



County Executive Office

SS8D

Memorandum

December 7, 2016


To: Clerk of the Board of Supervisors  
From: Frank Kim, County Executive Officer *Maguire*  
Subject: Exception to Rule 21

REC'D  
2016 DEC -8 PM 2:05

The County Executive Office is requesting a supplemental for the December 13, 2016, Board Hearing Meeting.

Agency: County Executive Office  
Subject: First Amendment to Solar Site License Agreement  
Districts: 3 and 5

**Reason for supplemental:** This agenda staff report is supplemental because of a late filing. The late filing was due to review requirements by legal teams including County Counsel, OC Solar, BA Leasing, and the State Department of Finance. The approval of this agenda staff report is needed prior to an All Hands Meeting scheduled with various state departments on January 4, 2017, to finalize ground lease matters for bond financing to support the James A. Musick Facility state funded jail projects (AB 900 & SB 1022).

Concur:   
Chairwoman Lisa Bartlett, Supervisor, Fifth District

cc: Board of Supervisors  
County Executive Office  
County Counsel



**SUPPLEMENTAL AGENDA ITEM  
 AGENDA STAFF REPORT**

**MEETING DATE:** 12/13/16  
**LEGAL ENTITY TAKING ACTION:** Board of Supervisors  
**BOARD OF SUPERVISORS DISTRICT(S):** 3, 5  
**SUBMITTING AGENCY/DEPARTMENT:** County Executive Office  
**DEPARTMENT HEAD REVIEW:** *Scott D. Mayer*  
*Department Head Signature*  
**DEPARTMENT CONTACT PERSON(S):** Scott D. Mayer (714) 834-3046  
 Robert Beaver (714) 647-1815

2016 DEC - 0 11 2:00  
 REC'D

**SUBJECT:** First Amendment to Solar Site License Agreement

<b>CEO CONCUR</b>  <u><i>McQuinn</i></u> CEO Signature	<b>COUNTY COUNSEL REVIEW</b> <u><i>Approved to Form</i></u> Action <u><i>[Signature]</i></u> County Counsel Signature	<b>CLERK OF THE BOARD</b> Discussion  3 Votes Board Majority
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**Budgeted:** N/A                      **Current Year Cost:** N/A                      **Annual Cost:** N/A  
**Staffing Impact:** N/A                      **# of Positions:** N/A                      **Sole Source:** N/A  
**Current Fiscal Year Revenue:** N/A  
**Funding Source:** N/A                      **County Audit in last 3 years:** N/A

**Prior Board Action:** 10/5/2010 #25

**RECOMMENDED ACTION(S)**

Approve and authorize Chief Real Estate Officer to execute the non-monetary First Amendment to Solar Site License Agreement, in substantially the form attached, with BA LEASING BSC, LLC and OC Solar 2010, LLC, for clarifying the non-exclusive license areas at the James A. Musick Jail Facility as necessary to obtain State lease revenue bonds for the Jail Facility's Phase 1 and 2 construction.

**SUMMARY:**

Approval of the First Amendment to Solar Site License Agreement with BA LEASING BSC, LLC and OC Solar 2010, LLC will allow the County to obtain eligibility to participate for the issuance of State Public Works Board lease revenue bonds to finance a portion of the James A. Musick Jail Facility Phase 1 and 2 construction.

**BACKGROUND INFORMATION:**

On October 5, 2010, your Board approved a Power Purchase Agreement with OC Solar 2010, LLC, and authorized the execution of a Solar Site License Agreement (License Agreement) at James A. Musick Jail Facility (Jail Facility). The License Agreement gave OC Solar 2010 exclusive and non-exclusive irrevocable licenses in a portion of the Jail Facility for the purpose of access, ingress and egress to facilitate the installation, operation, maintenance, improvement and replacement of a solar energy facility. OC Solar 2010 subsequently assigned its rights and interests in said License Agreement to BA Leasing BSC, LLC (BA Leasing), and BA Leasing sublicensed its rights and interest in the License Agreement back to OC Solar 2010.

In order for the County to obtain State financing for the Jail Facility's Phase 1 and 2 construction, the lease revenue bonds issued by State Public Works Board must be secured in part by a ground lease and a site lease from the State Department of Correction and Rehabilitation (CDCR) to the State Public Works Board, encumbering the portion of the Jail Facility subject to Phase 1 and 2 construction (Site). In connection with assisting the County to obtain eligibility to participate for issuance of aforesaid lease revenue bonds to finance a portion of the Jail Facility's Phase 1 and 2 construction, CDCR requested certain amendments to the License Agreement. More specifically, as a condition of issuing the lease revenue bonds, CDCR requested that the License Agreement must be amended to include a more specific description of the non-exclusive license areas contained in the License Agreement so as to not conflict with the State's quiet enjoyment and beneficial use of the Site under the aforesaid ground lease and site lease.

Accordingly, the proposed First Amendment provides a more precise description and depiction of the non-exclusive license areas and further subordinates OC Solar 2010's and BA Leasing's rights, title, and interests in and to the non-exclusive license areas to aforesaid State's ground lease and site lease, subsequent amendments thereto, and other lease revenue bond related documents. In addition, under the License Agreement, the licensee is required to wash and clean the solar system on a semi-annual basis. The First Amendment requires the County to reimburse the licensee for the reasonable cost of any additional wash and cleaning during the Phase 1 and 2 Jail Facility construction if production output of the solar system is impacted by airborne dirt, dust, or debris created from construction activities.

This First Amendment is the only remaining real estate issue that needs to be resolved for the Phase 1 and 2 Jail Facility construction to proceed to the next stage. CDCR has scheduled a State's All Hands Meeting for January 4, 2017, to discuss the Phase 1 and 2 construction issues, and expects that County has an approved amendment to the License Agreement as described above. The All Hands Meeting is intended to verify that all ground lease boundaries are clear and sets the stage for execution of the State's ground lease, right of entry for construction and operation, and lease revenue bond financing. The Jail Facility Phase 1 and 2 construction are in the final stage of design, and their construction is expected to begin in the fourth quarter of calendar year 2017.

**FINANCIAL IMPACT:**

N/A

**REVIEWING AGENCIES:**

OC Public Works  
OC Sheriff's Department

**STAFFING IMPACT:**

N/A

**ATTACHMENT(S):**

Attachment A - First Amendment to Solar Site License Agreement

Attachment B - Redlined Original Solar Site License Agreement

Attachment C - Location Map

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

OC Solar 2010, LLC  
7777 Center Avenue, Suite 200  
Huntington Beach, CA 92647

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APN: 591-133-18 and 591-073-14

(Space above this line for Recorder's use only)  
This document is exempt from the payment of  
a recording fee under Section 27383 of the  
Government Code

**FIRST AMENDMENT TO  
SOLAR SITE LICENSE AGREEMENT**

This FIRST AMENDMENT TO SOLAR SITE LICENSE AGREEMENT (this "First Amendment"), is made and entered into as of \_\_\_\_\_, 20\_\_ ("Effective Date"), by and between the County of Orange, a political subdivision of the State of California, as licensor (the "County"), BA LEASING BSC, LLC, a Delaware limited liability company, as licensee (the "Licensee"), and OC SOLAR 2010, LLC, a California limited liability company, as sublicensee (the "Sublicensee"), and amends that certain Solar Site License Agreement dated as of January 30, 2012, and recorded on June 26, 2012, as Instrument No. 2012000360219, in the Official Records of Orange County, California (the "Original Site License Agreement," and as amended by this First Amendment, the "Amended Site License Agreement").

**WITNESSETH:**

WHEREAS, the County is the owner of certain real property located in Orange County, California (the "Property"), as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, under the Original Site License Agreement, the County granted to OC Solar 2010, LLC, a California limited liability company (the "Original Licensee"), exclusive and non-exclusive irrevocable licenses in a portion of the Property (the "Premises") for the purpose of access, ingress and egress to facilitate the installation, operation, maintenance, improvement and replacement of a solar energy facility (the "System"); and

WHEREAS, the Original Licensee assigned, transferred, conveyed and delivered to Licensee all of Original Licensee's right, title and interest in and to the Original Site License Agreement pursuant to the Assignment of Solar Site License Agreement, dated as of December 19, 2012 and recorded on December 20, 2012, as Instrument No. 2012000789054 in the Official Records of Orange County, California; and

WHEREAS, the Licensee, subject to the provisions of the Original Site License Agreement, granted to Sublicensee, a sublicense to the Premises and Sublicensee assumed all of the Licensee's obligations and duties under the Original Site License Agreement pursuant to the Site Sublicense Agreement, dated as of December 19, 2012 and recorded on December 20, 2012, as Instrument No. 2012000789059 in the Official Records of Orange County, California; and

WHEREAS, the County intends to design and construct the James A. Musick Facility jail construction project Phase II (Phase 1 and Phase 2) on a portion of the Property (the "Site") as more particularly described in Exhibit C, attached hereto and incorporated herein by this reference, pursuant to Assembly Bill ("AB") 900 and Senate Bill ("SB") 1022 (the "Project"); and

WHEREAS, further to AB 900 and SB 1022, the County, as ground lessor, will ground lease the Site (the "Ground Lease") to the Department of Corrections and Rehabilitation of the State of California (the "Department"), as ground lessee, to assist the County obtain eligibility to participate for issuance of State Public Works Board (the "Board") lease revenue bonds to finance a portion of the construction of the Project (the "Bonds"); and

WHEREAS, the Bonds will in part be secured by the Ground Lease and by a site lease from the Department to the Board (the "Site Lease") encumbering the Site, and by a facility lease from the Board to the Department encumbering the Site and the Project (the "Facility Lease") (collectively the "Bond Documents"); and

WHEREAS, as a condition to issuing the Bonds, the Board will require, among other things, that the Department's and the Board's quiet enjoyment and beneficial use of the Site and Project under the Bond Documents not be materially impaired by the Original Site License Agreement at any time during the term of the Bonds; and

WHEREAS, unlike the Exclusive License Areas, the Non-Exclusive License Areas are located within the area of the Site and the Licensee's use and enjoyment of the Non-Exclusive License Areas may impair the Department's and the Board's quiet enjoyment and beneficial use of the Site under the Bond Documents; and

WHEREAS, the County and Licensee desire to amend the Original Site License Agreement insofar as necessary to ensure that the Department's and the Board's quiet enjoyment and beneficial use of the Site and Project under the Bond Documents will not be materially impaired at any time during the term of the Bonds;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration, the parties hereto mutually agree, as follows:

**AGREEMENT:**

**SECTION 1. Incorporation of Recitals.** The foregoing recitals are true and correct and are incorporated into this First Amendment by this reference.

**SECTION 2. Definitions.** Unless the context otherwise requires, the capitalized terms herein which are not defined herein shall have the meaning referenced in the Original Site License Agreement.

**SECTION 3. Exclusive License Areas.** The County, the Licensee and the Sublicensee acknowledge and agree that no part of the Exclusive License Areas as described in Section 1.1 of the Original Site License Agreement and in Exhibit B to the Original Site License Agreement are located within the Site.

**SECTION 4. Non-Exclusive License Areas.** Section 1.2 of the Original Site License Agreement is amended to provide that the County grants to the Licensee a non-exclusive and irrevocable license on, over and across the general-use areas of the Premises as depicted and described in Exhibit B, attached hereto and incorporated herein by this reference (the “Non-Exclusive License Areas”). All references to the Non-Exclusive License Areas in the Original Site License Agreement shall mean the areas of the Premises as amended by this Section 4 and depicted in Exhibit B.

**SECTION 5. Maintenance and Repair of System.** Pursuant to Section 3.2 of the Original Site License Agreement, the Licensee washes and cleans the System on a semi-annual basis and the Licensee maintains records of this periodic cleaning as well as records indicating the production output of the System. In the event that airborne dirt, dust or other debris from the construction activities related to the Project (the “Construction Activities”) necessitate the washing of the System more often than the Licensee’s periodic washing, in Licensee’s reasonable judgment, the County shall pay or reimburse the Licensee for all reasonable costs incurred in connection with such washings within thirty (30) days after written demand made by the Licensee. Any demand under this Section 5 shall provide reasonable supporting evidence of the Licensee’s determination that the Construction Activities necessitated the washing of the System and shall also detail the cleaning schedule the Licensee has employed to wash the System in the year prior to the demand. The parties hereby acknowledge and agree that during the Construction Activities, the Licensee’s records showing that the System needs to be washed more often than it has in the past, as well as records showing a decrease in the output production levels of the System shall constitute adequate reasonable supporting evidence that the washing of the System was necessary and was necessitated by airborne dirt, dust or other debris from the Construction Activities; provided, however, that the Licensee shall not be prevented from showing other reasonable supporting evidence in addition to the washing of the System and production levels to substantiate the need for any additional cleanings based upon the Construction Activities. The County (not the Licensee) shall thereafter have the burden to prove with unequivocal documentation that any additional washing(s) conducted by the Licensee was either (i) not necessary, or (ii) was not necessitated by airborne dirt, dust or other debris from the Construction Activities; provided, however, that the Licensee agrees to reasonably cooperate with the County regarding any information requested by the County relating to historical System production levels or other reasonable information relating to the washing of the System. In the event the County fails to perform any of its obligations under this Section 5, upon proper demand within the time frames required herein, such failure shall be considered to be an Event of Default under the Original Site License Agreement and Licensee

have all rights and remedies available to it under Section 8.2 of the Original Site License Agreement.

**SECTION 6. No Interference With and Protection of System and Insolation.**

The County represents and warrants under Sections 4.3, 4.4 and 4.5 of the Original Site License Agreement that if Construction Activities damage or otherwise interfere with the Insolation, function or operation of the System, then, after receipt of written notice from Licensee, the County shall immediately take all actions reasonably necessary to repair such damage or restore such Insolation, functionality or operation with respect to the System.

**SECTION 7. Subordination; Non-Disturbance.** All of the Licensee's right, title, and interest in and to the Non-Exclusive License Areas under the Amended Site License Agreement shall be, and the same are expressly made subject to, subordinate and inferior to future documents evidencing the obligations securing the Bonds, including, but not limited to (i) the Bond Documents and any amendments thereto and (ii) each and every other document evidencing the Bonds and to all extensions, renewals, modifications, consolidations and replacements of the Bonds (the "Additional Financing Agreements"). The Bond Documents and any amendments thereto and the Additional Financing Documents are collectively referred to as the "Financing Leases". The Financing Leases, or memoranda of the same, will be recorded in the Official Records of Orange County, California (the "Board Recordation Date"). After the Board Recordation Date, any modification of the Amended Site License Agreement, including amendments relating to the description of the Exclusive or Non-Exclusive License Areas shall require the consent of the Board to the extent such modification or amendment affects the Site. The Licensee's subordination of that portion of the Amended Site License Agreement relating to the Non-Exclusive License Areas to the lien of the Financing Leases is conditioned on the County's obtaining from the Department and the Board a subordination and non-disturbance agreement in the form of Exhibit D attached hereto ("SNDA"), assuring the Licensee that its use and enjoyment of the Non-Exclusive License Areas under the Amended Site License Agreement will not be disturbed and its rights and privileges under the Amended Site License Agreement will remain in effect notwithstanding the transfer or repossession of the Site under the provisions in the Financing Leases. The Licensee and Sublicensee agree to promptly execute, acknowledge and return the SNDA to the County in recordable form.

**SECTION 8. Entire Agreement; Amendment.** The Amended Site License Agreement constitutes the full and complete agreement and understanding by and between the parties relative to the subject matter of this First Amendment and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter, and may not be modified or amended in whole or in part, except by a written instrument executed by all of the parties hereto, with the consent of the Board to the extent required pursuant to Section 7, above.

**SECTION 9. Force and Effect.** Except as modified by this First Amendment, all the terms, conditions and provisions of the Original Site License Agreement are hereby ratified and confirmed and are and shall remain in full force and effect as originally signed and approved by the County and Original Licensee. Should any inconsistency arise between



this First Amendment and the Original Site License Agreement as to the specific matters which are the subject of this First Amendment, all the terms, conditions and provisions of this First Amendment shall control. This First Amendment shall be construed to be a part of the Original Site License Agreement and shall be deemed incorporated into the Original Site License Agreement by this reference.

**SECTION 10. Recordation of Amendment.** This First Amendment may be recorded in the Official Records of Orange County, State of California, and shall serve as notice that the Non-Exclusive License Areas shall consist of the portion of the Premises as described in Exhibit B, attached hereto and incorporated herein by this reference and that the Amended Site License Agreement shall be subordinated to the Financing Leases as provided in Section 7, above.

**SECTION 11. Governing Law.** This First Amendment, and the parties' performance under the Amended Site License Agreement, shall be exclusively governed by the laws of the State of California without regard to its conflict of law provisions.

**SECTION 12. Binding Effect.** All of the covenants, agreements, terms and conditions to be observed and performed by the parties hereto shall inure to the benefit of, be applicable to and binding upon their respective heirs, personal representatives, successors and assigns and, to the extent of a permitted assignment or sublicense pursuant to the provisions of the Original Site License Agreement, the respective assignees and sublicensees of Licensee.

**SECTION 13. Execution.** This First Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

*[SIGNATURES TO THIS AMENDMENT FOLLOW ON NEXT PAGE]*

IN WITNESS WHEREOF, the Parties hereto have caused this AMENDMENT to be executed by their duly authorized representatives to be effective as of the Effective Date.

**COUNTY**  
**COUNTY OF ORANGE**

By: \_\_\_\_\_  
Scott D. Mayer,  
Chief Real Estate Officer

**APPROVED AS TO FORM:**  
**OFFICE OF COUNTY COUNSEL**

By: \_\_\_\_\_  
Deputy



**LICENSEE**  
**BA LEASING BSC, LLC**  
A Delaware Limited Liability Company

By: \_\_\_\_\_  
Laurene N. Cockett  
Vice President

**SUBLICENSEE**  
**OC SOLAR 2010, LLC**  
A California limited liability company  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ACKNOWLEDGMENTS

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

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

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

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

WITNESS my hand and official seal

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

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

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

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

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WITNESS my hand and official seal

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 ) ss.  
COUNTY OF \_\_\_\_\_ )

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

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

WITNESS my hand and official seal

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

**Exhibit A**

(Legal Description of Property)

PARCEL A:

ALL THAT PORTION OF LOTS 299, 300, 301 AND 302 OF BLOCK 174 OF IRVINE'S SUBDIVISION, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP THEREOF RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL 5 IN A COURT JUDGMENT RECORDED IN BOOK 2567, PAGE 100 ET SEQ., OFFICIAL RECORDS OF SAID COUNTY; THENCE NORTH 49°16'43" WEST, ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 5, A DISTANCE OF 1699.13 FEET; THENCE SOUTH 56°45'11" WEST 2172.04 FEET; THENCE SOUTH 49°16'43" EAST AND PARALLEL WITH SAID SOUTHWESTERLY LINE, A DISTANCE OF 2474.14 FEET TO THE SOUTHEASTERLY LINE OF SAID BLOCK 174; THENCE NORTH 35°55'31" EAST ALONG SAID SOUTHEASTERLY LINE, 2094.91 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID LAND WITH THE SOUTHEASTERLY LINE OF MUSICK (FORMERLY FAIRBANKS), 56 FEET WIDE, AS SHOWN ON PARCEL MAP NO. 88-105, AS PER MAP FILED IN BOOK 235, PAGES 33 AND 34 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL MAP AND ITS SOUTHEASTERLY EXTENSION, HAVING A BEARING OF NORTH 49°16'36" WEST, SAID LINE ALSO BEING THE SOUTHWESTERLY LINE OF SAID LAND, SOUTH 49°16'36" EAST 723.00 FEET; THENCE, AT RIGHT ANGLES, NORTH 40°43'24" EAST 84.00 FEET TO A LINE PARALLEL TO AND 84.00 FEET NORTHEASTERLY OF SAID SOUTHWESTERLY LINE; THENCE NORTH 49°16'36" WEST 667.00 FEET; THENCE, AT RIGHT ANGLES, SOUTH 40°43'24" WEST 54.00 FEET TO A LINE PARALLEL TO AND 30.00 FEET NORTHEASTERLY OF SAID SOUTHWESTERLY LINE; THENCE NORTH 49°16'36" WEST 56.00 FEET; THENCE SOUTH 40°43'24" WEST 30.00 FEET TO THE POINT OF BEGINNING.

APN: 591-073-14

PARCEL B:

THAT PORTION OF PARCEL 2, IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS DESCRIBED IN THE QUITCLAIM DEED RECORDED JULY 12, 2005 AS INSTRUMENT NO. 2005-536290 OF OFFICIAL RECORDS, ALSO BEING PORTIONS OF LOT 300, BLOCK 174 AND LOT 313, BLOCK 175 OF IRVINE'S SUBDIVISION AS SHOWN ON A MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALL AS SHOWN ON RECORD OF SURVEY NO. 2007-1206 FILED IN BOOK 225, PAGES 29 THROUGH 42, INCLUSIVE

OF RECORDS OF SURVEYS IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF PARCEL 5 AS DESCRIBED IN THE DECREE ON DECLARATION OF TAKING RECORDED AUGUST 2, 1953 IN BOOK 2567, PAGE 100 OF SAID OFFICIAL RECORDS; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 5, NORTH 49°15'58" WEST 1876.03 FEET TO AN ANGLE POINT IN THE DEPARTMENT OF THE INTERIOR SURVEY LINE AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG SAID SURVEY LINE THE FOLLOWING COURSES: SOUTH 84°39'33" EAST 132.95 FEET, SOUTH 23°59'33" EAST 37.00 FEET, NORTH 65°30'27" EAST 184.71 FEET, NORTH 21°00'38" WEST 83.12 FEET, NORTH 69°01'28" EAST 155.00 FEET, SOUTH 20°59'01" EAST 64.95 FEET, NORTH 67°20'25" EAST 612.09 FEET, NORTH 88°47'12" EAST 78.92 FEET, NORTH 64°39'40" EAST 290.62 FEET, NORTH 44°39'40" EAST 34.25 FEET, NORTH 75°54'40" EAST 257.59 FEET, NORTH 55°14'49" EAST 103.32 FEET, NORTH 79°45'32" EAST 265.63 FEET, NORTH 78°20'32" EAST 165.87 FEET, NORTH 82°24'51" EAST 320.35 FEET AND NORTH 76°05'38" EAST 476.69 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 313, ALSO BEING THE NORTHWESTERLY LINE OF THE RANCHO CANADA DE LOS ALISOS; THENCE ALONG SAID SOUTHEASTERLY LINE, THE SOUTHEASTERLY LINE OF SAID LOT 300 AND SAID RANCHO LINE, SOUTH 35°55'21" WEST 2559.18 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN PARCEL II-V AS DESCRIBED IN SAID QUITCLAIM DEED.

APN: 591-133-18

**Exhibit B**

## (Legal Description of Non-Exclusive License Areas)

**PARCEL A:**

An easement for underground cables and electrical tie in equipment purposes over that portion of that certain property in the County of Orange, State of California, deeded to the County of Orange, State of California, by The Irvine Company in deed recorded January 20, 1961 in Book 5598, Page 163, Official Records of said County, all as shown on Record of Survey No. 94-1032 filed in Book 151, Pages 42 through 45, inclusive, of Record of Surveys in the office of said County Recorder, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 1006.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence South 42°19'19" West 140.00 feet, thence South 44°31'45" West 194.00 feet, thence South 43°54'27" West 230.00 feet, thence South 37°32'09" West 84.50 feet, thence South 47°30'46" East 70.00 feet, thence South 18°53'04" East 6.25 feet, thence South 48°18'53" East 5.00 feet, to the point of termination. The sidelines of said strip shall terminate at a point perpendicular to said last course.

**PARCEL B:**

An easement for underground cables and electrical tie in equipment purposes over that portion of that certain property in the County of Orange, State of California, deeded to the County of Orange, State of California, by The Irvine Company in deed recorded January 20, 1961 in Book 5598, Page 163, Official Records of said County, all as shown on Record of Survey No. 94-1032 filed in Book 151, Pages 42 through 45, inclusive, of Record of Surveys in the office of said County Recorder, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 189.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence South 32°20'12" East 27.46 feet, thence South 49°16'23" East 20.09 feet, thence South 25°34'29" East 28.93 feet, thence South 40°43'37" West 14.18 feet to the point of termination at the northeasterly face of existing building. The sidelines of said strip shall terminate at a point perpendicular to said last course.

**PARCEL C:**

An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as



described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, and being a strip of land, 15.00 feet wide, lying 7.50 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North  $49^{\circ}16'23''$  West, 1006.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence North  $42^{\circ}19'19''$  East 26.00 feet, thence North  $49^{\circ}25'05''$  West 40.00 feet to the point of termination. The sidelines of said strip shall terminate at a point perpendicular to said last course.

PARCEL D:

An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, described as follows:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North  $49^{\circ}16'23''$  West, 189.00 feet along the southwesterly line of said parcel, thence North  $32^{\circ}20'12''$  West 94.00 feet, thence North  $58^{\circ}40'57''$  West 23.50 feet to the True Point of Beginning, thence North  $89^{\circ}52'19''$  West 22.50 feet, thence North  $00^{\circ}07'41''$  East 15.00 feet, thence South  $89^{\circ}52'19''$  East 45.00 feet, thence South  $00^{\circ}07'41''$  West 15.00 feet, thence North  $89^{\circ}52'19''$  West 22.50 feet to the True Point of Beginning.

PARCEL E:

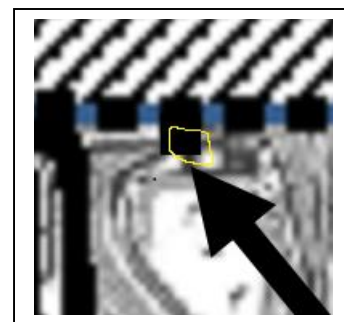
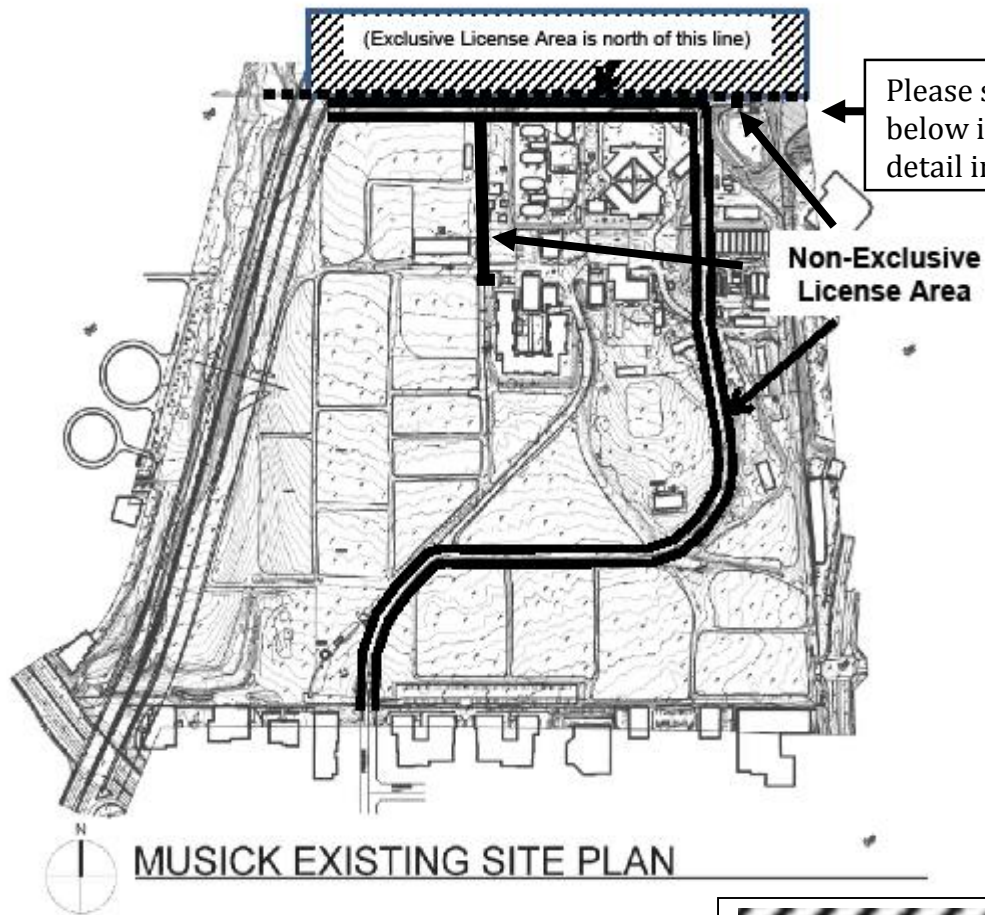
An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North  $49^{\circ}16'23''$  West, 189.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence North  $32^{\circ}20'12''$  West 94.00 feet, thence North  $58^{\circ}40'57''$  West 23.50 feet to the point of termination. The sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of previously described Parcel D included herewith.

Subject to covenants, conditions, reservations, rights-of way and easements, if any of record.

[Depiction of Non-Exclusive License Areas]

The electrical connections, existing road and existing parking lots identified in the plat below are the *only* Non-Exclusive License Areas authorized by this License and by the County of Orange. The electrical connections shall include electrical enclosures, panels, conduit and wiring and service interconnect to electrical panels as installed in 2012. The road and parking lots shall be used for access, ingress and egress to and from the Exclusive License Area for purposes of Construction and maintenance of facilities on the Exclusive and Non-Exclusive License Areas, for



**Exhibit C**  
(Depiction of Site)



**Exhibit D**

(Form of SNDA)

See Attached

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

OC Solar 2010, LLC  
7777 Center Avenue, Suite 200  
Huntington Beach, CA 92647

---

(Space above for Recorder's Use) This document  
is exempt from the payment of a recording fee  
under Section 27383 of the Government Code

**SUBORDINATION AND NONDISTURBANCE AGREEMENT  
(ORANGE COUNTY JAMES A. MUSICK JAIL PROJECT)**

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR LIEN OR  
CHARGE IN THE LAND AND IMPROVEMENTS BECOMING SUBJECT TO AND OF  
LOWER PRIORITY THAN THE LIENS OF THE INSTRUMENTS REFERENCED  
BELOW.**

THIS SUBORDINATION AND NONDISTURBANCE AGREEMENT (this "Agreement") is dated as of \_\_\_\_\_, 20\_\_ for reference purposes only and is by and among County of Orange, a political subdivision of the State of California, (the "County"), BA LEASING BSC, LLC, a Delaware limited liability company (the "Licensee" or "BA Leasing"), OC Solar 2010, LLC, a California limited liability company (the "Sublicensee" or "OC Solar"), State Public Works Board of the State of California (the "Board"), and the Department of Corrections of the State of California (the "Department"), each a "Party," collectively the "Parties."

**WITNESSETH:**

WHEREAS, the County is the owner of certain real property located in Orange County, California (the "Property"), as more particularly described in Exhibit A, attached hereto and incorporated herein by this reference; and

WHEREAS, the County granted to OC Solar, among other things, a non-exclusive irrevocable license in a portion of the Property (the "Premises") as depicted and described in Exhibit B, attached hereto and incorporated herein by this reference (the "Non-Exclusive License Areas"), for the purpose of access, ingress and egress to facilitate the installation, operation, maintenance, improvement and replacement of a solar energy facility, dated January 30, 2012 and recorded on June 26, 2012, as Instrument No. 2012000360219, in the Official Records of Orange County, California (the "Original Site License Agreement," as amended by the First Amendment to Solar Site License Agreement dated \_\_\_\_\_, 20\_\_ and recorded on \_\_\_\_\_, 20\_\_, as Instrument No. \_\_\_\_\_, in the Official Records of Orange County, California, the "Amended Site License Agreement"); and

WHEREAS, OC Solar assigned, transferred, conveyed and delivered to BA Leasing all of OC Solar's right, title and interest in and to the Original Site License Agreement pursuant to the Assignment of Solar Site License Agreement, dated as of December 19, 2012 and recorded on December 20, 2012, as Instrument No. 2012000789054 in the Official Records of Orange County, California; and

WHEREAS, BA Leasing, as licensee, subject to the provisions of the Original Site License Agreement, granted to OC Solar, as sublicensee, a sublicense to the Premises pursuant to the Site Sublicense Agreement, dated as of December 19, 2012 and recorded on December 20, 2012, as Instrument No. 2012000789059 in the Official Records of Orange County, California; and

WHEREAS, the County intends to design, construct and finance the James A. Musick Facility jail construction project Phase II (Phases 1 and 2) on a portion of the Property (the "Site"), as more particularly described in Exhibit C, attached hereto and incorporated herein by this reference, pursuant to Assembly Bill ("AB") 900 and Senate Bill ("SB") 1022 (the "Project") through issuance of lease revenue bonds (the "Bonds") by the State Board of Public Works (the "Board"), which will be secured in part by the "Financing Leases" (defined below) that will encumber the Site; and

WHEREAS, as a condition to issuing the Bonds, the Board requires that BA Leasing and OC Solar (together the "Lienholders") subordinate their interests in the Non-Exclusive License Areas to the liens of the Financing Leases; and

WHEREAS, in consideration for the Lienholders' agreement to subordinate their interests in Site to the liens of the Financing Leases, the Board and the Department each on behalf of itself and any of its successors or assignees agrees to recognize the Lienholders' license interests in the Exclusive License Areas (as defined in the Amended Site License Agreement) and Non-Exclusive License Areas under the terms and conditions contained in the Amended Site License Agreement and Site Sublicense Agreement upon the Board's and/or the Department's and each of its successors or assignees repossession of the Site under the Financing Leases;

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other valuable consideration, the parties hereto mutually agree, as follows:

A G R E E M E N T:

**SECTION 1. Incorporation of Recitals.** The foregoing recitals are true and correct and are incorporated into this First Amendment by this reference.

**SECTION 2. Subordination.** The Amended Site License Agreement (but only to the extent related to the Site) and Site Sublicense Agreement (but only to the extent related to the Site), and all of the Lienholders' right, title, and interest in and to the Site thereunder shall be, and the same are expressly made subject to, subordinate and inferior to

documents evidencing the obligations securing the Project, including, but not limited to, (i) the ground lease between the County, as lessor, and the Department, as lessee, dated as of \_\_\_\_\_, 20\_\_\_\_, as it may be amended from time to time (the "Ground Lease"); (ii) the site lease between the Department, as lessor, and the Board, as lessee, as it may be amended from time to time (the "Site Lease"), (iii) the lease of the Site and the Project between the Board, as lessor, and the Department, as lessee, dated as of \_\_\_\_\_, 20\_\_\_\_, as it may be amended from time to time (the "Facility Lease"), and (iv) each and every other document evidencing the Bonds and to all extensions, renewals, modifications, consolidations and replacements of the Bonds (the "Additional Financing Agreements"). The Ground Lease, Site Lease, Facility Lease and Additional Financing Documents are collectively referred to as the "Financing Leases".

**SECTION 3. Nondisturbance and Recognition.** So long as the Amended Site License Agreement and/or Site Sublicense Agreement are in full force and effect, neither the Board nor the Department shall, in the exercise of any of the rights arising from or which may arise out of the Financing Leases, disturb or deprive BA Leasing or OC Solar of its use of the Exclusive and Non-Exclusive License Areas and the System (as defined in the Amended Site License Agreement) located thereon as provided in the Amended Site License Agreement or Site Sublicense Agreement. As a material consideration for BA Leasing's and OC Solar's agreement to subordinate its interest in the Non-Exclusive License Areas as set forth in Section 2 above, the Board and the Department acknowledge and agree as follows: (a) neither the Board nor the Department shall have any interest in the System or the Exclusive License Areas and neither the Board nor the Department shall gain any interest in the System or the Exclusive License Areas by virtue of a party's performance or breach under the Amended Site License Agreement or the Financing Leases, (b) notwithstanding the subordination pursuant to Section 2 above, the rights granted to the Licensee under the Amended Site License Agreement constitute an irrevocable license that runs with the License Areas and the Property (each as defined in the Amended Site License Agreement) throughout the term of the Amended Site License Agreement, and (c) provided that Licensee is not in default under the terms of the Amended Site License Agreement beyond the expiration of any applicable grace or cure period set forth under the Amended Site License Agreement, notwithstanding the subordination pursuant to Section 2 above, Licensee's right of peaceable and quiet use and enjoyment of the License Areas shall not be disturbed by the Board or the Department.

**SECTION 4. Entire Agreement; Amendment.** This Agreement constitutes the full and complete agreement and understanding by and between the Parties relative to the subject matter of this Agreement and shall supersede all prior communications, representations, understandings or agreements, if any, whether oral or written, concerning the subject matter, and may not be modified or amended in whole or in part, except by a written instrument executed by all of the parties hereto, with the consent of the Board.

**SECTION 5. Recordation of Agreement.** This Agreement may be recorded in the Official Records of Orange County, State of California.

**SECTION 6. Governing Law.** This Agreement, and the parties' performance under this Agreement, shall be exclusively governed by the laws of the State of California without regard to its conflict of law provisions.

**SECTION 7. Binding Effect.** All of the covenants, agreements, terms and conditions to be observed and performed by the parties hereto shall inure to the benefit of, be applicable to and binding upon their respective heirs, personal representatives, successors and assigns.

**SECTION 8. Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

*[SIGNATURES TO THIS AGREEMENT FOLLOW ON NEXT PAGE]*



IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives to be effective as of the date written below.

**COUNTY**  
**COUNTY OF ORANGE**

By: \_\_\_\_\_  
Scott D. Mayer,  
Chief Real Estate Officer

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

**APPROVED AS TO FORM:**  
**OFFICE OF COUNTY COUNSEL**

By: \_\_\_\_\_  
Deputy

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

**LICENSEE**  
**BA LEASING BSC, LLC**  
A Delaware Limited Liability Company

By: \_\_\_\_\_  
Laurene N. Cockett  
Vice President

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

**SUBLICENSEE**  
**OC SOLAR 2010, LLC**  
A California limited Liability Company

By: \_\_\_\_\_  
Authorized Signatory

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

**DEPARTMENT**  
**DEPARTMENT OF CORRECTIONS OF THE**  
**STATE OF CALIFORNIA**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

**APPROVED AS TO FORM:**  
**DEPARTMENT OF GENERAL SERVICES**

By: \_\_\_\_\_  
Counsel

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

**BOARD**  
**STATE PUBLIC WORKS BOARD OF THE**  
**STATE OF CALIFORNIA**

By: \_\_\_\_\_  
Koreen Hansen  
Deputy Director

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

**APPROVED AS TO FORM:**  
**DEPARTMENT OF FINANCE**

By: \_\_\_\_\_  
Counsel

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

Acknowledgement

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

STATE OF CALIFORNIA                             )  
   )    ss.  
COUNTY OF \_\_\_\_\_                    )

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

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

WITNESS my hand and official seal

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

Acknowledgement

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

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,

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

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WITNESS my hand and official seal

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Acknowledgement

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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,

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 ) ss.  
COUNTY OF \_\_\_\_\_ )

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WITNESS my hand and official seal

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SIGNATURE OF NOTARY PUBLIC

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STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public,

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

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

WITNESS my hand and official seal

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

**Exhibit A**

(Legal Description of Property)

PARCEL A:

ALL THAT PORTION OF LOTS 299, 300, 301 AND 302 OF BLOCK 174 OF IRVINE'S SUBDIVISION, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP THEREOF RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL 5 IN A COURT JUDGMENT RECORDED IN BOOK 2567, PAGE 100 ET SEQ., OFFICIAL RECORDS OF SAID COUNTY; THENCE NORTH 49°16'43" WEST, ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 5, A DISTANCE OF 1699.13 FEET; THENCE SOUTH 56°45'11" WEST 2172.04 FEET; THENCE SOUTH 49°16'43" EAST AND PARALLEL WITH SAID SOUTHWESTERLY LINE, A DISTANCE OF 2474.14 FEET TO THE SOUTHEASTERLY LINE OF SAID BLOCK 174; THENCE NORTH 35°55'31" EAST ALONG SAID SOUTHEASTERLY LINE, 2094.91 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID LAND WITH THE SOUTHEASTERLY LINE OF MUSICK (FORMERLY FAIRBANKS), 56 FEET WIDE, AS SHOWN ON PARCEL MAP NO. 88-105, AS PER MAP FILED IN BOOK 235, PAGES 33 AND 34 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL MAP AND ITS SOUTHEASTERLY EXTENSION, HAVING A BEARING OF NORTH 49°16'36" WEST, SAID LINE ALSO BEING THE SOUTHWESTERLY LINE OF SAID LAND, SOUTH 49°16'36" EAST 723.00 FEET; THENCE, AT RIGHT ANGLES, NORTH 40°43'24" EAST 84.00 FEET TO A LINE PARALLEL TO AND 84.00 FEET NORTHEASTERLY OF SAID SOUTHWESTERLY LINE; THENCE NORTH 49°16'36" WEST 667.00 FEET; THENCE, AT RIGHT ANGLES, SOUTH 40°43'24" WEST 54.00 FEET TO A LINE PARALLEL TO AND 30.00 FEET NORTHEASTERLY OF SAID SOUTHWESTERLY LINE; THENCE NORTH 49°16'36" WEST 56.00 FEET; THENCE SOUTH 40°43'24" WEST 30.00 FEET TO THE POINT OF BEGINNING.

APN: 591-073-14

PARCEL B:

THAT PORTION OF PARCEL 2, IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS DESCRIBED IN THE QUITCLAIM DEED RECORDED JULY 12, 2005 AS INSTRUMENT NO. 2005-536290 OF OFFICIAL RECORDS, ALSO BEING PORTIONS OF LOT 300, BLOCK 174 AND LOT 313, BLOCK 175 OF IRVINE'S SUBDIVISION AS SHOWN ON A MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALL AS SHOWN ON RECORD OF SURVEY NO. 2007-1206 FILED IN BOOK 225, PAGES 29 THROUGH 42, INCLUSIVE



OF RECORDS OF SURVEYS IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF PARCEL 5 AS DESCRIBED IN THE DECREE ON DECLARATION OF TAKING RECORDED AUGUST 2, 1953 IN BOOK 2567, PAGE 100 OF SAID OFFICIAL RECORDS; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 5, NORTH 49°15'58" WEST 1876.03 FEET TO AN ANGLE POINT IN THE DEPARTMENT OF THE INTERIOR SURVEY LINE AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG SAID SURVEY LINE THE FOLLOWING COURSES: SOUTH 84°39'33" EAST 132.95 FEET, SOUTH 23°59'33" EAST 37.00 FEET, NORTH 65°30'27" EAST 184.71 FEET, NORTH 21°00'38" WEST 83.12 FEET, NORTH 69°01'28" EAST 155.00 FEET, SOUTH 20°59'01" EAST 64.95 FEET, NORTH 67°20'25" EAST 612.09 FEET, NORTH 88°47'12" EAST 78.92 FEET, NORTH 64°39'40" EAST 290.62 FEET, NORTH 44°39'40" EAST 34.25 FEET, NORTH 75°54'40" EAST 257.59 FEET, NORTH 55°14'49" EAST 103.32 FEET, NORTH 79°45'32" EAST 265.63 FEET, NORTH 78°20'32" EAST 165.87 FEET, NORTH 82°24'51" EAST 320.35 FEET AND NORTH 76°05'38" EAST 476.69 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 313, ALSO BEING THE NORTHWESTERLY LINE OF THE RANCHO CANADA DE LOS ALISOS; THENCE ALONG SAID SOUTHEASTERLY LINE, THE SOUTHEASTERLY LINE OF SAID LOT 300 AND SAID RANCHO LINE, SOUTH 35°55'21" WEST 2559.18 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN PARCEL II-V AS DESCRIBED IN SAID QUITCLAIM DEED.

APN: 591-133-18

**Exhibit B**

## (Legal Description of Non-Exclusive License Areas)

**PARCEL A:**

An easement for underground cables and electrical tie in equipment purposes over that portion of that certain property in the County of Orange, State of California, deeded to the County of Orange, State of California, by The Irvine Company in deed recorded January 20, 1961 in Book 5598, Page 163, Official Records of said County, all as shown on Record of Survey No. 94-1032 filed in Book 151, Pages 42 through 45, inclusive, of Record of Surveys in the office of said County Recorder, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 1006.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence South 42°19'19" West 140.00 feet, thence South 44°31'45" West 194.00 feet, thence South 43°54'27" West 230.00 feet, thence South 37°32'09" West 84.50 feet, thence South 47°30'46" East 70.00 feet, thence South 18°53'04" East 6.25 feet, thence South 48°18'53" East 5.00 feet, to the point of termination. The sidelines of said strip shall terminate at a point perpendicular to said last course.

**PARCEL B:**

An easement for underground cables and electrical tie in equipment purposes over that portion of that certain property in the County of Orange, State of California, deeded to the County of Orange, State of California, by The Irvine Company in deed recorded January 20, 1961 in Book 5598, Page 163, Official Records of said County, all as shown on Record of Survey No. 94-1032 filed in Book 151, Pages 42 through 45, inclusive, of Record of Surveys in the office of said County Recorder, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 189.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence South 32°20'12" East 27.46 feet, thence South 49°16'23" East 20.09 feet, thence South 25°34'29" East 28.93 feet, thence South 40°43'37" West 14.18 feet to the point of termination at the northeasterly face of existing building. The sidelines of said strip shall terminate at a point perpendicular to said last course.

**PARCEL C:**

An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official

Records, in the office of the County Recorder of said County, and being a strip of land, 15.00 feet wide, lying 7.50 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 1006.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence North 42°19'19" East 26.00 feet, thence North 49°25'05" West 40.00 feet to the point of termination. The sidelines of said strip shall terminate at a point perpendicular to said last course.

PARCEL D:

An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, described as follows:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 189.00 feet along the southwesterly line of said parcel, thence North 32°20'12" West 94.00 feet, thence North 58°40'57" West 23.50 feet to the True Point of Beginning, thence North 89°52'19" West 22.50 feet, thence North 00°07'41" East 15.00 feet, thence South 89°52'19" East 45.00 feet, thence South 00°07'41" West 15.00 feet, thence North 89°52'19" West 22.50 feet to the True Point of Beginning.

PARCEL E:

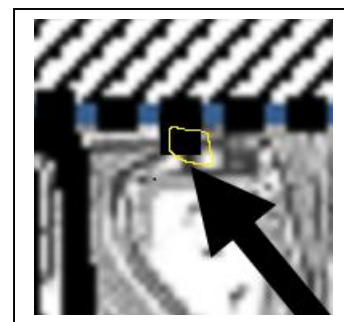
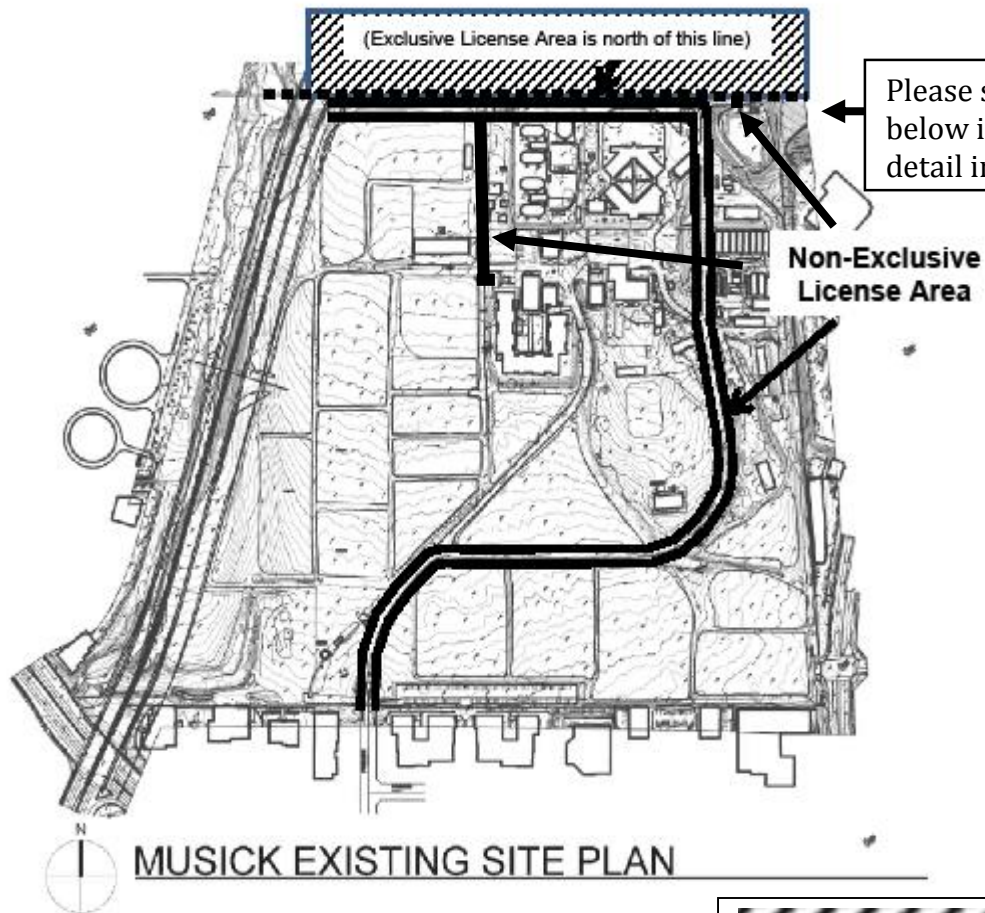
An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 189.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence North 32°20'12" West 94.00 feet, thence North 58°40'57" West 23.50 feet to the point of termination. The sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of previously described Parcel D included herewith.

Subject to covenants, conditions, reservations, rights-of way and easements, if any of record.

(Non-Exclusive License Areas)

The electrical connections, existing road and existing parking lots identified in the plat below are the *only* Non-Exclusive License Areas authorized by this License and by the County of Orange. The electrical connections shall include electrical enclosures, panels, conduit and wiring and service interconnect to electrical panels as installed in 2012. The road and parking lots shall be used for access, ingress and egress to and from the Exclusive License Area for purposes of Construction and maintenance of facilities on the Exclusive and Non-Exclusive License Areas. for



**Exhibit C**

(Depiction of Site)



**SOLAR SITE LICENSE AGREEMENT**  
**(Orange County James A. Musick Facility)**

THIS SOLAR SITE LICENSE AGREEMENT (this "License Agreement"), dated as of January 30, 2012 (the "Effective Date"), by and between OC SOLAR 2010, LLC, a California limited liability company ("Seller"), and the COUNTY OF ORANGE, a political subdivision of the State of California ("County"). Seller and County are sometimes individually referred to as a "Party" and collectively as the "Parties."

**RECITALS**

WHEREAS, County is the owner of certain real property in Orange County, California ("Property") as more particularly described in Exhibit A, a portion of which will be used for installation, operation and maintenance of a solar energy facility (the "Premises");

WHEREAS, County desires to implement systems which will help control energy consumption and costs on its property;

WHEREAS, subject to the terms and conditions of a Power Purchase Agreement dated \_\_\_\_\_, 201\_ between County and Seller (as amended, modified and in effect from time to time, the "PPA"), County has engaged Seller for the installation, operation and maintenance of a solar energy facility (the "System"), as further described in Exhibit D, on the Premises;

WHEREAS, Seller desires to sell to County and County desires to purchase from Seller, the Energy Output generated by the System during the Term in accordance with the terms and conditions of the PPA;

WHEREAS, in order to construct, install, operate and maintain the System, Seller requires access to the Premises;

WHEREAS, in connection with the foregoing, Seller desires licenses from County in order to install, operate and maintain the System in furtherance of Seller's obligations under the PPA and County is willing to grant such licenses to Seller pursuant to the terms set forth herein;

WHEREAS, capitalized terms used but not defined herein (including in the recitals) shall have the respective meanings ascribed to them in the PPA;

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the sufficiency of which is acknowledged by both Parties, the Parties agree as follows:

## ARTICLE 1 GRANT OF LICENSE

Section 1.1 Exclusive License Areas. County hereby grants to Seller, in accordance with the terms and conditions set forth herein, an exclusive and irrevocable (provided that this License Agreement may be terminated as expressly set forth herein and in the PPA) license (an “Exclusive License”) on, over and across the areas of the Premises described in Exhibit B (the “Exclusive License Areas”) for Seller's installation, operation, maintenance, improvement and replacement of the System on the Premises, provided however, that County shall have the right to enter the Exclusive License Areas as described in Section 1.3 below. In the event any such Exclusive License Area is within a facility that is operated by the Orange County Sheriffs Department, Seller will have to comply with any and all policies and procedures then currently in place.

Section 1.2 Non-Exclusive License Areas. County hereby grants to Seller a non-exclusive and irrevocable (provided that this License Agreement may be terminated as expressly set forth herein and in the PPA) license (a “Non-Exclusive License” and together with the Exclusive License, the “Licenses”) on, over and across the general-use areas of the Premises described in Exhibit C (the “Non-Exclusive License Areas” and together with the Exclusive License Areas, the “License Areas”) for the purpose of access, ingress and egress to facilitate the installation, operation, maintenance, improvement and replacement of the System. County agrees to maintain the Non-Exclusive License Areas, including roads, driveways and walkways located in and around the Premises in accordance with County’s regular maintenance schedules and procedures for proper ingress and egress to and from the License Areas. Seller shall observe all speed limits and other rules and regulations established by County with respect to the License Areas and such roads and driveways existing on the Premises. In the event any such Non-Exclusive License Area is within a facility that is operated by the Orange County Sheriffs Department, Seller will have to comply with any and all policies and procedures then currently in place.

Section 1.3 County Right of Entry. Subject to the terms and conditions of this License Agreement, County shall have the right to enter the License Areas at any time provided that County does not interfere with the installation, operation or maintenance of the System.

Section 1.4 License Areas. Prior to Seller's installation of the System, Seller shall have inspected the License Areas and satisfied itself that the License Areas are in a condition ready for Seller's installation of the System. Seller shall have the right to terminate this License Agreement any time prior to the installation of the System if it determines, in its sole discretion, that the License Areas are not in a condition ready for the Seller’s installation of the System.

## ARTICLE 2 TERM

Section 2.1 Commencement and Expiration. The term (“Term”) of this License Agreement shall commence on the Effective Date and shall terminate ninety (90) days after the earliest to occur of (i) the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date applicable to the Premises and the System if the Parties do not exercise the option to extend the Term, or the twenty-fifth (25<sup>th</sup>), thirtieth (30<sup>th</sup>) or thirty-fifth (35<sup>th</sup>) anniversaries of the Commercial Operation Date applicable to the Premises and the System, depending on how many options to extend are exercised by the Parties, (ii) the County’s exercise of the purchase option contained in Section 13.1 of the PPA or (iii) the Early Termination Date (as defined in Sections 1.1 and 9.2 of the PPA), if the County terminates the PPA as a result of a default by Seller pursuant to Section 9.2 thereof and elects to cause Seller to remove the System in accordance with Section 9.3(a) of the PPA. If the Commercial Operation Date has not occurred by December 31, 2015 and this License Agreement has not already been terminated, then this License Agreement and the Term shall automatically terminate on December 31, 2015.

Section 2.2 Expiration of PPA. The expiration of the PPA is defined in Article II of the PPA and repeated here for convenience. The Initial Term of the PPA expires twenty (20) years from the Commercial Operation Date unless extended or terminated earlier pursuant to the terms of the PPA.

## ARTICLE 3 CONSTRUCTION OF SYSTEM

Section 3.1 Construction and Installation. County hereby consents to the construction and installation of the System by Seller on the License Areas in accordance with the terms and conditions of Article V of the PPA and Seller agrees to abide by said terms and conditions. County shall cooperate with Seller and provide information on underground utilities in preparation for installing the System. Seller is not liable for damages to underground utilities that have not been disclosed to Seller by County.

Section 3.2 Maintenance and Repair of System. Seller shall, at Seller's sole cost, maintain, clean, repair, replace and dispose of part or all of the System in accordance with the terms and conditions of Article VI of the PPA. In the event that airborne dirt, dust or other debris from the construction activities related to County’s project (the “Construction Activities”) necessitate the washing of the System more often than the Seller’s periodic washing, in Seller’s reasonable judgment, the County shall pay or reimburse the Seller for all reasonable costs incurred in connection with such washings within thirty (30) days after written demand made by the Seller. Any demand under this Section shall provide reasonable supporting evidence of the Seller’s determination that the Construction Activities necessitated the washing of the System and shall also detail the cleaning schedule the Seller has employed to wash the System in the year prior to the demand. The parties hereby acknowledge and agree that during the Construction Activities, the Seller’s records showing that the System needs to be washed more often than it has in the past, as well as records showing a decrease in the output production



levels of the System shall constitute adequate reasonable supporting evidence that the washing of the System was necessary and was necessitated by airborne dirt, dust or other debris from the Construction Activities; provided, however, that the Seller shall not be prevented from showing other reasonable supporting evidence in addition to the washing of the System and production levels to substantiate the need for any additional cleanings based upon the Construction Activities. The County (not the Seller) shall thereafter have the burden to prove with unequivocal documentation that any additional washing(s) conducted by the Seller was either (i) not necessary, or (ii) was not necessitated by airborne dirt, dust or other debris from the Construction Activities; provided, however, that the Seller agrees to reasonably cooperate with the County regarding any information requested by the County relating to historical System production levels or other reasonable information relating to the washing of the System. In the event the County fails to perform any of its obligations under this Section, upon proper demand within the time frames required herein, such failure shall be considered to be an Event of Default under this License Agreement and Seller have all rights and remedies available to it under Section 8.2 of this License Agreement.

Section 3.3 Failure to Maintain Exclusive License Areas. If Seller fails to maintain the Exclusive License Areas in good order and if such failure continues for thirty (30) days after Seller's receipt of written notice from County (which 30-day period shall be extended for the time reasonably required to cure the failure if the cure requires more than 30 days, as long as Seller has commenced and is diligently pursuing such cure to completion), then County may (but shall not be obligated to) perform such work in a commercially reasonable manner. In such event, Seller shall reimburse County upon demand for the reasonable costs incurred by County. Notwithstanding the foregoing, County shall not have the right to terminate this License Agreement or any of Seller's rights, duties or obligations hereunder for such Seller failure to maintain the Exclusive License Areas in good order.

Section 3.4 Entry Requirements. Seller shall comply with the following requirements prior to entry onto the License Areas in connection with the construction, installation, operation and maintenance of the System. Seller, along with all requirements of the PPA, shall:

(a) except in cases of emergency, provide forty-eight (48) hours' prior written notice to the appropriate Project site administrator, whose name and contact information shall be provided to Seller, before any entry onto the License Areas by Seller's employees, agents or contractors;

(b) perform all construction, installation, operation and maintenance work in connection with the System in a safe manner;

(c) not permit any hazardous condition to remain on the License Areas;

(d) not bring or permit to be brought any Hazardous Material (as defined below) in violation of applicable federal, state or local law, onto the License Areas;

(e) repair any damage or disturbance to the License Areas caused by Seller;

(f) keep the License Areas free and clear of all mechanics' and materialmen's liens arising out of Seller's activities (provided that if any such lien is filed, Seller shall have the right to contest the same so long as Seller provides a bond for the amount of such lien);

(g) procure and maintain, or use contractors who maintain, during all periods of entry pursuant to this section, general liability and property damage insurance as required by the PPA, and naming County as additional insured; and

(h) obtain and maintain, and cause each contractor and subcontractor performing construction, installation, operation or maintenance work in the License Areas to obtain and maintain Worker's Compensation insurance as required by law. Seller shall deliver to County a certificate evidencing such insurance and providing that such coverage shall not be terminated or modified without at least thirty (30) days' prior written notice to County.

Section 3.5 Storage. County shall provide a site in close proximity to the License Areas for the storage and assemblage of materials for the construction and installation the System.

Section 3.6 Construction Parking. County shall cooperate with Seller to locate sufficient parking spaces that are in close proximity to the License Areas as reasonably necessary for Seller's and its contractors' and subcontractors' construction vehicles and trailers.

Section 3.7 Removal of Materials. Upon completion of construction of the System, Seller shall remove all remaining materials from the License Areas and shall use commercially reasonable efforts to restore the License Areas as nearly as reasonably possible to the condition in which it existed immediately prior to the commencement of such activity.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES, COVENANTS OF COUNTY**

Section 4.1 Authorization; Enforceability. The execution and delivery by County of, and the performance of its obligations under, this License Agreement have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other person, and to County's current knowledge do not contravene any provision of, or constitute a default under, any indenture, mortgage or

other material agreement binding on County or any valid order of any court, or regulatory agency or other body having authority to which County is subject. This License Agreement constitutes a legal and valid obligation of County, enforceable against County in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity whether such enforceability is considered in a proceeding in equity or at law.

Section 4.2 County's Interest in Property. County represents, warrants and covenants that County has lawful title to (or a valid leasehold interest in) the Property and License Areas and that throughout the Term of this License Agreement, provided that no default by Seller has occurred and be continuing beyond the expiration of applicable notice and cure periods, Seller shall enjoy quiet and peaceful use and enjoyment of the License Areas pursuant to the Licenses granted herein, free from any claim of any entity or person of superior title thereto without hindrance to or interference with or molestation of Seller's quiet enjoyment thereof, and neither County nor any person claiming by, through or under County shall disturb Seller's quiet and peaceful use and enjoyment of the License Areas pursuant to the Licenses granted herein.

(a) To the extent County's interest in any of the License Areas is a leasehold interest, County shall cause each landlord (each a "County's Lessor") of each such portion of the License Area to execute and deliver an amendment to the County's lease agreement or such other documentation as is reasonably acceptable to Seller pursuant to which such County's Lessor shall: (i) acknowledge and consent to the Seller's rights in the License Areas and the Property and the terms of this License Agreement, (ii) acknowledge that such third party has no interest in the System or Licenses and shall not gain any interest in the System or Licenses by virtue of the Parties' performance or breach of this License Agreement, (iii) subordinate such County's Lessor's interest in the License Areas or Property to the Licenses and this License Agreement, (iv) acknowledge that Seller's rights in the License Areas and Property granted hereunder constitute an irrevocable license (provided that this License Agreement may be terminated as expressly set forth herein and in the PPA) that shall run with such License Areas and Property throughout the Term of this License Agreement, notwithstanding any sale, lease, transfer, assignment, mortgage, pledge or other alienation or encumbrance by such County's Lessor of the License Areas or Property and (v) provide that so long as Seller shall not be in default under this License Agreement beyond the expiration of any applicable grace or cure period provided for hereunder, Seller's right of peaceable and quiet use and enjoyment of the License Areas and Property pursuant to the Licenses herein granted by County shall not be disturbed by such County's Lessor.

(b) To the extent County is the fee simple owner of the Property and the License Areas, County shall not sell, lease, assign, mortgage, pledge or otherwise alienate or encumber the Property or the License Areas in a way that would disturb the rights conferred to Seller pursuant to this License Agreement and the PPA unless County shall have given Seller at least fifteen (15) days' prior written notice

thereof, which notice shall identify the transferee, the Property or the License Areas to be so transferred and the proposed date of transfer. In furtherance of the foregoing, County agrees that it shall cause any purchaser, lessee, assignee, mortgagee, pledgee or other party to whom a lien or other security interest in the License Areas or Property has been granted that would disturb the rights conferred to Seller pursuant to this License Agreement to execute and deliver to Seller an SNDA containing the terms set forth in Section 4.6.

Section 4.3 No Interference With and Protection of System. County represents and warrants to Seller that there are no circumstances presently known to County or commitments to third parties that may damage, impair or otherwise adversely affect the System or its construction, installation, or function (including activities that may adversely affect Insolation, as defined below). County will not initiate, conduct or permit activities on, in or about the License Areas or the Property that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System. County shall take all reasonable steps to limit access to the License Areas to County staff, Seller and Seller's employees, agents and representatives. County shall not interfere with or handle any Seller equipment (including wireless/cellular internet connectivity equipment exclusively used for the System) or the System without written authorization from Seller; provided, however, that County shall at all times have access to and the right to observe the construction and installation work or System removal.

Section 4.4 Maintenance of License Areas. County shall keep areas of the License Area that are under its control in good order and condition. County shall give Seller prompt notice of any damage to or defective condition in any part or appurtenance of the License Areas that is reasonably likely to affect the System (including electrical, telephone, internet and water facilities and systems located within or serving the License Areas). In addition to maintenance of the System itself, Seller shall also be responsible for maintenance of any security cameras and related equipment that Seller installs on the License Areas pursuant to Section 3.1.

Section 4.5 Insolation. County acknowledges and agrees that access to sunlight ("Insolation") is essential to the System. Accordingly, County shall take commercially reasonable actions as necessary to prevent any interference with Insolation on and at the License Areas, specifically in the air space above the System. Without limiting the foregoing, County shall not construct or permit to be constructed any structure on the License Areas that could adversely affect Insolation levels or permit the growth of foliage that could adversely affect Insolation levels. Although not obligated to monitor such activity, if County becomes aware of any potential development or other activity on adjacent or nearby properties that could diminish the Insolation to the License Areas, County shall advise Seller of such information and reasonably cooperate with Seller in measures to preserve existing levels of Insolation at the License Areas. Notwithstanding any other provision of this License Agreement, the Parties agree that (i) Seller would be irreparably harmed by a breach of the provisions of this Section 4.5, (ii) an award of damages would be inadequate to remedy such a breach, and (iii) Seller shall

be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 4.5.

**Section 4.6 Liens and Encumbrances.** County covenants that it will not cause, create, incur, assume, permit or suffer to exist any liens (including mechanics', labor or materialmen's liens), security interests or other encumbrances on the License Areas that will interfere with the Licenses and/or Seller's use and operation of the System. If County breaches its obligations under this Section 4.6, it shall immediately notify Seller in writing, shall promptly cause such liens to be bonded, discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in bonding, discharging and releasing such liens. County further covenants that with respect to any liens, security interests or other encumbrances to County's title that may impact the Licenses and/or the System and that are in effect as of the date hereof, County shall endeavour to enter into a subordination and non-disturbance agreement ("SNDA"), in recordable form approved by Seller (such approval not to be unreasonably withheld by Seller), with any third party who now has or may in the future obtain an interest in the License Areas or Property, including, without limitation, any lenders to County, County's Lessor or any lenders to the fee title owner, as applicable. Such SNDA shall (i) acknowledge and consent to the Seller's rights in the License Areas, the System and the Property and the terms of this License Agreement, (ii) acknowledge that such third party has no interest in the System or Licenses and shall not gain any interest in the System or Licenses by virtue of the Parties' performance or breach of this License Agreement, (iii) subordinate such third party's interest in the License Areas or Property to the Licenses and this License Agreement, (iv) acknowledge that Seller's rights in the License Areas and Property granted hereunder constitute an irrevocable license (provided that this License Agreement may be terminated as expressly set forth herein and in the PPA) that shall run with such License Areas and Property throughout the Term of this License Agreement, notwithstanding any sale, lease, transfer, assignment, mortgage, pledge or other alienation or encumbrance by such third party of the License Areas or Property and (v) provide that so long as Seller shall not be in default under this License Agreement and PPA beyond the expiration of any applicable grace or cure period provided for hereunder, Seller's right of peaceable and quiet use and enjoyment of the License Areas and Property pursuant to the Licenses herein granted by County shall not be disturbed by such third party. In the event such SNDA is not obtained on or before the Commercial Operation Date, Seller may terminate this Agreement; provided, that in the event of such termination, Seller shall, at its sole cost and expense, remove any System Assets from the License Areas.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES, COVENANTS OF SELLER**

**Section 5.1 Authorization; Enforceability.** The execution and delivery by Seller of, and the performance of its obligations under, this License Agreement have been duly authorized by all necessary action, do not and will not require any further consent or approval of any other person, and do not contravene any provision of, or constitute a

default under, any indenture, mortgage or other material agreement binding on Seller or any valid order of any court, or regulatory agency or other body having authority to which Seller is subject. This License Agreement constitutes a legal and valid obligation of Seller, enforceable against Seller in accordance with its terms, except as may be limited by bankruptcy, reorganization, insolvency, bank moratorium or laws relating to or affecting creditors' rights generally and general principles of equity whether such enforceability is considered in a proceeding in equity or at law.

Section 5.2 Compliance with Laws. Seller shall comply with all laws, ordinances, orders, rules and regulations (state, federal or local), including without limitation all environmental and occupational, health and safety requirements relating to Seller's use or occupancy of the License Areas and the operation and maintenance of the System.

Section 5.3 Maintenance and Repair. Seller shall maintain and repair the System in accordance with the requirements of Article VI of the PPA.

Section 5.4 Insurance. Seller shall maintain insurance for claims arising out of the ownership, use, or maintenance of the License Areas in the same amounts required in Section 8.2 of the PPA during the term of this License Agreement.

**ARTICLE 6**  
**HAZARDOUS MATERIAL; EMERGENCY; REVENUE AND TAX CODE**  
**NOTICE**

Section 6.1 Compliance. During the term of this License Agreement, the Parties shall comply with all federal, state and local laws, statutes, ordinances and regulations relating to the receipt, handling, use, storage, transportation, generation, discharge, release and disposal of Hazardous Material (as defined below).

Section 6.2 Notice. Neither Party shall introduce or use any Hazardous Material on, in or under the License Areas in violation of any applicable law or regulation. Notwithstanding the foregoing, Seller may keep on or about the License Areas quantities of any Hazardous Material that is used in the ordinary, customary and lawful construction, operation and maintenance of the System. If either Party becomes aware of any spillage, discharge, release or disposal of Hazardous Material onto or within the License Areas which by law must be reported to any federal, state or local agency, such Party shall promptly provide telephonic notice to the other Party of the type and location of such materials, and shall promptly confirm telephonic notice in writing.

Section 6.3 Seller Hazardous Material Indemnity. Seller shall be responsible for and shall indemnify, protect, defend and hold harmless County and County's employees, officers, agents, contractors and invitees (collectively, the "County's Parties") from any and all liability, damages, injuries, causes of action, claims, judgments, costs, penalties, fines, losses, and expenses which arise at any time and which result directly from Seller's or Seller's Parties' (as defined below) receipt, handling, use, storage,

transportation, generation, discharge, release and disposal of Hazardous Material in violation of any applicable law or regulation, in, on, under or about the License Areas (excluding all Hazardous Material existing in, on, under or about the License Areas and Property prior to Seller's or Seller's Parties' entry onto the License Areas under this License Agreement, which shall be the sole responsibility of County).

Section 6.4 County Hazardous Material Indemnity. County shall be responsible for and shall indemnify, protect, defend and hold harmless Seller and Seller's employees, officers, agents, contractors and invitees (collectively, the "Seller's Parties") from any and all liability, damages, injuries, causes of action, claims, judgments, costs, penalties, fines, losses, and expenses which arise at any time and which result directly from County's or County's Parties' receipt, handling, use, storage, transportation, generation, discharge, release and disposal of Hazardous Material in violation of any applicable law or regulation, in, on, under or about the License Areas and Property (including all Hazardous Material existing in, on, under or about the License Areas and Property prior to Seller's or Seller's Parties' entry onto the License Areas under this License Agreement).

Section 6.5 Survive Expiration. Seller's obligations under this Article 6 shall survive the expiration or earlier termination of this License Agreement.

Section 6.6 Definition of Hazardous Material. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1317), (iv) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et. seq. (42 U.S.C. Section 6903), or (v) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 9601 et. seq. (42 U.S.C. Section 9601).

Section 6.7 Revenue and Tax Code Notice. This License Agreement may result in the creation of a possessory interest. (Rev. & Tax. Code § 107.6) If such a possessory interest is vested in Seller in the License Areas, Seller shall be responsible for payment of any real or personal property taxes, possessory interest taxes, permit fees, business license fees and any and all fees and charges of any nature levied against the License Areas and the operations of Seller at any time. Seller shall be responsible for the payment of, and shall pay the same before becoming delinquent. Seller further agrees to prevent such taxes, assessments, fees, or other charges from giving rise to any lien against the License Areas or any improvement located on or within the License Areas. Nothing herein contained shall be deemed to prevent or prohibit Seller from contesting the validity or amount of any such tax, assessment, or fee in the manner authorized by law. If bills for taxes on the License Areas and the System thereon are received by the County, County shall immediately remit such bills to Seller. Any fee or

charge resulting from any possessory interest created hereby and/or the use and operation of the System on the License Areas shall be the responsibility of the Seller. In the event of any sale of the License Areas, Seller shall not be responsible for any taxes levied as a result of such sale.

## **ARTICLE 7 FACILITY SITE UTILITIES**

The Parties understand and acknowledge that pursuant to the terms of the PPA, County shall, at no additional cost to Seller, provide Seller with access to certain utilities on the License Areas related to the construction, installation, start-up, maintenance, repair, replacement and operation of the System. In connection therewith, and at no additional cost to County, Seller's use of the License Areas shall include the non-exclusive appurtenant right to the use of water lines, sewer lines, storm water lines, power lines, fuel lines, telephone and communication lines, pipelines, conveyors and drainage ditches or canal systems on, connected to or maintained in connection with the License Areas. County shall have the obligation to maintain and repair all utilities up to the delivery points identified in the PPA, and Seller shall have the obligation to maintain and repair all utilities, including all pipes, conduits, ducts, electric or other utilities, sinks or other apparatus through which any utility services are provided, from said delivery points to and then within the License Areas, but only to the extent the same are used by Seller. County is not required to purchase or install additional utilities pursuant to this License Agreement.

## **ARTICLE 8 EVENT OF DEFAULT; REMEDIES**

Section 8.1 Event of Default. If either Party fails to comply in any material respect with any term, provision or covenant of this License Agreement within thirty (30) days after written notice from the non-defaulting party, such uncured breach shall be an event of default ("Event of Default") under this License Agreement; provided that if such Event of Default cannot be cured within thirty (30) days, then the period to cure such Event of Default shall, subject to the non-defaulting Party's prior written consent, be extended by up to sixty (60) days so long as the defaulting Party diligently pursues reasonable remedial action and such Event of Default is reasonably capable of being remedied within such additional sixty (60)-day cure period.

Section 8.2 Remedies. Upon the occurrence of an Event of Default, after the expiration of any applicable cure periods, the non-defaulting Party shall be entitled to all rights and remedies available under Applicable Law and as set forth in the PPA.

## **ARTICLE 9 PERSONAL PROPERTY**

Section 9.1 Ownership. County and Seller agree that the System and all equipment, machinery and appurtenances placed and installed in the License Areas by



Seller that comprise the System shall remain the personal property of Seller, as more fully set forth in the PPA, that is severable from the License Areas and shall not be or become fixtures, notwithstanding the manner in which the System is or may be affixed to the real property of County. County shall not take any position on any tax return or on any other filings indicating or suggesting that it is anything other than a purchaser of electricity from the System. The System and its components may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered by County or any fee owner of the Property.

Section 9.2 Removal. Seller shall, within ninety (90) days following the end of the Term or earlier termination as provided herein, and at Seller's sole cost and expense, remove the System from the License Areas on a mutually convenient date, as set forth in the PPA (conditioned upon County's right to purchase the Systems). Seller and its agents, consultants, and representatives shall have access at all mutually agreed-upon times to the License Areas and the System for purposes of such removal. Seller is responsible to repair any and all damage caused by the removal of the System. The License Areas shall be returned as nearly as reasonably possible to their original condition, except for ordinary wear and tear. If the System is to be located on a roof, then in no case shall Seller's removal of the System affect the integrity of County's roof, which shall be as leak proof as it was prior to removal of the System (other than due to ordinary wear and tear).

## **ARTICLE 10 ASSIGNMENT; MORTGAGE**

Section 10.1 General. Subject to the transfer of ownership provisions in Section 4.2 above in the case of a transfer of ownership in the Property by County, either Party may assign this License Agreement pursuant to Sections 10.2 and 10.3 below, provided that any such assignee (i) assumes in writing the obligations of the assignor hereunder and under the PPA, and (ii) agrees to be bound by the terms of this License Agreement and the PPA. Any assignment made by either Party in violation of the provisions in this Article 10 shall be null and void and constitute an Event of Default.

Section 10.2 Assignment by Seller. This License Agreement and the rights of Seller pursuant to it may not be assigned by Seller without the prior written consent of County, which shall not be unreasonably withheld; provided, however, that (i) Seller may, without County's prior written consent, assign this License Agreement and the PPA to its Affiliates or as set forth in Section 10.4 or Section 10.7 and (ii) any assignment will not relieve Seller of any of its obligations hereunder.

Section 10.3 Assignment by County. Subject to Section 4.2, upon written consent of Seller, this License Agreement may be assigned by County to any Affiliate, provided, however, that any such assignment will not relieve County of any of its obligations hereunder.

Section 10.4 Right to Mortgage. Seller may, at any time and from time to time, without obtaining County's consent, hypothecate, mortgage, grant or pledge its right, title or interest hereunder or under the PPA to any License Mortgagee as security for the repayment of any indebtedness and/or the performance of any obligation (a "Mortgage"). As used herein, the term "License Mortgagee" collectively includes any financial institution or other person or entity that from time to time provides secured financing to Seller or Seller's Affiliates (as further described in Article XVII of the PPA), and any agent, security agent, collateral agent, indenture trustee, loan trustee, loan participant or participating or syndicated lenders involved in whole or in part in such financing, and their respective representatives, successors and assigns. County agrees to use its commercially reasonable efforts to cooperate with Seller in Seller's or Seller's Affiliates' efforts to obtain financing from an License Mortgagee.

Section 10.5 Notice To County. If Seller grants a Mortgage, it shall give notice of the same (including the name and address of the License Mortgagee) to County; provided, however that the failure to give such notice shall not constitute a default or Event of Default under this License Agreement or under the PPA but rather shall only have the effect of relieving County from any obligation to such License Mortgagee until such notice is given. County hereby consents to the recordation of the interest of the License Mortgagee on the Seller's interest created by the License Agreement and the PPA in the Official Records of Orange County, California, and further consents to the recordation of the assignment of Seller's interest to Lessor and lease of the Premises to Lessee in the Official Records of Orange County, California as contemplated by Section 10.7 hereof.

Section 10.6 License Mortgagee Protections. Notwithstanding any other provision of this License Agreement or the PPA:

(a) A License Mortgagee shall have the absolute right to do one, some or all of the following: (i) assign its Mortgage; (ii) enforce its Mortgage; (iii) acquire Seller's interests granted under the PPA and Seller's interests granted hereunder to the Licenses (whether by foreclosure, assignment in lieu of foreclosure or other means); (iv) operate the System on the License Areas; (v) assign or transfer Seller's rights and obligations hereunder and under the PPA to a third party, including a foreclosure transferee upon cure of payment and curable non-payment defaults of Seller hereunder, as long as such third party assumes all obligations of Seller hereunder and thereunder; (vi) exercise any rights of Seller hereunder and under the PPA or (vii) cause a receiver to be appointed to do any of the foregoing things. County's consent shall not be required for any of the foregoing (however, County shall be provided notice within ten (10) days); and, upon acquisition of this License Agreement and the PPA by an License Mortgagee or any other third party who acquires the same from or on behalf of the License Mortgagee, County shall recognize the License Mortgagee or such other party (as the case may be) as Seller's proper successor, and this License Agreement and the PPA shall remain in full force and effect.

(b) As a precondition to exercising any rights or remedies as a result of any real or alleged default or Event of Default by Seller hereunder or under the PPA, County shall deliver a duplicate copy of each and every notice of default to each License Mortgagee (at the last address(es) thereof provided in writing to County) concurrently with delivery of such notice of default to Seller, specifying in detail the default or Event of Default and the required remedy, if any.

(c) Each License Mortgagee shall have the same period of time after receipt of a notice of default to remedy a default or Event of Default hereunder or under the PPA, or cause the same to be remedied, as is given to Seller after Seller's receipt of a notice of default hereunder and under the PPA, provided, however, that such period shall be extended for the time reasonably required by the License Mortgagee to complete such cure, including the time reasonably required for the License Mortgagee to perfect its right to effect such cure. Each License Mortgagee shall have the absolute right to substitute itself for Seller and perform the duties of Seller hereunder and under the PPA for purposes of curing any default or Event of Default hereunder or under the PPA. County expressly consents to such substitution, agrees to accept such performance, and authorizes each License Mortgagee (and its respective employees, agents, representatives or contractors) to enter upon the License Areas consistent with this License Agreement and the PPA to complete such performance with all of the rights and privileges of Seller hereunder and under the PPA. County shall not terminate this License Agreement or the PPA prior to expiration of the cure periods available to each License Mortgagee as set forth herein.

(d) A License Mortgagee or any party who acquires Seller's interests hereunder and under the PPA pursuant to foreclosure or an assignment in lieu of foreclosure shall not have any obligation under this License Agreement or under the PPA prior to the time that such License Mortgagee or other party obtains Seller's interests granted under this License Agreement and under the PPA; and such License Mortgagee or other party shall be liable to perform obligations under this License Agreement and under the PPA only for and during the period of time that such License Mortgagee or other party directly holds such interests.

(e) County shall not agree to any material modification or amendment to this License Agreement or the PPA and County shall not accept a surrender or termination of this License Agreement or the PPA; in each such case without the prior written consent of each License Mortgagee of which County has been provided written notice.

(f) At Seller's request, County shall endeavor to amend this License Agreement and the PPA to include any provision that may reasonably be requested by an existing or proposed License Mortgagee, and shall execute such additional documents as may reasonably be required to evidence such License Mortgagee's rights hereunder and under the PPA. Further, County shall, satisfy the requirements of Section 12.6(b) and provide any existing or proposed License Mortgagee with an estoppel certificate and such certificate shall effect that County (i) recognizes

such entity as an License Mortgagee under this License Agreement and under the PPA and (ii) will accord to such entity all the rights and privileges of an License Mortgagee hereunder and under the PPA.

Section 10.7 Acknowledgment and Consent re Lease. County acknowledges that on or after the Effective Date, Seller intends to (a) transfer all of its right, title and interest in this License Agreement, the License Areas and the System to a third party (together with any successors and assigns, “Lessor”) which Lessor shall, in turn, lease the License Areas and System and all interest in this License Agreement to an affiliate of Seller (such affiliate and its successors and assigns, “Lessee”) pursuant to a lease between Lessor and Lessee (the “Lease”) and (b) transfer all of its right, title and interest in the PPA to Lessee, which Lessee shall pledge all of its right, title and interest in the PPA to Lessor as collateral security for its obligations under the Lease. County hereby consents to the transactions contemplated by the immediately preceding sentence. For purposes hereof, so long as Lessor is leasing the property to Lessee pursuant to the Lease, copies of all notices required to be delivered to Seller hereunder will be concurrently delivered to Lessor and Lessee at such addresses as are furnished by Lessor and Lessee, and Lessor shall have such additional time periods to cure or cause Lessee to cure any defaults hereunder as provided for in Section 10.6(c) of this License Agreement as a License Mortgagee would otherwise have. County shall have no obligation to deliver notices to any Lessor or Lessee unless they have notified County in writing of the address to which notice is to be delivered hereunder.

## **ARTICLE 11 INDEMNITY; LIMITATION ON LIABILITY**

Section 11.1 Indemnity. Each Party (the “Indemnifying Party”) agrees to indemnify, defend and hold harmless the other Party and such other Party’s mortgagees, affiliates, directors, officers, employees and agents (the “Indemnified Party”) from and against any and all claims, whether or not involving a third party claim, including demands, actions, damages, loss, costs, expenses and attorneys’ fees (collectively “Indemnity Claims”) arising out of or resulting from any breach, negligent act, error or omission or intentional misconduct by the Indemnifying Party or its mortgagees, affiliates, directors, officers, employees or agents, under the terms of this License Agreement or the PPA; provided, however, that the Indemnifying Party shall not have any obligation to indemnify the Indemnified Party from or against any Indemnity Claims to the extent caused by, resulting from, relating to or arising out of the negligence or intentional misconduct of the Indemnified Party or any of its mortgagees, affiliates, directors, officers, employees or agents.

Section 11.2 Limitation on Liability. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE DEFAULTING PARTY’S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. NEITHER PARTY SHALL

BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN.

## **ARTICLE 12 MISCELLANEOUS PROVISIONS**

Section 12.1 Applicable Law. This License Agreement shall be interpreted and governed by the laws of the state of California, without regard to conflict of laws provisions. Any dispute shall be resolved in accordance with Article XV of the PPA.

Section 12.2 Interpretation Rules. Titles and headings are included in this License Agreement are for convenience only, and shall not be used for the purpose of construing and interpreting this License Agreement. Words in the singular also include the plural and vice versa where the context requires.

Section 12.3 Severability. In the event that any provisions of this License Agreement are held to be unenforceable or invalid by any court or regulatory agency of competent jurisdiction, County and Seller shall negotiate an equitable adjustment in the provisions of this License Agreement with a view toward effecting the purposes of this License Agreement, and the validity and enforceability of the remaining provisions shall not be affected by it.

Section 12.4 Counterparts. This License Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

Section 12.5 Entire Agreement, Amendments and Waivers. This License Agreement and the PPA constitutes the entire agreement between the Parties and supersedes the terms of any previous agreements or understandings, oral or written. Any waiver or amendment of this License Agreement must be in writing. Either Party's waiver of any breach or failure to enforce any of the terms of this License Agreement shall not affect or waive that Party's right to enforce any other term of this License Agreement.

Section 12.6 Further Assurances.

(a) Additional Documents. Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary and desirable to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Section 12.6.

(b) Certificates. From time to time, upon written request by Seller or any financing party to which Seller has granted a collateral interest in this License Agreement and the PPA (a "Financing Party"), County shall, within thirty (30) days, use its best efforts to provide (i) a lien waiver from any party purporting to have a lien, security interest or other encumbrance on the License Area, confirming that it has no interest in the Licenses or the System, or (ii) an estoppel certificate attesting, to the knowledge of County, of Seller's compliance with the terms of this License Agreement and the PPA or detailing any known issues of noncompliance, and making such other representations, warranties and accommodations reasonably requested by Seller or any Financing Party.

Section 12.7 Casualty or Condemnation. In the event the License Areas shall be so damaged or destroyed as to make the use of the License Areas pursuant to this License Agreement impractical such that, in Seller's reasonable judgment, the System is no longer operable and it is not economically feasible to repair, replace or remedy the System Loss (as determined by a qualified engineering consultant reasonably acceptable to County and Seller), then this License Agreement may be terminated by either Party upon not less than twenty (20) days' prior written notice to the other Party, and upon such termination, neither Party shall have any further obligations to the other Party hereunder other than such rights or obligations surviving termination of this License Agreement as expressly provided herein; provided, that in the event of such termination, Seller shall, at its sole cost and expense, remove any System Assets from the License Areas. If neither Party elects to terminate this License Agreement pursuant to the previous sentence, or if Seller has notified County that it is economically feasible to repair, replace or remedy the applicable System Loss and that Seller intends to do so, County shall exercise commercially reasonable efforts to repair the damage to the License Areas and return the License Areas to their condition prior to such damage or destruction, except that County shall in no event be required to repair, replace or restore any property of Seller comprising part of the System, which replacement or restoration shall be Seller's responsibility.

### **ARTICLE 13 NOTICES**

Except as otherwise provided in this License Agreement, or as the addressee may later specify in a written notice, all notices or other communications hereunder shall be in writing and deemed given if delivered personally or to a nationally recognized express mail services addressed as follows:

If to Seller:	c/o PsomasFMG, LLC 7777 Center Avenue, Suite 200 Huntington Beach, CA 92647 Phone: (714) 408-2982 Fax: (714) 545-8883 Attention: Louis Kwiker
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with a copy to:

Akin Gump Strauss Hauer & Feld LLP  
633 West Fifth Street, Suite 5000  
Los Angeles, CA 90071  
Phone: (213) 254-1300  
Fax: (213) 254-1201  
Attention: Adam S. Umanoff

with a copy to:

Licensee Mortgagees (under Section 10.6) of which County has received written notice, and Lessors and Lessees (under Section 10.7) of which County has received written notice.

If to County:

County of Orange  
OC Public Works  
300 North Flower Street  
Santa Ana, CA 92702  
Phone: (714) 667-3217  
Attention: Director

with a copy to:

County of Orange  
County Executive Officer  
333 West Santa Ana Blvd., 3<sup>rd</sup> Floor  
Santa Ana CA 92702  
Phone: (714) 834-6200

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, Seller and County have executed this License Agreement on the date written below.

**SELLER**

**OC SOLAR 2010, LLC,**  
a California limited liability company

By: \_\_\_\_\_  
Name: Michael Streams, Jr.  
Title: Authorized Signatory

Date:

**COUNTY**

**COUNTY OF ORANGE**

By: \_\_\_\_\_  
Jess Carbajal, Director  
OC Public Works

APPROVED AS TO FORM:  
Office of County Counsel  
Orange County, California

By: \_\_\_\_\_

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



STATE OF CALIFORNIA )  
 ) ss  
 COUNTY OF LOS ANGELES )

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

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

WITNESS my hand and official seal.

---

Notary Public

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF LOS ANGELES )

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

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

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, Seller and County have executed this License Agreement on the date written below.

**SELLER**

**OC SOLAR 2010, LLC,**  
a California limited liability company

By: \_\_\_\_\_

Date:

Name: Michael Streams, Jr.

Title: Authorized Signatory

**COUNTY**

**COUNTY OF ORANGE**

By: \_\_\_\_\_

Ignacio G. Ochoa, Interim Director  
OC Public Works

**APPROVED AS TO FORM:**

Office of County Counsel  
Orange County, California

By: \_\_\_\_\_

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

**EXHIBIT A**

## Legal Description of the Property

Real property in the State of California, County of Orange, described as follows:

**PARCEL A:**

ALL THAT PORTION OF LOTS 299, 300, 301 AND 302 OF BLOCK 174 OF IRVINE'S SUBDIVISION, IN THE COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP THEREOF RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL 5 IN A COURT JUDGMENT RECORDED IN BOOK 2567, PAGE 100 ET SEQ., OFFICIAL RECORDS OF SAID COUNTY; THENCE NORTH 49°16'43" WEST, ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 5, A DISTANCE OF 1699.13 FEET; THENCE SOUTH 56°45'11" WEST 2172.04 FEET; THENCE SOUTH 49°16'43" EAST AND PARALLEL WITH SAID SOUTHWESTERLY LINE, A DISTANCE OF 2474.14 FEET TO THE SOUTHEASTERLY LINE OF SAID BLOCK 174; THENCE NORTH 35°55'31" EAST ALONG SAID SOUTHEASTERLY LINE, 2094.91 FEET TO THE POINT OF BEGINNING.

**EXCEPTING THEREFROM:**

BEGINNING AT THE INTERSECTION OF THE SOUTHWESTERLY LINE OF SAID LAND WITH THE SOUTHEASTERLY LINE OF MUSICK (FORMERLY FAIRBANKS), 56 FEET WIDE, AS SHOWN ON PARCEL MAP NO. 88-105, AS PER MAP FILED IN BOOK 235, PAGES 33 AND 34 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL MAP AND ITS SOUTHEASTERLY EXTENSION, HAVING A BEARING OF NORTH 49°16'36" WEST, SAID LINE ALSO BEING THE SOUTHWESTERLY LINE OF SAID LAND, SOUTH 49°16'36" EAST 723.00 FEET; THENCE, AT RIGHT ANGLES, NORTH 40°43'24" EAST 84.00 FEET TO A LINE PARALLEL TO AND 84.00 FEET NORTHEASTERLY OF SAID SOUTHWESTERLY LINE; THENCE NORTH 49°16'36" WEST 667.00 FEET; THENCE, AT RIGHT ANGLES, SOUTH 40°43'24" WEST 54.00 FEET TO A LINE PARALLEL TO AND 30.00 FEET NORTHEASTERLY OF SAID SOUTHWESTERLY LINE; THENCE NORTH 49°16'36" WEST 56.00 FEET; THENCE SOUTH 40°43'24" WEST 30.00 FEET TO THE POINT OF BEGINNING.

APN: 591-073-14

**PARCEL B:**

THAT PORTION OF PARCEL 2, IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS DESCRIBED IN THE QUITCLAIM DEED RECORDED

JULY 12, 2005 AS INSTRUMENT NO. 2005-536290 OF OFFICIAL RECORDS, ALSO BEING PORTIONS OF LOT 300, BLOCK 174 AND LOT 313, BLOCK 175 OF IRVINE'S SUBDIVISION AS SHOWN ON A MAP RECORDED IN BOOK 1, PAGE 88 OF MISCELLANEOUS MAPS, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALL AS SHOWN ON RECORD OF SURVEY NO. 2007-1206 FILED IN BOOK 225, PAGES 29 THROUGH 42, INCLUSIVE OF RECORDS OF SURVEYS IN THE OFFICE OF SAID COUNTY RECORDER, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERLY CORNER OF PARCEL 5 AS DESCRIBED IN THE DECREE ON DECLARATION OF TAKING RECORDED AUGUST 2, 1953 IN BOOK 2567, PAGE 100 OF SAID OFFICIAL RECORDS; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID PARCEL 5, NORTH 49°15'58" WEST 1876.03 FEET TO AN ANGLE POINT IN THE DEPARTMENT OF THE INTERIOR SURVEY LINE AS SHOWN ON SAID RECORD OF SURVEY; THENCE ALONG SAID SURVEY LINE THE FOLLOWING COURSES: SOUTH 84°39'33" EAST 132.95 FEET, SOUTH 23°59'33" EAST 37.00 FEET, NORTH 65°30'27" EAST 184.71 FEET, NORTH 21°00'38" WEST 83.12 FEET, NORTH 69°01'28" EAST 155.00 FEET, SOUTH 20°59'01" EAST 64.95 FEET, NORTH 67°20'25" EAST 612.09 FEET, NORTH 88°47'12" EAST 78.92 FEET, NORTH 64°39'40" EAST 290.62 FEET, NORTH 44°39'40" EAST 34.25 FEET, NORTH 75°54'40" EAST 257.59 FEET, NORTH 55°14'49" EAST 103.32 FEET, NORTH 79°45'32" EAST 265.63 FEET, NORTH 78°20'32" EAST 165.87 FEET, NORTH 82°24'51" EAST 320.35 FEET AND NORTH 76°05'38" EAST 476.69 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 313, ALSO BEING THE NORTHWESTERLY LINE OF THE RANCHO CANADA DE LOS ALISOS; THENCE ALONG SAID SOUTHEASTERLY LINE, THE SOUTHEASTERLY LINE OF SAID LOT 300 AND SAID RANCHO LINE, SOUTH 35°55'21" WEST 2559.18 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN PARCEL II-V AS DESCRIBED IN SAID QUITCLAIM DEED.

APN: 591-133-18

## **Exhibit B**

### Exclusive License Areas

The portion of the Property where the following equipment is located (as shown in further detail on the following page):

- Solar Modules
- Inverter Enclosures
- Carport Structures
- Combiner Box
- Conduit, both above and below ground
- Disconnects boxes and switches
- Carport Lighting
- Data Acquisition Systems

**Exhibit C**

## Non-Exclusive License Areas

(Legal Description of Non-Exclusive License Areas)**PARCEL A:**

An easement for underground cables and electrical tie in equipment purposes over that portion of that certain property in the County of Orange, State of California, deeded to the County of Orange, State of California, by The Irvine Company in deed recorded January 20, 1961 in Book 5598, Page 163, Official Records of said County, all as shown on Record of Survey No. 94-1032 filed in Book 151, Pages 42 through 45, inclusive, of Record of Surveys in the office of said County Recorder, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 1006.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence South 42°19'19" West 140.00 feet, thence South 44°31'45" West 194.00 feet, thence South 43°54'27" West 230.00 feet, thence South 37°32'09" West 84.50 feet, thence South 47°30'46" East 70.00 feet, thence South 18°53'04" East 6.25 feet, thence South 48°18'53" East 5.00 feet, to the point of termination. The sidelines of said strip shall terminate at a point perpendicular to said last course.

**PARCEL B:**

An easement for underground cables and electrical tie in equipment purposes over that portion of that certain property in the County of Orange, State of California, deeded to the County of Orange, State of California, by The Irvine Company in deed recorded January 20, 1961 in Book 5598, Page 163, Official Records of said County, all as shown on Record of Survey No. 94-1032 filed in Book 151, Pages 42 through 45, inclusive, of Record of Surveys in the office of said County Recorder, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 189.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence South 32°20'12" East 27.46 feet, thence South 49°16'23" East 20.09 feet, thence South 25°34'29" East 28.93 feet, thence South 40°43'37" West 14.18 feet to the point of termination at the northeasterly face of existing building. The sidelines of said strip shall terminate at a point perpendicular to said last course.

PARCEL C:

An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, and being a strip of land, 15.00 feet wide, lying 7.50 feet on each side of the following described line:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 1006.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence North 42°19'19" East 26.00 feet, thence North 49°25'05" West 40.00 feet to the point of termination. The sidelines of said strip shall terminate at a point perpendicular to said last course.

PARCEL D:

An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, described as follows:

Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 189.00 feet along the southwesterly line of said parcel, thence North 32°20'12" West 94.00 feet, thence North 58°40'57" West 23.50 feet to the True Point of Beginning, thence North 89°52'19" West 22.50 feet, thence North 00°07'41" East 15.00 feet, thence South 89°52'19" East 45.00 feet, thence South 00°07'41" West 15.00 feet, thence North 89°52'19" West 22.50 feet to the True Point of Beginning.

PARCEL E:

An easement for underground cables and electrical tie in equipment purposes over that portion of Parcel G-4B, in the City of Irvine, County of Orange, State of California, as described in Grant Deed recorded December 8, 2009, as Instrument No. 2009000655591 of Official Records, in the office of the County Recorder of said County, and being a strip of land, 10.00 feet wide, lying 5.00 feet on each side of the following described line:

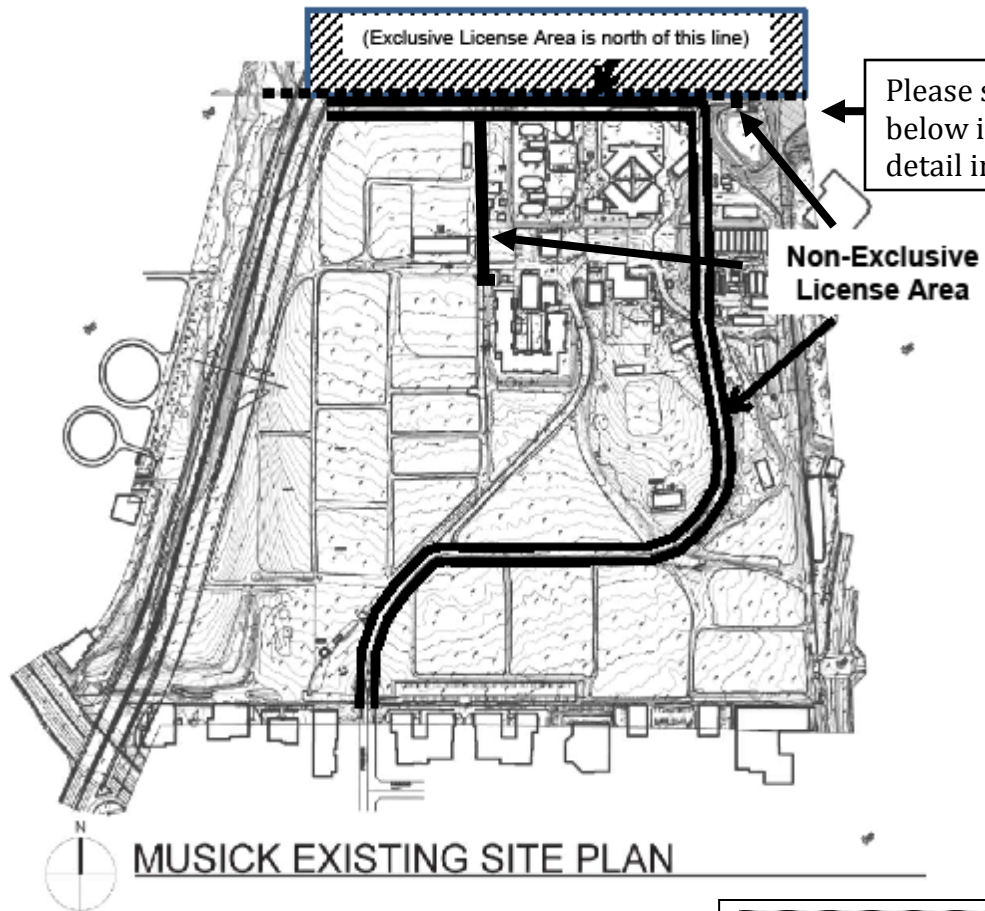
Commencing at the southerly corner of that certain parcel of land described as Parcel 5 in a court judgment recorded in Book 2567, Page 100 et seq., Official Records of said County; thence North 49°16'23" West, 189.00 feet along the southwesterly line of said parcel to the True Point of Beginning, the sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of the aforementioned Parcel 5, thence North 32°20'12" West 94.00 feet, thence North 58°40'57" West 23.50 feet to the point of termination. The sidelines of said strip shall be lengthened or shortened to terminate in the southerly line of previously described Parcel D included herewith.



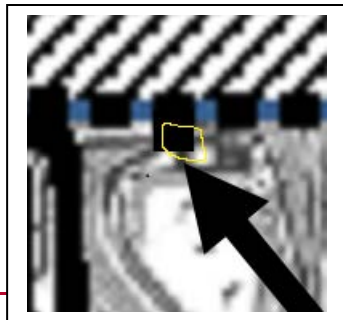
Subject to covenants, conditions, reservations, rights-of way and easements, if any of record.

[Depiction of Non-Exclusive License Areas]

The electrical connections, existing road and existing parking lots identified in the plat below are the *only* Non-Exclusive License Areas authorized by this License and by the County of Orange. The electrical connections shall include electrical enclosures, panels, conduit and wiring and service interconnect to electrical panels as installed in 2012. The road and parking lots shall be used for access, ingress and egress to and from the Exclusive License Area for purposes of Construction and maintenance of facilities on the Exclusive and Non-Exclusive License Areas, for



Please see below insert for detail in this



|

The Non-Exclusive Easement Area shall mean:

- ~~(a) such additional space, as applicable, on the Property, on the roof of the buildings, and other areas of and rights in and to the Property as commercially reasonable necessary for the installation, operation, maintenance and removal of utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary and convenient equipment and appurtenances, and all necessary electrical and other utility sources located within the building or on the Premises, provided, that all such additional space shall be mutually agreeable to both Parties and will not cause any undue burden to the daily operations of County as reasonably approved by the County in advance in writing;~~
- ~~(b) right of ingress and egress from a public right of way over or across the Property over areas typically utilized by the general public for access and in and through the building to and from the Exclusive License Areas, passage through which is necessary or convenient to construct the System or otherwise gain access to the System or the Premises, all as reasonably approved by the County in advance in writing;~~
- ~~(c) temporary use of certain areas of the Property for construction staging areas and parking spaces, and ingress and egress to those areas as reasonably approved by the County in advance in writing;~~
- ~~(d) use of parking spaces on the Property and ingress and egress thereto;~~
- ~~(e) inverter ingress and egress spaces as reasonably approved by the County in advance in writing; and~~
- ~~(f) electrical enclosures, panels, and service interconnect to electrical panels as reasonably approved by the County in advance in writing.~~

## **Exhibit D**

### Description of System

Solar electric generating facilities consisting of photovoltaic panels, supporting structures (carports and ground mounts), inverters, enclosures, combiner boxes, conduits, switches, carport lighting, and all other related equipment installed on the Premises.

