



201 North Lassen Street
Willows, CA 95988
(530) 934-7041

Willows City Council Special Meeting

February 21, 2023
Willows City Hall
6:00 PM

City Council
Rick Thomas, Mayor
David Vodden, Vice Mayor
Gary Hansen, Council Member
Jeff Williams, Council Member
Casey Hofhenke, Council Member

City Manager
Marti Brown

City Clerk
Louis Ósémwegie

Agenda

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. CHANGES TO THE AGENDA**
- 5. DISCUSSION & ACTION CALENDAR**

All matters in this section of the agenda are discussed and will be acted on individually. Individuals wishing to address the City Council concerning any of these items are invited to make oral comments of up to three minutes at this time. Please address your comments to the Mayor and Councilmembers, and not to staff and/or the audience. When the Mayor calls for public comment, please raise your hand to be acknowledged. While not required, the city requests that you please state your name clearly for the audio recording. By State law, the Council is not permitted to undertake any action or discussion on any item not appearing on the posted agenda. If you have any documentation that you would like distributed to the City Council, please mail it to the City Clerk at 201 North Lassen Street, Willows, CA 95988 or email it to: losemwegie@cityofwillows.org.

- a. **Power Purchase Agreement for Solar Facility Project**
Recommended Action: Adopt the attached resolution authorizing the City Manager to execute a Power Purchase Agreement (PPA) with Trinary Energy to finance the buyout of the existing agreement currently held with Clearway, and to construct and operate a new solar energy system to replace the current solar array located adjacent to the wastewater treatment plant at 1600 South Tehama Street and offset the cost of the wastewater treatment plant operations to a minimum of 90 percent of the treatment plant's energy requirements.
Contact: Patrick Piatt, Community Development & Services Director, ppiatt@cityofwillows.org
- b. **Facilities Use Agreement with Willows Unified School District to Use the District's Swimming Pool for the 2023 City of Willows Summer Swim Season**
Recommended Action: Authorize the City Manager, or her designee, to execute a Facilities Use Agreement with the Willows Unified School District to use the School District's pool during the 2023 summer swim season for an amount not to exceed \$20,000.
Contact: Marti Brown, City Manager, mbrown@cityofwillows.org

6. CLOSED SESSION

Pursuant to Government Code Sections §54954.3, the public will have an opportunity to directly address the legislative body on the item below prior to the Council convening into closed session. Public Comments are generally restricted to three minutes.

a. Conference with Legal Counsel – Anticipated Litigation

Significant exposure to litigation pursuant to § 54956.9(d)(4): (One (1) case).

No additional information is being provided at this time as disclosure of information identifying the litigation to be discussed is likely to jeopardize the City's ability to effectuate service of process upon one or more unserved parties.

b. Public Employee Appointment (§ 54957)

Title: City Attorney.

Potential Action: The City Attorney has terminated the legal services agreement with the City; therefore, the Council will consider authorizing the City Manager to issue a request for proposals, (RFP) to qualified firms for general legal (City Attorney) services.

Contact: Marti Brown, City Manager, mbrown@cityofwillows.org

7. ADJOURNMENT

This agenda was posted on February 17, 2023.

louis ósemwégie

Louis Ósemwégie, City Clerk

A complete agenda packet, including staff reports and back-up information, is available for public inspection during normal work hours at City Hall or the Willows Public Library at 201 North Lassen Street in Willows or on the City's website at www.cityofwillows.org.

In compliance with the Americans with Disabilities Act, the City of Willows will make available to members of the public any special assistance necessary to participate in this meeting. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132). The public should contact the City Clerk's office at 934-7041 to make such a request. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

The City of Willows is an Equal Opportunity Provider



DISCUSSION & ACTION CALENDAR



Date: February 21, 2023
To: Honorable Mayor and Councilmembers
From: Patrick Piatt, Community Development and Services Director
Marti Brown, City Manager
Subject: Power Purchase Agreement for Solar Facility Project

Recommendation:

Adopt the attached resolution authorizing the City Manager to execute a Power Purchase Agreement (PPA) with Trinary Energy to finance the buyout of the existing agreement currently held with Clearway, and to construct and operate a new solar energy system to replace the current solar array located adjacent to the wastewater treatment plant at 1600 South Tehama Street and offset the cost of the wastewater treatment plant operations to a minimum of 90 percent of the treatment plant's energy requirements.

Rationale for Recommendation:

The City's current solar array at the wastewater treatment plant (WWTP) is underperforming. By replacing the existing solar facility with a new solar facility, the cost of energy use (e.g., PG&E) at the WWTP will be offset to a minimum of 90 percent of the WWTP energy needs.

Background:

On September 1, 2010, the City entered into an agreement with SPP DG DevCo, LLC, to build and operate a new solar energy array (Array) that was built adjacent to the Willows Wastewater Treatment Plant (WWTP) located at 1600 South Tehama Street. Through this agreement, SPP DG DevCo, LLC, would construct and operate an Array and the City would purchase the energy generated by the Array at a greatly reduced rate with modest increases built into the energy sale annually. The original agreement with SPP DG DevCo, LLC, has been sold multiple times and is now owned by Clearway Energy Group under the same terms as originally approved.

The WWTP is the City's largest user of energy as it is required to operate 24 hours a day to receive, treat, and move roughly 700,000 gallons of wastewater each day. The WWTP requires roughly 1,000,000 kw of energy each year on average, with some years requiring slightly less or more than that estimated average. The Array that was installed near the WWTP used a technology that has proven to be inefficient and frequently underperforming and/or dysfunctional and, on average, has produced less than half the WWTP energy needs since it was installed. As a result, the city pays both Clearway Energy Group and PG&E for the WWTP's energy use.

It appears that the intention was to replace the cost of energy to run the City's sewage treatment WWTP that would normally be paid to PG&E. However, the solar array that was installed has never fully met this goal. During the first year, the Array produced the greatest amount of energy, providing 76.2% of the total energy needs of the WWTP. On average and over the life of the Array since the first year, it has only produced 47.7% of the WWTP's energy needs and from May 2022 to January 25, it produced no energy. The City experienced savings in the first year of production and paid only a small annual True Up bill to PG&E. There has been a reduction in energy generation over time by the Array installed by SPP DG DevCo, LLC, to the point where the City is paying an energy bill to Clearway per the agreement, and paying large "true up" bills annually to PG&E. In FY 2021, the true up bill to PG&E was \$97,894, in FY 2022 the true up was \$159,373, and for FY 2023, the true up bill is anticipated to exceed \$300,000.

Unfortunately, the original agreement between the City and SPP DG DevCo, LLC, was written to be favorable to the developer, with little information regarding benefits for the City, and little to no production expectations of the Array, guarantees or warranties, remedies for lack of performance, security against costs or liability to the City, or incentives or requirements for the developer to perform maintenance, service to the Array, or to maintain any level of benefit to the City. The same agreement is now owned by Clearway Energy Group.

As a result of the Array's extremely poor performance this past year and staff's knowledge of prior year's underperformance, staff was introduced to Trinary Energy (by Ecogreen, the company that recently installed the City's LED lights for additional PG&E bill cost savings). Staff have been actively working with Trinary and their partners since the summer/fall of 2022 to find a solution to the current situation. Due to changing California State law, any financial benefit that is available under the current law will be unavailable after April 13, 2023.

The current agreement with Clearway Energy Group was entered into when the State Public Utility Commission (PUC) under the original Net Energy Metering plan (NEM 1). Under NEM 1, solar system owners did not have to pay Non-Bypassable Charges (NBC) on the electricity that they bought from a utility on a month-to-month basis. NBC charges are per-kilowatt hour charges that are built into utility electric rates. They add up to approximately 2-3 cents per kWh and go towards funding energy efficiency, low-income customer assistance, and other related programs. NEM 1 expired on December 15, 2016, for PG&E customers and any new systems after that date were enrolled in NEM 2 and under that plan, NBCs are paid by the customer.

Under NEM 2, the policy for net metering in California is very simple: for every kilowatt-hour (kWh) of solar electricity you feed into the grid, you get a bill credit for one kWh of utility-generated electricity. When your solar panels produce more than you need, you "bank" the excess that offsets the times when panels don't produce enough to meet the monthly use (e.g., winter). If the system is sized correctly, net metering makes it possible to cover the electricity use for the entire year. The NEM 2 plan terminates on April 13, 2023, and any new systems after this date will be enrolled in the NEM 3 plan.

Under the NEM 3 Plan, most of the advantages that current solar system customers benefit from are removed. For example, customers may no longer "bank" credits for electricity generation exceeding the customers electrical needs. As a result, periods of low energy production (e.g., winter months) are no longer offset by periods of high energy generation that exceed energy needs resulting in annual

true up bills that could be equal to, or greater than, the true up bills that the City is currently paying to PG&E. However, the NEM 3 Plan does allow energy “banking” within the same month the energy was generated. Additionally, excess energy in any given month will be “banked” at the lower rates charged during off peak hours, and when needed during peak hours is sold back to the customer at the higher peak period rates.

Discussion & Analysis:

To that end, attached is a draft Power Purchase Agreement (both redline and clean) between the City of Willows and Trinary Energy (Attachments 2 and 3).

Per the existing agreement with Clearway Energy Group, there is a Termination Payment Schedule (e.g., buyout) that reduces during each year of the contract. Should the Power Purchase Agreement (PPA) be approved by the Council, staff will begin negotiating the Termination Payment based on the mutually agreed upon start date of operation. In the worst-case scenario, the termination payment to Clearway would be \$1,462,155. That said, staff will focus on negotiating a lower termination payment that more favorably reflects the additional, and unexpected high True Up bill payments that have been made to PG&E the past several years. At this time, the Termination Payment and, therefore, the true benefit of a new system is not available until negotiations with Clearway are concluded.

Trinary Energy proposes to buy out the agreement with Clearway and build a new solar array using materials that have been proven to provide energy generation as promised. The proposal includes a solar array that will be sized to produce 110% of the WWTP energy needs and the company will guarantee a minimum of 90% energy efficiency. Per Trinary’s proposal, at any point if the new Array produces less than 90% of the WWTP current energy needs, the company will pay the difference in costs paid to PG&E. Through this Power Purchase Agreement, the City of Willows will purchase energy produced by the Array funded by Trinary Energy at a reduced rate as opposed to the rate currently charged by PG&E as noted in the attached PPA (Attachments 2 and 3). This will provide both a savings from the current cost of energy sold by PG&E, and protection from the expected annual increases of the future energy costs provided by PG&E.

The benefit to the City is a significantly lower cost for the electricity required to operate the WWTP with terms that are more favorable than those under the current PPA between the City and Clearway. The cost savings are established within the PPA with Trinary Energy, which demonstrates savings over a 25-year period and more accurately allows for consistent budgeting and fiscal planning.

The benefits for Trinary is a tax credit realized in the first year of operation equal to 30 percent of the facility valuation, and for the five-years following the first year there are state and federal tax credits for depreciation. Additionally, by entering into this PPA, Trinary Energy becomes the City’s main energy provider. Trinary Energy recovers the cost of their investment through the sale of energy generated by the solar facility that they financed, and realizes profits from the continued sale of energy to the City once the cost of the investment has been recovered.

The previous staff report presented to Council on February 14, 2023, included language about solar facilities to be installed on the roofs of the Civic Center and the Fire Station. Staff has removed that language from both this staff report and the PPA under consideration and will present those items for consideration separately at a future Council meeting.

As a result of the very short timeline and pending termination of NEM 2 on April 13, 2023, there is an urgency to take action to terminate the agreement with Clearway, execute a new PPA with Trinary Energy, and submit a new application to PG&E for a new solar array project before April 13, 2023 so as to be included in the NEM 2 Plan structure. After April 13, 2023, the financial benefits to the City to participate in the NEM 3 Plan will be greatly reduced.

The attached resolution authorizes the City Manager to enter into a Power Purchase Agreement with Trinary Energy. Once the Agreement is signed, Trinary Energy's team will begin to design a new facility and prepare to submit the City's application to PG&E in order to secure the City's enrollment in the NEMs 2 plan before April 13, 2023. Staff will return with a Ground Lease Agreement for Council consideration at a future Council meeting.

Fiscal Impact:

There is no impact to the General Fund as a result of this action. Future payments for energy will result in a savings to the sewage enterprise fund related to the operating costs of the WWTP and lower the City's annual PG&E True Up bills.

Attachments:

- Attachment 1: Resolution XX-2023
- Attachment 2: Draft Power Purchase Agreement - Clean
- Attachment 3: Draft Power Purchase Agreement - Redlined



**City of Willows
Resolution xx-2023**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILLOWS, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE A POWER PURCHASE AGREEMENT (PPA) WITH TRINARY ENERGY TO FINANCE THE BUYOUT OF THE EXISTING AGREEMENT CURRENTLY HELD WITH CLEARWAY ENERGY GROUP, AND TO CONSTRUCT AND OPERATE A NEW SOLAR ENERGY FACILITY TO REPLACE THE CURRENT SOLAR FACILITY LOCATED ADJACENT TO THE WASTEWATER TREATMENT PLANT AT 1600 SOUTH TEHAMA STREET AND OFFSET THE COST OF THE WASTEWATER TREATMENT PLANT OPERATIONS TO 90%, AS WELL AS EXECUTE ANY OTHER NECESSARY RELATED DOCUMENTS.

WHEREAS, a solar array was constructed adjacent to the Willows Wastewater Treatment Plant (WWTP) through a Power Purchase Agreement executed on September 1, 2010, with SPP DG DevCo, LLC, and that agreement is currently held by Clearway; and

WHEREAS, the existing solar facility was undersized to meet the energy needs of the WWTP and the solar facility's ability to generate energy has significantly degraded since it was first placed into service; and

WHEREAS, the WWTP requires a significant amount of energy to ensure 24-hour operation and the energy costs of Pacific Gas and Electric is rapidly increasing; and

WHEREAS, the City of Willows desires to offset the cost of energy to operate the WWTP, secure a lower per KWH rate, and reduce the annual cost and potential increases for energy; and

WHEREAS, Trinary Energy has submitted a proposal that staff has deemed fair and favorable to buyout the agreement held by Clearway Energy Group and install a more efficient solar array in place of that existing adjacent to the WWTP, to offset the cost of energy required for the WWTP operations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WILLOWS AS FOLLOWS:

1. The above recitals are true and correct and are hereby incorporated into this Resolution as findings of the City Council of the City of Willows.
2. The City Manager is hereby authorized and directed to execute an agreement with Trinary Energy to finance the buyout of the existing agreement currently held with Clearway Energy Group, and to construct and operate a new solar energy system.
3. The City Manager is hereby authorized and directed to execute a new Power Purchase Agreement for the purchase of power from Trinary Energy.
4. The City Manager is hereby authorized and directed to execute any documents necessary that are related to the construction of a new solar energy system on the City property located at 1600 South Tehama Street, in Willows, CA.

5. This Resolution shall become effective immediately.

PASSED, APPROVED AND ADOPTED at the Special Meeting of the City Council on this 21st day of February 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTESTED:

Richard Thomas, Mayor

Louis Osemwiegie, City Clerk



Solar Power Purchase Agreement

(Commercial)

Between:

On Behalf of

The City of Willows, CA
201 North Lassen Street
Willows, CA 95988

And

Trinary Solar Group Click or tap here to enter text., LLC

6510 E Spring St. Ste. 437
Long Beach, CA 90815

KEY COMMERCIAL TERMS:

Description of Solar Facility	Roof Mount, Ground Mount, and Carport Photovoltaic panels, inverter, racking materials, production meter for monitoring
Solar Facility Size kW (DC)	<u>-785.97</u> kW
Estimated Solar Energy Output in Year 1	<u>1,258,587</u> kWh
Annual Solar Energy Output Degradation Factor	0.5%
Length of Initial Term (the Initial Term)	25 Years
Estimated Solar Energy Output over Initial Term	<u>30,538,581</u> kWh
Price/kWh	<u>\$0.179</u> /kWh
Estimated Monthly Payment in Year 1	<u>\$18,77418773.92</u>
Annual Price/kWh Escalator	<u>2.99%</u>
Utility	<u>PG&E</u>

Other Important Terms: You should refer to this Agreement for additional information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and security interests.

Your initials indicate that you have read, understand, and accept the explanation of estimated energy output, energy sources, payment terms and your rights regarding the purchase of the Solar Facility. You understand that Trinary Energy (together with its successors and Assignees, referred to in this Agreement as "TE") and you agree that TE will make a final determination of customer eligibility.

Accepted by (Initial):

Date:

CUSTOMER ACKNOWLEDGES THAT THE SOLAR FACILITY IS OWNED BY TE AND/OR ITS AFFILIATES, SUCCESSORS OR ASSIGNS.

TRINARY ENERGY SOLAR POWER PURCHASE AGREEMENT

THIS DOCUMENT DESCRIBES THE TERMS AND CONDITIONS OF YOUR RECEIPT OF AND PAYMENT FOR ELECTRIC ENERGY TO BE SUPPLIED BY A SOLAR PHOTOVOLTAIC SYSTEM THAT WILL BE INSTALLED AT YOUR PROPERTY AND OWNED AND MAINTAINED BY TE. YOU WILL RECEIVE A FINAL, FULLY SIGNED COPY OF THIS AGREEMENT BEFORE WORK BEGINS.

1. Introduction

(a) You are entering into this Solar Power Purchase Agreement (this “**Agreement**”) with TE, together with its successors and Assigns. You represent that you are the owner and/or have the legal right to enter into this Agreement for the property located at 1600 South Tehama Street, located in the City of Willows, 95988 within the State of California (the “**Property**”), and that your current electrical service is provided by the Utility PG&E. You further represent that every person or entity with an ownership interest in the Property has agreed to be bound by this Agreement and is listed on the signature page of this Agreement.

Accepted by (Initial): _____

(b) You may contact TE by mail at 6510 E Spring St Ste 437, Long Beach, CA 90815. TE will arrange for licensed individuals or entities to perform the design, permitting, construction, installation, testing, and activation (referred to in this agreement as “**TE Contractors**”) of a solar photovoltaic system as described on the cover page to this Agreement (the “**Solar Facility**”) to be located on the roof and/or grounds, as applicable, of the Property.

It is understood between the Parties that all personnel contracted for or deployed by TE for demolition, construction/installation, maintenance or other purposes in connection with TE's performance of their obligations under this agreement shall be and shall remain exclusively employees or contractors of TE, reporting solely to TE, and for whom TE shall remain wholly responsible for pay and benefits including salary, health, accident and worker compensation benefits, and all taxes and contributions that are required by an employer with respect to their own employees. The City of Willows shall not be considered a joint employer of any TE employees or contractors for any purpose. Similarly, TE shall not be considered to be a joint employer of any person employed by the City of Willows for any purpose.

(c) You agree to allow TE Contractors to install and maintain the Solar Facility on the grounds and/or roof, as applicable, of the Property at a specific location to be identified and approved by TE. During the Initial Term and any Renewal Terms, TE agrees to provide you electric energy from the Solar Facility under the terms and conditions contained in this Agreement.

2. Solar Facility

(a) TE will arrange for the design, permitting, construction, installation and testing of the Solar Facility on the roof and/or grounds, as applicable, of the Property materially based on a system design that you will have approved. Once installed, TE will

operate, maintain and monitor the Solar Facility so as to generate electric energy in accordance with prudent utility practices for use at the Property (“**TE's Obligations**”) during the Term of this Agreement. The Solar Facility will be an eligible renewable energy resource under the California Renewables Portfolio Standard Program.

(b) You acknowledge and agree that:

(i) Unless the Solar Facility is purchased pursuant to Section 7 hereof, TE will own the Solar Facility and you will have no ownership interest in the Solar Facility; it shall remain the personal property of TE and shall not be considered for any purposes to be a fixture or otherwise a part of your Property.

(ii) The Solar Facility will not be subject to any lien, security interest, claim, mortgage, or deed of trust that may be imposed on or assessed against your interest in the Property, or any other property belonging to you. You will have no right to sell, give away, transfer, pledge, remove, relocate, alter, disconnect, or tamper with the Solar Facility at any time as long as this Agreement remains in effect, even if TE is in default of its obligations under this Agreement. Notwithstanding the foregoing, in the event that the Solar Facility were to be deemed your property for any reason, you hereby grant to TE (and to any party to whom it may have sold its interest in the Solar Facility) a lien and security interest in and to the Solar Facility. TE or any TE affiliate may file (A) a UCC-1 or other notice of such lien and security interest with the California secretary of State, (B) a fixture disclaimer filing in with the registrar/recorder (or its equivalent) of the county in which the Solar Facility is located and (C) any Notice of an Independent Solar Energy Producer Contract required by California law. You agree to cooperate with TE in connection with such filings.

(iii) The Solar Facility will be used primarily for standard business purposes but may not be used to heat a swimming pool

(c) TE will be responsible for all costs and expenses related to performing TE's Obligations. You agree that TE has the authority and discretion to use and/or arrange for contractors or agents to perform or assist TE in performing TE's Obligations.

(d) You agree that TE, at its own expense, will arrange for the installation of, maintain, and periodically test a meter at the Property that will measure all electric energy delivered to you from the Solar Facility. You agree not to tamper with, damage or modify the meter in any way. You will be responsible for any damage or inaccuracies in the meter that are caused by you or any other person unrelated to TE who may come onto the Property.

3. Design and Installation

(a) The primary equipment used for the Solar Facility will typically include a series of interconnected photovoltaic panels, an inverter, racking materials, and a production meter. Other materials generally used as "balance of system" include disconnects, breakers, load centers, wires, and conduit. The design for the Solar Facility will be presented to you prior to installation. You will have five (5) business days following this presentation to request a change pursuant to Section 4(b). Otherwise, you will be deemed to have approved the Solar Facility design. With your written, deemed, or oral approval, the Solar Facility installation may begin at any time.

(b) If you wish to change the design or installation process, TE will use commercially reasonable efforts to accommodate your request. (See Section 4 regarding Extra Work and Change Orders.)

(c) If an obligation excluded from this Agreement must be performed in order to properly effect the installation of the Solar Facility, you agree to contract separately, and at your own expense, with a contractor who has been designated or approved by TE to perform such obligation. In this instance, TE will not unreasonably withhold such approval.

(d) TE shall, through Trinaryty Capital, fund and complete a buyout of the prior (executed September 1, 2010) City of Willows Power Purchase Agreement with Clearway energy, in an amount not to exceed \$1,462,155 (equal to the termination payment listed in Exhibit D of (the twelfth year) of that agreement).

(e) TE and the City of Willows have entered into a lease agreement for the property located at 1600 South Tehama Street, Willow, CA 95988. TE will arrange for or obtain any permits needed, and contract at TE's cost for the for demolition of the prior solar installation located at 1600 South Tehama Street at Old Hwy. 99 in Willows, CA 95988 and installation of the a new Solar Facility located at that same site. You agree to cooperate with TE and TE Contractors and assist TE and TE Contractors in obtaining any permits needed, including the NEM Service application described in Section 5(a). You agree to complete and return to TE and/or its representatives, as appropriate, all applicable rebate documentation and, where applicable, Renewable Energy Credit documentation, upon request and following the date on which the Utility grants permission to operate the Solar Facility (the "Solar Facility Start Date"). If you do not return the rebate or Renewable Energy Credit documentation, TE may invoice you for the Final Rebate amount (as defined in Section 4(a)(iii)).

(i) Renewable Energy Credits are defined as

(f) For the Initial Term and any Renewal Terms you agree to maintain the Property, at your expense, such that the Solar Facility retains shading conditions no less beneficial for solar energy production than those present at the time of Installation.

(g) TE will ensure that TE Contractors shall at the end of each business day keep the Property reasonably free from waste

materials or rubbish caused by their operations. Prior to the Solar Facility Start Date, TE Contractors shall remove all of their tools, construction/installation equipment, machinery, waste materials and rubbish from and around the Property.

(h) Upon completion of the Solar Facility and subject to the exclusions set forth in Section 17, TE will ensure that TE Contractors rectify any damages incurred to your Property by TE Contractors during the installation of the Facility return your Property to a condition similar to its original condition prior to the installation of the Facility, provided that you notify TE in writing or by e-mail of any damages, deficiencies in restoration within five (5) business days of the municipal building inspector approval of the Solar Facility.

Formatted: Not Strikethrough

Formatted: Not Strikethrough

4. Changes to the Agreement

(a) The following conditions may change the expected costs and benefits of this Solar Facility to both you and TE, which may include a change in the per kWh price:

- (i) change to the design of your Solar Facility;
- (ii) change in the system's annual energy production estimate, expressed in kWh, provided by the National Renewable Energy Laboratory PVWatts Calculator ("PVWatts Calculator") (Final Year One Production Estimate);
- (iii) change in the final rebate amount associated with installing the Solar Facility ("Final Rebate") or any change in your applicable tariff (including any changes to net metering); and/or
- (iv) the availability of cellular service at the Property.

(b) If any of these conditions occur, TE may choose to modify the terms of this Agreement (including, without limitation the price per kWh) or cancel the Agreement. If TE chooses to modify the terms, TE will notify you in writing (referred to in this Agreement as a "Change Order") and you will have five (5) business days to accept the Change Order or cancel this Agreement. If you do not respond to TE within five (5) business days, TE may deem you to have cancelled the Agreement. Extra work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the Change Order. In order to be enforceable, the Change Order must describe the scope of the extra work or change and the cost to be added or subtracted from the contract. A TE Contractor's failure to comply with the requirements of this paragraph does not preclude the recovery of compensation by the TE Contractor for work performed, based upon legal or equitable remedies designed to prevent unjust enrichment.

(c) You may choose to accept changes under this Section 4 in writing or by electronic mail.

5. Purchase and Sale of Electricity

(a) As of the Solar Facility Start Date, you must be taking service from the Standard Net Energy Metering Service or its equivalent

("NEM Service") from the Utility. You agree that you will continue to take NEM Service for as long as this Agreement is in effect. You agree to use the NEM Service currently in effect for this Utility or, in the event that the NEM Service is no longer in effect, the parties shall negotiate over the use of you agree to use a substitute metering program as chosen by TE. You agree to execute all documentation associated with NEM Service, or any substitute metering service, and any refund, credit, or rebate program promptly at the request of TE, its affiliates, and/or the Utility.

(b) TE agrees to sell to you, and you agree to purchase from TE, all electric energy produced by the Solar Facility at an initial rate of \$0.179/kWh. This per Kilowatt hour rate shall increase by 2.99% in each year pursuant to the PPA Annual Production and Rate Table (Exhibit A), which is attached hereto and incorporated by reference as though fully set out herein. All electric energy produced by the Solar Facility will be made available to you (or any subsequent owner of the Property) for use at Property.

(c) If at any time you need more electric energy than is being produced by the Solar Facility ("Supplemental Energy"), you will be solely responsible for purchasing that electric energy from another supplier, such as the Utility. During the term of this Agreement, you should expect to purchase Supplemental Energy from your Utility. Depending on the terms of your NEM Service, the Utility will bill you either annually or monthly. ~~+TE~~ will not be in default of this Agreement and will not be responsible for any Supplemental Energy you purchase to complement the electric energy produced by the Solar Facility.

(d) You agree that title to and risk of loss for the electric energy purchased under this Agreement shall pass from TE to you at the time when the electric energy reaches the point of interconnection, i.e., at the point where the Solar Facility connects to the Property's connection with your Utility.

(e) TE or its designee shall retain rights to any Federal Investment Tax Credit or State Incentives or Rebates related to renewable energy projects, including but not limited to carbon credits, renewable energy certificates, green tags, tradable renewable certificates, Renewable Energy Credits and greenhouse gas offsets ("Carbon Credits") for the Term of this Agreement. Notwithstanding the foregoing, if you purchase the Solar Facility from TE, you will own, and be entitled to proceeds from the sales of, solar Renewable Energy Credits and Renewable Energy Credits earned after the later of the dates you purchase the Solar Facility from TE.

6. Billing and Payment

(a) During the Initial Term, you will pay TE a price for each kWh delivered by the Solar Facility on a monthly basis as specified in the cover sheet to this Agreement, or as modified pursuant to Section 4. TE will invoice you monthly and you agree to pay those invoices in full, without deduction or setoff, within 10-1530 days following receipt. You agree to (i) establish an autopay/ACH to pay

the applicable invoices, and (ii) complete the forms required to implement the same.

(b) During the Term, TE will, within one month following each anniversary of the Solar Facility Start Date, prepare and send to you an annual statement detailing the kWh of electric energy produced by the Solar Facility during that year. If in any year (measured from the Solar Facility Start Date) the Solar Facility has produced less than 8090% of the Estimated Solar Energy Output, as reduced by the Degradation Factor provided for in the PPA Annual Production and Rate Table (Exhibit A), (other than for reasons of force majeure), TE will pay you a true-up payment equal to the number of kWh by which the actual output of the Solar Facility was less than 90% of the Estimated Solar Energy Output, as reduced by the Degradation Factor, multiplied by Price/kWh.

(c) During any Renewal Term, the parties shall negotiate regarding a new price per Kilowatt Hour ~~in the first year of a renewal term, the per Kilowatt Hour price shall be equal to no more than the greater of (i) 50% of the then-applicable Utility rate and no less than (ii) \$0.374 /kWh.~~

7. Purchase of the Solar Facility

(a) You have the option to purchase the Solar Facility at any time after the sixth anniversary of the Solar Facility Start Date.

(b) To purchase the Solar Facility pursuant to Section 7(a), you must deliver a written notice to TE of your intent to purchase the Solar Facility.

(c) The purchase price will be equal to the fair market value of the Solar Facility, as determined by a mutually agreed-upon third party at the time ("FMV"). In such case, TE will prepare a valuation of the Solar Facility to determine the FMV, using widely used methods from industry. The valuation will take into account the Solar Facility's age; location; size; and other market characteristics such as equipment type and equipment operating, maintenance and service costs, value of electricity in your area, potential "comparables", and any applicable solar incentives.

(d) Upon any transfer of the Solar Facility to you, this Agreement will automatically terminate, and you will own and be fully responsible for the Solar Facility.

8. Sale of Property and Assignment

(a) If you sell the Property prior to the sixth anniversary of the Solar Facility Start Date, you must assign this Agreement to the new owner and the new owner must agree in writing to be bound by all of the terms and conditions set forth herein. After the sixth anniversary of the Solar Facility Start Date, you may either (i) assign this Agreement to the new owner, or (ii) purchase the Solar Facility pursuant to Section 7. Please contact TE to obtain an assignment agreement. Whether or not this Agreement is assigned as contemplated in this Section 8(a), the right to receive the electricity from the Solar Facility, through this Agreement shall automatically be transferred with the title to the Property

Commented [JW2]: In this contract, there are no stipulated terms about what happens if they don't pay. Previously, that didn't matter because we had direct payment. They took that out. Rudy, can you put in some language protecting us from lack of payment or do you want to push back on this and say we need a direct payment option.

Commented [JW3]: "at the time" isn't a complete sentence. Is this at the time of sale? Transfer? This language matters because of sale-leaseback. Need some specifics.

Commented [JH1]: David,

How do you propose we bill City of Willows? How will the City of Willows pay? We use a web based invoicing company that is tied to the client's bank account. We cannot auto-charge unless the client chooses/elects to do so.

Formatted: Not Highlight

whether the title is transferred by voluntary sale, judicial or nonjudicial foreclosure, or by any other means. In the event of such a transfer without an assignment of this Agreement you will exercise your best efforts to obtain an assignment of this Agreement to the new owner of the Property as soon as possible.

(b) If you sell or otherwise transfer your interest in the Property in violation of the provisions of this Agreement, then you will be deemed to have breached this Agreement, and TE may exercise its rights under Section 16(a).

(c) TE may not assign, lease, sublease, or transfer the Solar Facility and this Agreement along with all rights and obligations hereunder to any third party (each, an "Assignee"), without first giving notice to you ~~or~~and obtaining your consent, for any purpose, including, without limitation, transferring to a new equity owner of the Solar Facility, financing of the Solar Facility's installation, or in the event of an acquisition, corporate reorganization, merger or sale of substantially all of its assets to another entity. Consent for any such assignment, lease, sublease or transfer may not be unreasonably withheld. If TE or its Assignee chooses to transfer the Solar Facility or this Agreement to another party, you agree to treat this other party as your counterparty under this Agreement. In the event TE or a subsequent Assignee assigns, leases, subleases or transfers the Solar Facility and this Agreement, the new Assignee shall be required, as part of the assignment, lease, sublease or transfer agreement, to acquire a three (3) year Maintenance Bond guaranteeing all obligations in this Agreement in an amount equal to or exceeding twenty percent (20%) of the purchase price or fair market value of the Solar System, whichever is greater, at the time of assignment.

(d) TE warrants and covenants to you that no Assignee, creditor, partner or owner of the Solar Facility has, as of the date of this Agreement, the right to remove or permanently decommission the Solar Facility.(e) To the extent that Host Customer does not own the Premises, Host Customer shall provide to System Owner immediate written notice of receipt of notice of eviction from the Premises or termination of Host Customer's lease of the Premises.

(f) In the event that any or all of the Premises is or becomes subject during the Term to a new lease or Lien, Host Customer shall require that the lessor or the holder of such lease or Lien enter into an agreement with System Owner, or provide an estoppel reasonably acceptable to System Owner and the lenders, acknowledging and recognizing System Owner's rights under this Agreement and acknowledging that the System is the personal property of System Owner severable from the Site and not a fixture.

(g) If necessary after the execution of this Agreement, Host Customer shall from time to time grant to System Owner easements, leases, licenses, consents, acknowledgments, and approvals and other rights System Owner reasonably requires for the installation and testing of the System, production and delivery of Output to the Delivery Point, and the operation and maintenance of the System under this Agreement.

Accepted by (Initial): _____

9. Term and Termination

- (a) You agree that this Agreement will only become effective when both you and TE have signed the Agreement.
- (b) This Agreement will continue in effect until Twenty-Five (25) years following the Solar Facility Start Date. This period shall called the "Initial Term".
- (c) At the end of the Initial Term, this Agreement will be automatically renewed for two additional five-year terms (the "Renewal Term" and, together with the Initial Term, the "Term"), unless you have purchased the Solar Facility or unless either you or TE gives the other party to this Agreement a termination notice at least thirty (30) days prior to the expiration of the Initial Term or the first Renewal Term.
- (d) At the end of the Initial Term and any Renewal Terms if either you or TE do not wish to renew the Agreement and you have not purchased the Solar Facility, TE will remove the Solar Facility at no cost to you. TE agrees to leave your property in the same general condition that existed immediately prior to removal of the Solar Facility, normal wear and tear excepted.
- (e) This Agreement will terminate upon the closing of your purchase of the Solar Facility pursuant to Section 7.

10. Access, Maintenance and Repair

- (a) You hereby grant to TE the right to have TE Contractors access to your Property for the purpose of designing, installing, operating, maintaining and testing the Solar Facility and performing TE's Obligations. TE agrees to give you reasonable notice when TE needs to access your Property for any of the foregoing purposes and will endeavor to restrict such access to normal business hours. In the event that TE or any contractor needs to de-energize or disconnect the City's Wastewater Treatment plant from the solar energy project or PG&E in order to perform work on the solar facility, TE shall obtain and adhere to the conditions contained in an encroachment permit in the form provided in Exhibit " ".
- (b) When possible, you agree to allow TE, TE Contractors and other construction professionals (an engineer, architect, or licensed contractor or their representative) hired by TE to access your Property to inspect any buildings and, if applicable, roofs prior to the installation of the Solar Facility to ensure that your Property will accommodate the Solar Facility.
- (c) TE will, at its sole cost and expense, monitor and maintain the Solar Facility for the Term of the Agreement.
- (d) If you plan to move or temporarily disconnect the Solar Facility to allow for maintenance of and/or repair to the Property or the

Commented [JW4]: Largely irrelevant since within three years we'd still be under the warranty of the components.

roof, as applicable, you agree, at your expense, either (i) to hire TE to arrange for the performance of this work or (ii) to obtain TE's approval to have your contractor perform the work and ensure that your contractor will carry commercial general liability policy in an amount not less than two~~one~~ million (\$2~~1~~,000,000) dollars per occurrence and name TE and its successor or Assignee as an additional insured. Customer further agrees to reimburse TE during any downtime encountered for moving or temporarily disconnecting the Solar Facility, and to reimburse TE for any costs incurred to provide requested services in connection therewith.

(e) You agree to make best efforts to provide a safe and secure work environment at your Property during the Term. (e) You agree to make best efforts to provide a safe and secure work environment at your property as commercially allowable to ensure the continued proper working of the Solar Facility.

11. Insurance

(a) Both you and TE agree to carry throughout the Term adequate insurance coverage in favor of TE to fully insure TE's Solar Facility against loss or damage from any risk including, but not limited to, theft, earthquake, wind, fire and earth movement from reputable companies in the business of providing insurance. Your insurance will be primary and non-contributory as respects any loss or damage to TE's Solar Facility. You agree to provide TE with evidence of your insurance policy for the Solar Facility upon request. If [Click or tap here to enter text.](#) does not maintain insurance that covers damage to TE's Solar Facility, it will be responsible for the consequences of not maintaining such insurance. If you do not maintain insurance that covers damage to TE's Solar Facility, you will be responsible for the consequences of not maintaining such insurance.

(b) Commercial General Liability Insurance (CGL). TE carries commercial general liability insurance. Additionally, TE requires TE Contractors to maintain CGL and workers compensation insurance, as fully described below:

(i) TE requires TE Contractors performing the Solar Facility installation to maintain insurance coverage as follows: workers compensation, subject to statutory limits; Employers liability, with a minimum of one million (\$1,000,000) dollars each occurrence; commercial general liability, in an amount not less than one million (\$1,000,000) dollars each occurrence and two million (\$2,000,000) dollars annual aggregate; commercial automobile liability, in an amount not less than a combined bodily injury and property damage limit of one million (\$1,000,000) dollars per accident; excess liability insurance with a limit of one million (\$1,000,000) dollars per occurrence and in the annual aggregate in excess of the limits of insurance provided above; and any other insurance required by applicable laws or regulations.

(c) You agree to carry insurance that covers all damage to your Property during the term of this Agreement, including damage resulting from the Solar Facility, provided such damage was not caused by the gross negligence of TE. You agree that you are

responsible for contacting your insurance carrier and inquiring as to whether the installation of the Solar Facility will impact your existing coverage. If additional insurance is required to maintain your existing coverage, you will be responsible for either (i) procuring and maintaining such insurance or (ii) the consequences of not procuring and maintaining such insurance.

Your initials indicate that you have read and understand and accept the limitations and obligations set forth in this Section 11.

Accepted by (Initial): _____

12. Limitations of Liability

(a) TE WILL BE LIABLE TO YOU AND ANY OTHER PERSON FOR DAMAGES OR LOSSES DIRECTLY ATTRIBUTABLE TO ITS NEGLIGENCE OR WILLFUL MISCONDUCT. TOTAL LIABILITY FOR SUCH DIRECT DAMAGES OR LOSSES WILL IN NO EVENT EXCEED THE AMOUNTS PAID UNDER THIS AGREEMENT. THIS WILL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR EQUITY ARE WAIVED, EVEN IF YOU HAVE GREATER RIGHTS UNDER CALIFORNIA'S LAWS, WHICH YOU SHOULD CONSULT. TE IS NOT RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR ANY OTHER DAMAGES TO THE SOLAR FACILITY. THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED

(b) EXCEPT AS EXPRESSLY PROVIDED HEREIN, TE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING ITS OBLIGATIONS FOR THE SOLAR FACILITY. THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED

c) THIS SECTION SHALL NOT APPLY TO ANY THIRD-PARTY MANUFACTURER WARRANTIES.

Formatted: Space After: 0 pt

Commented [JW5]: Rudy, your thoughts on this?

13. Resolution of Disputes

(a) You agree that to expedite the resolution of and to control the costs of disputes, resolution of any dispute relating to this Agreement (Dispute), will be resolved according to the procedure set forth in this Section 13.

(b) Unless otherwise agreed in writing, TE and you agree to continue to perform each party's respective obligations under this Agreement during the course of the resolution of the Dispute.

(c) You and TE agree to first try to resolve informally and in good faith any Dispute. Accordingly, you agree to send a written notice of Dispute to the address on the first page of this Agreement, and TE will send a written notice of Dispute to your billing address. If you and TE do not reach an informal agreement to resolve the Dispute within 45 days after the notice of Dispute is received, you or TE may commence a formal proceeding as detailed below. All applicable statutes of limitation and defenses based upon the

passage of time shall be tolled for the 45 days during which the parties try to informally resolve any Dispute.

(d) If TE and you cannot resolve the Dispute informally, the Dispute will be resolved by binding arbitration. ARBITRATION MEANS YOU WAIVE YOUR RIGHT TO A JURY TRIAL AND ALL DISPUTES SHALL BE DECIDED BY AN ARBITRATOR. This agreement to arbitrate Disputes is governed by the Federal Arbitration Act (FAA). The arbitration will be conducted under the rules of JAMS that are in effect at the time the arbitration is initiated (JAMS Rules) and under the rules set forth in this Agreement. If there is a conflict between the JAMS Rules and this Agreement, this Agreement will govern.

(e) CLASS ACTION WAIVER. ARBITRATION MUST BE ON AN INDIVIDUAL BASIS. AS A RESULT, NEITHER YOU NOR TE MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER CUSTOMERS, OR LITIGATE IN COURT OR ARBITRATE ANY CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

(f) You may, in arbitration, seek all remedies available to you under this Agreement as interpreted under California law. If you decide to initiate arbitration against TE, You will pay the costs for initiating the arbitration proceedings. If TE decides to initiate arbitration, TE will be required to pay the costs associated with initiating the arbitration proceeding. Other reasonable fees, such as attorneys' fees and expenses of travel to the arbitration, will be paid in accordance with JAMS Rules. If the arbitrator finds in your favor, TE will pay your reasonable attorney's fees and expenses of travel to the arbitration. The arbitration hearing will take place in Orange County, CA, unless you and TE agree to another location in writing. In order to initiate arbitration proceedings, you or TE must take the following actions:

(i) Write a demand for arbitration. The demand must include a description of the Dispute and the amount of damages you are seeking. The form of Demand for Arbitration can be found under ADR Forms at www.jamsadr.com.

(ii) Send three copies of the demand for arbitration to the current JAMS location in Orange County, California.

(iii) Send one copy of the demand for arbitration to the other party.

(g) In accordance with the FAA and the JAMS Rules, the arbitrator's decision will be final and binding. Any right to appeal is likewise governed by the FAA and JAMS Rules. Any arbitration award may be enforced in any court with jurisdiction.

(h) You and TE agree to receive service of process of the arbitration demand by registered or certified mail, return receipt requested, at your billing address and TE's principal executive office, as applicable.

14. Force Majeure

(a) Neither you nor TE will be in default of this Agreement for any delay or failure in the performance under this Agreement (including any obligation to deliver or accept the electric energy output of the Solar Facility) if the delay or failure is due to Force Majeure. Force Majeure includes acts of God such as storms, fires, floods, lightning and earthquakes, war, riot, acts of a public enemy or other civil disturbance, or a strike, walkout, lockout or other significant labor dispute. Force Majeure does not include economic hardship of either you or TE, a power grid failure (except if caused directly by a Force Majeure event), a failure or delay in the granting of permits, or insufficiency, unavailability, failure, or diminishment of solar resources, except as a result of an event that would otherwise qualify as a Force Majeure.

(b) Force Majeure cannot be attributable to fault or negligence on the part of the party claiming Force Majeure and must be caused by things beyond that party's reasonable control. Additionally, you or TE must have taken all reasonable technical and commercial precautions to prevent the event or minimize its impact. Any insurance proceeds that you receive in connection with a Force Majeure shall be payable to TE to the extent of any damage to the Solar Facility or other losses sustained by TE in connection with such Force Majeure,

(c) In order to claim Force Majeure as a reason for non-performance, you or TE must give notice to the other party of the Force Majeure within fourteen (14) days of the occurrence of the Force Majeure and estimate how long it will last and what the potential impact is on the Agreement. The party claiming Force Majeure must (i) make reasonable attempts to continue to perform under the Agreement, (ii) quickly take action to correct the problem caused by the Force Majeure, and (iii) make reasonable efforts to limit damage to the other party. Finally, the party claiming Force Majeure must notify the other party when the Force Majeure event ends and performance will resume as contemplated in this Agreement.

15. Your Remedies

In addition to any other remedies you have under this Agreement if TE (or any applicable Assignee that owns the Solar Facility) (i) makes a general assignment for the benefit of creditors, files a petition in bankruptcy, appoints a trustee or receiver, or has all or substantially all of its assets subject to attachment, execution or other judicial seizure, or (ii) fails to perform an obligation under the Agreement and such failure continues beyond a period of ninety (90) days (provided, in each case, this Agreement is otherwise in full force and effect prior to such event), you will have the first option to purchase the Solar Facility as set forth in Section 7(a).

16. TE's Rights and Remedies

(a) If you (i) fail to perform a material obligation under the Agreement, and you do not correct the failure within one hundred twenty (120) days, (ii) make a general assignment for the benefit of creditors, file a petition in bankruptcy, appoint a trustee or

receiver or have all or substantially all of your assets subject to attachment, execution or other judicial seizure, or you become insolvent or unable to pay your debts, or (iii) vacate or abandon the Property, you shall be deemed in default of this Agreement. If you are in default of this Agreement, TE shall have all right available at law or in equity.

(b) If you (i) terminate this Agreement without also purchasing the Solar Facility or (ii) are deemed in default of this Agreement, TE shall, subject to any cure rights provided herein, have all rights granted by law or equity, including the right to remove, or restrict delivery of electricity to you from, the Solar Facility.

17. Exclusions

This Agreement does not include an obligation by TE or any of its agents, TE Contractors, subcontractors or representatives to: remove or dispose of any hazardous substances that currently exist on the Property; improve the construction of the roof or the Property to support the Solar Facility; remove or replace existing rot, rust, or insect infested structures; provide structural framing for any part of the Property; pay for or correct construction errors, omissions and deficiencies by you or your contractors; pay for, remove or remediate mold, fungus, mildew, or organic pathogens; upgrade your existing electrical service; install any smoke detectors, sprinklers or life safety equipment required by municipal code or inspectors as a result of the Solar Facility installation; pay for the removal or re location of equipment, obstacles or vegetation in the vicinity of the Solar Facility; pay for any costs associated with municipal design or architectural review, or other specialty permits (this includes cost to attend any public hearings, notification of neighbors, or additional drawings required); paint electrical boxes or conduit at the Property; and move items unassociated with the Solar Facility around the Property.

18. Miscellaneous

(a) You agree that this Agreement constitutes the entire agreement between you and TE. If any provision is declared to be invalid, that provision will be deleted or modified, and the rest of the Agreement will remain enforceable. The terms of this Agreement that expressly or by their nature survive termination shall continue thereafter until fully performed, which shall include, without limitation, the obligation to make payments hereunder.

(b) This Agreement shall be interpreted in accordance with and governed by the laws of the State of California, without regard to the conflict of laws principles thereof.

(c) You agree that TE has the right to obtain photographic images of the Solar Facility and the Property, and to use such photographic images for internal and quality control purposes. TE will not use photographic images of the Solar Facility or the Property in its marketing and promotional materials without first obtaining your express written approval.

(e) This Agreement supersedes any prior understandings, agreements, or representations by or between the parties, written or oral, to the extent they related in any way to the subject matter hereof.

(f) Any notice or other communication to be made hereunder, even if otherwise required to be in writing under other provisions of this Agreement or any other documents or agreements that have been provided to you in connection with this Agreement, may alternatively be made in an electronic record transmitted electronically to the electronic addresses provided by you. Any notice or communication made in electronic form will have the same legal effect and enforceability as if made in non-electronic form.

(g) This Agreement is binding upon, and inures to the benefit of, the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

(h) No Amendment to this Agreement shall be effective unless it is in writing and signed by both parties.

19. Mechanic's Liens

TE will only arrange for TE Contractors to design, install, operate, maintain and test the Solar Facility. TE will NOT put a mechanic's lien on your property and will indemnify, defend and hold you harmless for any mechanic's lien that is placed on your property by TE Contractors as a result of your entering into this Agreement.

(Remainder of Page Intentionally Left Blank)

(Signature Page Follows)

TE AND/OR ITS AFFILIATES

-
On behalf of

Click or tap here to enter text.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Email: _____

Email: _____

Date: _____

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Email: _____

Date: _____

EXHIBIT A

Estimated Monthly Payment Schedule*

Year	Monthly Payment
1	\$18,773.92 \$2,624.32
2	\$19,335.26 \$2,889.28
3	\$19,913.39 \$2,755.84
4	\$20,508.80 \$2,824.05
5	\$21,122.01 \$2,893.94
6	\$21,753.56 \$2,965.57
7	\$22,403.99 \$3,038.97
8	\$23,073.87 \$3,114.18
9	\$23,763.78 \$3,191.26
10	\$24,474.32 \$3,270.25
11	\$25,206.10 \$3,351.19
12	\$25,959.76 \$3,434.13
13	\$26,735.96 \$3,519.13
14	\$27,535.36 \$3,606.23
15	\$28,358.67 \$3,695.48
16	\$29,206.59 \$3,786.95
17	\$30,079.87 \$3,880.68
18	\$30,979.26 \$3,976.73
19	\$31,905.54 \$4,075.15
20	\$32,859.51 \$4,176.01
21	\$33,842.01 \$4,279.37
22	\$34,853.89 \$4,385.29
23	\$35,896.02 \$4,493.83
24	\$36,969.31 \$4,605.05
25	\$38,074.69 \$4,719.03

Commented [JW6]: If the yearly production was off, is this one accurate?

Commented [JH7R6]: Corrected.

* Actual payments will be dependent on the solar energy produced during the monthly period of the Term.

EXHIBIT B

Estimated Annual Production Schedule

Year	Estimated Production (kWh)
1	<u>1,258,587</u> 224,942
2	<u>1,255,441</u> 223,817
3	<u>1,252,302</u> 222,698
4	<u>1,249,171</u> 221,585
5	<u>1,246,048</u> 220,477
6	<u>1,242,933</u> 219,374
7	<u>1,239,826</u> 218,277
8	<u>1,236,726</u> 217,186
9	<u>1,233,634</u> 216,100
10	<u>1,230,550</u> 215,020
11	<u>1,227,474</u> 213,945
12	<u>1,224,405</u> 212,875
13	<u>1,221,344</u> 211,810
14	<u>1,218,291</u> 210,751
15	<u>1,215,245</u> 209,698
16	<u>1,212,207</u> 208,649
17	<u>1,209,177</u> 207,606
18	<u>1,206,154</u> 206,568
19	<u>1,203,138</u> 205,535
20	<u>1,200,130</u> 204,507
21	<u>1,197,130</u> 203,485

Commented [JW8]: These numbers don't match up with the production listed at the top

Commented [JH9R8]: Corrected

22	<u>1,194,137</u> 202,467
23	<u>1,191,152</u> 201,455
24	<u>1,188,174</u> 200,448
25	<u>1,185,204</u> 1,446

EXHIBIT C

NOTICE OF CANCELLATION

DATE: _____

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENT MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 3 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR PROPERTY, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY, IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER TE AT 6510 E SPRING ST STE 437, LONG BEACH, CA 90815, NOT LATER THAN MIDNIGHT OF 11/09/2022

I HEREBY CANCEL THIS TRANSACTION.

DATE: _____

CUSTOMER SIGNATURE _____

**NOTICE OF CANCELLATION MAY BE SENT TO TE AT THE ADDRESS
NOTED ON THE FIRST PAGE OF THIS CONTRACT**

EXHIBIT C

DUPLICATE COPY

NOTICE OF CANCELLATION

DATE: _____

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENT MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 3 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR PROPERTY, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY, IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER TO TE AT 6510 E SPRING ST STE 437, LONG BEACH, CA 90815, NOT LATER THAN MIDNIGHT OF 11/09/2022

I HEREBY CANCEL THIS TRANSACTION.

DATE: _____

CUSTOMER SIGNATURE _____

**NOTICE OF CANCELLATION MAY BE SENT TO TE AT THE ADDRESS
NOTED ON THE FIRST PAGE OF THIS CONTRACT**



Solar Power Purchase Agreement (Commercial)

Between:

On Behalf of
The City of Willows, CA
201 North Lassen Street
Willows, CA 95988

And

Trinary Solar Group, LLC
6510 E Spring St. Ste. 437
Long Beach, CA 90815

KEY COMMERCIAL TERMS:

Description of Solar Facility	Roof Mount, Ground Mount, and Carport Photovoltaic panels, inverter, racking materials, production meter for monitoring
Solar Facility Size kW (DC)	785.97 kW
Estimated Solar Energy Output in Year 1	1,258,587 kWh
Annual Solar Energy Output Degradation Factor	0.5%
Length of Initial Term (the Initial Term)	25 Years
Estimated Solar Energy Output over Initial Term	30,538,581 kWh
Price/kWh	\$0.179/kWh
Estimated Monthly Payment in Year 1	\$18773.92
Annual Price/kWh Escalator	2.99%
Utility	PG&E

Other Important Terms: You should refer to this Agreement for additional information on early termination, purchase options and maintenance responsibilities, warranties, late and default charges, insurance, and security interests.

Your initials indicate that you have read, understand, and accept the explanation of estimated energy output, energy sources, payment terms and your rights regarding the purchase of the Solar Facility. You understand that Trinary Energy (together with its successors and Assignees, referred to in this Agreement as "TE") and you agree that TE will make a final determination of customer eligibility.

Accepted by (Initial): _____

Date: _____

CUSTOMER ACKNOWLEDGES THAT THE SOLAR FACILITY IS OWNED BY TE AND/OR ITS AFFILIATES, SUCCESSORS OR ASSIGNS.

TRINARY ENERGY SOLAR POWER PURCHASE AGREEMENT

THIS DOCUMENT DESCRIBES THE TERMS AND CONDITIONS OF YOUR RECEIPT OF AND PAYMENT FOR ELECTRIC ENERGY TO BE SUPPLIED BY A SOLAR PHOTOVOLTAIC SYSTEM THAT WILL BE INSTALLED AT YOUR PROPERTY AND OWNED AND MAINTAINED BY TE. YOU WILL RECEIVE A FINAL, FULLY SIGNED COPY OF THIS AGREEMENT BEFORE WORK BEGINS.

1. Introduction

(a) You are entering into this Solar Power Purchase Agreement (this “**Agreement**”) with TE, together with its successors and Assigns. You represent that you are the owner and/or have the legal right to enter into this Agreement for the property located at 1600 South Tehama Street, located in the City of Willows, 95988 within the State of California (the “**Property**”), and that your current electrical service is provided by the Utility PG&E. You further represent that every person or entity with an ownership interest in the Property has agreed to be bound by this Agreement and is listed on the signature page of this Agreement.

Accepted by (Initial): _____

(b) You may contact TE by mail at 6510 E Spring St Ste 437, Long Beach, CA 90815. TE will arrange for licensed individuals or entities to perform the design, permitting, construction, installation, testing, and activation (referred to in this agreement as “**TE Contractors**”) of a solar photovoltaic system as described on the cover page to this Agreement (the “**Solar Facility**”) to be located on the roof and/or grounds, as applicable, of the Property.

It is understood between the Parties that all personnel contracted for or deployed by TE for demolition, construction/installation, maintenance or other purposes in connection with TE’s performance of their obligations under this agreement shall be and shall remain exclusively employees or contractors of TE, reporting solely to TE, and for whom TE shall remain wholly responsible for pay and benefits including salary, health, accident and worker compensation benefits, and all taxes and contributions that are required by an employer with respect to their own employees. The City of Willows shall not be considered a joint employer of any TE employees or contractors for any purpose. Similarly, TE shall not be considered to be a joint employer of any person employed by the City of Willows for any purpose.

(c) You agree to allow TE Contractors to install and maintain the Solar Facility on the grounds and/or roof, as applicable, of the Property at a specific location to be identified and approved by TE. During the Initial Term and any Renewal Terms, TE agrees to provide you electric energy from the Solar Facility under the terms and conditions contained in this Agreement.

2. Solar Facility

(a) TE will arrange for the design, permitting, construction, installation and testing of the Solar Facility on the roof and/or grounds, as applicable, of the Property materially based on a system design that you will have approved. Once installed, TE will

operate, maintain and monitor the Solar Facility so as to generate electric energy in accordance with prudent utility practices for use at the Property (“**TE’s Obligations**”) during the Term of this Agreement. The Solar Facility will be an eligible renewable energy resource under the California Renewables Portfolio Standard Program.

(b) You acknowledge and agree that:

(i) Unless the Solar Facility is purchased pursuant to Section 7 hereof, TE will own the Solar Facility and you will have no ownership interest in the Solar Facility; it shall remain the personal property of TE and shall not be considered for any purposes to be a fixture or otherwise a part of your Property.

(ii) The Solar Facility will not be subject to any lien, security interest, claim, mortgage, or deed of trust that may be imposed on or assessed against your interest in the Property, or any other property belonging to you. You will have no right to sell, give away, transfer, pledge, remove, relocate, alter, disconnect, or tamper with the Solar Facility at any time as long as this Agreement remains in effect, even if TE is in default of its obligations under this Agreement. Notwithstanding the foregoing, in the event that the Solar Facility were to be deemed your property for any reason, you hereby grant to TE (and to any party to whom it may have sold its interest in the Solar Facility) a lien and security interest in and to the Solar Facility. TE or any TE affiliate may file (A) a UCC-1 or other notice of such lien and security interest with the California secretary of State, (B) a fixture disclaimer filing in with the registrar/recorder (or its equivalent) of the county in which the Solar Facility is located and (C) any Notice of an Independent Solar Energy Producer Contract required by California law. You agree to cooperate with TE in connection with such filings.

(iii) The Solar Facility will be used primarily for standard business purposes but may not be used to heat a swimming pool

(c) TE will be responsible for all costs and expenses related to performing TE’s Obligations. You agree that TE has the authority and discretion to use and/or arrange for contractors or agents to perform or assist TE in performing TE’s Obligations.

(d) You agree that TE, at its own expense, will arrange for the installation of, maintain, and periodically test a meter at the Property that will measure all electric energy delivered to you from the Solar Facility. You agree not to tamper with, damage or modify the meter in any way. You will be responsible for any damage or inaccuracies in the meter that are caused by you or any other person unrelated to TE who may come onto the Property.

3. Design and Installation

(a) The primary equipment used for the Solar Facility will typically include a series of interconnected photovoltaic panels, an inverter, racking materials, and a production meter. Other materials generally used as "balance of system" include disconnects, breakers, load centers, wires, and conduit. The design for the Solar Facility will be presented to you prior to installation. You will have five (5) business days following this presentation to request a change pursuant to Section 4(b). Otherwise, you will be deemed to have approved the Solar Facility design. With your written, deemed, or oral approval, the Solar Facility installation may begin at any time.

(b) If you wish to change the design or installation process, TE will use commercially reasonable efforts to accommodate your request. (See Section 4 regarding Extra Work and Change Orders.)

(c) If an obligation excluded from this Agreement must be performed in order to properly effect the installation of the Solar Facility, you agree to contract separately, and at your own expense, with a contractor who has been designated or approved by TE to perform such obligation. In this instance, TE will not unreasonably withhold such approval.

(d) TE shall, through Trinary Capital, fund and complete a buyout of the prior (executed September 1, 2010) City of Willows Power Purchase Agreement with Clearway energy, in an amount not to exceed \$1,462,155 (equal to the termination payment listed in Exhibit D of (the twelfth year) of that agreement).

(e) TE and the City of Willows have entered into a lease agreement for the property located at 1600 South Tehama Street, Willow, CA 95988. TE will arrange for or obtain any permits needed, and contract at TE's cost for the demolition of the prior solar installation located at 1600 South Tehama Street at Old Hwy. 99 in Willows, CA 95988 and installation of a new Solar Facility located at that same site. You agree to cooperate with TE and TE Contractors and assist TE and TE Contractors in obtaining any permits needed, including the NEM Service application described in Section 5(a). You agree to complete and return to TE and/or its representatives, as appropriate, all applicable rebate documentation and, where applicable, Renewable Energy Credit documentation, upon request and following the date on which the Utility grants permission to operate the Solar Facility (the "**Solar Facility Start Date**"). If you do not return the rebate or Renewable Energy Credit documentation, TE may invoice you for the Final Rebate amount (as defined in Section 4(a)(iii)).

(i) Renewable Energy Credits are defined as

(f) For the Initial Term and any Renewal Terms you agree to maintain the Property, at your expense, such that the Solar Facility retains shading conditions no less beneficial for solar energy production than those present at the time of Installation.

(g) TE will ensure that TE Contractors shall at the end of each business day keep the Property reasonably free from waste materials or rubbish caused by their operations. Prior to the Solar

Facility Start Date, TE Contractors shall remove all of their tools, construction/installation equipment, machinery, waste materials and rubbish from and around the Property.

(h) Upon completion of the Solar Facility and subject to the exclusions set forth in Section 17, TE will ensure that TE Contractors rectify any damages incurred to your Property by TE Contractors during the installation of the Facility return your Property to a condition similar to its original condition prior to the installation of the Facility, provided that you notify TE in writing or by e-mail of any damages deficiencies in restoration within five (5) business days of the municipal building inspector approval of the Solar Facility.

4. Changes to the Agreement

(a) The following conditions may change the expected costs and benefits of this Solar Facility to both you and TE, which may include a change in the per kWh price:

- (i) change to the design of your Solar Facility;
- (ii) change in the system's annual energy production estimate, expressed in kWh, provided by the National Renewable Energy Laboratory PVWatts Calculator ("**PVWatts Calculator**") (Final Year One Production Estimate);
- (iii) change in the final rebate amount associated with installing the Solar Facility ("**Final Rebate**") or any change in your applicable tariff (including any changes to net metering); and/or
- (iv) the availability of cellular service at the Property.

(b) If any of these conditions occur, TE may choose to modify the terms of this Agreement (including, without limitation the price per kWh) or cancel the Agreement. If TE chooses to modify the terms, TE will notify you in writing (referred to in this Agreement as a "**Change Order**") and you will have five (5) business days to accept the Change Order or cancel this Agreement. If you do not respond to TE within five (5) business days, TE may deem you to have cancelled the Agreement. Extra work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the Change Order. In order to be enforceable, the Change Order must describe the scope of the extra work or change and the cost to be added or subtracted from the contract. A TE Contractor's failure to comply with the requirements of this paragraph does not preclude the recovery of compensation by the TE Contractor for work performed, based upon legal or equitable remedies designed to prevent unjust enrichment.

(c) You may choose to accept changes under this Section 4 in writing or by electronic mail.

5. Purchase and Sale of Electricity

(a) As of the Solar Facility Start Date, you must be taking service from the Standard Net Energy Metering Service or its equivalent ("**NEM Service**") from the Utility. You agree that you will continue

to take NEM Service for as long as this Agreement is in effect. You agree to use the NEM Service currently in effect for this Utility or, in the event that the NEM Service is no longer in effect, the parties shall negotiate over the use of a substitute metering program. You agree to execute all documentation associated with NEM Service, or any substitute metering service, and any refund, credit, or rebate program promptly at the request of TE, its affiliates, and/or the Utility.

(b) TE agrees to sell to you, and you agree to purchase from TE, all electric energy produced by the Solar Facility at an initial rate of \$0.179/kWh. This per Kilowatt hour rate shall increase by 2.99% in each year pursuant to the PPA Annual Production and Rate Table (Exhibit A), which is attached hereto and incorporated by reference as though fully set out herein. All electric energy produced by the Solar Facility will be made available to you (or any subsequent owner of the Property) for use at Property.

(c) If at any time you need more electric energy than is being produced by the Solar Facility ("**Supplemental Energy**"), you will be solely responsible for purchasing that electric energy from another supplier, such as the Utility. During the term of this Agreement, you should expect to purchase Supplemental Energy from your Utility. Depending on the terms of your NEM Service, the Utility will bill you either annually or monthly. TE will not be in default of this Agreement and will not be responsible for any Supplemental Energy you purchase to complement the electric energy produced by the Solar Facility.

(d) You agree that title to and risk of loss for the electric energy purchased under this Agreement shall pass from TE to you at the time when the electric energy reaches the point of interconnection, i.e., at the point where the Solar Facility connects to the Property's connection with your Utility.

(e) TE or its designee shall retain rights to any Federal Investment Tax Credit or State Incentives or Rebates related to renewable energy projects, including but not limited to carbon credits, renewable energy certificates, green tags, tradable renewable certificates, Renewable Energy Credits and greenhouse gas offsets ("**Carbon Credits**") for the Term of this Agreement. Notwithstanding the foregoing, if you purchase the Solar Facility from TE, you will own, and be entitled to proceeds from the sales of, solar Renewable Energy Credits and Renewable Energy Credits earned after the later of the dates you purchase the Solar Facility from TE.

6. Billing and Payment

(a) TE will invoice you monthly and you agree to pay those invoices in full, without deduction or setoff, within 15 days following receipt. You agree to (i) establish an autopay/ACH to pay the applicable invoices, and (ii) complete the forms required to implement the same

(b) During the Term, TE will, within one month following each anniversary of the Solar Facility Start Date, prepare and send to you an annual statement detailing the kWh of electric energy

produced by the Solar Facility during that year. If in any year (measured from the Solar Facility Start Date) the Solar Facility has produced less than 90% of the Estimated Solar Energy Output, as reduced by the Degradation Factor provided for in the PPA Annual Production and Rate Table (Exhibit A), (other than for reasons of force majeure), TE will pay you a true-up payment equal to the number of kWh by which the actual output of the Solar Facility was less than 90% of the Estimated Solar Energy Output, as reduced by the Degradation Factor, multiplied by Price/kWh.

(c) During any Renewal Term, the parties shall negotiate regarding a new price per Kilowatt Hour in the first year of a renewal term, the per Kilowatt Hour price shall be equal to no more than 50% of the then-applicable Utility rate and no less than \$0.374 /kWh.

7. Purchase of the Solar Facility

(a) You have the option to purchase the Solar Facility at any time after the sixth anniversary of the Solar Facility Start Date.

(b) To purchase the Solar Facility pursuant to Section 7(a), you must deliver a written notice to TE of your intent to purchase the Solar Facility.

(c) The purchase price will be equal to the fair market value of the Solar Facility, as determined by a mutually agreed-upon third party ("**FMV**"). In such case, TE will prepare a valuation of the Solar Facility to determine the FMV, using widely used methods from industry. The valuation will take into account the Solar Facility's age; location; size; and other market characteristics such as equipment type and equipment operating, maintenance and service costs, value of electricity in your area, potential "comparables", and any applicable solar incentives.

(d) Upon any transfer of the Solar Facility to you, this Agreement will automatically terminate, and you will own and be fully responsible for the Solar Facility.

8. Sale of Property and Assignment

(a) If you sell the Property prior to the sixth anniversary of the Solar Facility Start Date, you must assign this Agreement to the new owner and the new owner must agree in writing to be bound by all of the terms and conditions set forth herein. After the sixth anniversary of the Solar Facility Start Date, you may either (i) assign this Agreement to the new owner, or (ii) purchase the Solar Facility pursuant to Section 7. Please contact TE to obtain an assignment agreement. Whether or not this Agreement is assigned as contemplated in this Section 8(a), the right to receive the electricity from the Solar Facility, through this Agreement shall automatically be transferred with the title to the Property whether the title is transferred by voluntary sale, judicial or nonjudicial foreclosure, or by any other means. In the event of such a transfer without an assignment of this Agreement you will exercise your best efforts to obtain an assignment of this Agreement to the new owner of the Property as soon as possible.

(b) If you sell or otherwise transfer your interest in the Property in violation of the provisions of this Agreement, then you will be

deemed to have breached this Agreement, and TE may exercise its rights under Section 16(a).

(c) TE may not assign, lease, sublease, or transfer the Solar Facility and this Agreement along with all rights and obligations hereunder to any third party (each, an “**Assignee**”), without first giving notice to you and obtaining your consent, for any purpose, including, without limitation, transferring to a new equity owner of the Solar Facility, financing of the Solar Facility’s installation, or in the event of an acquisition, corporate reorganization, merger or sale of substantially all of its assets to another entity. Consent for any such assignment, lease, sublease or transfer may not be unreasonably withheld. If TE or its Assignee chooses to transfer the Solar Facility or this Agreement to another party, you agree to treat this other party as your counterparty under this Agreement.

(d) TE warrants and covenants to you that no Assignee, creditor, partner or owner of the Solar Facility has, as of the date of this Agreement, the right to remove or permanently decommission the Solar Facility.(e) To the extent that Host Customer does not own the Premises, Host Customer shall provide to System Owner immediate written notice of receipt of notice of eviction from the Premises or termination of Host Customer’s lease of the Premises.

(f) In the event that any or all of the Premises is or becomes subject during the Term to a new lease or Lien, Host Customer shall require that the lessor or the holder of such lease or Lien enter into an agreement with System Owner, or provide an estoppel reasonably acceptable to System Owner and the lenders, acknowledging and recognizing System Owner’s rights under this Agreement and acknowledging that the System is the personal property of System Owner severable from the Site and not a fixture.

(g) If necessary, after the execution of this Agreement, Host Customer shall from time-to-time grant to System Owner easements, leases, licenses, consents, acknowledgments, and approvals and other rights System Owner reasonably requires for the installation and testing of the System, production and delivery of Output to the Delivery Point, and the operation and maintenance of the System under this Agreement.

Accepted by (Initial): _____

9. Term and Termination

(a) You agree that this Agreement will only become effective when both you and TE have signed the Agreement.

(b) This Agreement will continue in effect until Twenty-Five (25) years following the Solar Facility Start Date. This period shall be called the “**Initial Term**”.

(c) At the end of the Initial Term, this Agreement will be automatically renewed for two additional five-year terms (the

“**Renewal Term**” and, together with the Initial Term, the “**Term**”), unless you have purchased the Solar Facility or unless either you or TE gives the other party to this Agreement a termination notice at least thirty (30) days prior to the expiration of the Initial Term or the first Renewal Term.

(d) At the end of the Initial Term and any Renewal Terms if either you or TE do not wish to renew the Agreement and you have not purchased the Solar Facility, TE will remove the Solar Facility at no cost to you. TE agrees to leave your property in the same general condition that existed immediately prior to removal of the Solar Facility normal wear and tear excepted.

(e) This Agreement will terminate upon the closing of your purchase of the Solar Facility pursuant to Section 7.

10. Access, Maintenance and Repair

(a) You hereby grant to TE the right to have TE Contractors access to your Property for the purpose of designing, installing, operating, maintaining and testing the Solar Facility and performing TE’s Obligations. TE agrees to give you reasonable notice when TE needs to access your Property for any of the foregoing purposes and will endeavor to restrict such access to normal business hours. In the event that TE or any contractor needs to de-energize or disconnect the City’s Wastewater Treatment plant from the solar energy project or PG&E in order to perform work on the solar facility, TE shall obtain and adhere to the conditions contained in an encroachment permit in the form provided in Exhibit “ ”.

(b) When possible, you agree to allow TE, TE Contractors and other construction professionals (an engineer, architect, or licensed contractor or their representative) hired by TE to access your Property to inspect any buildings and, if applicable, roofs prior to the installation of the Solar Facility to ensure that your Property will accommodate the Solar Facility.

(c) TE will, at its sole cost and expense, monitor and maintain the Solar Facility for the Term of the Agreement.

(d) If you plan to move or temporarily disconnect the Solar Facility to allow for maintenance of and/or repair to the Property or the roof, as applicable, you agree, at your expense, either (i) to hire TE to arrange for the performance of this work or (ii) to obtain TE’s approval to have your contractor perform the work and ensure that your contractor will carry commercial general liability policy in an amount not less than two million (\$2,000,000) dollars per occurrence and name TE and its successor or Assignee as an additional insured. Customer further agrees to reimburse TE during any downtime encountered for moving or temporarily disconnecting the Solar Facility, and to reimburse TE for any costs incurred to provide requested services in connection therewith.

(e) You agree to make best efforts to provide a safe and secure work environment at your property as commercially allowable to ensure the continued proper working of the Solar Facility.

11. Insurance

(a) Both you and TE agree to carry throughout the Term adequate insurance coverage in favor of TE to fully insure TE's Solar Facility against loss or damage from any risk including, but not limited to, theft, earthquake, wind, fire and earth movement from reputable companies in the business of providing insurance. Your insurance will be primary and non-contributory as respects any loss or damage to TE's Solar Facility. You agree to provide TE with evidence of your insurance policy for the Solar Facility upon request. If [Click or tap here to enter text.](#) does not maintain insurance that covers damage to TE's Solar Facility, it will be responsible for the consequences of not maintaining such insurance. If you do not maintain insurance that covers damage to TE's Solar Facility, you will be responsible for the consequences of not maintaining such insurance.

(b) Commercial General Liability Insurance (CGL). TE carries commercial general liability insurance. Additionally, TE requires TE Contractors to maintain CGL and workers compensation insurance, as fully described below:

(i) TE requires TE Contractors performing the Solar Facility installation to maintain insurance coverage as follows: workers compensation, subject to statutory limits; Employers liability, with a minimum of one million (\$1,000,000) dollars each occurrence; commercial general liability, in an amount not less than one million (\$1,000,000) dollars each occurrence and two million (\$2,000,000) dollars annual aggregate; commercial automobile liability, in an amount not less than a combined bodily injury and property damage limit of one million (\$1,000,000) dollars per accident; excess liability insurance with a limit of one million (\$1,000,000) dollars per occurrence and in the annual aggregate in excess of the limits of insurance provided above; and any other insurance required by applicable laws or regulations.

(c) You agree to carry insurance that covers all damage to your Property during the term of this Agreement, including damage resulting from the Solar Facility, provided such damage was not caused by the gross negligence of TE. You agree that you are responsible for contacting your insurance carrier and inquiring as to whether the installation of the Solar Facility will impact your existing coverage. If additional insurance is required to maintain your existing coverage, you will be responsible for either (i) procuring and maintaining such insurance or (ii) the consequences of not procuring and maintaining such insurance.

Your initials indicate that you have read and understand and accept the limitations and obligations set forth in this Section 11.

Accepted by (Initial): _____

12. Limitations of Liability

(a) TE WILL BE LIABLE TO YOU AND ANY OTHER PERSON FOR DAMAGES OR LOSSES DIRECTLY ATTRIBUTABLE TO ITS NEGLIGENCE OR WILLFUL MISCONDUCT. TOTAL LIABILITY FOR SUCH DIRECT DAMAGES OR LOSSES WILL IN NO EVENT EXCEED

THE AMOUNTS PAID UNDER THIS AGREEMENT. THIS WILL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR EQUITY ARE WAIVED, EVEN IF YOU HAVE GREATER RIGHTS UNDER CALIFORNIA'S LAWS, WHICH YOU SHOULD CONSULT. TE IS NOT RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR ANY OTHER DAMAGES TO THE SOLAR FACILITY. THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED

(b) EXCEPT AS EXPRESSLY PROVIDED HEREIN, TE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING ITS OBLIGATIONS FOR THE SOLAR FACILITY. THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED

c) THIS SECTION SHALL NOT APPLY TO ANY THIRD-PARTY MANUFACTURER WARRANTIES.

13. Resolution of Disputes

(a) You agree that to expedite the resolution of and to control the costs of disputes, resolution of any dispute relating to this Agreement (Dispute), will be resolved according to the procedure set forth in this Section 13.

(b) Unless otherwise agreed in writing, TE and you agree to continue to perform each party's respective obligations under this Agreement during the course of the resolution of the Dispute.

(c) You and TE agree to first try to resolve informally and in good faith any Dispute. Accordingly, you agree to send a written notice of Dispute to the address on the first page of this Agreement, and TE will send a written notice of Dispute to your billing address. If you and TE do not reach an informal agreement to resolve the Dispute within 45 days after the notice of Dispute is received, you or TE may commence a formal proceeding as detailed below. All applicable statutes of limitation and defenses based upon the passage of time shall be tolled for the 45 days during which the parties try to informally resolve any Dispute.

(d) If TE and you cannot resolve the Dispute informally, the Dispute will be resolved by binding arbitration. ARBITRATION MEANS YOU WAIVE YOUR RIGHT TO A JURY TRIAL AND ALL DISPUTES SHALL BE DECIDED BY AN ARBITRATOR. This agreement to arbitrate Disputes is governed by the Federal Arbitration Act (FAA). The arbitration will be conducted under the rules of JAMS that are in effect at the time the arbitration is initiated (JAMS Rules) and under the rules set forth in this Agreement. If there is a conflict between the JAMS Rules and this Agreement, this Agreement will govern.

(e) CLASS ACTION WAIVER. ARBITRATION MUST BE ON AN INDIVIDUAL BASIS. AS A RESULT, NEITHER YOU NOR TE MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER CUSTOMERS, OR LITIGATE IN COURT OR ARBITRATE ANY

CLAIMS AS A REPRESENTATIVE OR MEMBER OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

(f) You may, in arbitration, seek all remedies available to you under this Agreement as interpreted under California law. If you decide to initiate arbitration against TE, You will pay the costs for initiating the arbitration proceedings. If TE decides to initiate arbitration, TE will be required to pay the costs associated with initiating the arbitration proceeding. Other reasonable fees, such as attorneys' fees and expenses of travel to the arbitration, will be paid in accordance with JAMS Rules. If the arbitrator finds in your favor, TE will pay your reasonable attorney's fees and expenses of travel to the arbitration. The arbitration hearing will take place in Orange County, CA, unless you and TE agree to another location in writing. In order to initiate arbitration proceedings, you or TE must take the following actions:

- (i) Write a demand for arbitration. The demand must include a description of the Dispute and the amount of damages you are seeking. The form of Demand for Arbitration can be found under ADR Forms at www.jamsadr.com.
- (ii) Send three copies of the demand for arbitration to the current JAMS location in Orange County, California.
- (iii) Send one copy of the demand for arbitration to the other party.

(g) In accordance with the FAA and the JAMS Rules, the arbitrator's decision will be final and binding. Any right to appeal is likewise governed by the FAA and JAMS Rules. Any arbitration award may be enforced in any court with jurisdiction.

(h) You and TE agree to receive service of process of the arbitration demand by registered or certified mail, return receipt requested, at your billing address and TE's principal executive office, as applicable.

14. Force Majeure

(a) Neither you nor TE will be in default of this Agreement for any delay or failure in the performance under this Agreement (including any obligation to deliver or accept the electric energy output of the Solar Facility) if the delay or failure is due to Force Majeure. Force Majeure includes acts of God such as storms, fires, floods, lightning and earthquakes, war, riot, acts of a public enemy or other civil disturbance, or a strike, walkout, lockout or other significant labor dispute. Force Majeure does not include economic hardship of either you or TE, a power grid failure (except if caused directly by a Force Majeure event), a failure or delay in the granting of permits, or insufficiency, unavailability, failure, or diminishment of solar resources, except as a result of an event that would otherwise qualify as a Force Majeure.

(b) Force Majeure cannot be attributable to fault or negligence on the part of the party claiming Force Majeure and must be caused by things beyond that party's reasonable control. Additionally, you or TE must have taken all reasonable technical and commercial precautions to prevent the event or minimize its

impact. Any insurance proceeds that you receive in connection with a Force Majeure shall be payable to TE to the extent of any damage to the Solar Facility or other losses sustained by TE in connection with such Force Majeure,

(c) In order to claim Force Majeure as a reason for non-performance, you or TE must give notice to the other party of the Force Majeure within fourteen (14) days of the occurrence of the Force Majeure and estimate how long it will last and what the potential impact is on the Agreement. The party claiming Force Majeure must (i) make reasonable attempts to continue to perform under the Agreement, (ii) quickly take action to correct the problem caused by the Force Majeure, and (iii) make reasonable efforts to limit damage to the other party. Finally, the party claiming Force Majeure must notify the other party when the Force Majeure event ends and performance will resume as contemplated in this Agreement.

15. Your Remedies

In addition to any other remedies you have under this Agreement if TE (or any applicable Assignee that owns the Solar Facility) (i) makes a general assignment for the benefit of creditors, files a petition in bankruptcy, appoints a trustee or receiver, or has all or substantially all of its assets subject to attachment, execution or other judicial seizure, or (ii) fails to perform an obligation under the Agreement and such failure continues beyond a period of ninety (90) days (provided, in each case, this Agreement is otherwise in full force and effect prior to such event), you will have the first option to purchase the Solar Facility as set forth in Section 7(a).

16. TE's Rights and Remedies

(a) If you (i) fail to perform a material obligation under the Agreement, and you do not correct the failure within one hundred twenty (120) days, (ii) make a general assignment for the benefit of creditors, file a petition in bankruptcy, appoint a trustee or receiver or have all or substantially all of your assets subject to attachment, execution or other judicial seizure, or you become insolvent or unable to pay your debts, or (iii) vacate or abandon the Property, you shall be deemed in default of this Agreement. If you are in default of this Agreement, TE shall have all right available at law or in equity.

(b) If you (i) terminate this Agreement without also purchasing the Solar Facility or (ii) are deemed in default of this Agreement, TE shall, subject to any cure rights provided herein, have all rights granted by law or equity, including the right to remove, or restrict delivery of electricity to you from, the Solar Facility.

17. Exclusions

This Agreement does not include an obligation by TE or any of its agents, TE Contractors, subcontractors or representatives to: remove or dispose of any hazardous substances that currently exist on the Property; improve the construction of the roof or the Property to support the Solar Facility; remove or replace existing rot, rust, or insect infested structures; provide structural framing

for any part of the Property; pay for or correct construction errors, omissions and deficiencies by you or your contractors; pay for, remove or remediate mold, fungus, mildew, or organic pathogens; upgrade your existing electrical service; install any smoke detectors, sprinklers or life safety equipment required by municipal code or inspectors as a result of the Solar Facility installation; pay for the removal or re location of equipment, obstacles or vegetation in the vicinity of the Solar Facility; pay for any costs associated with municipal design or architectural review, or other specialty permits (this includes cost to attend any public hearings, notification of neighbors, or additional drawings required); paint electrical boxes or conduit at the Property; and move items unassociated with the Solar Facility around the Property.

18. Miscellaneous

(a) You agree that this Agreement constitutes the entire agreement between you and TE. If any provision is declared to be invalid, that provision will be deleted or modified, and the rest of the Agreement will remain enforceable. The terms of this Agreement that expressly or by their nature survive termination shall continue thereafter until fully performed, which shall include, without limitation, the obligation to make payments hereunder.

(b) This Agreement shall be interpreted in accordance with and governed by the laws of the State of California, without regard to the conflict of laws principles thereof.

(c) You agree that TE has the right to obtain photographic images of the Solar Facility and the Property, and to use such photographic images for internal and quality control purposes. TE will not use photographic images of the Solar Facility or the Property in its marketing and promotional materials without first obtaining your express written approval.

(e) This Agreement supersedes any prior understandings, agreements, or representations by or between the parties, written or oral, to the extent they related in any way to the subject matter hereof.

(f) Any notice or other communication to be made hereunder, even if otherwise required to be in writing under other provisions of this Agreement or any other documents or agreements that have been provided to you in connection with this Agreement, may alternatively be made in an electronic record transmitted electronically to the electronic addresses provided by you. Any notice or communication made in electronic form will have the same legal effect and enforceability as if made in non-electronic form.

(g) This Agreement is binding upon, and inures to the benefit of, the parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

(h) No Amendment to this Agreement shall be effective unless it is in writing and signed by both parties.

19. Mechanic's Liens

TE will only arrange for TE Contractors to design, install, operate, maintain and test the Solar Facility. TE will NOT put a mechanic's lien on your property and will indemnify, defend and hold you harmless for any mechanic's lien that is placed on your property by TE Contractors as a result of your entering into this Agreement.

(Remainder of Page Intentionally Left Blank)

(Signature Page Follows)

- On behalf of

Click or tap here to enter text.

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Email: _____

Email: _____

Date: _____

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Email: _____

Date: _____

EXHIBIT A

Estimated Monthly Payment Schedule*

Year	Monthly Payment
1	\$18,773.92
2	\$19,335.26
3	\$19,913.39
4	\$20,508.80
5	\$21,122.01
6	\$21,753.56
7	\$22,403.99
8	\$23,073.87
9	\$23,763.78
10	\$24,474.32
11	\$25,206.10
12	\$25,959.76
13	\$26,735.96
14	\$27,535.36
15	\$28,358.67
16	\$29,206.59
17	\$30,079.87
18	\$30,979.26
19	\$31,905.54
20	\$32,859.51
21	\$33,842.01
22	\$34,853.89
23	\$35,896.02
24	\$36,969.31
25	\$38,074.69

* Actual payments will be dependent on the solar energy produced during the monthly period of the Term.

EXHIBIT B

Estimated Annual Production Schedule

Year	Estimated Production (kWh)
1	1,258,587
2	1,255,441
3	1,252,302
4	1,249,171
5	1,246,048
6	1,242,933
7	1,239,826
8	1,236,726
9	1,233,634
10	1,230,550
11	1,227,474
12	1,224,405
13	1,221,344
14	1,218,291
15	1,215,245
16	1,212,207
17	1,209,177
18	1,206,154
19	1,203,138
20	1,200,130
21	1,197,130
22	1,194,137
23	1,191,152
24	1,188,174
25	1,185,204

EXHIBIT C

NOTICE OF CANCELLATION

DATE: _____

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENT MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 3 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR PROPERTY, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY, IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER TE AT 6510 E SPRING ST STE 437, LONG BEACH, CA 90815, NOT LATER THAN MIDNIGHT OF 11/09/2022

I HEREBY CANCEL THIS TRANSACTION.

DATE: _____

CUSTOMER SIGNATURE _____

**NOTICE OF CANCELLATION MAY BE SENT TO TE AT THE ADDRESS
NOTED ON THE FIRST PAGE OF THIS CONTRACT**

EXHIBIT C

DUPPLICATE COPY

NOTICE OF CANCELLATION

DATE: _____

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENT MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 3 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR PROPERTY, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY, IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.

IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER TO TE AT 6510 E SPRING ST STE 437, LONG BEACH, CA 90815, NOT LATER THAN MIDNIGHT OF 11/09/2022

I HEREBY CANCEL THIS TRANSACTION.

DATE: _____

CUSTOMER SIGNATURE _____

**NOTICE OF CANCELLATION MAY BE SENT TO TE AT THE ADDRESS
NOTED ON THE FIRST PAGE OF THIS CONTRACT**



Date: February 21, 2023
To: Honorable Mayor and Councilmembers
From: Patrick Piatt, Community Development and Services Director
Marti Brown, City Manager
Subject: Facilities Use Agreement with Willows Unified School District to Use the District's Swimming Pool for the 2023 City of Willows Summer Swim Season

Recommendation:

Authorize the City Manager, or her designee, to execute a Facilities Use Agreement with the Willows Unified School District to use the School District's pool during the 2023 summer swim season for an amount not to exceed \$20,000.

Rationale for Recommendation:

The City of Willows swimming pool is in disrepair and poses a public health and safety concern. An agreement between the City of Willows and the Willows Unified School District would allow the City to offer a 2023 swim season to the residents of Willows.

Background:

In preparation for the 2022 summer swim season, City staff conducted a review and evaluation of the City-owned swimming pool facility in the spring of 2022. The results demonstrated that the pool and its infrastructure are in serious disrepair and in need of critical improvements in order to ensure public health and safety standards and general operations.

While the Council approved and formed an ad hoc committee to research, review and determine options for renovating the existing pool and/or building a new pool or aquatic center in the future, the City could benefit from a 2023 swim season and program in the short term. Therefore, staff recommends executing a Facilities Use Agreement with the Willows Unified School District (for the third year in a row) to facilitate the summer swim program.

Discussion & Analysis:

Should the Council approve the recommended action to execute a Facility Use Agreement with the Willows Unified School District for the 2023 summer swim season, the City would use the

School District pool from early June through early August, Monday through Saturday from 1:00 to 5:00 pm. The afternoon swim program would only include unprogrammed swimming and no classes would be offered during the season.

Fiscal Impact:

The cost to contract with the Willows Unified School District for the use of its swimming pool for the summer of 2023 shall not exceed \$20,000. If approved by the Council, General Fund monies would be used to pay for the cost to rent the facility from the School District.



CLOSED SESSION

**THIS PAGE
INTENTIONALLY LEFT
BLANK**



END PAGE