

GRANT OF OPTION AGREEMENT

THIS GRANT OF OPTION AGREEMENT (this Agreement) is made and entered into this 2nd day of ~~February~~ ^{March} 2020 (the Effective Date), by and between the City of Fresno, (City), a municipal corporation, and Fresno Community Solar Developers, LLC., a California limited liability corporation (FCSD). City and FCSD are sometimes collectively referred to in this Agreement as the "Parties" or singularly as a "Party" or by their individual names.

RECITALS

- A. City is the owner of that certain real property located in the County of Fresno, State of California, referred to for convenience as approximately one hundred fifty-eight (158) acres identified by assessor's parcel number 327-030-22ST (the Property), a depiction of which is attached hereto as Exhibit "A" and incorporated herein by this reference.
- B. The Property is currently leased until December 31, 2020.
- C. FCSD desires to obtain long-term site control of the Property for the purpose of developing a solar plant on the site that will provide energy to Pacific Gas and Electric (PG&E) under a Power Purchase Agreement (PPA) under the Disadvantaged Community Green Tariff Program (Assembly Bill 327, Perea, 2013) or PPA with a lease agreement that would include a Fresno disadvantaged community benefit provision as mutually agreed upon by the City.
- D. City agrees to provide FCSD an option to lease the Property, pursuant to the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and in these Recitals, which are hereby incorporated by this reference, City and FCSD hereby agree as follows:

- 1. Parcel Option and Lease
 - a. **Parcel Option.** The City hereby grants to FCSD the exclusive option and right to lease up to 158 acres of the Property as approximately identified in the attached "Exhibit A" (the Parcel Option). The Parcel Option will commence on the Effective Date and expire June 30, 2021. FCSD shall pay to the City a one-time, nonrefundable payment in the amount of Two Thousand Five Hundred Dollars (\$2,500) for the Parcel Option. FCSD may exercise the Parcel Option at any time during the Parcel Option Term with a notice in writing to City.
 - b. **Parcel Lease.** If FCSD exercises the Parcel Option, the Option shall be contingent on the parties mutually agreeing upon terms for the "Parcel Lease". The Parcel Lease shall be for an initial term of 20 years (the Parcel Lease Term). The Parcel Lease Term shall begin on the later of December 1, 2020, or the date that the City provides FCSD with possession of the Parcel. The Parcel Lease shall become the operative document for terms and conditions of the lease and shall replace the Option Agreement.

- c. FCSD shall pay the City, in equal monthly installments, an initial rent of Two Thousand Dollars (\$2,000) per acre, per year (the Parcel Lease Payment). The Parcel Lease Payments shall increase annually by 3%.
- d. Or, alternatively, the City may, at the City's election, to take lease payment with equal monthly installments, of rent of One Thousand Dollar (\$1,000) per acre, per year (the Parcel Lease Payment) and the right to receive 20% of the net profit generated by the solar power purchase agreement (PPA) for the term of the PPA.
- e. Or, alternatively, the City may, at the City's election, take lease payment as a right to receive 25% of the net profit generated by the solar power purchase agreement (PPA) for the term of the PPA, with no fixed monthly payment.
- f. Maintenance of Property. Following the date that FCSD obtains possession of the Parcel from the City after commencement of the Parcel Lease, FCSD shall be responsible for maintaining Parcel in a manner that does not create a public nuisance and shall provide dust control, mowing, and weed control on the Parcel as is necessary to keep the Parcel in reasonably satisfactory state of repair.

2. Restoration of the Lease Property

Upon termination of the Parcel Lease, FCSD shall be responsible for removing all equipment, materials and related appurtenances placed, installed, constructed, and stored by FCSD on the Lease Parcel. Further, upon removing all equipment, materials and related appurtenances, FCSD shall restore the site to its current condition so that it can be suitably, safely, and readily returned to agricultural purposes for crop farming. All costs required to remove all equipment, materials, and related appurtenances, and to restore the site to its current agricultural crop farming use shall be borne by FCSD. In addition, all work required to remove all equipment, materials, and related appurtenances, and to restore the site shall be completed within 18 months of the termination date of the lease for Parcel Lease. FCSD will provide for the benefit of the City a One Million Dollar Performance Bond (\$1,000,000) to cover the cost of removal of equipment and restoration of the property for the term of the agreement.

3. Continued Use of Solar Plant by City

Or alternatively, the City at its sole election, could take over the solar plant and continue to receive solar energy from the solar system for City purposes. If the City so elects, it will notify FCSD of its election no less than one year prior to the expiration of the PPA. If the City elects to take over the solar plant, all plant operations, maintenance, liability, equipment removal and land restoration will become the obligation of the City and FCSD will be relieved of all of the forgoing requirements. Should the City elect to take over and continue to operate the solar plant at the termination of the PPA, the One Million Dollar Performance Bond (\$1,000,000) shall be terminated and no longer available.

4. Environmental Liability

FCSD does not assume any liability for any pre-existing environmental issues that may be associated with the property. Those liabilities, if any exist, are solely the responsibility of the City.

5. Right to Inspect

In January, February, and March of 2020, the City shall provide FCSD and FCSD's agents, employees, and representatives (collectively, FCSD's Agents) with reasonable access to the Property, and each portion thereof, to allow FCSD's Agents to investigate, inspect, and to conduct tests upon the Property, and each portion thereof, as FCSD has deemed necessary or advisable.

6. Miscellaneous

- a. Notices. All notices required or permitted by this Agreement shall be in writing and may be delivered in person or sent by mail, facsimile transmission, or electronic transmission (email). The addresses and addressees noted below are that Party's designated address and addressee for delivery or mailing notices.

To City: Michael Carbajal
Director of Public Utilities
City of Fresno
2600 Fresno Street, Room 4019
Fresno, CA 93721
Telephone: (559) 621-8635
Email: Michael.carbajal@fresno.gov

To FCSD Richard Spencer
Managing Director
5286 E. Homes Avenue
Fresno, CA. 93727
Telephone: (559) 252-4043

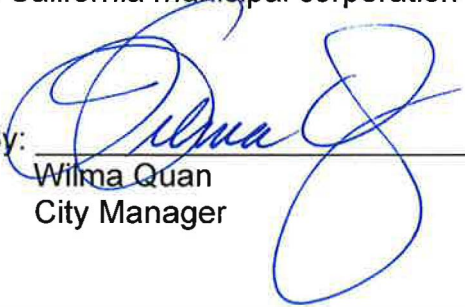




With copy to: Larry Westerlund
1444 Fulton Street
Fresno, CA 93721
Telephone (559) 799-7991
Email: lwesterlund@ch-law.com

Either Party may, by written notice to the other, specify a different address for notice.

- b. Entire Agreement. This agreement and items incorporated herein contain all of the agreement of the Parties with respect to the matters contained herein, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. The Parties further warrant and represent that they have not relied on any inducements, promises, or representations made by any Party or its representative, or any other person, except for those expressly set forth herein.

- c. Amendments. No provision of this Agreement may be amended or modified in any manner whatsoever except by an agreement in writing duly authorized by representatives of both Parties.
- d. Counterparts. This Agreement may be signed by the Parties in different counterparts, which together shall constitute one Agreement, even though all Parties many have not signed the same counterpart.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

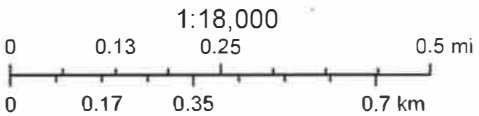
<p>CITY OF FRESNO a California municipal corporation</p> <p>By:  Wilma Quan City Manager</p> <p>ATTEST: YVONNE SPENCE, MMC City Clerk</p> <p>By:  <u>3/2/2020</u> Bernard Chavez Deputy</p> <p>APPROVED AS TO FORM DOUGLAS T. SLOAN City Attorney</p> <p>By:  <u>2/12/20</u> Kristi M. Costa Senior Deputy City Attorney</p>	<p>FRESNO COMMUNITY SOLAR DEVELOPERS, LLC., a California limited liability corporation</p> <p>By:  Richard Spencer Managing Director</p> <p>By:  Title: <u>Member</u> Name: <u>Laurence West</u> Title: <u>Laurence West</u></p> <p>APPROVED AS TO FORM:</p> <p>By: _____</p>
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Attachment: Exhibit A

Proposed Solar Energy Project at Fresno Clovis Regional Wastewater Reclamation Facility



10/29/2019, 6:34:45 AM



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), Web AppBuilder for ArcGIS
Fresno County Dept. PWP, Bureau of Land Management, Esri, HERE, Garmin, INCREMENT P, NGA, USGS | Copyright nearmap 2015 |