

FIRST AMENDMENT TO GRANT OF OPTION AGREEMENT

THIS FIRST AMENDMENT TO GRANT OF OPTION AGREEMENT (**Amendment**) is entered into as of _____, 2021 (**First Amendment Effective Date**), by and between **City of Fresno**, a California municipal corporation (**City**), and **Fresno Community Solar Developers, LLC.**, a California limited liability company (**FCSD**); City and FCSD, collectively, are hereinafter referred to as the **Parties** or singularly as a **Party**.

WITNESSETH:

A. WHEREAS, City and FCSD have entered into that certain Grant of Option Agreement, dated February 2, 2020 (**Agreement**), pursuant to which City has granted an exclusive option to FCSD to lease that certain real property located in the County of Fresno, State of California, identified as assessor's parcel number 327-030-22ST (**Property**), for the purpose of developing a solar power generation facility on the Property; and

B. WHEREAS, City and FCSD desire to amend the Agreement as more particularly set forth below. All of the capitalized terms used in this Amendment, unless otherwise defined herein, shall have the same meaning as assigned to such terms in the Agreement.

AMENDMENT

NOW, THEREFORE the Parties hereby agree as follows:

1. Parcel Option. The expiration of the Parcel Option is hereby extended to December 31, 2021.

2. Parcel Lease. Section 1(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

"If FCSD exercises the Parcel Option to generate solar power pursuant to the California Public Utilities Commission Disadvantaged Communities-Green Tariff Program (**DAC-Green Tariff Program**), the Parties shall cooperate to mutually agree upon the **Parcel Lease** on, in part, the terms and conditions set forth in Exhibit "B" attached hereto. The Parcel Lease shall become the operative document between the Parties and shall replace this Agreement. On an annual basis during the Initial Term of the Parcel Lease, and any Extension Term(s), FCSD shall provide reports to City detailing total power generated from system."

3. Parcel Lease Payments. Section 1(c), Section 1(d) and Section 1(e) of the Agreement are hereby deleted in their entirety.

4. Restoration. The last sentence of Section 2 of the Agreement is hereby deleted in its entirety.

5. Continued Use. The last sentence of Section 3 of the Agreement is hereby deleted in its entirety.

6. Right to Inspect. Section 5 of the Agreement is hereby deleted in its entirety and replaced with the following:

"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 conducts tests upon the Property, and each portion thereof, as FCSD deems necessary or advisable."

7. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one agreement. To facilitate execution of this Amendment, the Parties may execute and exchange by email counterparts of the signature pages, which email counterpart shall be binding as if they were originals. No originals shall be required.

8. Miscellaneous. The Parties have read this Amendment and on the advice of counsel they have freely and voluntarily entered into this Amendment. This Amendment shall be binding on and inure to the benefit of the parties and their successors.


Signature Pages Follow

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, on the day and year first above written.

CITY OF FRESNO,
A California municipal corporation

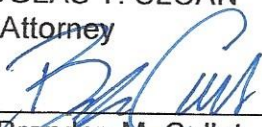
Fresno Community Solar Developers,
LLC., a California limited liability company

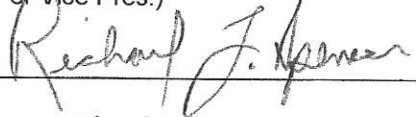
By: _____
Thomas Esqueda
City Manager

By: 
Name: Lawrence E. Westerlund

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

Title: President
(If corporation or LLC., Board Chair, Pres.
or Vice Pres.)

By:  4/1/21
Brandon M. Collet
Senior Deputy City Attorney Date

By: 
Name: Richard F. Spencer

Title: CFO
(If corporation or LLC., CFO, Treasurer,
Secretary or Assistant Secretary)

ATTEST:
YVONNE SPENCE, MMC
City Clerk

REVIEWED BY:

By: _____
Deputy Date

Exhibit "B"

Parcel Lease Term Sheet

Effective Date	The date that the Parcel Lease has been executed by both City and FCSD
Construction Period	The initial period of the Parcel Lease, commencing upon the Effective Date and expiring on the earlier of (i) May 25, 2023, or (ii) the Operations Date.
Construction Period Rent	\$83.33 per month, per leased acre
Initial Term	Twenty (20) years beginning upon the expiration of the Construction Period
First Extension Term	Ten (10) years at FCSD's option
Second Extension Terms	Ten (10) years upon City's consent, not to be unreasonably withheld, conditioned or delayed
Initial Term Rent	\$1,000.00 per year, per leased acre, commencing upon the beginning of the Initial Term
First Extension Term Payment	20% of FCSD's distributable cash, to be paid in lieu of rent
Second Extension Term Payment	20% of FCSD's distributable cash, to be paid in lieu of rent
Lender Protections	See attached Schedule 1
Decommissioning Bond	To be purchased within sixty (60) days after either of the following events: (i) the PPA between FCSD and PG&E shall have no more than five (5) years remaining in its initial term; or (ii) PG&E declares bankruptcy or defaults under the terms of the PPA. The amount of the bond shall be determined by an independent engineer, at FCSD's expense, reasonably experienced at calculating decommissioning costs for solar photovoltaic projects in the State of California.
Assignment	City's prior, written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for: (i) any assignment of the Parcel Lease; and (ii) the transfer of FCSD's membership interests to an entity that does not own and operate at least five (5) separate solar projects greater than 1 MWdc in nameplate capacity. City's consent shall not be required for any other transfer or change of control.
Workforce Development	FCSD will engage with a workforce development provider to provide hands-on utility scale solar photovoltaic training to citizens from disadvantaged census tracts located in the City of Fresno interested in gaining skills to obtain employment in the solar industry. The training program will not exceed \$95,000. FCSD agrees to voluntarily abide by the City of Fresno's local

	hiring goals requires targeted hiring for journeymen and apprentices residing in economically disadvantaged areas.
FCSD Documents	Upon commencement of the First Extension Term, FCSD will make available to City, upon reasonable written request, all documents related to the operation, maintenance and profitability of the solar plant, including, but not limited to, all corporate, accounting, expense and tax documents, and any third-party contracts relating to the solar plant.
Expense Restrictions	FCSD shall restrict all corporate expenditures to costs and expenses directly related to the solar plant, which may include, but shall not be limited to, operation and maintenance costs, insurance costs, capital expenditures to repair and upgrade and/or increase the value of the solar plant, taxes, travel expenses to and from the solar plant, and principal and interest payments on debt.

Schedule 1 to Exhibit B

Lender Protections

FCSD may pledge, sell, grant and/or assign, sublease, mortgage and otherwise transfer (each, a **"Transfer"**) the Parcel Lease, in whole or in part, without City's prior consent, in connection with the financing or re-financing of the solar photovoltaic energy production system (the **"System"**). If FCSD shall notify City in writing of the existence of, and contact information for, any third party (including, without limitation, any tax-credit equity providers) providing debt, equity or other financing (including, but not limited to, tax equity or sale-leaseback or similar financing) to or for the benefit of FCSD, directly or indirectly, whether secured or unsecured (and if secured, whether via a collateral Transfer, mortgage, deed of trust, or otherwise) (any such third party, an **"Additional Notice Party"**), then the following provisions shall apply until such time as City shall receive written confirmation that such Additional Notice Party's interests in the Parcel Lease, the System or the leased premises (the **"Premises"**) are released:

(a) No assignment, amendment, election to terminate or other modification of the Parcel Lease shall be effective unless approved by the Additional Notice Party in writing. In the event FCSD acquires fee ownership of the Premises, or in the event of FCSD's voluntary surrender of the leasehold estate, there shall be no merger of the leasehold estate created by the Parcel Lease with the fee without the prior written consent of the Additional Notice Party, which consent may be granted, conditioned or withheld in the Additional Notice Party's sole and absolute discretion.

(b) If any event of default (a **"Default"**) by FCSD remains uncured following the applicable cure period set forth in the Parcel Lease, City shall send written notice of such uncured Default to each Additional Notice Party at the address provided therefor, whereupon the Additional Notice Party shall have an additional thirty (30) days during which it may, in its sole and absolute discretion, cure such Default on FCSD's behalf. City may not pursue any remedy for such Default unless it remains uncured following the expiration of such Additional Notice Party's thirty (30) day cure period. No notice shall be effective against an Additional Notice Party unless and until actually received by such Additional Notice Party. Notwithstanding the foregoing, the aforesaid thirty (30) day cure period shall be extended for the time reasonably required to complete any such cure (not to exceed 180 days), including the time required for any Additional Notice Party to perfect its right to cure any non-monetary default by obtaining possession of the Premises (including possession by a receiver), provided such Additional Notice Party acts with reasonable and continuous diligence.

(c) Neither the bankruptcy nor the insolvency of FCSD shall be grounds for terminating the Parcel Lease as long as the Rent and all other obligations of FCSD hereunder are paid or performed by or on behalf of FCSD or the Additional Notice Party in accordance with the terms of the Parcel Lease.

(d) If the Parcel Lease is terminated pursuant to a FCSD Default,

including, but not limited to, any Default not cured by an Additional Notice Party within the cure period allowed therefor, or if the Parcel Lease is terminated pursuant to a rejection or disaffirmance in bankruptcy or other similar proceeding with respect to City or FCSD, then City, or its successor in interest to the Land, if any, shall enter into a new lease with the Additional Notice Party or its nominee (a "**Successor Tenant**") on the same terms as set forth herein, and for a term equal to the then-unelapsed portion of the term of the Parcel Lease, with an option to extend for any then-remaining Extension Term(s). From the effective date of the termination, rejection or disaffirmance of the Parcel Lease, to the date of execution and delivery of the new lease, Successor Tenant may use and enjoy the Premises and any easements granted hereunder without hindrance by City or any party claiming by, through, or under City. Such new lease shall be effective as of the date of termination, rejection or disaffirmance of the Parcel Lease and shall have the same priority as the Parcel Lease. If more than one Additional Notice Party makes a request for a new lease pursuant hereto, then unless all such Additional Notice Parties direct otherwise, the new lease shall be delivered to the Additional Notice Party with a security interest in the Parcel Lease which is prior in lien (or, if no such Additional Notice Party has a security interest in the Parcel Lease, the new lease shall be delivered to the Additional Notice Party whose contact information was sent to City earliest in time. This provision will survive any termination, rejection or disaffirmance of the Parcel Lease, as described above.

(e) An Additional Notice Party shall have the right, subject to the terms and conditions of the Parcel Lease: (1) to assign its security interest; (2) to enforce its lien and acquire title to the leasehold estate by any lawful means; (3) to take possession of and operate the System, the leasehold estate or any portion thereof and to perform all obligations to be performed by FCSD hereunder, or to cause a receiver to be appointed to do so; and (4) to acquire the leasehold estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the leasehold estate to a third party. City's consent shall not be required for the acquisition of the encumbered leasehold estate or subleasehold estate by a third party who acquires the same by or subsequent to foreclosure or assignment in lieu of foreclosure. During any period of possession of the Premises by an Additional Notice Party (or a receiver requested by such Additional Notice Party) and/or during the pendency of any foreclosure proceedings instituted by an Additional Notice Party, the Additional Notice Party shall pay or cause to be paid all other monetary charges payable by FCSD hereunder which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of FCSD's leasehold estate by the Additional Notice Party or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale and subject to the provisions of this section, the Parcel Lease and the leasehold estate created hereby shall continue in full force and effect and the Additional Notice Party or party acquiring title to FCSD's leasehold estate shall, within thirty (30) days, commence the cure of all defaults hereunder, to the extent reasonably susceptible to cure, and thereafter diligently process such cure to completion.

(f) City recognizes and acknowledges that any claim or claims that an Additional Notice Party has or may have against the System are superior to any lien, security interest, or claim of any nature that City now has or may hereafter have in and to the System by statute, rule, regulation, common law, agreement or otherwise. City hereby irrevocably agrees and consents to refrain from taking any action to bar, restrain or otherwise prevent an Additional Notice Party from the Premises for the purpose of inspecting the System and the Premises.

(g) City agrees to execute and deliver such documents and instruments, including, without limitation, an amendment to the Parcel Lease, an amendment to any recorded memorandum of the Parcel Lease or a subordination agreement, as may be reasonably requested by an Additional Notice Party or in furtherance of a Transfer related to the financing or re-financing of the System, to allow such Additional Notice Party reasonable means to protect or preserve the System or its collateral interest in the Parcel Lease and the leasehold estate created hereby; provided, that City shall not be required to amend the Parcel Lease in any way that would alter the term, decrease the Rent or otherwise in any material respect adversely affect the economic benefits to which City is entitled under the Parcel Lease.