. LICENSEE will deliver these requirements to COUNTY prior to COUNTY'S acceptance of the site-specific solar PV system. Because the solar PV system is privately-owned by the LICENSEE, the LICENSEE is responsible for all costs associated with the operation and maintenance.

## **1.8 Monitoring the Solar PV System**

LICENSEE will provide a turnkey data acquisition and display system that allows the COUNTY to monitor, and track the solar energy output of the solar PV system in accordance with Fat Spaniel (or an equivalent) Data Acquisition System inverter level monitoring specifications at

time of contract award. Minimum requirement is the provision of a web-based monitoring and tracking system accessible to both the LICENSEE and the COUNTY and will include historical database and real time data on time of day use, peak loads in minimum 15-minute intervals. Information to be displayed will include but not be limited to system energy production (kW) and accumulated system output (kWh).

**1.9 Warranties and Guarantees**

The LICENSEE will provide evidence of the following warranties:

1. 5-year complete solar PV system warranty
2. 20-year solar PV panel warranty

**1.10 Substantial Completion will require:**

1. LICENSEE inspection of system observed by COUNTY.
2. LICENSEE testing of system observed by COUNTY.

**1.11 Review**

The following table represents a general overview of the review of the System project design and construction documentation. The table assumes that the Due Diligence has been completed, if required, and that both the SLA and SSA have been duly signed and executed. Initiation of the tasks and/or activities as outlined in the table is contingent upon the issuance of a Notice to Proceed to Project Design letter from the COUNTY. A schedule is required to be submitted by the LICENSEE as part of the System design documents. Coordination between the submitted schedule and the COUNTY's review process will be based on best efforts by both the COUNTY and the LICENSEE and established in a cooperative manner.

No.	Task or Milestone	Deliverable or Activity	Responsible Party	Comment
1	System Design and Construction Documents	Detailed plans, specifications, and construction schedule and engineering calculations.	LICENSEE	Construction schedule needed to determine inspection requirements.
2	COUNTY Planning, Facilities Management	Construction Documents Review by COUNTY Departments.	LICENSEE/ COUNTY	LICENSEE to submit engineering drawings to PCFM.
3	Installation period coordination and communication - Preconstruction Meeting	LICENSEE and installation subcontractors meet COUNTY	COUNTY	May be conducted after contracts have been signed, but prior to actual start of construction.

No.	Task or Milestone	Deliverable or Activity	Responsible Party	Comment
		representatives to discuss project procedures and Facilities requirements		
4	Construction and Installation and weekly project meetings.	Installation of solar photovoltaic System. Weekly construction meetings to be held on- site. Mandatory attendance by Superintendent	LICENSEE	Per Construction Schedule as reviewed by the COUNTY Project Manager in the Preconstruction meeting
5	Construction and installation inspection	Inspection of the work for compliance with permitted plans and building codes.	COUNTY	Concurrent with Construction Schedule and inspections.
6	Construction and Installation Completion	Notice from LICENSEE that construction and installation is complete.	LICENSEE	
7	Final Inspection	Inspection for compliance with Permitted plans and applicable building codes, punch list of minor items "Substantially Complete"	COUNTY	Requires utility sign off and acceptance of interconnection Facilities. Also requires Pima County Development Services final acceptance.
8	Punch List	Correction of LICENSEE approved Punch List items	LICENSEE	

**Exhibit "VI" (to SLA)**

**Form of Estoppel Certificate**

Premises: \_\_\_\_\_ License Number: \_\_\_\_\_  
License dated: \_\_\_\_\_, 20\_\_\_\_ (the "License"), between Pima County ("COUNTY") a body politic and Corporate of the State of Arizona, and \_\_\_\_\_ ("LICENSEE"), a \_\_\_\_\_ COUNTY, licensor under the License, certifies to \_\_\_\_\_, holder or proposed holder of a note or other obligation secured, or to be secured, by a mortgage, deed of trust or other security instrument upon the above referenced License or the System (as defined in that certain Solar Services Agreement ("SSA") dated \_\_\_\_\_, by and between COUNTY and LICENSEE), and assignee, or proposed assignee of said License, that;

1. Said License is presently in full force and effect and unmodified except as indicated at the end of this certificate.
2. The term of the License commenced on \_\_\_\_\_, 20\_\_\_\_, and will expire on \_\_\_\_\_, 20\_\_\_\_ and the Commercial Operation Date was \_\_\_\_\_, 20\_\_\_\_.
3. To the best of COUNTY's knowledge, LICENSEE's design, construction and installation of the System has been substantially completed in accordance with all the terms and conditions of the License.
4. LICENSEE's obligations under the License, including those incorporated by reference in the SSA, have been met through the elate hereof.
5. The address for notices to be sent to COUNTY is as set forth in section 12.1 of the Solar License agreement.
6. To the best of COUNTY's knowledge, LICENSEE is not in default under the License, nor do any conditions exist or has any event occurred that, given the giving of notice or the passage of time, would ripen into a default under the License, except as set forth below.
7. Any other certifications or information reasonably requested by LICENSEE, COUNTY or a Lender.
8. In the event of any inaccuracy in the information set forth in this certificate, COUNTY is estopped to deny the accuracy thereof as to the certificate holder named above, its successors and assigns. Any capitalized terms used herein and not otherwise defined has the meaning set forth in the License.

COUNTY: \_\_\_\_\_

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

**Exhibit "VII" (to SLA)**

**LIST OF HAZARDOUS SUBSTANCES USED BY LICENSEE ON LICENSED AREA**

No Hazardous Substances are planned to be used within Licensed Area. Should any Hazardous Substances be considered for use, they will be forwarded to COUNTY for approval.

**Exhibit "VIII" (to SLA)**

**Project Schedule**

The Project Schedule will be completed and added to this agreement without the need for formal amendment if signed/initialed as accepted by both parties no later than three (3) months after execution of contract by the Chair of the Pima County Board of Supervisors.

<b>Owner</b>	<b>Task</b>	<b>Date</b>
Contractor	Bid Submittal	_____
County	Expected Award Date	_____
County	Authorized to Proceed Issued	_____
Contractor	Cultural Resource Study Complete & Site Preparation Commences	_____
Contractor	Facility Construction (Modules, Inverters, Interconnects, etc.) commences	_____
Contractor	Construction, including Interconnect completed	_____
Contractor	Testing, including Utility Acceptance completed	_____
Contractor	All Test issues resolved	_____
Contractor	Commercial Operation Date (Not Later than SLA 6.3)	_____

Note: Contractor can add items to above if significant to completion of the Project.

## **Exhibit "IX" (to SLA)**

### **Electrical Interconnection point**

The Point Of interconnection (POI) will be in accordance with Pima County and Tucson Electric Power (TEP) interconnection requirements for distributed generation. The POI will be designed following National Electric Code (NEC) guidelines. The conductors at the POI will be copper. Licensee will ensure the following:

1. Interconnect must be done by a Licensed Commercial Electrician.
2. Megger testing to be observed by PCFM.
3. Interconnect must meet and keep UL listing on electrical equipment and switchgear.
4. Adhere to NEC 705.
5. Proper PPE to include Arc Flash Suits
6. Proper safety procedures to include lock-out / tag-out, ground cluster
7. Interconnection Plan review prior to interconnection date.
8. PCFM Electricians will oversee all interconnects.
9. Arc Flash and Coordination Studies by certified Electrical Engineer as required by electrical engineer of record, only when LICENSEE modifies existing electrical circuit breakers. If existing COUNTY electrical equipment does not have an existing Arc Flash and Coordination Study, then one will not be provided by LICENSEE.



**Exhibit "X" (to SLA)**

**Commissioning Procedures**

LICENSEE will cause the System to be designed, engineered, installed and constructed substantially in accordance with the terms of this Agreement, and Applicable Law. COUNTY will be given the opportunity to review all permitted plans. LICENSEE will procure all materials and equipment for the installation of the System and maintain the system at the Premises. LICENSEE may use contractors and subcontractors to perform its obligations under this Agreement. LICENSEE will continue to be responsible for the quality of the work performed by its contractors and subcontractors.

## Exhibit XI

### LENDER ACCOMMODATIONS

(2 Pages)

#### **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 5, 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, will 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 will also be entitled to exercise all rights and remedies of secured parties generally with respect to the Agreements and the System.
  - ii. The Lender will 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 will give notice to COUNTY (or any successor in interest) of the transferee or assignee of this Agreement. Any such exercise of remedies will 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) will 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 will 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 will 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, will acquire title to or control of LICENSEE's assets and will, 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 will no longer be in default under this Agreement, and this Agreement will continue in full force and effect.

# EXHIBIT XII

Example of parking phasing plan which can change each week

