

# COUNCIL MEETING AGENDA

May 14, 2013

Members may attend in person or by telephone

Ed Foster, Mayor  
Michael Jewitt, Vice Mayor

Carol Kelley  
Pat Workman

Norma Crooks  
Mark Orgeron

**Quartzsite Town Hall  
Council Chambers  
465 North Plymouth Avenue  
Quartzsite, Arizona**

**Regular Meeting  
9:00 a.m.**

### ***SPEAKING TO THE COUNCIL***

*If you are interested in speaking to the Council during Public Hearings, Communications from Citizens, or other designated agenda items, you must fill out a speaker card (located on the table inside the front entrance to the Council Chambers) and deliver it to the Town Clerk prior to the convening of the meeting. Each individual will be limited to three (3) minutes for their remarks.*

*All persons attending the Council meeting, whether speaking to the Council or not, are expected to observe the Council Rules, as well as the rules of politeness, propriety, decorum and good conduct. Any person interfering with the meeting in any way, or acting rudely or loudly, will be asked to leave.*

### ***CELL PHONES AND RECORDING DEVICES***

*As a courtesy to others please turn off or silence all cell phones or pagers. Reporters or others with recording devices need to be staged at the back of the public seating area.*

***The times listed for agenda items are estimated.  
Items may be discussed earlier or in a different sequence.***

<b>Est. Time</b>	<b>AGENDA ITEM</b>	<b>COUNCIL ACTION</b>
9:00	<b>CALL TO ORDER OF REGULAR MEETING</b>	
9:00 – 9:05	<b>INVOCATION AND PLEDGE OF ALLEGIANCE</b> <i>The invocation may be offered by a person of any religion, faith, belief or non-belief. Interested persons should contact the Clerk for further information.</i>	
9:05	<b>ROLL CALL</b>	
9:05 – 9:06	<b>APPROVAL/AMENDMENT OF AGENDA</b>	Discussion, possible action by MOTION.
9:06 – 9:15	<b>PRESENTATIONS; PROCLAMATIONS</b>	
	1. Presentation by the La Paz County Sheriff on the sheriff's role (law enforcement and civil matters) within the Town of Quartzsite.	

9:15 – 9:25		<p><b>CONSENT AGENDA</b></p> <p><i>All items listed below are considered consent calendar items and may be approved by a single motion unless removed at the request of Council for further discussion/action. Other items on the agenda may be added to the consent calendar and approved under a single motion.</i></p>	
	2.	<p><b>LEDGER OF ACCOUNTS PAID</b> – Consider approval of check series 35501 – 35577, totaling \$125,958.05</p>	Discussion; possible action by MOTION; may be acted upon with single motion.
	3.	<p><b>MINUTES</b> – Consider approval of the minutes of the Regular Meeting of April 23, 2013.</p>	Discussion; possible action by MOTION; may be acted upon with single motion.
	4.	<p><b>AGREEMENT</b> – Consider approval of an agreement with SunEdison Origination1, LLC for construction, operation and maintenance of a solar powered electric generating project; and to purchase from SunEdison Origination1, LLC the electric energy produced by the project.</p>	Discussion; possible action by MOTION; may be acted upon with single motion.
		<p><b>PUBLIC HEARING</b></p> <p><i>If no requests to speak have been submitted, Items will be heard at one Public Hearing. Items may be heard separately if requested by a member of the Council or if a request to speak has been submitted. Comments will be heard from those in support of or in opposition to an item. Hearings may be held prior to the estimated time indicated on the Agenda.</i></p> <p><i>In order to comment on a Public Hearing Item, you must fill out a public comment form, indicating the Item Number on which you wish to be heard. <b>There is a 3 minute limit for each speaker.</b></i></p> <p><i>Once the hearing is closed, there will be no further public comment unless requested by a member of the Council. After the Public Hearing, the Council may act on all items not requiring additional staff, public or Council Member comment with a single vote.</i></p>	

	5.	<b>LIQUOR LICENSE</b> – Conduct hearing and consider approval of a location transfer of a Beer and Wine Liquor License for Beer Belly’s located at 35 W. Kuehn Rd.	Hearing; discussion; possible action by MOTION.
		<b>ADMINISTRATIVE ITEMS</b>  <i>Administrative items are for Council discussion and action. It is at the discretion of the majority of the Council regarding public input requests on any Administrative Item. Persons wishing to speak on an Administrative Item should complete a Request to Speak Form and indicate the Item they wish to address. Council may or may not accept public comment.</i>	
9:25 – 10:00	6.	<b>BUDGET</b> – Preliminary discussions on the Fiscal Year 2013-2014 Budget for the Town of Quartzsite.	Discussion.
10:00 – 11:30	7.	<b>EXECUTIVE SESSION</b>  Interview of Applicants to appoint as the Quartzsite Magistrate.  <ul style="list-style-type: none"> <li>• An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of possible appointment of Charles Barnett, Jr. as the Quartzsite Magistrate.</li> <li>• An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of possible appointment of Hal Collett as the Quartzsite Magistrate.</li> <li>• An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of possible appointment of Linda Knight as the Quartzsite Magistrate.</li> <li>• An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of possible appointment of Amanda Lilly as the Quartzsite Magistrate.</li> <li>• An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of possible appointment of James Mitchell as the Quartzsite Magistrate.</li> </ul>	

		<ul style="list-style-type: none"> <li>• An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of possible appointment of Mary Scott as the Quartzsite Magistrate.</li> <li>• An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of possible appointment of William Smith as the Quartzsite Magistrate.</li> </ul> <p>Executive session pursuant A.R.S. Section 38-431.03(A)(4) for discussion or consultation with the Town Attorneys in order to consider its position and instruct the Town Attorney regarding the Town's position in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation relating to claims filed by Anton Coetzee, Jennifer Jones, and Al Johnson.</p>	
	8.	Consider rejection of claims filed against the Town by Anton Coetzee, Jennifer Jones and Al Johnson.	Discussion; possible action by MOTION.
		<b>COMMUNICATIONS</b>	
11:30 - 11:40	9.	Announcements and Reports from the MAYOR on current events.	
	10.	Announcements and Reports from the COUNCIL on current events.	
	11.	<p>Reports from the Town Manager to the Council.</p> <ul style="list-style-type: none"> <li>• Update on settlement with the Office of the Arizona Attorney General on Open Meeting law violations.</li> </ul>	
11:40 - 11:50		<p><b>COMMUNICATIONS FROM CITIZENS</b></p> <p><i>At this time, members of the public may comment on matters within the jurisdiction of the Town but not on the agenda. For the official record, individuals must state their name. <b>There is a 3 minute limit for each speaker.</b> The Council's response is limited to responding to criticism, asking staff to review a matter commented upon, or asking that a matter be put on a future agenda.</i></p>	

11:50		<b>ADJOURN</b>	MOTION to adjourn.
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**Certification of Posting**

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations:  
Quartzsite Town Hall, 465 N. Plymouth Ave, Quartzsite, AZ, U.S. Post Office, 80 W. Main Street, Quartzsite, AZ and The Senior Center, 40 Moon Mountain Ave, Quartzsite, AZ, on the \_\_\_\_ day of \_\_\_\_\_, 2013, at \_\_\_\_ a.m./p.m. in accordance with the statement filed by the Town of Quartzsite with the Town Clerk, Town of Quartzsite.

By: \_\_\_\_\_, Town Clerk's Office.

QUARTZSITE PUBLIC LIBRARY  
Statistical Report April 2013

<b>Total Patrons</b>	<b>3,182</b>
<b>Adult Fiction</b>	<b>801</b>
<b>Adult Non Fiction</b>	<b>205</b>
<b>Paperback</b>	<b>523</b>
<b>Large Print</b>	<b>257</b>
<b>E-Books</b>	<b>1,301</b>
<b>Arizona Books</b>	<b>38</b>
<hr/>	
<b>Young Adult Books</b>	<b>45</b>
<b>Juvenile Books</b>	<b>34</b>
<b>Kids Computer Use</b>	<b>52</b>
<hr/>	
<b>Miscellaneous:</b>	
<b>Puzzles</b>	<b>15</b>
<b>Magazines</b>	<b>26</b>
<b>DVD</b>	<b>717</b>
<b>VHS</b>	<b>228</b>
<b>CD Audio</b>	<b>69</b>
<b>Computer Questions</b>	<b>224</b>
<b>Reference Questions</b>	<b>182</b>
<b>Information</b>	<b>170</b>
<b>Wireless Usage</b>	<b>283</b>
<b>New Cards</b>	<b>15</b>
<b>Meeting Room Use</b>	<b>39</b>
<b>Donations</b>	<b>457</b>



# TOWN OF QUARTZSITE

465 North Plymouth Avenue • PO Box 2812 • Quartzsite, AZ 85346

(928) 927-4333 • Fax (928) 927-4400

Arizona Relay Service (928) 927-3762 (TDD)

we are an equal opportunity employer

[www.ci.quartzsite.az.us](http://www.ci.quartzsite.az.us)

May 6, 2013

Town Clerk  
Terry Frausto

Ms. Frausto

Please place on the agenda the following item

A presentation by the Sheriff on the sheriff's role (law enforcement and civil matters) within the Town of Quartzsite.

Ed Foster

Mayor  
Town of Quartzsite

RECEIVED  
MAY 06 2013  
TK



## TOWN OF QUARTZSITE

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### REGULAR COUNCIL MEETING

Tuesday, May 14, 2013

**Agenda Item #2** Consider approval of check series 35501 - 35577, totaling \$130,030.09 .

**Summary:** The Quartzsite Town Council Procedure Policy states that at least once each month the Council shall review a list of all the bills paid, and may ask for clarification of any time.

The Procedure Policy also states the Council should designate the check numbers being approved.

**Responsible Person:** Laura Bruno, Town Manager

**Attachment:** Ledger of Accounts Paid: Check series 35501 - 35577

**Action Requested:** Approve the Ledger of Accounts Paid; Check series 35501 - 35577

**Council Meeting of May 14, 2013  
Check Register/ Revenue/ Consent Agenda**

**Horizon Community Bank- Begin Ck# 35501 - 35577**

**Balances on all cash accounts as of May 9, 2013**

Checking Account	\$	2,521,808.79
LGIP Account	\$	686,505.95
WIFA Debt Reserve Account	\$	111,853.63

<b>Total Expensed Dollar Amount for Consent Agenda</b>	<b>\$</b>	<b>195,279.66</b>
<b>Total Payroll for Pay Period Ending 04/27/13</b>	<b>\$</b>	<b>65,249.57</b>
<b>YTD Total Revenue Dollar Amount for Consent Agenda</b>	<b>\$</b>	<b>1,358,755.38</b>
<b>YTD Total Sewer Sales Revenue as of 05/09/13</b>	<b>\$</b>	<b>646,351.83</b>
<b>YTD Total Sewer Cap Revenue as of 05/09/13</b>	<b>\$</b>	<b>46,890.32</b>
<b>YTD Total Water Sales Revenue as of 05/09/13</b>	<b>\$</b>	<b>607,143.30</b>
<b>YTD Total Water Cap Revenue as of 05/09/13</b>	<b>\$</b>	<b>58,369.93</b>

## Report Criteria:

Report type: GL detail

Check.Check Number = 35501-35577

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
<b>35501</b>						
04/24/2013	35501	Alex's Tire	10.00	Tire Repair on Tranist Bus	04-230-5025	10.00
Total 35501:			10.00			
<b>35502</b>						
04/24/2013	35502	APS	1,026.70	Electric Service	01-130-5048	1,026.70
04/24/2013	35502	APS	504.69	Electric Service	01-140-5048	504.69
04/24/2013	35502	APS	373.35	Electric Service	01-170-5048	373.35
04/24/2013	35502	APS	186.67	Electric Service	01-150-5048	186.67
04/24/2013	35502	APS	252.78	Electric Service	01-180-5048	252.78
04/24/2013	35502	APS	279.48	Electric Service	03-220-5048	279.48
04/24/2013	35502	APS	392.58	Electric Service for Street Light	03-220-5049	392.58
04/24/2013	35502	APS	5,793.63	Electric Service	15-500-5048	5,793.63
04/24/2013	35502	APS	280.01	Electric Service	01-185-5048	280.01
04/24/2013	35502	APS	2,119.81	Electric Service	16-550-5048	2,119.81
04/24/2013	35502	APS	212.89	Electric Service	01-182-5048	212.89
Total 35502:			11,422.59			
<b>35503</b>						
04/24/2013	35503	Bus. Forms & Acct. System	554.07	Laser Utility Bills Printed #151B-P	16-550-5033	554.07
04/24/2013	35503	Bus. Forms & Acct. System	554.06	Laser Utility Bills Printed #151B-P	15-500-5033	554.06
Total 35503:			1,108.13			
<b>35504</b>						
04/24/2013	35504	Career Styles Etc.	115.85	F. Rodriguez Uniforms	01-140-5019	115.85
Total 35504:			115.85			
<b>35505</b>						
04/24/2013	35505	Diamond Brooks Bottled W	6.15	Inv#394024: Drinking Water	01-130-5035	6.15
04/24/2013	35505	Diamond Brooks Bottled W	6.15	Inv#394024: Drinking Water	01-140-5035	6.15
04/24/2013	35505	Diamond Brooks Bottled W	6.15	Inv#394024: Drinking Water	01-150-5035	6.15
04/24/2013	35505	Diamond Brooks Bottled W	6.15	Inv#394024: Drinking Water	01-170-5035	6.15
Total 35505:			24.60			
<b>35506</b>						
04/24/2013	35506	Doc United Imaging Llc	1,223.00	LaserFiche Priority Support thru O	01-130-5051	1,223.00
04/24/2013	35506	Doc United Imaging Llc	20.00-	Stop Payment Fee	01-135-5053	20.00-
Total 35506:			1,203.00			
<b>35507</b>						
04/24/2013	35507	Employers Direct Health	5.60	Aggregate Employer Insurance	01-110-5016	5.60
04/24/2013	35507	Employers Direct Health	8.80	Aggregate Employer Insurance	01-130-5016	8.80
04/24/2013	35507	Employers Direct Health	16.00	Aggregate Employer Insurance	01-135-5016	16.00
04/24/2013	35507	Employers Direct Health	81.60	Aggregate Employer Insurance	01-140-5016	81.60
04/24/2013	35507	Employers Direct Health	25.60	Aggregate Employer Insurance	01-150-5016	25.60
04/24/2013	35507	Employers Direct Health	10.00	Aggregate Employer Insurance	01-160-5016	10.00

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
04/24/2013	35507	Employers Direct Health	17.60	Aggregate Employer Insurance	01-170-5016	17.60
04/24/2013	35507	Employers Direct Health	9.60	Aggregate Employer Insurance	01-180-5016	9.60
04/24/2013	35507	Employers Direct Health	4.00	Aggregate Employer Insurance	01-185-5016	4.00
04/24/2013	35507	Employers Direct Health	2.00	Aggregate Employer Insurance	01-190-5016	2.00
04/24/2013	35507	Employers Direct Health	48.80	Aggregate Employer Insurance	03-220-5016	48.80
04/24/2013	35507	Employers Direct Health	12.00	Aggregate Employer Insurance	04-230-5016	12.00
04/24/2013	35507	Employers Direct Health	7.20	Aggregate Employer Insurance	14-181-5016	7.20
04/24/2013	35507	Employers Direct Health	25.60	Aggregate Employer Insurance	15-500-5016	25.60
04/24/2013	35507	Employers Direct Health	33.60	Aggregate Employer Insurance	16-550-5016	33.60
04/24/2013	35507	Employers Direct Health	12.00	Aggregate Employer Insurance	20-121-5016	12.00
Total 35507:			320.00			
<b>35508</b>						
04/24/2013	35508	Herbs Hardware, Inc.	12.80	Maintenance & Repair Parts	03-220-5047	12.80
04/24/2013	35508	Herbs Hardware, Inc.	476.53	Maintenance & Repair Parts	03-220-5060	476.53
04/24/2013	35508	Herbs Hardware, Inc.	186.34	Maintenance & Repair Parts	01-180-5060	186.34
04/24/2013	35508	Herbs Hardware, Inc.	275.68	Maintenance & Repair Parts	16-550-5060	275.68
Total 35508:			951.35			
<b>35509</b>						
04/24/2013	35509	La Paz County Landfill	454.72	Sweeper Waste from Streets	03-220-5029	454.72
04/24/2013	35509	La Paz County Landfill	160.65	Town of Qtz Clean Up	01-160-5035	160.65
04/24/2013	35509	La Paz County Landfill	160.65	Town of Qtz Clean Up	03-220-5035	160.65
Total 35509:			776.02			
<b>35510</b>						
04/24/2013	35510	Mineral Aggregate Recy. S	942.55	Delivery of Base for PW Dept	03-220-5029	942.55
Total 35510:			942.55			
<b>35511</b>						
04/24/2013	35511	Parker Motor Co.	87.76	Inv#104830: Window for QPD Ve	01-140-5025	87.76
04/24/2013	35511	Parker Motor Co.	828.27	Inv#104921: Converter Asy for Q	01-140-5025	828.27
Total 35511:			916.03			
<b>35512</b>						
04/24/2013	35512	Poster Compliance Center	69.00	1-Year Compliance Protection Pla	01-130-5051	69.00
04/24/2013	35512	Poster Compliance Center	69.00	1-Year Compliance Protection Pla	01-140-5051	69.00
04/24/2013	35512	Poster Compliance Center	69.00	1-Year Compliance Protection Pla	03-220-5051	69.00
04/24/2013	35512	Poster Compliance Center	69.00	1-Year Compliance Protection Pla	15-500-5051	69.00
04/24/2013	35512	Poster Compliance Center	69.00	1-Year Compliance Protection Pla	16-550-5051	69.00
Total 35512:			345.00			
<b>35513</b>						
04/24/2013	35513	Purchase Power	70.84	Postage Refill	01-130-5042	70.84
04/24/2013	35513	Purchase Power	70.84	Postage Refill	01-135-5042	70.84
04/24/2013	35513	Purchase Power	70.83	Postage Refill	01-140-5042	70.83
04/24/2013	35513	Purchase Power	70.83	Postage Refill	01-150-5042	70.83
04/24/2013	35513	Purchase Power	70.83	Postage Refill	01-160-5042	70.83
04/24/2013	35513	Purchase Power	70.84	Postage Refill	15-500-5042	70.84
04/24/2013	35513	Purchase Power	70.84	Postage Refill	16-550-5042	70.84

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
04/24/2013	35513	Purchase Power	70.83	Postage Refill	03-220-5042	70.83
Total 35513:			566.68			
<b>35514</b>						
04/24/2013	35514	Quill Corporation	69.01	Name Plate "Jennifer Jones" & Bi	01-160-5021	69.01
04/24/2013	35514	Quill Corporation	21.19	Binders for Magistrate Court	01-150-5021	21.19
04/24/2013	35514	Quill Corporation	47.91	HP Ink Toner & Scissors for Utility	15-500-5021	47.91
04/24/2013	35514	Quill Corporation	47.91	HP Ink Toner & Scissors for Utility	16-550-5021	47.91
04/24/2013	35514	Quill Corporation	32.92	16 GG Thumb Drives for QPD	01-140-5021	32.92
Total 35514:			218.94			
<b>35515</b>						
04/24/2013	35515	River City Newspapers	25.60	Public Hearing; Use of CDBG Fun	01-130-5033	25.60
Total 35515:			25.60			
<b>35516</b>						
04/24/2013	35516	Road Runner Sanitary Sup	23.91	Janitorial Supplies	01-130-5034	23.91
04/24/2013	35516	Road Runner Sanitary Sup	23.89	Janitorial Supplies	01-140-5034	23.89
04/24/2013	35516	Road Runner Sanitary Sup	23.87	Janitorial Supplies	01-150-5034	23.87
04/24/2013	35516	Road Runner Sanitary Sup	23.87	Janitorial Supplies	01-160-5034	23.87
04/24/2013	35516	Road Runner Sanitary Sup	23.88	Janitorial Supplies	01-170-5034	23.88
04/24/2013	35516	Road Runner Sanitary Sup	23.89	Janitorial Supplies	03-220-5034	23.89
04/24/2013	35516	Road Runner Sanitary Sup	23.88	Janitorial Supplies	15-500-5034	23.88
04/24/2013	35516	Road Runner Sanitary Sup	23.88	Janitorial Supplies	16-550-5034	23.88
Total 35516:			191.07			
<b>35517</b>						
04/24/2013	35517	TDS Telecom	318.46	Telephone Service	01-130-5041	318.46
04/24/2013	35517	TDS Telecom	347.72	Telephone Service	01-140-5041	347.72
04/24/2013	35517	TDS Telecom	232.96	Telephone Service	01-150-5041	232.96
04/24/2013	35517	TDS Telecom	59.75	Telephone Service	01-160-5041	59.75
04/24/2013	35517	TDS Telecom	236.37	Telephone Service	01-170-5041	236.37
04/24/2013	35517	TDS Telecom	168.10	Telephone Service	03-220-5041	168.10
04/24/2013	35517	TDS Telecom	210.32	Telephone Service	15-500-5041	210.32
04/24/2013	35517	TDS Telecom	194.40	Telephone Service	16-550-5041	194.40
Total 35517:			1,768.08			
<b>35518</b>						
04/24/2013	35518	Yuma Winnelson Co.	436.59	2 Pit Orion USG w/Data Profile (Tr	16-550-5091	436.59
04/24/2013	35518	Yuma Winnelson Co.	1,212.89	Stainless Steel Float for Tank - W	16-550-5091	1,212.89
Total 35518:			1,649.48			
<b>35519</b>						
04/24/2013	35519	Linda Kitchuck	145.61	Refund: Sold Property & Over Pai	99-000-1075	145.61
Total 35519:			145.61			
<b>35532</b>						
05/01/2013	35532	Arizona State Treasurer	12,042.26	Fees Collected in March 2013	01-000-2212	12,042.26

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
Total 35532:			<u>12,042.26</u>			
<b>35533</b>						
05/01/2013	35533	Blue Cross& Blue Shield O	1,942.44	Employee Payroll Deduction	01-000-2208	1,942.44
05/01/2013	35533	Blue Cross& Blue Shield O	17,593.12	Payroll Payables	01-000-2208	17,593.12
Total 35533:			<u>19,535.56</u>			
<b>35534</b>						
05/01/2013	35534	C & B Lock and Key	35.00	Adjust Front Door of Town Hall Se	01-130-5035	35.00
Total 35534:			<u>35.00</u>			
<b>35535</b>						
05/01/2013	35535	Centerline Supply West	55.00	Custom Sign	03-220-5029	55.00
Total 35535:			<u>55.00</u>			
<b>35536</b>						
05/01/2013	35536	Curtis, Goodwin, Sullivan,	10,316.35	Inv#18426 RE: General Council S	01-120-5072	10,316.35
05/01/2013	35536	Curtis, Goodwin, Sullivan,	3,180.11	Inv#18426-2 RE: Special Council	01-120-5072	3,180.11
05/01/2013	35536	Curtis, Goodwin, Sullivan,	1,591.50	Inv#18426-3 RE: Special Council	01-120-5072	1,591.50
05/01/2013	35536	Curtis, Goodwin, Sullivan,	2,220.84	Inv#18426-4 RE: Special Council	01-120-5072	2,220.84
Total 35536:			<u>17,308.80</u>			
<b>35537</b>						
05/01/2013	35537	Dennis Patterson	25.00	Pest Control Services	15-500-5035	25.00
05/01/2013	35537	Dennis Patterson	37.00	Pest Control Services	01-130-5035	37.00
05/01/2013	35537	Dennis Patterson	33.00	Pest Control Services	03-220-5035	33.00
05/01/2013	35537	Dennis Patterson	30.00	Pest Control Services	01-140-5035	30.00
05/01/2013	35537	Dennis Patterson	25.00	Pest Control Services	01-185-5035	25.00
Total 35537:			<u>150.00</u>			
<b>35538</b>						
05/01/2013	35538	Fedex	198.01	(4) Overnight Ship to Atkins for P	01-160-5042	198.01
Total 35538:			<u>198.01</u>			
<b>35539</b>						
05/01/2013	35539	Hill Brothers Chemical Co.	543.09	Chlorine & Dioxide For Water Dep	16-550-5050	543.09
05/01/2013	35539	Hill Brothers Chemical Co.	543.08	Chlorine & Sulfur Dioxide for WW	15-500-5050	543.08
Total 35539:			<u>1,086.17</u>			
<b>35540</b>						
05/01/2013	35540	Inland Builders Supply, Inc.	554.02	Inv#402528: Trimmer Hedge Blad	01-180-5060	554.02
05/01/2013	35540	Inland Builders Supply, Inc.	118.77	Inv#403598: Supplies for Park	01-180-5060	118.77
Total 35540:			<u>672.79</u>			
<b>35541</b>						
05/01/2013	35541	Lawrence C. King	5,343.59	Inv#2013-009: Interim Magistrate	01-150-5032	5,343.59

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
Total 35541:			<u>5,343.59</u>			
<b>35542</b>						
05/01/2013	35542	Legend Technical Services	209.70	Monthly APP/AZPDES for WWTP	15-500-5039	209.70
05/01/2013	35542	Legend Technical Services	16.20	Monthly APP/AZPDES for WWTP	15-500-5039	16.20
Total 35542:			<u>225.90</u>			
<b>35543</b>						
05/01/2013	35543	Liquid Engineering Corp.	8,000.00	Yearly Tank Cleaning & Video Ins	16-550-5091	8,000.00
Total 35543:			<u>8,000.00</u>			
<b>35544</b>						
05/01/2013	35544	Milligan Lawless, P.C.	224.00	Personnel Advisory Board through	01-120-5072	224.00
Total 35544:			<u>224.00</u>			
<b>35545</b>						
05/01/2013	35545	Principal Financial Group	3,503.77	Payroll Payables	01-000-2209	3,503.77
05/01/2013	35545	Principal Financial Group	38.30	Cobra Payables	01-000-2300	38.30
Total 35545:			<u>3,542.07</u>			
<b>35546</b>						
05/01/2013	35546	Quill Corporation	220.62	Office Supplies: Toner, File Jkts,	01-135-5021	220.62
05/01/2013	35546	Quill Corporation	51.09	Office Supplies: Envelopes, File Jk	01-130-5021	51.09
05/01/2013	35546	Quill Corporation	119.06	Office Supplies: Envelopes & USB	01-150-5021	119.06
05/01/2013	35546	Quill Corporation	11.57	Office Supplies: Envelopes & Fork	01-160-5021	11.57
05/01/2013	35546	Quill Corporation	11.58	Office Supplies: Envelopes & Fork	15-500-5021	11.58
05/01/2013	35546	Quill Corporation	11.58	Office Supplies: Envelopes & Fork	16-550-5021	11.58
05/01/2013	35546	Quill Corporation	11.58	Office Supplies: Envelopes & Fork	03-220-5021	11.58
05/01/2013	35546	Quill Corporation	9.39	Office Supplies: Envelopes for QP	01-140-5021	9.39
Total 35546:			<u>446.47</u>			
<b>35547</b>						
05/01/2013	35547	Safety-Kleen	365.32	Waste Disposal	03-220-5035	365.32
Total 35547:			<u>365.32</u>			
<b>35548</b>						
05/01/2013	35548	State of Arizona - ADEQ	500.00	Sewer Line to Scott Lane Submitt	15-500-5035	500.00
05/01/2013	35548	State of Arizona - ADEQ	500.00-	Sewer Line to Scott Lane Submitt V	15-500-5035	500.00-
05/01/2013	35548	State of Arizona - ADEQ	500.00	Sewer Line to Dome Rock Rd Sub	15-500-5035	500.00
05/01/2013	35548	State of Arizona - ADEQ	500.00-	Sewer Line to Dome Rock Rd Sub V	15-500-5035	500.00-
05/01/2013	35548	State of Arizona - ADEQ	900.00	WWTP Waterline Submittal	15-500-5035	900.00
05/01/2013	35548	State of Arizona - ADEQ	900.00-	WWTP Waterline Submittal V	15-500-5035	900.00-
Total 35548:			<u>.00</u>			
<b>35549</b>						
05/01/2013	35549	Tritech Forensics	1,291.26	Evidence Supplies for QPD	01-140-5052	1,291.26

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
Total 35549:			1,291.26			
<b>35550</b>						
05/01/2013	35550	Usa Blue Book	180.12	Hach PH Buffer (Yellow) & USAB	15-500-5052	180.12
05/01/2013	35550	Usa Blue Book	430.60	Float Switch for WWTP	15-500-5091	430.60
05/01/2013	35550	Usa Blue Book	75.10	Deionized Water Type I for Water	16-550-5052	75.10
Total 35550:			685.82			
<b>35551</b>						
05/01/2013	35551	Vision Service Plan	289.14	Employee Payroll Deduction	01-000-2209	289.14
Total 35551:			289.14			
<b>35552</b>						
05/01/2013	35552	State of Arizona - ADEQ	500.00	Sewer Line to Scott Lane Submitt	15-500-5035	500.00
Total 35552:			500.00			
<b>35553</b>						
05/01/2013	35553	State of Arizona - ADEQ	500.00	Sewer Line to Dome Rock Rd Sub	15-500-5035	500.00
Total 35553:			500.00			
<b>35554</b>						
05/01/2013	35554	State of Arizona - ADEQ	900.00	WWTP Waterline Submittal	15-500-5035	900.00
Total 35554:			900.00			
<b>35556</b>						
05/09/2013	35556	APS	182.94	Electric Service for Street Light	03-220-5049	182.94
Total 35556:			182.94			
<b>35557</b>						
05/09/2013	35557	Arizona Bus Sales Corp.	330.65	A/C Compressor for Transit Vehicl	04-230-5025	330.65
Total 35557:			330.65			
<b>35558</b>						
05/09/2013	35558	Berry & Branch PLLC	760.00	Professional Svcs: Desert Garden	01-120-5072	760.00
Total 35558:			760.00			
<b>35559</b>						
05/09/2013	35559	Chevron Usa	38.74	Fuel	01-140-5024	38.74
05/09/2013	35559	Chevron Usa	23.58	Fuel	01-160-5024	23.58
05/09/2013	35559	Chevron Usa	50.10	Fuel	01-150-5024	50.10
05/09/2013	35559	Chevron Usa	77.02	Fuel	01-170-5024	77.02
05/09/2013	35559	Chevron Usa	55.65	Fuel	01-185-5024	55.65
Total 35559:			245.09			
<b>35560</b>						
05/09/2013	35560	D And L Auto Parts	9.05-	Auto Parts Return	03-220-5040	9.05-

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
05/09/2013	35560	D And L Auto Parts	84.83-	Auto Parts Return	01-130-5025	84.83-
05/09/2013	35560	D And L Auto Parts	22.14-	Auto Parts Return	01-140-5025	22.14-
05/09/2013	35560	D And L Auto Parts	58.13	Auto Parts	01-180-5025	58.13
05/09/2013	35560	D And L Auto Parts	79.41	Auto Parts & Returns	04-230-5025	79.41
Total 35560:			21.52			
<b>35561</b>						
05/09/2013	35561	Davis Building Supply	18.70	Stain for Picture Frame for Comm	03-220-5053	18.70
05/09/2013	35561	Davis Building Supply	248.15	Inv#238843: Wood & Other Materi	03-220-5053	248.15
Total 35561:			266.85			
<b>35562</b>						
05/09/2013	35562	Empire Southwest	65.23	Inv#EMPS3112810: 1 Way Air Val	03-220-5040	65.23
Total 35562:			65.23			
<b>35563</b>						
05/09/2013	35563	Etherspeak Inc.	4.84	Phone Services	01-110-5041	4.84
05/09/2013	35563	Etherspeak Inc.	33.92	Phone Services	01-130-5041	33.92
05/09/2013	35563	Etherspeak Inc.	14.55	Phone Services	01-130-5041	14.55
05/09/2013	35563	Etherspeak Inc.	53.32	Phone Services	01-140-5041	53.32
05/09/2013	35563	Etherspeak Inc.	19.40	Phone Services	01-150-5041	19.40
05/09/2013	35563	Etherspeak Inc.	14.55	Phone Services	01-160-5041	14.55
05/09/2013	35563	Etherspeak Inc.	14.55	Phone Services	01-170-5041	14.55
05/09/2013	35563	Etherspeak Inc.	9.70	Phone Services	01-185-5041	9.70
05/09/2013	35563	Etherspeak Inc.	14.55	Phone Services	03-220-5041	14.55
05/09/2013	35563	Etherspeak Inc.	4.84	Phone Services	15-500-5041	4.84
05/09/2013	35563	Etherspeak Inc.	14.55	Phone Services	16-550-5041	14.55
Total 35563:			198.77			
<b>35564</b>						
05/09/2013	35564	Fabiola Garcia	6,011.61	Social Security Refund/Refunded	01-000-2201	6,011.61
Total 35564:			6,011.61			
<b>35565</b>						
05/09/2013	35565	H&E Equipment Services, I	374.90	Seal Kit-Dump for Sweeper PW D	03-220-5040	374.90
Total 35565:			374.90			
<b>35566</b>						
05/09/2013	35566	Jesse J. Newton	876.62	Social Security Refund/Refunded	01-000-2201	876.62
Total 35566:			876.62			
<b>35567</b>						
05/09/2013	35567	Jesse, Newton	76.32	Boot Allowance for FY12/13	03-220-5019	76.32
Total 35567:			76.32			
<b>35568</b>						
05/09/2013	35568	Juli Haws	28.00	Refund: Overpayment TR201101	01-000-2211	28.00

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
Total 35568:			28.00			
<b>35569</b>						
05/09/2013	35569	Kowboy Korner	100.00	W. Shipley Boot Allowance FY 12/	03-220-5019	100.00
Total 35569:			100.00			
<b>35570</b>						
05/09/2013	35570	Michael Lancaster	900.53	Social Security Refund/Refunded	01-000-2201	900.53
Total 35570:			900.53			
<b>35571</b>						
05/09/2013	35571	Parker Office Supply	51.34	Notary Stamp for T. Frausto	01-130-5051	51.34
Total 35571:			51.34			
<b>35572</b>						
05/09/2013	35572	River City Newspapers	118.32	Ad for Magistrate Judge	01-150-5033	118.32
Total 35572:			118.32			
<b>35573</b>						
05/09/2013	35573	Sams Club Credit	274.95	Walmart: Easter Items for Baskets	09-207-5022	274.95
05/09/2013	35573	Sams Club Credit	36.53	Sams Club: Easter Items for Bask	09-207-5022	36.53
05/09/2013	35573	Sams Club Credit	95.80	Snack for Kids Rec. Dept	01-185-5095	95.80
Total 35573:			407.28			
<b>35574</b>						
05/09/2013	35574	Southwest Laboratories, In	19.50	Drug Testing for New Employee	01-185-5084	19.50
Total 35574:			19.50			
<b>35575</b>						
05/09/2013	35575	U.S. Bank Operations Ctr.	13,191.67	Excise Tax Revenue Bond Obligat	01-000-1105	13,191.67
Total 35575:			13,191.67			
<b>35576</b>						
05/09/2013	35576	Verizon Wireless	35.90	Cell Phone Service	01-160-5041	35.90
05/09/2013	35576	Verizon Wireless	93.54	Cell Phone Service	04-230-5041	93.54
05/09/2013	35576	Verizon Wireless	77.99	Cell Phone Service	01-130-5041	77.99
05/09/2013	35576	Verizon Wireless	30.49	Cell Phone Service	01-170-5041	30.49
05/09/2013	35576	Verizon Wireless	93.54	Cell Phone Service	01-180-5041	93.54
05/09/2013	35576	Verizon Wireless	89.05	Cell Phone Service	20-121-5041	89.05
05/09/2013	35576	Verizon Wireless	73.95	Cell Phone Service	03-220-5041	73.95
05/09/2013	35576	Verizon Wireless	82.11	Cell Phone Service	15-500-5041	82.11
05/09/2013	35576	Verizon Wireless	192.28	Cell Phone Service	16-550-5041	192.28
Total 35576:			768.85			
<b>35577</b>						
05/09/2013	35577	Visa	592.25	Marriott: Rd & St Conf Brinkerhoff	03-220-5043	592.25
05/09/2013	35577	Visa	120.00	IACP: Membership renewal for J.	01-140-5051	120.00

Check Issue Date	Check Number	Payee	Invoice Amount	Description	Invoice GL Account	Amount
05/09/2013	35577	Visa	133.02	Prescott Resort: Hotel Res S. Hen	01-160-5043	133.02
05/09/2013	35577	Visa	315.93	Prescott Resort: Hotel for ACA Co	21-206-5043	315.93
05/09/2013	35577	Visa	334.28	Marriott: Res AZ Transit Conf. for	04-230-5043	334.28
05/09/2013	35577	Visa	130.00	ISA:Professional Membership for	01-180-5035	130.00
05/09/2013	35577	Visa	314.67	Amazon: Digital Voice Recorders	01-130-5021	314.67
05/09/2013	35577	Visa	275.63	Misc: Pmt was Credited to Wrong	01-130-5053	275.63
05/09/2013	35577	Visa	11.44	Amazon: High Speed Cable w/Eth	01-140-5022	11.44
05/09/2013	35577	Visa	330.15	Walmart: 2 Media Strg Cabinet w/	50-208-5060	330.15
05/09/2013	35577	Visa	103.82	Walmart: 4 Gold's Gym Aerobic St	50-208-5060	103.82
05/09/2013	35577	Visa	27.37	Walmart: 10 Gold's Gym Speed J	50-208-5060	27.37
05/09/2013	35577	Visa	188.99	Walmart: 1ea. ECO Fitness Medici	50-208-5060	188.99
05/09/2013	35577	Visa	74.37	Walmart: 2 Fitness Ab Rollers	50-208-5060	74.37
05/09/2013	35577	Visa	61.84	Amazon: Step Circuit Step	50-208-5060	61.84
05/09/2013	35577	Visa	68.43	Amazon: 4 of Tone Stability Ball 5	50-208-5060	68.43
05/09/2013	35577	Visa	29.62	Amazon: 4lb Medicine Ball	50-208-5060	29.62
05/09/2013	35577	Visa	49.27	Amazon: 2 Body Scale	50-208-5060	49.27
05/09/2013	35577	Visa	43.53	Amazon: 2 Perfect Resistance Ba	50-208-5060	43.53
05/09/2013	35577	Visa	76.35	Amazon: 2 Ab Fitness Ab Rollers	50-208-5060	76.35
05/09/2013	35577	Visa	327.26	Amazon: 2 Bowflex Adjustable Be	50-208-5060	327.26
05/09/2013	35577	Visa	213.84	Amazon: 2 Vizio Home Theater S	50-208-5060	213.84
05/09/2013	35577	Visa	73.99	Amazon: 6 Tier Medicine Ball Rac	50-208-5060	73.99
05/09/2013	35577	Visa	285.67	Walmart: 3 Sets of Dumbbells 2,4,	50-208-5060	285.67
05/09/2013	35577	Visa	612.90	Amazon: Exercise Mats, Adj Dum	50-208-5060	612.90
05/09/2013	35577	Visa	20.85	JJ Keller: Black Blank Marking Ma	15-500-5050	20.85
05/09/2013	35577	Visa	20.86	JJ Keller: Black Blank Marking Ma	16-550-5050	20.86
05/09/2013	35577	Visa	27.99	Ultimate Office: Ltr Size Pocket Fil	01-130-5021	27.99
Total 35577:			<u>4,864.32</u>			
Grand Totals:			<u>125,958.05</u>			
Grand Totals:			<u>130,030.09</u>	<u>130,030.09-</u>	<u>.00</u>	

## Report Criteria:

Report type: GL detail

Check Check Number = 35501-35577



## TOWN OF QUARTZSITE

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### REGULAR COUNCIL MEETING

Tuesday, May 14, 2013

**Agenda Item #3** Consider approvals of the Minutes of the Regular Meeting of April 23, 2013.

**Summary:** The Town Clerk shall keep the minutes of all meetings of the Common Council. Upon approval by the Council, the Clerk shall enter the approved minutes in a book constituting the official record of the Council.

**Responsible Person:** Terry Frausto, Town Clerk

**Attachment:** Minutes for April 23, 2013 Regular Meeting.

**Action Requested:** **Approve the Minutes of April 23, 2013.**

**MINUTES  
TOWN OF QUARTZSITE  
MEETING OF THE COMMON COUNCIL  
TUESDAY, APRIL 23, 2013, 9:00 AM**

**CALL TO ORDER:**

Mayor Foster 9:00 AM

**INVOCATION**

Invocation by Sandra Gilbert

**PLEDGE OF ALLEGIANCE:**

Led by Vice Mayor Jewitt said by all

**ROLL CALL:**

**Present:** Mayor Foster, Vice Mayor Jewitt, Council Member Kelley, Council Member Crooks, Council Member Workman, Council Member Orgeron.

**ABSENT:**

**STAFF PRESENT:**

Town Manager Laura Bruno, Town Clerk Terry Frausto, Assistant to Town Clerk Tina Abriani, Town Attorney Kelly Schwab.

**APPROVAL/AMENDMENT OF AGENDA:**

**Motion:** to approve the agenda except Item number 6 executive session be split, executive session for Legal instruction and an open session for discussion with Jeff Gilbert **Action:** Approve, **Moved by** Vice Mayor Jewitt, **Seconded by** Council Member Orgeron. **Motion passed unanimously.**

**CONSENT AGENDA:**

1. Ledger of Accounts Paid
2. Minutes of the Regular Meeting on April 9, 2013
3. Consider the disbanding of the Centennial Committee.
4. Accept the Resignation of Municipal Utilities Administrative Committee Member Carolyn Percifull.
5. Accept the Resignation of Beverly Cunningham of the Health & Development Services Board.

**Motion:** Moved to approve the consent agenda with the exception of the item mentioned. The exception being, as Mike Jewitt requested, to pull check #35467 of the general ledger. **Action:** Approve, **Moved by** Vice Mayor Jewitt, **Second by** Council Member Orgeron.

**Motion passed unanimously.**

**Motion:** Motion to approve check #35467, **Action:** Approve, **Moved by** Vice Mayor Jewitt, **Seconded by** Mayor Foster.

**Motion passed unanimously.**

## ADMINISTRATIVE ITEMS:

### 6. Executive Session:

- An executive session pursuant to ARS 38-431.03(A)(1) for discussion of the employment, assignment, dismissal, disciplining or resignation of Jeff Gilbert as Chief of Police of the Quartzsite Police Department.
- An Executive Session pursuant to ARS 38-431.03(A)(3) and (A)(4) for legal advice and discussion and consultation with the Town Attorneys regarding the Town's position and to instruct the Town Attorneys regarding its contract with Jeff Gilbert as Chief of Police of the Quartzsite Police Department.

**Motion:** That we go into executive session for the purpose of getting legal advice and discussion consulting with the town attorney regarding the Town position and to instruct the Town Attorney regarding its contract with Jeff Gilbert as Chief of Police **Action:** Approve, **Moved by** Mayor Foster, **Seconded by** Council Member Orgeron. Motion passed unanimously.

ADJOURNED INTO EXECUTIVE SESSION: 9:06 AM

RECONVENE: 9:34 AM

### ROLL CALL:

**Present:** Mayor Foster, Vice Mayor Jewitt, Council Member Kelley, Council Member Crooks, Council Member Workman, Council Member Orgeron.

**Pursuant to ARS 38-431.03(A)(1) for discussion of the employment, assignment, dismissal, disciplining or resignation of Jeff Gilbert as Chief of Police of the Quartzsite Police Department.**

Chief Gilbert requested that this be open session.

**Motion:** To allow to have it open for public discussion, **Action:** Approve, **Moved by** Vice Mayor Jewitt, **Seconded by** Council Member Orgeron.

**Mayor asked for a roll call of the vote.**

**Vote:** Motion failed (summary: Yea = 2, Nay = 4, Abstain = 0).

- Yea: Vice Mayor Jewitt, Council Member Kelley.
- Nay: Mayor Foster, Council Member Crooks, Council Member Workman, Council Member Orgeron.

Chief Gilbert makes opening statement.

Council Member Orgeron wants to approach the issues. On what the town was receiving in funds for traffic tickets.

Chief Gilbert responded by saying the police department was not a revenue generating department.

Chief Gilbert responds on drug crime.

Council Member Crooks asked if any new lawsuits have been filed against the Police department.

Laura Bruno responded to the question.

Chief Gilbert responded on the lawsuits.

Council Member Crooks asked if the Chief had a wish list how much money and how many officers he would have.

Chief Gilbert responded.

Question by Council Member Orgeron on cite and release on DUI's.

Chief Gilbert responded to the question on why they do cite and release.

When we find ourselves in a bind can we ask them for coverage and help.

Chief Gilbert responded.

Orgeron asked when there was only one person on duty.

Orgeron asked what would be proper policy for the chief.

Orgeron asked what the proper way to proceed after a directive was given.

Chief Gilbert responded.

Orgeron asked about the policies being updated.

Orgeron asked if all the officers have access to all the policies and procedures.

Orgeron asked when the last time that the policy and procedure manual was reviewed and changed.

Council Member Kelley mentioned that the wish list should be three officers per shift

Vice Mayor Jewitt asked if each officer received a copy of their own policy and procedure manual.

**Motion:** to go back into executive session for legal advice, **Action:** Approve, **Moved by** Mayor Foster, **Seconded by** Council Member Orgeron.

**Vote:** Motion failed (**summary:** Yea = 3, Nay = 3, Abstain = 0).

**Yea:** Mayor Foster, Council Member Workman, Council Member Orgeron.

**Nay:** Vice Mayor Jewitt, Council Member Kelley, Council Member Crooks.

Council Member Orgeron wanted to know if the counsel wanted to give direction to the Town Attorney to come back to the council with the buyout amount for the contract.

### **COMMUNICATIONS:**

Mayors report on new poles on Highway 95

Town Managers report: Review of letter from the Attorney General's office.

Memo to Council on CDBG Grant

Risk Management update for the Council review of claims and suits by the public.

**PUBLIC COMMUNICATIONS:**

Jennifer Jones made a statement on violations of open meeting law. She also made statements about Jackson Lewis report

Carolyn Guthrie made statement to Council Member Orgeron and rumors going about the town.

Michelle Lukkasson made statement to the council about buying out chief gilberts contract.

Violet kiss made statement on the council and town management.

Elmer London spoke on the subject of Chief Gilbert.

Mary Scott spoke on the subject of an issue that happened on her property and an incident that happened on the Yacht Club.

Sally Ford made statement on Council lawsuit

Starr Bearcat made statement to council on the town manager and codes and the water board.

Shanana Rain GoldenBear made statement to council on missing Patricia Anderson at the board meetings. Wants to applaud all of the volunteers.

**ADJOURNMENT:** 10:34 AM

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Meeting of April 23, 2013, of the Town Council of Quartzsite, Arizona.

I further certify that the meeting was duly called and held and that a quorum was present.

DATED this 14<sup>th</sup> day of May 2013

\_\_\_\_\_  
Terry Frausto, Town Clerk

On behalf of the Common Council

Approved:

\_\_\_\_\_  
Ed Foster, Mayor



## TOWN OF QUARTZSITE

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### REGULAR COUNCIL MEETING

Tuesday, May 14, 2013

**Agenda Item #4** Consider approval of an agreement with SunEdison Origination1, LLC, for construction, operation and maintenance of a solar powered electric generating project; and to purchase from SunEdison Origination1, LLC, the electric energy produced by the project.

**Summary:** The Town of Quartzsite is the recipient of Renewable Energy Incentive Grants from the APS Renewable Energy Incentive Program. At the November 27, 2012 Quartzsite Town Council Meeting, ACE Solar Systems made a presentation on these Renewable Energy Incentive Grants; how they work, and what Ace Solar Systems is prepared to do for the Town regarding these grants.

Since then, staff has been working with the Town's Engineer (Atkins) and Ace Solar Systems to determine which locations will benefit from, and be able to accommodate, these solar projects. The following locations will have solar powered electric generating projects in the form of structures equipped with photovoltaic solar panels:

1. Quartzsite Town Hall: covered parking structure
2. Quartzsite Wastewater Treatment Plant: ground-mounted structure

The Power Purchase Agreement provides for the construction, operation and maintenance of a solar powered electric generating project; and the purchase the electric energy produced by the project. In turn, the Town will see its power requirements from APS offset by the energy produced from these projects.

SunEdison is a major investor in Tioga Solar Gila, LLC, and is replacing Tioga as the project administrator and financier. The Town Attorney previously provided the Council with a summary of the Power Purchasing Agreements.

There is no cost outlay required from the Town for these two projects.

**Responsible Person:** Steve Henrichs, Acting Director of Community Development

**Attachment:** Agreement between the Town of Quartzsite and SunEdison Originations1, LLC.

**Action Requested:** **Approve the Power Purchase Agreement between the Town of Quartzsite and SunEdison Origination1, LLC.**



Date: May 8, 2013

To: Town of Quartzsite

Attn: Lora Bruno

RE: SunEdison PPA Financing for Quartzsite WWTP and Town Hall

Dear Ms. Bruno:

On behalf of SunEdison and Ace Solar, we would like to express our sincere gratitude to the Town of Quartzsite and its Board of Supervisors for the opportunity develop solar PPA projects at the Waste Water Plant and Town Hall.

Our combined experience, expertise, and financial resources have made us leaders in the Arizona renewable energy market and we look forward to making these projects a great success.

As the PPA Provider, SunEdison will develop, finance, own and operate these two solar projects and sell the renewable energy generated to the Town at a fixed rate over the next 20 years. SunEdison's PPA contract is a low risk way to achieve electricity savings with no upfront capital costs. Through this arrangement, ownership of the solar system and any operational risk will also fall upon SunEdison.

In the last two years alone, SunEdison has secured over \$2.5 billion in project finance through strong relationships with institutional investors like JP Morgan, First Reserve, Wells Fargo, HSH Nordbank, MetLife, Union Bank of California and others. These partnerships have afforded us a clear understanding of a project's financial viability and have strengthened our ability to move projects through the funding process. This proven track record of securing project financing for solar projects is unrivaled in the solar industry.

Contained in this package, please find execution copies of the two Power Purchase Agreements for the Town's consideration.

We look forward to working with you in bringing these exciting projects to fruition!

Best Regards,

A handwritten signature in black ink, appearing to read "Cory Vaughan".

Cory Vaughan  
Director of Sales  
SunEdison

# Solar Project Update

## Quartzsite Board Meeting

- SunEdison (SE) will replace Tioga as project administrator and financier
  - MEMC (Revenues \$2.7 B) owns SunEdison and major investor in Tioga
    - SunEdison was always the bigger brother
    - Staff (Aaron) from Tioga is moving to SE
- SunEdison (SE) is:
  - The largest solar provider in Arizona with 110 MW
  - Well capitalized and can build projects with internal funds.
  - Very interested in the project
- What doesn't change:
  - PPA agreement – SunEdison is already using this contract form.
  - Project Team Members – Ace Solar (Ehsan), PVAC (Tom), SE (Aaron)
  - Town current insurance levels are OK
- Next Steps
  - SE is reviewing project design and town credit
  - Should be ready to sign PPA at May Board Meeting

**POWER PURCHASE AGREEMENT  
WASTE WATER PROJECT**

Dated as of

**May [ ], 2013**

between

**Town of Quartzsite**

and

**SunEdison Origination1, LLC**

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### GLOSSARY OF TERMS

<u>EXHIBIT A</u>	- ENERGY PURCHASE RATES
<u>EXHIBIT B</u>	- EARLY TERMINATION AMOUNTS
<u>EXHIBIT C</u>	- DESCRIPTION OF SITE
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<u>EXHIBIT H</u>	- APPLICABLE SOLAR PROGRAM

## POWER PURCHASE AGREEMENT

This Power Purchase Agreement ("Agreement") is entered into as of May [ ], 2013, by and between SunEdison Origination1, LLC , a Delaware limited liability company, and the Town of Quartzsite, Arizona, an Arizona municipal corporation.

WHEREAS, the Town of Quartzsite is the owner of the property located at 2056 N. Central Blvd., Quartzsite, AZ 85346 and desires to make a portion of such property available to SunEdison Origination1, LLC for the construction, operation and maintenance of a solar powered electric generating project, and to purchase from SunEdison Origination1, LLC the electric energy produced by the project.

WHEREAS, SunEdison Origination1, LLC desires to develop, design, construct, own and operate the project located on the Town of Quartzsite's property, and sell to the Town of Quartzsite the electric energy produced by the project.

WHEREAS, (i) the Town of Quartzsite is a signatory to that Strategic Alliance For Volume Expenditures (SAVE) Cooperative Purchasing Agreement (the "SAVE Agreement"), (ii) the County of Pima, Arizona ("Pima County"), also a signatory to the SAVE Agreement, has, pursuant to Solicitation No. 0901065, executed with SunEdison Origination1, LLC that Power Purchase Agreement dated as of February 3, 2010, and (iii) the provisions of A.R.S. § 41-2631, et seq. and the SAVE Agreement authorize the Town of Quartzsite to select SunEdison Origination1, LLC as the provider of certain photovoltaic services, as set forth hereunder.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. **DEFINITIONS.** Certain capitalized terms used in this Agreement have the meanings set forth in the attached GLOSSARY OF TERMS.

2. **TERM.**

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, "Term" shall mean all of the Initial Period and the Operations Period, unless the Provider or Host terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement.

(b) Initial Period. The Initial Period will begin on the date set forth above and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions of Section 4(b) or 4(d).

(c) Operations Period. If applicable, the Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the last day of the month in which the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date occurs.

(d) Extensions. Twenty-four months prior to the end of the Operations Period, the Parties will meet to discuss the extension of this Agreement on terms and conditions reflecting the then current market for solar generated electricity and with such other amendments and additional terms and conditions as the Parties may agree. Neither Party shall be obligated to agree to an extension of this Agreement.

3. **ACCESS RIGHTS.**

(a) Access Specifications. Host hereby grants Provider and its designees (including Installer, persons responsible for implementing the Applicable Solar Program, and Financing Party) access to the Premises, for the Term, at reasonable times and upon reasonable notice, for the purposes of designing, installing, inspecting, operating, maintaining, repairing and removing the Project, and any other purpose set forth in this Agreement, and otherwise in accordance with the provisions of this Agreement. Access Rights with respect to the Site include without limitation:

(i) Vehicular & Pedestrian Access. Reasonable vehicular and pedestrian access across the Site to the Premises as designated on Exhibit D for purposes of designing, installing, operating, maintaining,

repairing and removing the Project. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site.

(ii) Transmission Lines & Communication Cables. The right to locate transmission lines and communications cables across the Site as designated on Exhibit D. The location of any such transmission lines and communications cables outside the areas designated on Exhibit D shall be subject to Host's approval and shall be at locations that minimize any disruption to Host's activities occurring on the Site.

(iii) Storage. Adequate storage space on the Site convenient to the Premises for materials and tools used during construction, installation, and maintenance of the Project. Provider shall be responsible for providing shelter and security for stored items during construction and installation.

(iv) Utilities. Water, drainage, electrical, and ethernet connections on the Premises for use by Provider in installing, operating and maintaining the Project.

(b) Easement Rights. Upon request by Provider, the Parties shall execute and record with the appropriate Land Registry easements and other instruments documenting the Access Rights granted by Host to Provider in this Agreement, and which shall be in form and substance indicated on Exhibit G or other form agreed by the Parties. The cost of preparation and recording shall be borne by the Provider.

(c) Remote Monitoring. Host will provide an internet portal or equivalent access by means of which Provider will communicate data from the revenue grade performance monitoring system. Provider will be responsible for connecting monitoring equipment for the Project to the internet so that it is possible for Provider and Host to remotely monitor the Project.

#### 4. PLANNING, INSTALLATION AND OPERATION OF PROJECT.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to assess the suitability of the Premises for the Project and shall act diligently in conducting such assessment. The assessment shall include the right to inspect the physical condition of the structures on which the Project will be located; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Local Electric Utility; to make any applications to the appropriate Public Utilities Commission or other agencies for receipt of payments for the Project under the Applicable Solar Program; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project.

(b) Termination of Development Activities. At any time during the Initial Period, Provider shall have the right to cease development of the Project on the Premises, for any reason, in its sole discretion. If Provider gives Host notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) Provider shall remove any equipment or materials which Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their pre-existing condition; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. At any time during the Initial Period, upon at least ten (10) Business Days notice to Host, Provider shall have the right to commence installing the Project on the Premises.

(i) As of the date hereof, Provider anticipates that the Project shall consist of the components and shall have the designs set forth in Exhibit E attached hereto.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of the Project, including the selection of the components in the Project, as Provider, in its sole discretion, may determine, provided, however, that such changes shall not result in the Project exceeding the nameplate capacity, building footprint, location and height set forth in Exhibits D and E, without Host's approval.

(d) Construction Commencement Deadline. If within 365 days following the date of this Agreement (not including any days in which a Force Majeure Event existed), Provider has not commenced the installation of the

Project on the Premises, Host may terminate this Agreement by delivering notice to Provider of its intention to terminate this Agreement, and the Agreement shall terminate twenty-one (21) days after Provider's receipt of such notice; provided, that if Provider commences installation of the Project within such twenty-one (21) day period, this Agreement shall not terminate. Upon any termination in accordance with this Section 4(d) neither Party shall have any further liability to the other with respect to the Project, provided that (i) Provider shall remove any equipment or materials that Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their condition prior to the commencement of construction; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(e) Contractors. Provider shall use licensed contractors to perform the work of installing, operating, and maintaining the Project. Provider intends to use Installer to perform such work, but may use other contractors, for all or a portion of such work, subject to the reasonable approval of Host. Provider shall advise Host of the Installer prior to commencement of the work on the Site. Provider shall be responsible for the conduct of Installer and its subcontractors, and Host shall have no contractual relationship with Installer or its subcontractors in connection with the work on the Project. Provider shall ensure that Installer maintains insurance applicable to the Installer's activities that satisfy the requirements in Exhibit F.

(f) Status Reports; Notice of Commercial Operation Date. Provider shall give Host regular updates, on a reasonable schedule requested by Host, on the progress of installation of the Project and shall notify Host of when Provider will commence testing of the Project. Host shall have the right to have its representatives present during the testing process, but subject to reasonable written rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that the Project meets the requirements of the Local Electric Utility, has been installed in accordance with all Applicable Laws, and is capable of producing electricity on a continuous basis, Provider shall notify Host that installation of the Project is complete and shall specify the Commercial Operation Date for the Project, which may be immediately upon delivery of such notice to Host. All electricity produced by the Project prior to the Commercial Operation Date shall be delivered to Host and Host shall pay for such electricity at the rate applicable to the first Operations Year but in no event greater than the rate otherwise payable by Host to the Electric Service Provider.

(g) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain the Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular. The Provider shall operate the Project in accordance with the terms and conditions of the Credit Purchase Agreement. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, in a manner that minimizes interference with Host and Host's employees, visitors, tenants and licensees and their customers to the extent commercially practical. Provider shall, and shall cause its contractors to, keep the Site reasonably clear of debris, waste material and rubbish, and to comply with reasonable safety procedures established by Host for conduct of business on the Site.

(h) Hazardous Materials. Provider and Installer are not responsible for any Hazardous Materials encountered at the Site except to the extent introduced by Provider. Upon encountering any Hazardous Materials, Provider and Installer will stop work in the affected area and duly notify Host and, if required by Applicable Law, any Governmental Authority with jurisdiction over the Site. Upon receiving notice of the presence of suspected Hazardous Materials at the Site, Host shall take all measures required by Applicable Law to address the Hazardous Materials discovered at the Site. Host may opt to remediate the Site so that the Project may be installed on the Site, or determine that it is not economically justifiable or is otherwise impractical to remediate the Site, in which case Host and Provider may agree upon a different location for the Project whereupon such replacement location shall be the Site for purposes of this Agreement. Provider and Installer shall be obligated to resume work at the affected area(s) of the Site only after Host notifies Provider and Installer that Host has complied with all Applicable Laws, and a qualified independent expert provides written certification that (i) remediation has been accomplished as required by Applicable Law and (ii) all necessary approvals have been obtained from any Governmental Authority having jurisdiction over the Project or the Site. Host shall reimburse Provider for all additional costs incurred by Provider or Installer in the installation of the Project resulting from the presence of and/or the remediation of Hazardous Materials, including demobilization and remobilization expenses. Notwithstanding the preceding provisions, Host is not responsible for any Hazardous Materials introduced to the Site by Provider or Installer, nor is Host required to remediate an affected area if such remediation is deemed to be economically unjustifiable or otherwise impractical.

(i) Site Security. Host will provide security for the Project to the extent of its normal security procedures, practices, and policies that apply to all Host Premises, including the Project. Host will advise Provider

immediately upon observing any damage to the Project. Upon request by Provider, such as Provider receiving data indicating irregularities or interruptions in the operation of the Project, Host shall, as quickly as reasonably practicable, send a person to observe the condition of the Project and report back to Provider on such observations.

(j) System Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project. At other times, Provider shall give Host notice of the shutdown as may be reasonable in the circumstances. Provider shall not have any obligation to reimburse Host for costs of purchasing electricity that would have been produced by the Project but for such shutdown. Provider shall not schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Service Provider, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

(k) Applicable Solar Program Requirements. Exhibit H identifies certain requirements of the Applicable Solar Program. The Parties shall comply with the obligations identified in Exhibit H or subsequently adopted by the Applicable Solar Program. In the event of any inconsistency between the obligations of the Parties under this Agreement or any of the requirements of the Applicable Solar Program, the more stringent obligation shall govern, and if such cannot be determined, the requirements of the Applicable Solar Program shall govern.

(l) Payment and Performance Bonds. Provider shall require of all contractors working on the Project, and shall provide to Host copies of, payment and performance bonds covering the cost of all construction work performed on the Premises in accordance with the provisions of A.R.S. § 34-222. All contractors and subcontractors performing work on the Premises shall hold valid licenses from the Arizona Registrar of Contractors. The design of the System shall be performed by architects and engineers registered in the State of Arizona.

## 5. SALE OF ELECTRIC ENERGY.

(a) Sale of Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement, Provider shall sell to Host and Host shall buy from Provider all electric energy produced by the Project, whether or not Host is able to use all such electric energy. The Point of Delivery of the electric energy shall be as indicated in Exhibit E. Title to and risk of loss with respect to the energy shall transfer from Provider to Host at the Point of Delivery.

(b) Delivery of Electricity. The electric energy from the Project shall be delivered from Provider to Host at the specifications set forth in Exhibit E and otherwise in compliance with all requirements of the Local Electric Utility.

(c) Limits on Obligation to Deliver. Provider does not warrant or guarantee the amount of electric energy to be produced by the limits on Project for any hourly, daily, monthly, annual or other period. Provider is not a utility or public service company and does not assume any obligations of a utility or public service company to supply Host's electric requirements. Provider is not subject to rate review by any Governmental Authority.

(d) Meter Testing. Provider shall install one or more meter(s) at the Project, as Provider deems appropriate, to measure the output of the Project at the Point of Delivery. Provider shall install an Interval Data Recorder (IDR) with industry standard telemetry at the Project. Provider shall conduct tests of the meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Host shall pay for any independent testing of the meter(s) in excess of such minimum testing schedule that Host deems necessary, except if, after such testing, the meter is shown to be in error in Provider's favor by more than 2%, Provider shall pay for the cost of such test and shall make corresponding adjustments to the records of the amount of electrical energy provided by the Project delivered based on the period that is half-way in between the date of this testing and the last testing date of the meter. If there is an error of less than or equal to 2% no billing adjustments will be made. In the event there is an error of greater than 2%, Provider shall adjust the next invoice to be provided to Host under Section 6(b) hereof, to either charge the Host additional amounts for energy produced over the stated meter amount during the applicable period at the applicable rate or provide Host a credit against future billing for energy produced under the stated meter amount during the applicable period, provided, however, that any deficiencies or credits not theretofore applied or satisfied at the expiration or earlier termination of the Operations Period shall be settled in cash.

## 6. PAYMENT AND BILLING.

(a) Rates. Host shall pay Provider for electricity produced by the Project at the rates set forth in Exhibit A attached hereto.

(b) Billing. Host shall pay for the electricity produced by the Project monthly in arrears. Promptly after the end of each calendar month, Provider shall provide Host with an invoice setting forth the quantity of electricity produced by the Project in such month, the applicable rates for such, and the total amount due, which shall be the product of the quantities and the applicable rates.

(c) Invoice Delivery. Invoices shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a Business Day or in any other case as of the next Business Day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

Town of Quartzsite  
Attn.: Account Department, A/P  
P.O. Box 2812  
Quartzsite, AZ 85346

(d) Payment. Host shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by electronic funds transfer to an account designated by Provider in the invoice or in a written notice delivered to Host. Any amounts not paid when due, including any amounts properly disputed and later determined to be owing, shall accrue interest on the unpaid amount at the rate equal to the lesser of (i) 1% per month, compounded monthly or (ii) the highest rate allowed by applicable law.

(e) Disputed Invoices. If Host objects to all or a portion of an invoice, Host shall, on or before the date payment of the invoice is due, (i) pay the undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Host does not object prior to the date payment of any invoice is due, Host shall be obligated to pay the full amount of such invoices but Host may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount; provided, however, that Host may not object to any invoice more than eighteen (18) months after the date on which such invoice is rendered. The right to dispute or object to an invoice, shall, subject to the time limitation provided in this Section 6(e), survive the expiration or termination of this Agreement.

## 7. SUPPLEMENTAL POWER, NET METERING AND RECS.

(a) Back-up and Supplemental Electricity. Except as otherwise provided herein, throughout the Term, Host shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project and pay for such service pursuant to contracts with or applicable tariffs of the Local Electric Utility or other Electric Service Provider. Provider shall have no obligation to obtain or pay for such supplemental or back-up electricity.

(b) Net Metering & Utility Credits. At any time that electric production from the Project is greater than Host's requirements at such time, Host shall nevertheless pay Provider for all of the electricity produced by the Project at the rates and in the manner provided in this Agreement. Host may make arrangements with the Local Electric Utility so that power in excess of Host's requirements may be delivered to the Local Electric Utility through the Point of Delivery and Host shall receive any credits or payments from the Local Electric Utility that may be available under net metering or similar programs. If Applicable Law or the practice of the Local Electric Utility restricts the ability of the Host to deliver electricity produced by the Project to the Local Electric Utility, then the Parties shall agree on alternate arrangements to enable Host, insofar as possible, to receive benefits from the Local Electric Utility comparable to those available under net metering programs, provided that the economic benefits to Provider remain as provided in this Section 7(b).

(c) Interconnection. Provider shall be responsible for arranging the interconnection of the Project with Host's Local Electric Utility in a manner which includes bi-directional or "net metering".

(d) Applicable Solar Program Incentives. Except as provided in Section 7(b), Provider shall receive all payments available under any Applicable Solar Program. Host shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments, including

designating Provider as the customer for purposes of the Applicable Solar Program or assigning payments from the Applicable Solar Program to Provider. If Host receives any payments under the Applicable Solar Program or other programs in respect of the Project, it shall promptly pay them over to Provider. Host's obligation to make any payments to Provider under this paragraph (d) is limited to any payments actually received by Host.

(e) Ownership of Tax Attributes. Provider (and/or Financing Party) shall be the owner of any Tax Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Host is deemed to be the owner of any such Tax Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Tax Attributes, it shall promptly pay them over to Provider.

(f) Environmental Attributes.

(i) Provider has received and reviewed the APS Solar Renewable Energy Credit Purchase Agreement Grid-Tied Photovoltaic System (APS Contract No. \_\_\_\_\_) (the "Credit Purchase Agreement") relating to the Project. Provider represents that, to its knowledge, the design and operation of the Project will satisfy the requirements of the Credit Purchase Agreement. Host hereby assigns revenues from the Credit Purchase Agreement to Provider pursuant to Section 11 of the Credit Purchase Agreement. The Parties shall cooperate with respect to the obligations of the each of the Parties under the terms and conditions of the Credit Purchase Agreement. The Parties shall perform all of their obligations under the Credit Purchase Agreement.

(ii) For the first fifteen (15) Operations Years, Host shall be the owner of any Environmental Attributes which may arise as a result of the operation of the Project shall transfer such Environmental Attributes shall provide reasonable assistance to in preparing all documents necessary for Provider to receive such Environmental Attributes.

(iii) Host shall make best efforts to assign the Credit Purchase Agreement to Provider, if permitted by the Applicable Solar Program. Upon the effectiveness of such assignment, or after the end of the fifteenth (15th) Operations Year, Provider shall become the owner of any Environmental Attributes which may arise as a result of the operation of the Project. Upon Provider becoming the owner of Environmental Attributes pursuant to this subsection (ii), if Host is deemed to be the owner of any such Environmental Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Environmental Attributes, it shall promptly pay them over to Provider.

(g) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the Project. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Host is deemed to be the owner or provider of such capacity or services, Host shall assign the same to Provider. If Host receives any payments in respect of capacity or such services it shall promptly pay them over to Provider.

(h) No Resale of Electricity. Except as contemplated by the provisions of Section 7(b), the electricity purchased by Host from Provider under this Agreement shall not be resold, assigned or otherwise transferred to any other person without prior approval of the Provider, which approval shall not be unreasonably withheld, and Host shall not take any action which would cause Host or Provider to become a utility or public service company.

(i) Provider Is Not A Utility. Neither Party shall assert that Provider is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Provider's obligations or performance under this Agreement.

## 8. PERMITS, OWNERSHIP OF PROJECT, LIENS, MORTGAGES

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval.

(b) System Ownership. Except as provided in Section 9, Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. The Project is personal property and shall not attach to or be deemed  
Town of Quartzsite  
Power Purchase Agreement  
May [ ], 2013  
Waste Water Project

a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Host covenants that it will place all persons having an interest in or lien upon the real property comprising the Premises on notice of the ownership of the Project and the legal status or classification of the Project as personal property. Host and/or Provider shall make any necessary filings to disclaim the Project as a fixture of its respective Premises and Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by governmental authorities for taxes (collectively referred to as "Liens" and each, individually, a "Lien") on or with respect to the interests of the other in the Site, the Premises, and the Project, and in the Access Rights granted hereunder. Provider shall, to the extent allowed under Applicable Law, have Installer and its subcontractors execute lien waivers with respect to any mechanic's or materialman's lien against Host's interest in the Site. If permitted under Applicable Law, Host will post notices of non-responsibility to notify Installer and others that Host is not responsible for work performed on the Project. Each Party shall promptly notify the other of the imposition of a Lien on the property interests of the other Party, and shall promptly discharge such lien, provided however, that a Party may seek to contest the amount or validity of any Lien affecting the property of the other Party, provided it timely complies with all procedures for contesting such Lien, posts any bond or other security necessary under such procedures, and if such procedures do not require the posting of security, the Party establishes for the benefit of the other Party a deposit, letter of credit, or other security acceptable to the other Party to indemnify the other Party against any Loss which could reasonably be expected to arise if such Lien is not removed or discharged.

(d) Non Disturbance Agreements. Host shall pay for and obtain all consents required for it to enter into and perform its obligations under this Agreement from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the Project, Host shall promptly upon request of Provider, provide an acknowledgement and consent from such lienholder, in form and substance reasonably acceptable to Financing Party, stating that the ownership of the Project remains in Provider and further acknowledging that the Project is personal property of Provider and agreeing not to disturb the rights of Provider in the Project and under this Agreement. If Host is the fee owner of the Premises, Host consents to the filing of a disclaimer of the Project as a fixture of the Premises in the Land Registry. If Host is not the fee owner, Host will obtain such consent from such owner of the Premises. Such acknowledgment and consents, or acceptable notices thereof, shall be recorded, at Host's expense, in the appropriate Land Registry. Host may in the future mortgage, pledge, and grant security interests in all or a portion of the Site and the improvements thereon, provided the mortgagee or other grantee of the encumbrance acknowledges this Agreement, the Project, the Access Rights granted hereunder, and the priority of Provider's (and/or Financing Party's) rights in the Project and the Access Rights.

## 9. PURCHASE OPTIONS; REMOVAL AT END OF TERM.

(a) Early Purchase Options. On the seventh (7<sup>th</sup>), tenth (10<sup>th</sup>) and fifteenth (15<sup>th</sup>) anniversary of the Commercial Operation Date, provided no Host Event of Default has occurred and is continuing, the Host shall have the option to purchase the Project from Provider at a price which will be the greater of (i) the Fair Market Value of the Project at such anniversary date or (ii) the Early Termination Amount, plus, if applicable, repayment or recapture of Applicable Solar Program or other governmental payments occasioned by the exercise of such option. If Host desires to exercise this option, it shall no later than ninety (90) days prior to the applicable anniversary date notify Provider of its election to exercise the option, and on or before ninety (90) days after such anniversary date shall pay the purchase price to Provider by electronic transfer in immediately available funds to an account designated by Provider. At any time following receipt of the notice from Host, but no later than thirty (30) days after the date Host gives notice of its election to exercise the option, Provider may notify Host if it believes the Fair Market Value of the Project exceeds the Early Termination Amount, and, in the same notice, Provider shall provide Host an appraisal of the Fair Market Value. If Host agrees with the appraisal of the Fair Market Value it shall pay such sum to Provider. If Host disagrees with the appraisal's estimate of the Fair Market Value of the Project, Host may request that the Parties meet to discuss the appraisal. If the Parties cannot agree within ten (10) days of the Host's receipt of the appraisal of the Fair Market Value, the Parties will be deemed to enter into a Dispute for purposes of Section 23(a) and shall follow the procedures in Section 23(c) for resolution of the Dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the

terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(b) End of Term Purchase Option. Host shall have the right to purchase the Project from Provider at the expiration of the Operations Period at the then Fair Market Value of the Project. No earlier than twelve months prior to the expiration of such Operations Period and no later than nine (9) months prior to the expiration of the Operations Period, Host shall notify Provider of its intent to exercise the option. Within ninety-one (91) days of its receipt of such notice, Provider shall give Host its appraisal of the Fair Market Value of the Project at the end of the Term. Host may, but is not obligated to, accept such appraisal. If Host does not accept such appraisal within ten (10) days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within twenty (20) days of the Host's receipt of the appraisal from Provider, the Parties will be deemed to enter into a Dispute for purposes of Section 23(a) and shall follow the procedures in Section 23 for resolution of the Dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(c) Transfer of Ownership. Upon Host's notice that it elects to exercise the option set forth in either Section 9(a) or 9(b) above, Provider shall prepare and deliver to Host a set of records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the purchase price, Provider shall deliver, or cause to be delivered, to Host a bill of sale conveying the Project to Host. Such bill of sale shall not contain any warranties other than a warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Host.

(d) Operation & Maintenance After Sale. Prior to the effective date of Host's purchase of the Project under Section 9(a) or 9(b), Host and Provider shall discuss entering into an operation and maintenance agreement under which Provider shall perform all or a portion of the operation and maintenance requirements of the Project following Host's purchase of the Project. However, neither Party shall be under an obligation to enter into such an agreement.

(e) Decommissioning. If Host does not exercise the option set forth in Section 9(b) above, then Provider, at its expense, shall promptly decommission and remove the Project following the expiration of the Operations Period. Provider shall not be obligated, however, to remove any support structures for the Project which are affixed to Host's structures or any below grade structures, including foundations and conduits, or any roads. Host grants Provider and its representatives reasonable vehicular and pedestrian access across the Site to the Premises for purposes of decommissioning the Project. In exercising such access and performing the decommissioning, Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site. Host will provide Provider adequate storage space on the Site convenient to the Premises for materials and tools used during decommissioning. Provider shall be responsible for providing shelter and security for stored items during decommissioning and removal. Host further agrees that its normal security measures, practices, and policies which apply to its own Premises shall also apply to the Project. During decommissioning, Provider will comply with all Applicable Laws.

(f) No Survival of Purchase Option. The options for Host to purchase the Project under Sections 9(a) and 9(b) shall not survive the termination of this Agreement.

## 10. SHUTDOWNS, RELOCATION; CLOSURE OR SALE OF SITE.

(a) Host Requested Shutdown. Host from time to time may request Provider to temporarily stop operation of the Project for a period no longer than thirty (30) days, such request to be reasonably related to Host's activities in maintaining and improving the Site. During any such shutdown period (but not including periods of Force Majeure), Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the period of the shutdown; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the period of the shutdown; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project during the period of the shutdown.

Determination of the amount of energy that would have been produced during the period of the shutdown shall be based, during the first Operations Year, on estimated levels of production and, after the first Operations Year, based on actual operation of the Project during the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(b) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 4(j), Provider may shutdown the Project if Provider, in the exercise of reasonable judgment, believes Site conditions or activities of persons on a Site, which are not under the control of Provider, whether or not under the control of Host, may interfere with the safe operation of the Project. Provider shall give Host notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider and Host shall cooperate and coordinate their respective efforts to restore Site conditions so as to not interfere with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown. In the event of such a shutdown, Host shall be deemed to have acted under Section 10(a) to shut down the Project, and shall pay Provider the amounts described in Section 10(a) with respect to the period of the shutdown, except that Host shall not be required to pay such amounts relative to any time period prior to Provider's notice of the shutdown or during any Force Majeure Event. If a shutdown pursuant to this Section 10(b) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(c) Project Relocation. Host may request to move the Project to another location on the Site or to another site owned by Host, but any such relocation shall be subject to the approval of Provider and Financing Party in each of their sole discretion. In connection with such relocation, Host shall execute an amendment to this Agreement reflecting the new location of the Project but otherwise continuing all the terms and conditions of this Agreement for the remaining term of this Agreement. Host shall also provide any consents or releases required by Provider in connection with the new location. Host shall pay all costs associated with the removal and relocation of the Project, including installation and testing costs and interconnection costs. In addition, during the Relocation Event, Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following the Relocation Event; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following the Relocation Event; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following the Relocation Event. Determination of the amount of energy that would have been produced following the Relocation Event shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(d) Premises Shutdown; Interconnection Deactivated. In the event Premises are closed as a result of an event that is not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Host, Host shall nevertheless continue to pay Provider for all electricity produced by the Project on the Premises and delivered to the Point of Delivery. If an interconnection with the Local Electric Utility becomes deactivated for reasons that are not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Host such that the Project is no longer able to produce electricity or transfer electricity to its respective Premises or to the Local Electric Utility, Host will pay Provider an amount equal to the sum of (A) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following such closure; (B) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following such closure; and (C) revenues from Environmental Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following such closure. Determination of the amount of energy that would have been produced following such closure shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology. If a shutdown pursuant to this Section 10(d) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(e) Sale of Site. In the event Host transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, Host shall remain primarily liable to Provider for the performance of the obligations of Host hereunder notwithstanding such transfer. However, if no Host Event of Default has occurred and is continuing and the transferee is acceptable to Provider and Financing Party in their sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to Provider and Financing Party in their sole discretion, Host may be released from further obligations under this Agreement.

## 11. TAXES.

(a) Income Taxes. Provider shall be responsible for any and all income taxes associated with payments from Host to Provider for electric energy from the Project. Provider (and/or Financing Party), as owner of the Project, shall be entitled to all Tax Attributes with respect to the Project.

(b) Sales Taxes. Host shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the sale of electric energy by Provider to Host. Host shall timely report, make filings for, and pay any and all such taxes assessed directly against it and shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Property Taxes. Host shall be responsible for all ad valorem personal property or real property taxes levied against the Site, improvements thereto and personal property located thereon, except that Provider shall be responsible for ad valorem personal property or real property taxes levied against the Project. If Host is assessed any taxes related to the existence of the Project on the Premises, Host shall immediately notify Provider. Host and Provider shall cooperate in contesting any such assessment; provided, however, that Host shall pay such taxes to avoid any penalties or interest on such Taxes, subject to reimbursement by Provider. If after resolution of the matter, such tax is imposed upon Host related to the improvement of real property by the existence of the Project on the Site, Provider shall reimburse Host for such tax.

(d) Tax Contests. Each Party has the right to contest taxes in accordance with Applicable Law and the terms of encumbrances against the Site. Each Party shall use all reasonable efforts to cooperate with the other in any such contests of tax assessments or payments. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment has been bonded or otherwise secured in accordance with Applicable Law.

(e) Payment of Delinquent Taxes. In the event either Party fails to pay any taxes that may become a lien upon the other Party's property, such Party may pay such amounts and in such event shall be entitled to recover such paid amount from the other Party, together with interest thereon at the rate of one percent (1%) per month, compounded monthly.

(f) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 11 shall be paid within twenty (20) Business Days of receiving an invoice therefor from the Party who paid the taxes.

## 12. INSURANCE.

(a) Coverage. Host and Provider shall each maintain the insurance coverage set forth in Exhibit F in full force and effect throughout the Term.

(b) Applicable Solar Program Requirements. Host and Provider will also maintain the additional insurance requirements (if any) specified in Exhibit H to satisfy the requirements of the Applicable Solar Program.

(c) Insurance Certificates. Each Party shall furnish current certificates indicating that the insurance required under this Section 12 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insurer agrees to give the other Party thirty (30) days written notice before the insurance is cancelled or materially altered.

(d) Certain Insurance Provisions. Each Party's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear. A cross liability clause shall be made part of the policy. Each Party's insurer shall waive all rights of subrogation against the other Party except in the case of such Party's negligence or willful misconduct.

(e) Insurance Providers. All insurance maintained hereunder shall be maintained with companies rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated).

## 13. COOPERATION; SOLAR ACCESS; FUTURE IMPROVEMENTS.

(a) Cooperation. The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.

(b) Host to Not Restrict Solar Access. Host, or any lessee, grantee or licensee of Host, shall not erect any structures on, or make other modifications to, or plantings on, the Site which will interfere with the construction, operation or maintenance of, or solar access of, the Project.

(c) Adjoining Properties. If Applicable Law and existing easements do not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, then Host and Provider shall work together to attempt to obtain from owners of adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of both Host and Provider. Provider shall pay for the expense of obtaining such easements, including payments to property owners and legal costs, but the rates payable by Host for electric energy from the Project shall be increased by an amount sufficient for Provider to fully amortize such costs, over a period equal to the lesser of (i) ten years and (ii) the remaining term of this Agreement without regard to Host's option to purchase the Project.

#### 14. PRESS RELEASES AND CONFIDENTIALITY.

(a) Press Releases. The Parties acknowledge that they each desire to publicize information about this Agreement and the Project. The Parties therefore agree that each may make independent press releases about entering into this Agreement, the size and location of the Project, and the identity of the other Party, without the prior written consent of the other Party, so long as only Provider has the exclusive right to (i) claim that electric energy provided to Host was generated by the Project, (ii) Provider is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of such electric energy and (iii) Provider is entitled to all credits, certificates, or registrations, etc., evidencing or representing any of the foregoing except as otherwise expressly provided in this Agreement. However, the terms of this Agreement and information about the Project other than that described above constitutes Confidential Information, as defined below, and is subject to the remaining provisions of this Section 14.

(b) Limits on Disclosure of Confidential Information. Subject to the exceptions set forth below in Section 14(c), each Party agrees that, (i) without the consent of the other Party, it shall not disclose any Confidential Information received from the other Party to any other person and (ii) it shall use any Confidential Information received from the other Party only for the purpose of fulfilling its obligations under this Agreement. Notwithstanding the foregoing, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing the Applicable Solar Program or Tax Attributes required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing. Notwithstanding anything else herein to the contrary, all of Host's obligations set forth in this Section 14 are subject to Host's compliance with the Arizona Public Records Law, Title 39, Arizona Revised Statutes (the "Public Records Law"), as amended from time to time. Any conflict between this Section 14 and the Public Records Law shall be resolved in favor of the Public Records Law.

(c) Permissible Disclosures. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if a receiving Party is required by Applicable Law, validly issued subpoena, required filing, or the rules of any stock exchange, to disclose any Confidential Information provided by the disclosing Party, the receiving Party may make disclosure as required by law, but the receiving Party shall prior to making any disclosure notify the disclosing Party of the requested disclosure and shall use its reasonable efforts to cooperate with the disclosing Party, but at the expense of the disclosing Party, in any efforts by the disclosing Party to minimize the extent of the Confidential Information disclosed and the persons to whom disclosed.

(d) Enforcement of Confidentiality Provisions. Each Party acknowledges that it may be impossible to measure the damages which may result from a breach of this Section 14 and agrees that the provisions of this Section 14 may be required to be specifically performed and each Party shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance of the terms of this Section 14. The provisions of this Section 14 shall survive until three years after the effective date of any termination of this Agreement.

**15. INDEMNIFICATION.**

(a) Provider Indemnification. Provider shall indemnify, defend and hold Host and its directors, officers, employees, agents, volunteers, and invitees ("Host's Indemnified Parties"), harmless from and against all Losses incurred by the Host Indemnified Parties to the extent arising from or out of the following: (i) any claim for or arising out of any injury to or death of any Person or loss or damage to property to the extent arising out of Provider's (or its contractor's) negligence or willful misconduct; (ii) Provider's violation of Applicable Law; (iii) any failure to properly interconnect or comply with the procedures of the Local Electric Utility; (iv) any failure to properly handle or dispose of any Hazardous Materials brought onto the Site by Provider or by any of Provider's employees, agents, volunteers, and invitees; and (v) any Losses arising out of the Provider's failure to perform any of its obligations hereunder that causes Host to fail to perform under the Credit Purchase Agreement. Such duty to indemnify with respect to any injuries to persons or damage to property arising from the generation of electricity from the Project shall not extend to incidents occurring on Host's side of the Point of Delivery except to the extent caused by incidents on Provider's side of the Point of Delivery. Such duty to indemnify shall not apply to any action or claim, whether in tort (including negligence and strict liability), contract or otherwise for any loss, injury, or costs resulting from interruptions in service. Provider shall not be obligated to indemnify Host or any Host Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Host or any Host Indemnified Party.

(b) Host Indemnification. Host shall indemnify, defend and hold Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Financing Party ("Provider's Indemnified Parties"), harmless from and against all Losses incurred by the Provider's Indemnified Parties to the extent arising from or out of (i) any claim for or injury to or death of any Person or loss or damage to property to the extent arising out of the negligence or willful misconduct of any of Host's Indemnified Parties; (ii) Host's violation of Applicable Law; (iii) the presence, removal or remediation of any Hazardous Materials on the Site (other than any Hazardous Materials brought on to the Site by Provider's Indemnified Parties); and (iv) any Losses arising out of the Host's failure to perform any of its obligations under the Credit Purchase Agreement. Host shall not be obligated to indemnify Provider or any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Provider or any Provider Indemnified Party.

(c) Notice of Claims. Whenever any claim arises for indemnification under this Agreement, the Indemnified Person shall notify the Indemnifying Party in writing as soon as possible (but in any event prior to the time by which the interest of the Indemnifying Party will be materially prejudiced as a result of its failure to have received such notice) after the Indemnified Person has knowledge of the facts constituting the basis for such claim (the "Notice of Claim"). Such Notice of Claim shall specify all facts known to the Indemnified Person giving rise to the indemnification right and the amount or an assessment of the amount of the liability arising therefrom.

(d) Defense of Claims. The Indemnifying Party has the right, but not the obligation to assume the defense or the matter for which indemnification is sought hereunder. If the Indemnifying Party does not assume the defense, it shall timely pay all costs of counsel and case expenses incurred by Indemnified Person in connection with the defense, when and as incurred. If the Indemnifying Party assumes the defense, the Indemnified Person has the right to hire its own counsel to defend it, but the Indemnified Person shall be responsible for the reasonable costs of such counsel. The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the matter for which indemnification is sought without the prior written consent of the Indemnified Person (which consent shall not be unreasonably withheld) unless the judgment or settlement involves the payment of money damages only and does not require the acknowledgement of the validity of any claim.

(e) Payments. At the time that the Indemnifying Party makes any indemnity payments under this Agreement, the indemnification payment shall be adjusted such that the payment will result in the Indemnified Person receiving an indemnity payment equal to the Loss after taking into account (i) all federal, state, and local income taxes that are actually payable to the Indemnified Person with respect to the receipt of such payment and (ii) all national, state, and local tax deductions allowable to the Indemnified Person for any items of loss and deduction for which the Indemnified Party is being indemnified.

(f) Survival of Indemnification. The obligations of indemnification hereunder shall survive termination of this Agreement.

**16. REPRESENTATIONS AND WARRANTIES.**

(a) Mutual Representations. Each Party hereby represents and warrants to the other, as of date hereof, that:

(i) Organization. It is duly organized, validly existing and in good standing under the laws of its state of incorporation and of the state in which the Premises are located, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict with or constitute a breach of or a default under (1) its organizational documents; (2) any agreement or other obligation by which it is bound; (3) any law or regulation.

(iii) Enforceability. (1) All actions required to be taken by or on the part of such Party necessary to make this Agreement effective have been duly and validly taken; (2) this Agreement has been duly and validly authorized, executed and delivered on behalf of such Party; and (3) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws.

(iv) No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

(b) Host Representations. In addition to the representations and warranties in Section 16(a), Host hereby represents and warrants to Provider, as of date hereof, that:

(i) Electric Usage. Host has provided to Provider complete and correct records of its electric usage at the Site for the preceding three (3) years.

(ii) Condition of Premises. Host has provided to Provider Host's complete and correct records of the physical condition of the Premises. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project is to be installed, are materially different from the information presented by Host, then if practicable the rates payable by Host hereunder shall be adjusted to compensate Provider for the cost of design and construction changes and delays incurred to adapt the Project to the unknown conditions. If such adjustment is not practicable, Provider shall have other rights under this Agreement.

(iii) Financial Information. The financial statements Host has provided to Provider present fairly in all material respects the financial condition and results of operations of Host.

(iv) Cooperative Purchasing. In addition to the Host's representation pursuant to Section 16(a)(iii), Host further represents and warrants (A) Host is a signatory to the SAVE Agreement, (B) Pima County is also a signatory to the SAVE Agreement, (C) Pima County has, pursuant to Solicitation No. 0901065, executed with Provider that Power Purchase Agreement dated February 3, 2010, and (D) the provisions of A.R.S. § 41-2631, et seq. and the SAVE Agreement authorize Host to execute this Agreement.

## 17. FORCE MAJEURE.

(a) Excuse for Force Majeure Event. Except as provided in Section 17(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Obligations to make payments for services already provided shall not be excused by a Force Majeure Event.

(c) Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event, which destroys all or a substantial portion of the Premises, Host shall elect, within ninety (90) days of such event, whether it will restore the Premises, which restoration will be at the sole

expense of Host. If Host does not elect to restore the Premises, then Provider shall not restore the Project and this Agreement will terminate. If Host does elect to restore the Premises, Host shall provide notice of such election to Provider and Provider shall then elect, within ninety (90) days of receipt of such notice, whether or not to restore the Project, subject to the Parties agreeing on a schedule for the restoration of the Premises and an equitable extension to the Term of this Agreement. If the Parties are not able to so agree or if Provider does not elect to restore the Project, Provider shall promptly remove any portions of the Project remaining on the Premises, and this Agreement shall terminate. If Provider does elect to restore the Project, it shall do so at its sole expense. In the event of termination of this Agreement pursuant to this Section 17(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(d) Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Section 17, if nonperformance on account of a Force Majeure Event continues beyond a continuous period of three hundred and sixty-five (365) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days notice to the other. Upon such termination, Provider shall be required to decommission and remove the Project from the applicable Site in accordance with the provisions of Section 9(e) (unless there has been a casualty event, in which case the provisions of clause (c) above shall apply to the removal of the Project). In the event of such a termination of this Agreement with respect to the Project, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the Project or the Premises, and the indemnity, confidentiality and dispute resolution provisions of this Agreement shall survive the termination of this Agreement.

## 18. CHANGE IN LAW.

In the event there is a Change in Law that is applicable to the operation of the Project, the sale of electric energy produced by the Project, or any other obligation of the Provider hereunder, and compliance with the Change in Law results in an increase in Provider's costs to operate and/or maintain the Project, Provider will promptly submit to Host a written notice setting forth (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Provider's costs; and (iii) Provider's proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Host agrees to an adjustment in the then applicable and future rates such that the new rates compensate Provider for the total cost increase arising from the Change in Law and said adjustment will remain in effect for as long as the costs arising from the Change in Law continue to be incurred by the Provider; provided, however any such increase shall be no greater than ten percent (10%) of the rates set forth in Exhibit A.

## 19. PROVIDER DEFAULT AND HOST REMEDIES.

(a) Provider Events of Default. Provider shall be in default of this Agreement if any of the following ("Provider Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Provider under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Host identifying the defect.

(ii) Abandonment During Installation. After commencement of installation of the Project, Provider abandons installation of the Project for thirty (30) days and fails to resume installation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has abandoned installation of the Project.

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to operate the Project for a period of 90 days which failure is not due to equipment failure, or damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 17(b) (relating to Force Majeure Events); and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has ceased operation of the Project, provided, however, that the cure period shall be extended by the number of calendar days during which Provider is prevented from taking curative action if Provider had begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

(iv) Obligation Failure. Provider fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to make payment when due or maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Host identifying the failure.

(v) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Financing Party Opportunity to Cure; Host Remedies. Upon an Event of Default by Provider, provided that Host complies with its obligations under Section 21 and Financing Party does not cure such Event of Default by Provider, Host may terminate this Agreement, seek to recover damages for costs of replacement electricity and pursue other remedies available at law or equity.

## 20. HOST DEFAULT AND PROVIDER REMEDIES.

(a) Host Events of Default. Host shall be in default of this Agreement if any of the following ("Host Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Host under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Provider identifying the defect.

(ii) Obstruction. Host obstructs commencement of installation of the Project or fails to take any actions necessary for the interconnection of the Project, or fails to take electric energy produced by the Project, and fails to correct such action within ten (10) days of when such payment was due.

(iii) Payment Failure. Host fails to make any payment due under the terms of this Agreement, and fails to make such payment within ten (10) days after receipt of notice thereof from Provider.

(iv) Obligation Failure. Host fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Provider identifying the failure.

(v) Insolvency. Host (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Host in an involuntary case under bankruptcy law or seeking to dissolve Host under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Default Damages. Upon an Event of Default by Host, Provider may require Host to pay to Provider the Early Termination Amount, sell electricity produced by the Project to persons other than Host, and recover from Host any loss in revenues resulting from such sales, and/or pursue other remedies available at law or in equity. After Provider's receipt of such Early Termination Amount pursuant to this Section 20(b), Provider shall collect no additional damages resulting from lost revenues from sales of electricity from the Project.

21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.

(a) Financing Arrangements. Provider may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons providing financing for the Project. Host acknowledges that Provider will obtain construction financing for the Project from third party and that Provider may either obtain term financing secured by the Project or sell or assign the Project to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Host acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the Project. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any lender or lessor, as applicable, Host agrees as follows:

(i) Consent to Collateral Assignment. Host hereby consents to both of the sale of the Project to a Financing Party and the collateral assignment to the Financing of the Provider's right, title and interest in and to this Agreement.

(ii) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Financing Party, as owner of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Project;

(B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Host hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Project by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Host of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Host shall enter into a new agreement with Financing Party or its assignee having substantially the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. Host will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire title to or control of Provider's assets and shall, within the time periods described in Section

21(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(b) Financing Party a Third Party Beneficiary. Host agrees and acknowledges that Financing Party is a third party beneficiary of the provisions of this Section 21.

(c) Entry to Consent to Assignment; Opinions of Counsel. Host agrees to (i) execute any consents to assignment or acknowledgements and (ii) provide such opinions of counsel as may be reasonably requested by Provider and/or Financing Party in connection with such financing or sale of the Project, including but not limited to opinions with respect to the enforceability of this Agreement pursuant to the terms of the SAVE Agreement and A.R.S. § 41-2631.

## 22. LIMITATIONS ON DAMAGES.

EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT (including, without limitation, in Sections 10 and 20(b)), NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

## 23. DISPUTE RESOLUTION.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of such Dispute to the other Party.

(b) Mediation. If, after such negotiation in accordance with Section 23(a), the Dispute remains unresolved, either Party may require that a non-binding mediation take place. In such mediation, representatives of the Parties with authority to resolve the Dispute shall meet for at least three (3) hours with a mediator whom they choose together. If the Parties are unable to agree on a mediator, then either Party is hereby empowered to request the American Arbitration Association to appoint a mediator. The mediator's fee and expenses shall be paid one-half by each Party.

(c) Arbitration of Disputes.

(i) Rules of Arbitration. Any Dispute that is not settled to the mutual satisfaction of the Parties pursuant to Sections 23(a) or 23(b) shall (except as provided in Section 23(d)) be settled by binding arbitration between the Parties conducted in Phoenix, Arizona or such other location mutually agreeable to the Parties, and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA") in effect on the date that a Party gives notice of its demand for arbitration.

(ii) Dispute Submission. The Party initiating the Arbitration (the "Submitting Party") shall submit such Dispute to arbitration by providing a written demand for arbitration to the other Party (the "Responding Party"), which demand must include statements of the facts and circumstances surrounding the Dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief, accompanied by all relevant documents supporting the demand.

(iii) Arbitrator Selection. The arbitrator(s) selected shall have contract resolution experience and experience in the electric power business and shall not have any current or past substantial business or financial relationships with the Parties or their Affiliates. Arbitrators must agree to be bound by the confidentiality provisions of this Agreement. If the amount in controversy is less than \$250,000, the Dispute will be determined by a single neutral arbitrator, who will be chosen by the Parties within forty-five (45) days of submission of the demand on the Responding Party. If the Parties cannot agree on a single neutral arbitrator within such period, the arbitrator shall be chosen by the AAA. If the amount in controversy is \$250,000 or greater, the Dispute will be determined by a Panel of three (3) arbitrators. Each Party shall select one arbitrator, but if a Party fails to select an arbitrator within forty-five (45) days of the submission of the demand on the Responding Party, the arbitrator will be chosen by the AAA. The two arbitrators so selected will select the third arbitrator, who shall act as the chairman of the panel. If the two arbitrators cannot select the third arbitrator within thirty (30) days (or such additional time as the Parties may agree) of

the selection of both of the first two arbitrators, the third arbitrator shall be chosen by the AAA. As used herein, "Panel" means either a single arbitrator or a group of three arbitrators selected as provided herein.

(iv) Discovery. Within fifteen days (15) of the selection of the third arbitrator, the Parties shall submit statements to the Panel summarizing the issues in the case and including recommendations for discovery. Within twenty (20) days of receipt of the statements from the Parties, the Panel will meet with the Parties and issue orders on the scheduling of the case and any discovery to be permitted.

(v) Decision. Upon ten (10) days of completion of the hearing conducted by the Panel, each Party shall submit to the Panel its proposal for resolution of the dispute. The Panel in its award shall be limited to selecting only one of the two proposals submitted by the Parties. The award shall be in writing (stating the amount and reasons therefore) and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy between the Parties regarding any claims and counterclaims presented to the Panel. The Panel shall be permitted, in its discretion, to add pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction.

(vi) Expenses. Unless otherwise ordered by the Panel, each Party shall bear its own expenses and one-half of the cost of the Panel. Payments of the Panel's costs shall be made on a monthly basis prior to the Award.

(d) Exceptions to Arbitration. The obligation to arbitrate shall not be binding upon any Party with respect to (i) requests for preliminary injunctions, temporary restraining orders, specific performance, or other procedures in a court of competent jurisdiction to obtain interim relief deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual Dispute; (ii) actions to enforce an award of a Panel or otherwise to collect payments not subject to bonafide dispute; or (iii) claims involving third parties who have not agreed to participate in the arbitration of the Dispute.

(e) Survival of Arbitration Provisions. The provisions of this Section 23 shall survive any termination of this Agreement and shall apply (except as provided herein) to any Disputes arising out of this Agreement.

## 24. NOTICES.

Delivery of Notices. All notices or other communications which may be or are required to be given by any party to any other party pursuant to this Agreement shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a business day or in any other case as of the next business day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

If to Host:

Town of Quartzsite  
Attn.: Steve Henrichs  
P.O. Box 2812  
Quartzsite, AZ 85346

If to Provider:

SunEdison Origination1, LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705-6347  
Attention: General Counsel

Notices shall be effective when delivered (or in the case of email, when acknowledged by the recipient) in accordance with the foregoing provisions, whether or not (except in the case of email transmission) accepted by, or on behalf of, the Party to whom the notice is sent.

Each Party may designate by Notice in accordance with this section to the other Party a new address to which any notice may thereafter be given.

## 25. MISCELLANEOUS.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Arizona, including principles of good faith and fair dealing that will apply to all dealings under this Agreement.

(b) Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words "hereto", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "person" shall include individuals; partnerships; corporate bodies (including but not limited to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word "including" shall be deemed to be followed by the words "without limitation". In the event of any conflict between the text of this Agreement and the contents of an Exhibit hereto, the text of this Agreement shall govern.

(c) Severability. If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law. If a material provision is determined to be unenforceable, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Party's benefits, the matter shall be resolved under Section 23(c) in order to restore to the Party that was the beneficiary of the unenforceable provision the economic benefits of such provision.

(d) Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(e) Assignment. Neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Host, Provider (i) may assign its rights and obligations hereunder to an Affiliate of Provider and (ii) may sell or collaterally assign this Agreement in accordance with Section 21. For purposes of this Section 25(e), transfer does not include any sale of all or substantially all of the assets of Provider or Host or any merger of Provider or Host with another person, whether or not Provider or Host is the surviving entity from such merger, or any other change in control of Provider or Host, provided any such surviving entity assumes all obligations of Provider or Host, as appropriate, under this Agreement; provided however, with respect to Host, such surviving entity is acceptable to Financing Party in its sole discretion.

(f) Service Contract. This Agreement is intended to be a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code.

(g) Immigration Law Compliance. The Provider warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other federal and state immigration laws and regulations related to the immigration status of its employees. Provider shall obtain statements from its subcontractors of every tier certifying compliance, and shall furnish the statements to the Host upon request. These warranties shall remain in effect through the term of the Agreement, and the Provider and its subcontractors of every tier shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act for all employees performing work pursuant to this Agreement. I-9 forms are available for download at USCIS.GOV. The Host may request, and the Provider agrees to furnish, verification of compliance from the Provider or its subcontractors of any tier performing work pursuant to this Agreement. Should the Host reasonably believe or discover that the Provider or its subcontractors of any tier are not in compliance, the Host may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Provider and its subcontractors. All costs necessary to verify compliance are the responsibility of the Provider.

(h) OSHA Compliance. Provider shall require that all employees, contractors, subcontractors and any agents and other representatives of Provider adhere to all applicable OSHA requirements and safety laws or codes in the performance of this Agreement.

(i) Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, as applicable, the provisions which are incorporated herein by this reference, this Agreement is subject to cancellation within three years from the Effective Date by Host if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement is, at any time while this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

(j) Retention and Inspection of Records. Provider shall retain, and shall contractually require each contractor and subcontractor to retain, all books, accounts, reports, files and other records relating to the performance of this Agreement for a period of five (5) years after the completion of this Agreement and to make such documents open for Host's inspection and audit at reasonable times as requested by Host.

(k) Nondiscrimination. Provider agrees not to discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, age or disability in violation of federal or state law. The parties shall comply with Section 202 of Executive Order 11246, 41 CFR 60-1.4, 41 CFR 60-250.4 and 41 CFR 60-741.5(a) and Arizona Executive Order 99-4 prohibiting discrimination in employment, to the extent applicable to this Agreement.

(l) Compliance with A.R.S. §§ 35-391.06 and 35-393.06. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, Provider hereby certifies that it does not have a scrutinized business operation in either Sudan or Iran.

(m) No Joint Venture. This Agreement does not create a joint venture, partnership or other form of business association between the Parties.

(n) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior or contemporaneous oral or written representations with regard to the subject matter thereof. This Agreement may not be modified except by a writing signed by both Parties.

(o) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged, or electronic signature are effective to bind a Party hereto.

(rest of page left blank intentionally – signatures appear on next page)

IN WITNESS WHEREOF, intending to be legally bound hereby, Provider and Host have executed this Power Purchase Agreement as of the date first set forth above.

**SunEdison Origination1, LLC**

By: Sun Edison LLC, sole member

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

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

**Town of Quartzsite**

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

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

## GLOSSARY OF TERMS

“Access Rights” means the rights provided in this Agreement for Provider and its designees, including Installer, to enter upon and cross the Site to install, operate, maintain, repair and remove the Project, and to interconnect the Project with the Local Electric Utility and to provide water, electric and other services to the Project.

“Affiliate” means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

“Agreement” means this Power Purchase Agreement, including all exhibits attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

“Applicable Law” means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein. Applicable Law also includes an approval, consent or requirement of any Governmental Authority having jurisdiction over such Party or its property, enforceable at law or in equity.

“Applicable Solar Program” means the program indicated on Exhibit H.

“Business Day” means a day other than Saturday, Sunday, or other day on which commercial banks in New York City are authorized or required by law to be closed.

“Change in Law” means that after the date of this Agreement, an Applicable Law is amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect by any Applicable Law. Change in Law does not include changes in federal or state income tax laws. Change in Law does include material changes in the interpretation of an Applicable Law.

“Commercial Operation Date” means the date, which shall be specified by Provider to Host pursuant to Section 4(f), when the Project is physically complete and has successfully completed all performance tests and satisfies the interconnection requirements of the Local Electric Utility.

“Confidential Information” means information of a confidential or proprietary nature, whether or not specifically marked as confidential. Such information shall include, but not be limited to, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party.

“Credit Purchase Agreement” has the meaning set forth in Section 7(f).

“Dispute” means a controversy or claim arising out of or relating to this Agreement.

“Early Termination Amount” means an amount determined in accordance with Exhibit B, as of the applicable anniversary date set forth thereon, which includes all lost revenues from the sale or utilization of electrical energy, Environmental Attributes, or Tax Attributes.

“Electric Service Provider” means any person, including the Local Electric Utility, authorized by the State of Arizona to provide electric energy and related services to retail users of electricity in the area in which the Site is located.

“Environmental Attributes” means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether

legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes and the Applicable Solar Program.

"Fair Market Value" means the price that would be paid in an arm's length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

"Financing Party" means a Project Lessor or Lender.

"Force Majeure Event" means any act or event that prevents the affected Party from performing obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; and (iv) strikes or labor disputes. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Changes in prices for electricity shall not constitute Force Majeure Events.

"Governmental Authority" means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

"Hazardous Materials" means all hazardous or toxic substances, wastes or other pollutants, including petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of "hazardous substances," "hazardous materials," "hazardous wastes," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollutants," "regulated substances," "solid wastes," or "contaminants" or words of similar import, under any Applicable Law.

"Host" means the Town of Quartzsite, Arizona, an Arizona municipal corporation, and all successors and assigns.

"Indemnified Person" means the person who asserts a right to indemnification under Section 15.

"Indemnifying Party" means the Party who has the indemnification obligation under Section 15 to the Indemnified Person.

"Initial Period" has the meaning provided in Section 2.

"Installer" means the person designated by Provider to install the Project on the Premises.

"Land Registry" means the office where real estate records for the Site are customarily filed.

"Lender" means persons providing construction or permanent financing to Provider in connection with installation of the Project.

"Liens" has the meaning provided in Section 8(c).

"Local Electric Utility" means the entity authorized and required under Applicable Law to provide electric distribution service to Host at the Site.

"Losses" means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all

attorney's fees and other costs and expenses incurred in defending any such claims or matters or in asserting or enforcing any indemnity obligation).

"Operations Period" has the meaning provided in Section 2.

"Operations Year" means a twelve month period beginning at 12:00 am on an anniversary of the Commercial Operations Date and ending at 11:59 pm on the day immediately preceding the next anniversary of the Commercial Operations Date, provided that the first Operations Year shall begin on the Commercial Operations Date.

"Party" means either Host or Provider, as the context shall indicate, and "Parties" means both Host and Provider.

"Point of Delivery" has the meaning set forth in Section 5(a) and Exhibit E.

"Premises" means the portions of the Site described on Exhibit D.

"Project" means an integrated system for the generation of electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Premises in accordance with this Agreement.

"Project Lessor" means, if applicable, any Person to whom Provider transferred the ownership interest in the Project, subject to a leaseback of the Project from such Person.

"Provider" means SunEdison Origination1, LLC , a Delaware limited liability company, and all successors and assigns.

"Relocation Event" means the relocation of the Project, starting at the shutdown of the Project pursuant to such relocation, and ending at the commercial operation of the Project when such relocated Project is reinstalled at a new location, as determined by the Provider in its reasonable discretion.

"Renewable Energy Certificate" or "REC" means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy project.

"Site" means the real property described on Exhibit C attached hereto.

"Tax Attributes" means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).

"Term" shall have the meaning provided in Section 2 hereof.

EXHIBIT A

ENERGY PURCHASE RATES

Operations Year	Price per kWh
1	\$0.073
2	\$0.074
3	\$0.076
4	\$0.077
5	\$0.079
6	\$0.081
7	\$0.082
8	\$0.084
9	\$0.086
10	\$0.087
11	\$0.089
12	\$0.091
13	\$0.093
14	\$0.094
15	\$0.096
16	\$0.098
17	\$0.100
18	\$0.102
19	\$0.104
20	\$0.106

EXHIBIT A

ENERGY PURCHASE RATES

Operations Year	Price per kWh
1	\$0.073
2	\$0.074
3	\$0.076
4	\$0.077
5	\$0.079
6	\$0.081
7	\$0.082
8	\$0.084
9	\$0.086
10	\$0.087
11	\$0.089
12	\$0.091
13	\$0.093
14	\$0.094
15	\$0.096
16	\$0.098
17	\$0.100
18	\$0.102
19	\$0.104
20	\$0.106

EXHIBIT C

DESCRIPTION OF SITE

Site Address: 2056 N. Central Blvd., Quartzsite, AZ 85346

Aerial Photograph:



Legal Description of Host's property to follow.

=====

EXHIBIT D

DESCRIPTION OF PREMISES

Premises includes all Access Rights pursuant to Section 3 of the Agreement.

Aerial photograph of the Premises:

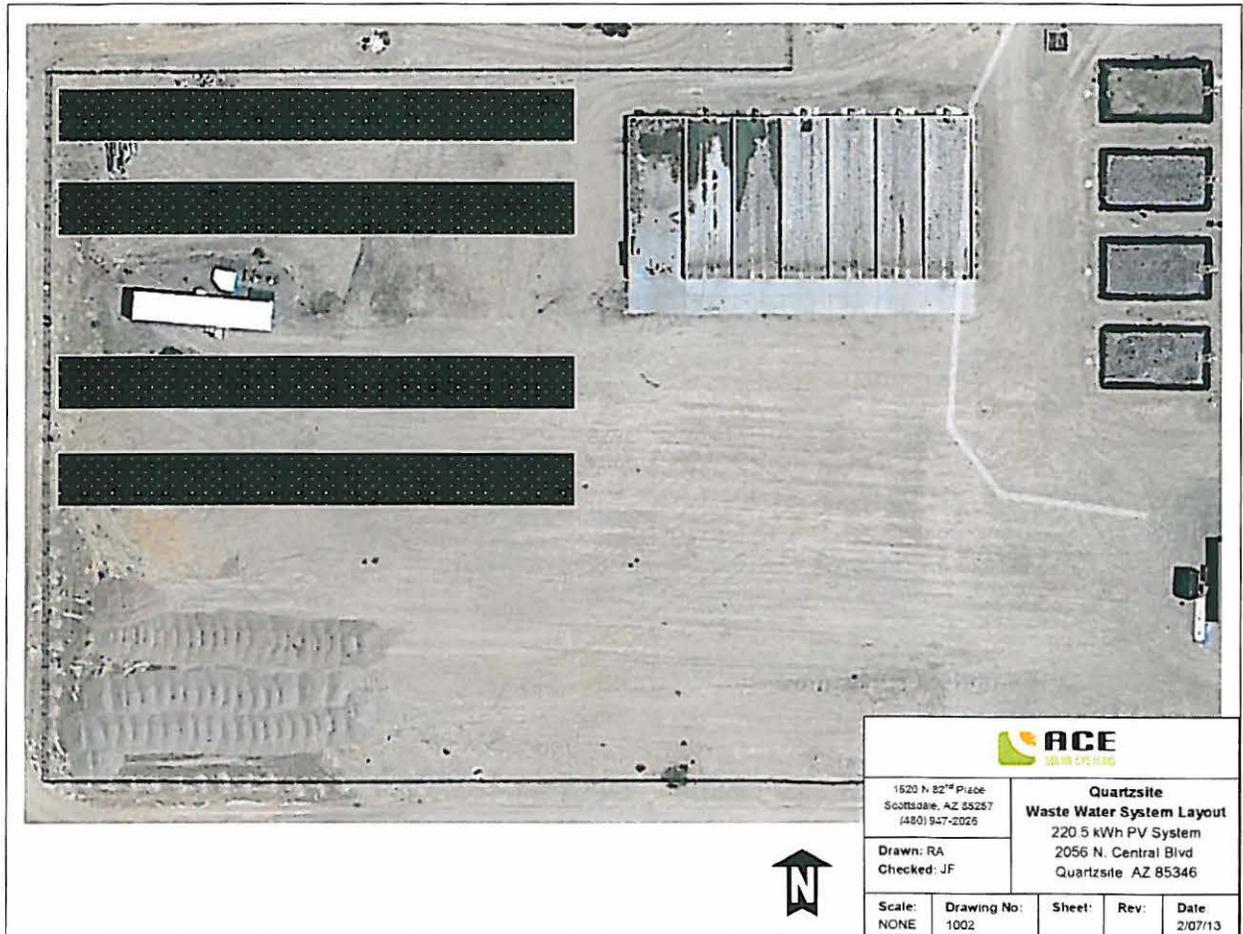


EXHIBIT E

DESCRIPTION OF PROJECT

Estimated Nameplate capacity (kW DC STC):	221 kW DC
Array Footprint:	15,500 sqft
Output Criteria [60 cycle 120 hertz 3 phase]:	277/480 Volt, 3-Phase, 60-cycle
System CEC-AC rated Capacity (kW AC CEC):	193 kW AC CEC
Quantity and type of Photovoltaic Modules:	882 x REC Solar 250 watt modules (or equivalent)
Quantity and type of Inverters:	2 x AE 100kW (or equivalent)
Type of Mounting Structure:	AET Ground Mount
Other Balance-of-System items:	DC combiner boxes, wiring, grounding, and ancillary equipment needed for code compliant installation and interconnection to utility grid.
Data	Power One Internet Monitoring (or equivalent)
Perimeter Fencing:	yes

## EXHIBIT F

### INSURANCE REQUIREMENTS

1. General Liability

(a) Both Host and Provider will have a minimum level of commercial general liability insurance for the term of the Power Purchase Agreement of one million dollars (\$1,000,000) for each occurrence, and two million dollars (\$2,000,000) in the aggregate. Insurance coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

(b) Both the Host and Provider general liability insurance coverage shall:

(i) endorsed to specify that the Provider's and Host's insurance is primary and that any insurance or self-insurance maintained by the Local Electric Utility shall not contribute with it.

(ii) name utility the Local Electric Utility as an additional insured if required pursuant to local regulations

2. Workers' Compensation

Both Host and Provider will have Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, at the Site where the work is performed. Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

3. Business Auto

Both Host and Provider will have not less than one million dollars (\$1,000,000) each accident for bodily injury and property damage, and two million dollars (\$2,000,000) in the aggregate.

4. Additional Insurance Requirements

Additional insurance requirements and terms are included in the Applicable Solar Program contract.

5. Additional Insurance Provisions

Host shall furnish Provider with certificates of insurance and endorsements of all required insurance, as may be reasonably requested, including for purposes of compliance with Applicable State Solar rebate program. The documentation required for the Applicable Solar Program shall state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to the Local Electric Utility. The documentation must be signed by a person authorized by the insurer to bind coverage on its behalf.

6. Additional Installation Contractor Requirements

Installation contractors will have valid commercial general liability, workers compensation, and business auto insurance as follows:

- Commercial general liability insurance will be in the following amounts: \$2,000,000 for each occurrence and \$4,000,000 aggregate.
- Workers compensation insurance or self-insurance indicating compliance with any applicable labor codes, laws or statutes, state or federal, where Installer performs work.
- Auto coverage not less than one million dollars (\$1,000,000) each accident for bodily injury and property damage, and two million dollars (\$2,000,000) in the aggregate.
- Excess liability insurance on an occurrence basis covering claims (on at least a following form basis) in excess of the underlying insurance for Commercial General Liability, Auto Liability and Employers' Liability with a minimum limit per occurrence of four million dollars (\$4,000,000) and six million dollars (\$6,000,000)

in the aggregate. The amounts of insurance required for Commercial General Liability, Auto Liability, Employers' Liability and Excess Liability may be satisfied by Installer purchasing coverage in the amounts specified or by any combination of primary and excess insurance, so long as the total amount of insurance meets the requirements specified above.

EXHIBIT G

FORM OF NOTICE OF GRANT OF INTEREST IN REALTY

SunEdison Origination1, LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705-6347

NOTICE OF GRANT OF INTEREST IN REALTY

In accordance with the provisions of [\_\_\_\_\_] , notice is hereby given of that Power Purchase Agreement dated as of [\_\_\_\_\_] for purchase and sale of electrical energy (the "Agreement"). This notice may be executed in counterparts by the parties to the Agreement.

**Parties to the Agreement:**

**Host:** Town of Quartzsite  
[\_\_\_\_\_]   
[\_\_\_\_\_]

**Provider:** SunEdison Origination1, LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705-6347

**Date of Execution:** [\_\_\_\_\_]

**Description of Premises:** See Exhibit A

**TERM OF AGREEMENT:**

The term of the Agreement shall be until the last day of the calendar month in which the twentieth (20th) anniversary of the Commercial Operations Date (as that term is defined in the Agreement) occurs, subject to any extensions or early termination pursuant to the terms of the Agreement.

(signature pages follow)

Witness the execution hereof under seal by said parties to said Agreement this [ ] day of [ ].

Provider:

SUNEDISON ORIGINATION1, LLC,  
a Delaware limited liability company

By: Sun Edison LLC.,  
its sole and managing member

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

Host:

Town of Quartzsite,  
a [ ]

By: \_\_\_\_\_  
Name (printed): \_\_\_\_\_  
Title: \_\_\_\_\_

**[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]**



EXHIBIT H

APPLICABLE SOLAR PROGRAM

APS 2012 Schools & Government Production Based Renewable Energy Incentive Program, and all similar programs.

**POWER PURCHASE AGREEMENT  
TOWN HALL PROJECT**

Dated as of

**May [ ], 2013**

between

**Town of Quartzsite**

and

**SunEdison Origination1, LLC**

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### GLOSSARY OF TERMS

<u>EXHIBIT A</u>	- ENERGY PURCHASE RATES
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## POWER PURCHASE AGREEMENT

This Power Purchase Agreement ("Agreement") is entered into as of May [ ], 2013, by and between SunEdison Origination1, LLC, a Delaware limited liability company, and the Town of Quartzsite, Arizona, an Arizona municipal corporation.

WHEREAS, the Town of Quartzsite is the owner of the property located at 465 N. Plymouth Ave., Quartzsite, AZ 85346 and desires to make a portion of such property available to SunEdison Origination1, LLC for the construction, operation and maintenance of a solar powered electric generating project, and to purchase from SunEdison Origination1, LLC the electric energy produced by the project.

WHEREAS, SunEdison Origination1, LLC desires to develop, design, construct, own and operate the project located on the Town of Quartzsite's property, and sell to the Town of Quartzsite the electric energy produced by the project.

WHEREAS, (i) the Town of Quartzsite is a signatory to that Strategic Alliance For Volume Expenditures (SAVE) Cooperative Purchasing Agreement (the "SAVE Agreement"), (ii) the County of Pima, Arizona ("Pima County"), also a signatory to the SAVE Agreement, has, pursuant to Solicitation No. 0901065, executed with SunEdison Origination1, LLC that Power Purchase Agreement dated as of February 3, 2010, and (iii) the provisions of A.R.S. § 41-2631, et seq. and the SAVE Agreement authorize the Town of Quartzsite to select SunEdison Origination1, LLC as the provider of certain photovoltaic services, as set forth hereunder.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

**1. DEFINITIONS.** Certain capitalized terms used in this Agreement have the meanings set forth in the attached GLOSSARY OF TERMS.

**2. TERM.**

(a) Term. This Agreement shall consist of an Initial Period and an Operations Period. As used herein, "Term" shall mean all of the Initial Period and the Operations Period, unless the Provider or Host terminates the Agreement prior to the end of the Initial Period pursuant to the terms of this Agreement.

(b) Initial Period. The Initial Period will begin on the date set forth above and will terminate on the earlier of (i) the Commercial Operation Date or (ii) the date the Agreement is terminated pursuant to the provisions of Section 4(b) or 4(d).

(c) Operations Period. If applicable, the Operations Period will commence on the Commercial Operation Date and will terminate at 11:59 p.m. on the last day of the month in which the twentieth (20<sup>th</sup>) anniversary of the Commercial Operation Date occurs.

(d) Extensions. Twenty-four months prior to the end of the Operations Period, the Parties will meet to discuss the extension of this Agreement on terms and conditions reflecting the then current market for solar generated electricity and with such other amendments and additional terms and conditions as the Parties may agree. Neither Party shall be obligated to agree to an extension of this Agreement.

**3. ACCESS RIGHTS.**

(a) Access Specifications. Host hereby grants Provider and its designees (including Installer, persons responsible for implementing the Applicable Solar Program, and Financing Party) access to the Premises, for the Term, at reasonable times and upon reasonable notice, for the purposes of designing, installing, inspecting, operating, maintaining, repairing and removing the Project, and any other purpose set forth in this Agreement, and otherwise in accordance with the provisions of this Agreement. Access Rights with respect to the Site include without limitation:

(i) Vehicular & Pedestrian Access. Reasonable vehicular and pedestrian access across the Site to the Premises as designated on Exhibit D for purposes of designing, installing, operating, maintaining,

repairing and removing the Project. In exercising such access Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site.

(ii) Transmission Lines & Communication Cables. The right to locate transmission lines and communications cables across the Site as designated on Exhibit D. The location of any such transmission lines and communications cables outside the areas designated on Exhibit D shall be subject to Host's approval and shall be at locations that minimize any disruption to Host's activities occurring on the Site.

(iii) Storage. Adequate storage space on the Site convenient to the Premises for materials and tools used during construction, installation, and maintenance of the Project. Provider shall be responsible for providing shelter and security for stored items during construction and installation.

(iv) Utilities. Water, drainage, electrical, and ethernet connections on the Premises for use by Provider in installing, operating and maintaining the Project.

(b) Easement Rights. Upon request by Provider, the Parties shall execute and record with the appropriate Land Registry easements and other instruments documenting the Access Rights granted by Host to Provider in this Agreement, and which shall be in form and substance indicated on Exhibit G or other form agreed by the Parties. The cost of preparation and recording shall be borne by the Provider.

(c) Remote Monitoring. Host will provide an internet portal or equivalent access by means of which Provider will communicate data from the revenue grade performance monitoring system. Provider will be responsible for connecting monitoring equipment for the Project to the internet so that it is possible for Provider and Host to remotely monitor the Project.

#### 4. PLANNING, INSTALLATION AND OPERATION OF PROJECT.

(a) Site Assessment and Planning. During the Initial Period, Provider shall have the right, at its own expense, to assess the suitability of the Premises for the Project and shall act diligently in conducting such assessment. The assessment shall include the right to inspect the physical condition of the structures on which the Project will be located; to apply for any building permits or other governmental authorizations necessary for the construction of the Project; to arrange interconnections with the Local Electric Utility; to make any applications to the appropriate Public Utilities Commission or other agencies for receipt of payments for the Project under the Applicable Solar Program; to apply to any other governmental agencies or other persons for grants or other determinations necessary for the construction of or receipt of revenues from the Project; or to make any other investigation or determination necessary for the financing, construction, operation or maintenance of the Project.

(b) Termination of Development Activities. At any time during the Initial Period, Provider shall have the right to cease development of the Project on the Premises, for any reason, in its sole discretion. If Provider gives Host notice of such determination, this Agreement shall terminate effective as of the delivery of such notice without any further liability of the Parties to each other, provided that (i) Provider shall remove any equipment or materials which Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their pre-existing condition; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(c) Commencement of Construction, Modification of Design. At any time during the Initial Period, upon at least ten (10) Business Days notice to Host, Provider shall have the right to commence installing the Project on the Premises.

(i) As of the date hereof, Provider anticipates that the Project shall consist of the components and shall have the designs set forth in Exhibit E attached hereto.

(ii) Notwithstanding subsection (i) above, Provider has the right to modify the design of the Project, including the selection of the components in the Project, as Provider, in its sole discretion, may determine, provided, however, that such changes shall not result in the Project exceeding the nameplate capacity, building footprint, location and height set forth in Exhibits D and E, without Host's approval.

(d) Construction Commencement Deadline. If within 365 days following the date of this Agreement (not including any days in which a Force Majeure Event existed), Provider has not commenced the installation of the

Project on the Premises, Host may terminate this Agreement by delivering notice to Provider of its intention to terminate this Agreement, and the Agreement shall terminate twenty-one (21) days after Provider's receipt of such notice; provided, that if Provider commences installation of the Project within such twenty-one (21) day period, this Agreement shall not terminate. Upon any termination in accordance with this Section 4(d) neither Party shall have any further liability to the other with respect to the Project, provided that (i) Provider shall remove any equipment or materials that Provider has placed on the Site; (ii) Provider shall restore any portions of the Site disturbed by Provider to their condition prior to the commencement of construction; (iii) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the delivery of the notice; and (iv) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(e) Contractors. Provider shall use licensed contractors to perform the work of installing, operating, and maintaining the Project. Provider intends to use Installer to perform such work, but may use other contractors, for all or a portion of such work, subject to the reasonable approval of Host. Provider shall advise Host of the Installer prior to commencement of the work on the Site. Provider shall be responsible for the conduct of Installer and its subcontractors, and Host shall have no contractual relationship with Installer or its subcontractors in connection with the work on the Project. Provider shall ensure that Installer maintains insurance applicable to the Installer's activities that satisfy the requirements in Exhibit F.

(f) Status Reports; Notice of Commercial Operation Date. Provider shall give Host regular updates, on a reasonable schedule requested by Host, on the progress of installation of the Project and shall notify Host of when Provider will commence testing of the Project. Host shall have the right to have its representatives present during the testing process, but subject to reasonable written rules and procedures as may be established by Provider and Installer. After Provider has determined, in its reasonable judgment, that the Project meets the requirements of the Local Electric Utility, has been installed in accordance with all Applicable Laws, and is capable of producing electricity on a continuous basis, Provider shall notify Host that installation of the Project is complete and shall specify the Commercial Operation Date for the Project, which may be immediately upon delivery of such notice to Host. All electricity produced by the Project prior to the Commercial Operation Date shall be delivered to Host and Host shall pay for such electricity at the rate applicable to the first Operations Year but in no event greater than the rate otherwise payable by Host to the Electric Service Provider.

(g) Standard of Operation. Provider shall design, obtain permits, install, operate, and maintain the Project so as to keep it in good condition and repair, in compliance with all Applicable Laws and in accordance with the generally accepted practices of the electric industry, in general, and the solar generation industry, in particular. The Provider shall operate the Project in accordance with the terms and conditions of the Credit Purchase Agreement. Such work shall be at Provider's sole expense. Except for emergency situations or unplanned outages, Provider shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, in a manner that minimizes interference with Host and Host's employees, visitors, tenants and licensees and their customers to the extent commercially practical. Provider shall, and shall cause its contractors to, keep the Site reasonably clear of debris, waste material and rubbish, and to comply with reasonable safety procedures established by Host for conduct of business on the Site.

(h) Hazardous Materials. Provider and Installer are not responsible for any Hazardous Materials encountered at the Site except to the extent introduced by Provider. Upon encountering any Hazardous Materials, Provider and Installer will stop work in the affected area and duly notify Host and, if required by Applicable Law, any Governmental Authority with jurisdiction over the Site. Upon receiving notice of the presence of suspected Hazardous Materials at the Site, Host shall take all measures required by Applicable Law to address the Hazardous Materials discovered at the Site. Host may opt to remediate the Site so that the Project may be installed on the Site, or determine that it is not economically justifiable or is otherwise impractical to remediate the Site, in which case Host and Provider may agree upon a different location for the Project whereupon such replacement location shall be the Site for purposes of this Agreement. Provider and Installer shall be obligated to resume work at the affected area(s) of the Site only after Host notifies Provider and Installer that Host has complied with all Applicable Laws, and a qualified independent expert provides written certification that (i) remediation has been accomplished as required by Applicable Law and (ii) all necessary approvals have been obtained from any Governmental Authority having jurisdiction over the Project or the Site. Host shall reimburse Provider for all additional costs incurred by Provider or Installer in the installation of the Project resulting from the presence of and/or the remediation of Hazardous Materials, including demobilization and remobilization expenses. Notwithstanding the preceding provisions, Host is not responsible for any Hazardous Materials introduced to the Site by Provider or Installer, nor is Host required to remediate an affected area if such remediation is deemed to be economically unjustifiable or otherwise impractical.

(i) Site Security. Host will provide security for the Project to the extent of its normal security procedures, practices, and policies that apply to all Host Premises, including the Project. Host will advise Provider

immediately upon observing any damage to the Project. Upon request by Provider, such as Provider receiving data indicating irregularities or interruptions in the operation of the Project, Host shall, as quickly as reasonably practicable, send a person to observe the condition of the Project and report back to Provider on such observations.

(j) System Shut Down. Provider may shut down the Project at any time in order to perform required emergency repairs to the Project. At other times, Provider shall give Host notice of the shutdown as may be reasonable in the circumstances. Provider shall not have any obligation to reimburse Host for costs of purchasing electricity that would have been produced by the Project but for such shutdown. Provider shall not schedule shutdowns during peak periods of electric generation and periods when peak energy and demand prices are charged by the Electric Service Provider, except as may be required in accordance with prudent electric industry safety practices in the event of equipment malfunction.

(k) Applicable Solar Program Requirements. Exhibit H identifies certain requirements of the Applicable Solar Program. The Parties shall comply with the obligations identified in Exhibit H or subsequently adopted by the Applicable Solar Program. In the event of any inconsistency between the obligations of the Parties under this Agreement or any of the requirements of the Applicable Solar Program, the more stringent obligation shall govern, and if such cannot be determined, the requirements of the Applicable Solar Program shall govern.

(l) Payment and Performance Bonds. Provider shall require of all contractors working on the Project, and shall provide to Host copies of, payment and performance bonds covering the cost of all construction work performed on the Premises in accordance with the provisions of A.R.S. § 34-222. All contractors and subcontractors performing work on the Premises shall hold valid licenses from the Arizona Registrar of Contractors. The design of the System shall be performed by architects and engineers registered in the State of Arizona.

## 5. SALE OF ELECTRIC ENERGY.

(a) Sale of Electricity. Throughout the Operations Period, subject to the terms and conditions of this Agreement, Provider shall sell to Host and Host shall buy from Provider all electric energy produced by the Project, whether or not Host is able to use all such electric energy. The Point of Delivery of the electric energy shall be as indicated in Exhibit E. Title to and risk of loss with respect to the energy shall transfer from Provider to Host at the Point of Delivery.

(b) Delivery of Electricity. The electric energy from the Project shall be delivered from Provider to Host at the specifications set forth in Exhibit E and otherwise in compliance with all requirements of the Local Electric Utility.

(c) Limits on Obligation to Deliver. Provider does not warrant or guarantee the amount of electric energy to be produced by the limits on Project for any hourly, daily, monthly, annual or other period. Provider is not a utility or public service company and does not assume any obligations of a utility or public service company to supply Host's electric requirements. Provider is not subject to rate review by any Governmental Authority.

(d) Meter Testing. Provider shall install one or more meter(s) at the Project, as Provider deems appropriate, to measure the output of the Project at the Point of Delivery. Provider shall install an Interval Data Recorder (IDR) with industry standard telemetry at the Project. Provider shall conduct tests of the meters at such times as it deems appropriate in accordance with industry standards, but not less than once in any two year period. Host shall pay for any independent testing of the meter(s) in excess of such minimum testing schedule that Host deems necessary, except if, after such testing, the meter is shown to be in error in Provider's favor by more than 2%, Provider shall pay for the cost of such test and shall make corresponding adjustments to the records of the amount of electrical energy provided by the Project delivered based on the period that is half-way in between the date of this testing and the last testing date of the meter. If there is an error of less than or equal to 2% no billing adjustments will be made. In the event there is an error of greater than 2%, Provider shall adjust the next invoice to be provided to Host under Section 6(b) hereof, to either charge the Host additional amounts for energy produced over the stated meter amount during the applicable period at the applicable rate or provide Host a credit against future billing for energy produced under the stated meter amount during the applicable period, provided, however, that any deficiencies or credits not theretofore applied or satisfied at the expiration or earlier termination of the Operations Period shall be settled in cash.

## 6. PAYMENT AND BILLING.

(a) Rates. Host shall pay Provider for electricity produced by the Project at the rates set forth in Exhibit A attached hereto.

(b) Billing. Host shall pay for the electricity produced by the Project monthly in arrears. Promptly after the end of each calendar month, Provider shall provide Host with an invoice setting forth the quantity of electricity produced by the Project in such month, the applicable rates for such, and the total amount due, which shall be the product of the quantities and the applicable rates.

(c) Invoice Delivery. Invoices shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a Business Day or in any other case as of the next Business Day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

Town of Quartzsite  
Attn.: Account Department, A/P  
P.O. Box 2812  
Quartzsite, AZ 85346

(d) Payment. Host shall pay each invoice within thirty (30) days of receipt of the invoice. Payments shall be made by electronic funds transfer to an account designated by Provider in the invoice or in a written notice delivered to Host. Any amounts not paid when due, including any amounts properly disputed and later determined to be owing, shall accrue interest on the unpaid amount at the rate equal to the lesser of (i) 1% per month, compounded monthly or (ii) the highest rate allowed by applicable law.

(e) Disputed Invoices. If Host objects to all or a portion of an invoice, Host shall, on or before the date payment of the invoice is due, (i) pay the undisputed portion of the invoice, and (ii) provide an itemized statement of its objections setting forth in reasonable detail the basis for its objections. If Host does not object prior to the date payment of any invoice is due, Host shall be obligated to pay the full amount of such invoices but Host may subsequently object to such invoice and, if such objection proves to be correct, receive a refund of the disputed amount; provided, however, that Host may not object to any invoice more than eighteen (18) months after the date on which such invoice is rendered. The right to dispute or object to an invoice, shall, subject to the time limitation provided in this Section 6(e), survive the expiration or termination of this Agreement.

## 7. SUPPLEMENTAL POWER, NET METERING AND RECS.

(a) Back-up and Supplemental Electricity. Except as otherwise provided herein, throughout the Term, Host shall be responsible for obtaining all of its requirements for electric energy in excess of the amounts produced by the Project and pay for such service pursuant to contracts with or applicable tariffs of the Local Electric Utility or other Electric Service Provider. Provider shall have no obligation to obtain or pay for such supplemental or back-up electricity.

(b) Net Metering & Utility Credits. At any time that electric production from the Project is greater than Host's requirements at such time, Host shall nevertheless pay Provider for all of the electricity produced by the Project at the rates and in the manner provided in this Agreement. Host may make arrangements with the Local Electric Utility so that power in excess of Host's requirements may be delivered to the Local Electric Utility through the Point of Delivery and Host shall receive any credits or payments from the Local Electric Utility that may be available under net metering or similar programs. If Applicable Law or the practice of the Local Electric Utility restricts the ability of the Host to deliver electricity produced by the Project to the Local Electric Utility, then the Parties shall agree on alternate arrangements to enable Host, insofar as possible, to receive benefits from the Local Electric Utility comparable to those available under net metering programs, provided that the economic benefits to Provider remain as provided in this Section 7(b).

(c) Interconnection. Provider shall be responsible for arranging the interconnection of the Project with Host's Local Electric Utility in a manner which includes bi-directional or "net metering".

(d) Applicable Solar Program Incentives. Except as provided in Section 7(b), Provider shall receive all payments available under any Applicable Solar Program. Host shall provide reasonable assistance to Provider in preparing all applications and other documents necessary for Provider to receive such payments, including

designating Provider as the customer for purposes of the Applicable Solar Program or assigning payments from the Applicable Solar Program to Provider. If Host receives any payments under the Applicable Solar Program or other programs in respect of the Project, it shall promptly pay them over to Provider. Host's obligation to make any payments to Provider under this paragraph (d) is limited to any payments actually received by Host.

(e) Ownership of Tax Attributes. Provider (and/or Financing Party) shall be the owner of any Tax Attributes that may arise as a result of the operation of the Project and shall be entitled to transfer such Tax Attributes to any person. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such Tax Attributes, and if Host is deemed to be the owner of any such Tax Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Tax Attributes, it shall promptly pay them over to Provider.

(f) Environmental Attributes.

(i) Provider has received and reviewed the APS Solar Renewable Energy Credit Purchase Agreement Grid-Tied Photovoltaic System (APS Contract No. \_\_\_\_\_) (the "Credit Purchase Agreement") relating to the Project. Provider represents that, to its knowledge, the design and operation of the Project will satisfy the requirements of the Credit Purchase Agreement. Host hereby assigns revenues from the Credit Purchase Agreement to Provider pursuant to Section 11 of the Credit Purchase Agreement. The Parties shall cooperate with respect to the obligations of the each of the Parties under the terms and conditions of the Credit Purchase Agreement. The Parties shall perform all of their obligations under the Credit Purchase Agreement.

(ii) For the first fifteen (15) Operations Years, Host shall be the owner of any Environmental Attributes which may arise as a result of the operation of the Project shall transfer such Environmental Attributes shall provide reasonable assistance to in preparing all documents necessary for Provider to receive such Environmental Attributes.

(iii) Host shall make best efforts to assign the Credit Purchase Agreement to Provider, if permitted by the Applicable Solar Program. Upon the effectiveness of such assignment, or after the end of the fifteenth (15th) Operations Year, Provider shall become the owner of any Environmental Attributes which may arise as a result of the operation of the Project. Upon Provider becoming the owner of Environmental Attributes pursuant to this subsection (ii), if Host is deemed to be the owner of any such Environmental Attributes, Host shall assign the same (or the proceeds thereof) to Provider. If Host receives any payments in respect of such Environmental Attributes, it shall promptly pay them over to Provider.

(g) Capacity & Ancillary Services. Provider shall be entitled to receive any payments for electric capacity or ancillary services that may become available as a result of the construction or operation of the Project. Host shall provide reasonable assistance to Provider in preparing all documents necessary for Provider to receive such payments, and if Host is deemed to be the owner or provider of such capacity or services, Host shall assign the same to Provider. If Host receives any payments in respect of capacity or such services it shall promptly pay them over to Provider.

(h) No Resale of Electricity. Except as contemplated by the provisions of Section 7(b), the electricity purchased by Host from Provider under this Agreement shall not be resold, assigned or otherwise transferred to any other person without prior approval of the Provider, which approval shall not be unreasonably withheld, and Host shall not take any action which would cause Host or Provider to become a utility or public service company.

(i) Provider Is Not A Utility. Neither Party shall assert that Provider is an electric utility or public service company or similar entity that has a duty to provide service, is subject to rate regulation, or is otherwise subject to regulation by any governmental authority as a result of Provider's obligations or performance under this Agreement.

## 8. PERMITS, OWNERSHIP OF PROJECT, LIENS, MORTGAGES

(a) Permits. Provider shall pay for and obtain all approvals from governmental entities necessary for the construction and operation of the Project, including land use permits, building permits, demolition and waste disposal permits and approval.

(b) System Ownership. Except as provided in Section 9, Provider or Financing Party shall be the legal and beneficial owner of the Project at all times. The Project is personal property and shall not attach to or be deemed

a part of, or fixture to, the Site. The Project shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Host covenants that it will place all persons having an interest in or lien upon the real property comprising the Premises on notice of the ownership of the Project and the legal status or classification of the Project as personal property. Host and/or Provider shall make any necessary filings to disclaim the Project as a fixture of its respective Premises and Site in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Provider.

(c) Liens. To the extent permitted by Applicable Law, each Party shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by governmental authorities for taxes (collectively referred to as "Liens" and each, individually, a "Lien") on or with respect to the interests of the other in the Site, the Premises, and the Project, and in the Access Rights granted hereunder. Provider shall, to the extent allowed under Applicable Law, have Installer and its subcontractors execute lien waivers with respect to any mechanic's or materialman's lien against Host's interest in the Site. If permitted under Applicable Law, Host will post notices of non-responsibility to notify Installer and others that Host is not responsible for work performed on the Project. Each Party shall promptly notify the other of the imposition of a Lien on the property interests of the other Party, and shall promptly discharge such lien, provided however, that a Party may seek to contest the amount or validity of any Lien affecting the property of the other Party, provided it timely complies with all procedures for contesting such Lien, posts any bond or other security necessary under such procedures, and if such procedures do not require the posting of security, the Party establishes for the benefit of the other Party a deposit, letter of credit, or other security acceptable to the other Party to indemnify the other Party against any Loss which could reasonably be expected to arise if such Lien is not removed or discharged.

(d) Non Disturbance Agreements. Host shall pay for and obtain all consents required for it to enter into and perform its obligations under this Agreement from its lenders, landlord, tenants, and any other persons with interests in the Site. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the Project, Host shall promptly upon request of Provider, provide an acknowledgement and consent from such lienholder, in form and substance reasonably acceptable to Financing Party, stating that the ownership of the Project remains in Provider and further acknowledging that the Project is personal property of Provider and agreeing not to disturb the rights of Provider in the Project and under this Agreement. If Host is the fee owner of the Premises, Host consents to the filing of a disclaimer of the Project as a fixture of the Premises in the Land Registry. If Host is not the fee owner, Host will obtain such consent from such owner of the Premises. Such acknowledgment and consents, or acceptable notices thereof, shall be recorded, at Host's expense, in the appropriate Land Registry. Host may in the future mortgage, pledge, and grant security interests in all or a portion of the Site and the improvements thereon, provided the mortgagee or other grantee of the encumbrance acknowledges this Agreement, the Project, the Access Rights granted hereunder, and the priority of Provider's (and/or Financing Party's) rights in the Project and the Access Rights.

## 9. PURCHASE OPTIONS; REMOVAL AT END OF TERM.

(a) Early Purchase Options. On the seventh (7<sup>th</sup>), tenth (10<sup>th</sup>) and fifteenth (15<sup>th</sup>) anniversary of the Commercial Operation Date, provided no Host Event of Default has occurred and is continuing, the Host shall have the option to purchase the Project from Provider at a price which will be the greater of (i) the Fair Market Value of the Project at such anniversary date or (ii) the Early Termination Amount, plus, if applicable, repayment or recapture of Applicable Solar Program or other governmental payments occasioned by the exercise of such option. If Host desires to exercise this option, it shall no later than ninety (90) days prior to the applicable anniversary date notify Provider of its election to exercise the option, and on or before ninety (90) days after such anniversary date shall pay the purchase price to Provider by electronic transfer in immediately available funds to an account designated by Provider. At any time following receipt of the notice from Host, but no later than thirty (30) days after the date Host gives notice of its election to exercise the option, Provider may notify Host if it believes the Fair Market Value of the Project exceeds the Early Termination Amount, and, in the same notice, Provider shall provide Host an appraisal of the Fair Market Value. If Host agrees with the appraisal of the Fair Market Value it shall pay such sum to Provider. If Host disagrees with the appraisal's estimate of the Fair Market Value of the Project, Host may request that the Parties meet to discuss the appraisal. If the Parties cannot agree within ten (10) days of the Host's receipt of the appraisal of the Fair Market Value, the Parties will be deemed to enter into a Dispute for purposes of Section 23(a) and shall follow the procedures in Section 23(c) for resolution of the Dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the

terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(b) End of Term Purchase Option. Host shall have the right to purchase the Project from Provider at the expiration of the Operations Period at the then Fair Market Value of the Project. No earlier than twelve months prior to the expiration of such Operations Period and no later than nine (9) months prior to the expiration of the Operations Period, Host shall notify Provider of its intent to exercise the option. Within ninety-one (91) days of its receipt of such notice, Provider shall give Host its appraisal of the Fair Market Value of the Project at the end of the Term. Host may, but is not obligated to, accept such appraisal. If Host does not accept such appraisal within ten (10) days of receiving the appraisal from Provider, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within twenty (20) days of the Host's receipt of the appraisal from Provider, the Parties will be deemed to enter into a Dispute for purposes of Section 23(a) and shall follow the procedures in Section 23 for resolution of the Dispute. Notwithstanding the foregoing, in the event that Provider enters into a sale/leaseback transaction in connection with funding the installation of the Project, the process of determining the Fair Market Value of the Project in this Agreement shall be undertaken by a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry acting reasonably and in good faith to determine the Fair Market Value of the Project and shall be undertaken consistently with the terms of such transaction so that the process for determining Fair Market Value under this Agreement shall be the same as provided in the agreements for such sale/leaseback transaction.

(c) Transfer of Ownership. Upon Host's notice that it elects to exercise the option set forth in either Section 9(a) or 9(b) above, Provider shall prepare and deliver to Host a set of records on the operation and maintenance history of the Project, including a summary of known defects. Upon payment of the purchase price, Provider shall deliver, or cause to be delivered, to Host a bill of sale conveying the Project to Host. Such bill of sale shall not contain any warranties other than a warranty against any defects in title arising through Provider. Provider shall use all reasonable efforts to transfer any remaining manufacturer's warranties on the Project, or portions thereof, to Host.

(d) Operation & Maintenance After Sale. Prior to the effective date of Host's purchase of the Project under Section 9(a) or 9(b), Host and Provider shall discuss entering into an operation and maintenance agreement under which Provider shall perform all or a portion of the operation and maintenance requirements of the Project following Host's purchase of the Project. However, neither Party shall be under an obligation to enter into such an agreement.

(e) Decommissioning. If Host does not exercise the option set forth in Section 9(b) above, then Provider, at its expense, shall promptly decommission and remove the Project following the expiration of the Operations Period. Provider shall not be obligated, however, to remove any support structures for the Project which are affixed to Host's structures or any below grade structures, including foundations and conduits, or any roads. Host grants Provider and its representatives reasonable vehicular and pedestrian access across the Site to the Premises for purposes of decommissioning the Project. In exercising such access and performing the decommissioning, Provider shall reasonably attempt to minimize any disruption to activities occurring on the Site. Host will provide Provider adequate storage space on the Site convenient to the Premises for materials and tools used during decommissioning. Provider shall be responsible for providing shelter and security for stored items during decommissioning and removal. Host further agrees that its normal security measures, practices, and policies which apply to its own Premises shall also apply to the Project. During decommissioning, Provider will comply with all Applicable Laws.

(f) No Survival of Purchase Option. The options for Host to purchase the Project under Sections 9(a) and 9(b) shall not survive the termination of this Agreement.

## 10. SHUTDOWNS, RELOCATION; CLOSURE OR SALE OF SITE.

(a) Host Requested Shutdown. Host from time to time may request Provider to temporarily stop operation of the Project for a period no longer than thirty (30) days, such request to be reasonably related to Host's activities in maintaining and improving the Site. During any such shutdown period (but not including periods of Force Majeure), Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project during the period of the shutdown; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced during the period of the shutdown; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with

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respect to electric energy that would have been produced by the Project during the period of the shutdown. Determination of the amount of energy that would have been produced during the period of the shutdown shall be based, during the first Operations Year, on estimated levels of production and, after the first Operations Year, based on actual operation of the Project during the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(b) Provider Safety Shutdown. In addition to the right of Provider to shut down the Project for maintenance as provided in Section 4(j), Provider may shutdown the Project if Provider, in the exercise of reasonable judgment, believes Site conditions or activities of persons on a Site, which are not under the control of Provider, whether or not under the control of Host, may interfere with the safe operation of the Project. Provider shall give Host notice of a shutdown immediately upon becoming aware of the potential for such conditions or activities. Provider and Host shall cooperate and coordinate their respective efforts to restore Site conditions so as to not interfere with the safe operation of the Project and to reduce, to the greatest extent practicable, the duration of the shutdown. In the event of such a shutdown, Host shall be deemed to have acted under Section 10(a) to shut down the Project, and shall pay Provider the amounts described in Section 10(a) with respect to the period of the shutdown, except that Host shall not be required to pay such amounts relative to any time period prior to Provider's notice of the shutdown or during any Force Majeure Event. If a shutdown pursuant to this Section 10(b) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(c) Project Relocation. Host may request to move the Project to another location on the Site or to another site owned by Host, but any such relocation shall be subject to the approval of Provider and Financing Party in each of their sole discretion. In connection with such relocation, Host shall execute an amendment to this Agreement reflecting the new location of the Project but otherwise continuing all the terms and conditions of this Agreement for the remaining term of this Agreement. Host shall also provide any consents or releases required by Provider in connection with the new location. Host shall pay all costs associated with the removal and relocation of the Project, including installation and testing costs and interconnection costs. In addition, during the Relocation Event, Host will pay Provider an amount equal to the sum of (i) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following the Relocation Event; (ii) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following the Relocation Event; and (iii) revenues from Environmental Attributes and Tax Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following the Relocation Event. Determination of the amount of energy that would have been produced following the Relocation Event shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology.

(d) Premises Shutdown; Interconnection Deactivated. In the event Premises are closed as a result of an event that is not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Host, Host shall nevertheless continue to pay Provider for all electricity produced by the Project on the Premises and delivered to the Point of Delivery. If an interconnection with the Local Electric Utility becomes deactivated for reasons that are not (i) a Force Majeure Event or (ii) caused by or related to any unexcused action or inaction of Host such that the Project is no longer able to produce electricity or transfer electricity to its respective Premises or to the Local Electric Utility, Host will pay Provider an amount equal to the sum of (A) payments that Host would have made to Provider hereunder for electric energy that would have been produced by the Project following such closure; (B) revenues that Provider would have received with respect to the Project under the Applicable Solar Program and any other assistance program with respect to electric energy that would have been produced following such closure; and (C) revenues from Environmental Attributes that Provider would have received with respect to electric energy that would have been produced by the Project following such closure. Determination of the amount of energy that would have been produced following such closure shall be based, during the first Operations Year, on the estimated levels of production and, after the first Operations Year, based on actual operation of the Project in the same period in the previous Operations Year, unless Provider and Host mutually agree to an alternative methodology. If a shutdown pursuant to this Section 10(d) continues for one hundred and eighty (180) days or longer, Provider may terminate this Agreement and require Host to pay the Early Termination Amount.

(e) Sale of Site. In the event Host transfers (by sale, lease or otherwise) all or a portion of its interest in the Site, Host shall remain primarily liable to Provider for the performance of the obligations of Host hereunder notwithstanding such transfer. However, if no Host Event of Default has occurred and is continuing and the transferee is acceptable to Provider and Financing Party in their sole discretion and executes agreements assuming this Agreement in form and substance satisfactory to Provider and Financing Party in their sole discretion, Host may be released from further obligations under this Agreement.

**11. TAXES.**

(a) Income Taxes. Provider shall be responsible for any and all income taxes associated with payments from Host to Provider for electric energy from the Project. Provider (and/or Financing Party), as owner of the Project, shall be entitled to all Tax Attributes with respect to the Project.

(b) Sales Taxes. Host shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any Governmental Authority on the sale of electric energy by Provider to Host. Host shall timely report, make filings for, and pay any and all such taxes assessed directly against it and shall reimburse Provider for any and all such taxes assessed against and paid by Provider.

(c) Property Taxes. Host shall be responsible for all ad valorem personal property or real property taxes levied against the Site, improvements thereto and personal property located thereon, except that Provider shall be responsible for ad valorem personal property or real property taxes levied against the Project. If Host is assessed any taxes related to the existence of the Project on the Premises, Host shall immediately notify Provider. Host and Provider shall cooperate in contesting any such assessment; provided, however, that Host shall pay such taxes to avoid any penalties or interest on such Taxes, subject to reimbursement by Provider. If after resolution of the matter, such tax is imposed upon Host related to the improvement of real property by the existence of the Project on the Site, Provider shall reimburse Host for such tax.

(d) Tax Contests. Each Party has the right to contest taxes in accordance with Applicable Law and the terms of encumbrances against the Site. Each Party shall use all reasonable efforts to cooperate with the other in any such contests of tax assessments or payments. In no event shall either Party postpone during the pendency of an appeal of a tax assessment the payment of taxes otherwise due except to the extent such postponement in payment has been bonded or otherwise secured in accordance with Applicable Law.

(e) Payment of Delinquent Taxes. In the event either Party fails to pay any taxes that may become a lien upon the other Party's property, such Party may pay such amounts and in such event shall be entitled to recover such paid amount from the other Party, together with interest thereon at the rate of one percent (1%) per month, compounded monthly.

(f) Reimbursement Deadline. Any reimbursement of taxes owing pursuant to this Section 11 shall be paid within twenty (20) Business Days of receiving an invoice therefor from the Party who paid the taxes.

**12. INSURANCE.**

(a) Coverage. Host and Provider shall each maintain the insurance coverage set forth in Exhibit F in full force and effect throughout the Term.

(b) Applicable Solar Program Requirements. Host and Provider will also maintain the additional insurance requirements (if any) specified in Exhibit H to satisfy the requirements of the Applicable Solar Program.

(c) Insurance Certificates. Each Party shall furnish current certificates indicating that the insurance required under this Section 12 is being maintained. Each Party's insurance policy provided hereunder shall contain a provision whereby the insurer agrees to give the other Party thirty (30) days written notice before the insurance is cancelled or materially altered.

(d) Certain Insurance Provisions. Each Party's insurance policy shall be written on an occurrence basis and shall include the other Party as an additional insured as its interest may appear. A cross liability clause shall be made part of the policy. Each Party's insurer shall waive all rights of subrogation against the other Party except in the case of such Party's negligence or willful misconduct.

(e) Insurance Providers. All insurance maintained hereunder shall be maintained with companies rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the members of which are so rated).

**13. COOPERATION; SOLAR ACCESS; FUTURE IMPROVEMENTS.**

(a) Cooperation. The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.

(b) Host to Not Restrict Solar Access. Host, or any lessee, grantee or licensee of Host, shall not erect any structures on, or make other modifications to, or plantings on, the Site which will interfere with the construction, operation or maintenance of, or solar access of, the Project.

(c) Adjoining Properties. If Applicable Law and existing easements do not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, then Host and Provider shall work together to attempt to obtain from owners of adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of both Host and Provider. Provider shall pay for the expense of obtaining such easements, including payments to property owners and legal costs, but the rates payable by Host for electric energy from the Project shall be increased by an amount sufficient for Provider to fully amortize such costs, over a period equal to the lesser of (i) ten years and (ii) the remaining term of this Agreement without regard to Host's option to purchase the Project.

#### 14. PRESS RELEASES AND CONFIDENTIALITY.

(a) Press Releases. The Parties acknowledge that they each desire to publicize information about this Agreement and the Project. The Parties therefore agree that each may make independent press releases about entering into this Agreement, the size and location of the Project, and the identity of the other Party, without the prior written consent of the other Party, so long as only Provider has the exclusive right to (i) claim that electric energy provided to Host was generated by the Project, (ii) Provider is responsible for the reductions in emissions of pollution and greenhouse gases resulting from the generation of such electric energy and (iii) Provider is entitled to all credits, certificates, or registrations, etc., evidencing or representing any of the foregoing except as otherwise expressly provided in this Agreement. However, the terms of this Agreement and information about the Project other than that described above constitutes Confidential Information, as defined below, and is subject to the remaining provisions of this Section 14.

(b) Limits on Disclosure of Confidential Information. Subject to the exceptions set forth below in Section 14(c), each Party agrees that, (i) without the consent of the other Party, it shall not disclose any Confidential Information received from the other Party to any other person and (ii) it shall use any Confidential Information received from the other Party only for the purpose of fulfilling its obligations under this Agreement. Notwithstanding the foregoing, the Parties may, and shall, disclose any information required to be disclosed under rules, regulations and contracts implementing the Applicable Solar Program or Tax Attributes required to be disclosed by any Governmental Authority under Applicable Law or pursuant to a validly issued subpoena or required filing. Notwithstanding anything else herein to the contrary, all of Host's obligations set forth in this Section 14 are subject to Host's compliance with the Arizona Public Records Law, Title 39, Arizona Revised Statutes (the "Public Records Law"), as amended from time to time. Any conflict between this Section 14 and the Public Records Law shall be resolved in favor of the Public Records Law.

(c) Permissible Disclosures. Provider may provide this Agreement, and any correspondence, notices and other information related to this Agreement to any person who has provided or who is interested in providing construction or permanent financing, or any refinancing thereof, to Provider in connection with the Project. In addition, if a receiving Party is required by Applicable Law, validly issued subpoena, required filing, or the rules of any stock exchange, to disclose any Confidential Information provided by the disclosing Party, the receiving Party may make disclosure as required by law, but the receiving Party shall prior to making any disclosure notify the disclosing Party of the requested disclosure and shall use its reasonable efforts to cooperate with the disclosing Party, but at the expense of the disclosing Party, in any efforts by the disclosing Party to minimize the extent of the Confidential Information disclosed and the persons to whom disclosed.

(d) Enforcement of Confidentiality Provisions. Each Party acknowledges that it may be impossible to measure the damages which may result from a breach of this Section 14 and agrees that the provisions of this Section 14 may be required to be specifically performed and each Party shall have the right to obtain preliminary and permanent injunctive relief to secure specific performance of the terms of this Section 14. The provisions of this Section 14 shall survive until three years after the effective date of any termination of this Agreement.

## 15. INDEMNIFICATION.

(a) Provider Indemnification. Provider shall indemnify, defend and hold Host and its directors, officers, employees, agents, volunteers, and invitees ("Host's Indemnified Parties"), harmless from and against all Losses incurred by the Host Indemnified Parties to the extent arising from or out of the following: (i) any claim for or arising out of any injury to or death of any Person or loss or damage to property to the extent arising out of Provider's (or its contractor's) negligence or willful misconduct; (ii) Provider's violation of Applicable Law; (iii) any failure to properly interconnect or comply with the procedures of the Local Electric Utility; (iv) any failure to properly handle or dispose of any Hazardous Materials brought onto the Site by Provider or by any of Provider's employees, agents, volunteers, and invitees; and (v) any Losses arising out of the Provider's failure to perform any of its obligations hereunder that causes Host to fail to perform under the Credit Purchase Agreement. Such duty to indemnify with respect to any injuries to persons or damage to property arising from the generation of electricity from the Project shall not extend to incidents occurring on Host's side of the Point of Delivery except to the extent caused by incidents on Provider's side of the Point of Delivery. Such duty to indemnify shall not apply to any action or claim, whether in tort (including negligence and strict liability), contract or otherwise for any loss, injury, or costs resulting from interruptions in service. Provider shall not be obligated to indemnify Host or any Host Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Host or any Host Indemnified Party.

(b) Host Indemnification. Host shall indemnify, defend and hold Provider, its contractors, subcontractors, shareholders, directors, officers, employees, agents, and invitees, and Financing Party ("Provider's Indemnified Parties"), harmless from and against all Losses incurred by the Provider's Indemnified Parties to the extent arising from or out of (i) any claim for or injury to or death of any Person or loss or damage to property to the extent arising out of the negligence or willful misconduct of any of Host's Indemnified Parties; (ii) Host's violation of Applicable Law; (iii) the presence, removal or remediation of any Hazardous Materials on the Site (other than any Hazardous Materials brought on to the Site by Provider's Indemnified Parties); and (iv) any Losses arising out of the Host's failure to perform any of its obligations under the Credit Purchase Agreement. Host shall not be obligated to indemnify Provider or any Provider Indemnified Party for any Loss to the extent such Loss is due to the negligence or willful misconduct of Provider or any Provider Indemnified Party.

(c) Notice of Claims. Whenever any claim arises for indemnification under this Agreement, the Indemnified Person shall notify the Indemnifying Party in writing as soon as possible (but in any event prior to the time by which the interest of the Indemnifying Party will be materially prejudiced as a result of its failure to have received such notice) after the Indemnified Person has knowledge of the facts constituting the basis for such claim (the "Notice of Claim"). Such Notice of Claim shall specify all facts known to the Indemnified Person giving rise to the indemnification right and the amount or an assessment of the amount of the liability arising therefrom.

(d) Defense of Claims. The Indemnifying Party has the right, but not the obligation to assume the defense or the matter for which indemnification is sought hereunder. If the Indemnifying Party does not assume the defense, it shall timely pay all costs of counsel and case expenses incurred by Indemnified Person in connection with the defense, when and as incurred. If the Indemnifying Party assumes the defense, the Indemnified Person has the right to hire its own counsel to defend it, but the Indemnified Person shall be responsible for the reasonable costs of such counsel. The Indemnifying Party shall not consent to the entry of any judgment or enter into any settlement with respect to the matter for which indemnification is sought without the prior written consent of the Indemnified Person (which consent shall not be unreasonably withheld) unless the judgment or settlement involves the payment of money damages only and does not require the acknowledgement of the validity of any claim.

(e) Payments. At the time that the Indemnifying Party makes any indemnity payments under this Agreement, the indemnification payment shall be adjusted such that the payment will result in the Indemnified Person receiving an indemnity payment equal to the Loss after taking into account (i) all federal, state, and local income taxes that are actually payable to the Indemnified Person with respect to the receipt of such payment and (ii) all national, state, and local tax deductions allowable to the Indemnified Person for any items of loss and deduction for which the Indemnified Party is being indemnified.

(f) Survival of Indemnification. The obligations of indemnification hereunder shall survive termination of this Agreement.

## 16. REPRESENTATIONS AND WARRANTIES.

(a) Mutual Representations. Each Party hereby represents and warrants to the other, as of date hereof, that:

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(i) Organization. It is duly organized, validly existing and in good standing under the laws of its state of incorporation and of the state in which the Premises are located, respectively, and has the power and authority to enter into this Agreement and to perform its obligations hereunder.

(ii) No Conflict. The execution and delivery of this Agreement and the performance of and compliance with the provisions of this Agreement will not conflict with or constitute a breach of or a default under (1) its organizational documents; (2) any agreement or other obligation by which it is bound; (3) any law or regulation.

(iii) Enforceability. (1) All actions required to be taken by or on the part of such Party necessary to make this Agreement effective have been duly and validly taken; (2) this Agreement has been duly and validly authorized, executed and delivered on behalf of such Party; and (3) this Agreement constitutes a legal, valid and binding obligation of such Party, enforceable in accordance with its terms, subject to laws of bankruptcy, insolvency, reorganization, moratorium or other similar laws.

(iv) No Material Litigation. There are no court orders, actions, suits or proceedings at law or in equity by or before any governmental authority, arbitral tribunal or other body, or threatened against or affecting it or brought or asserted by it in any court or before any arbitrator of any kind or before or by any governmental authority that could reasonably be expected to have a material adverse effect on it or its ability to perform its obligations under this Agreement, or the validity or enforceability of this Agreement.

(b) Host Representations. In addition to the representations and warranties in Section 16(a), Host hereby represents and warrants to Provider, as of date hereof, that:

(i) Electric Usage. Host has provided to Provider complete and correct records of its electric usage at the Site for the preceding three (3) years.

(ii) Condition of Premises. Host has provided to Provider Host's complete and correct records of the physical condition of the Premises. If it is discovered that the actual site conditions on part of, or on the entire Premises upon which all or part of the Project is to be installed, are materially different from the information presented by Host, then if practicable the rates payable by Host hereunder shall be adjusted to compensate Provider for the cost of design and construction changes and delays incurred to adapt the Project to the unknown conditions. If such adjustment is not practicable, Provider shall have other rights under this Agreement.

(iii) Financial Information. The financial statements Host has provided to Provider present fairly in all material respects the financial condition and results of operations of Host.

(iv) Cooperative Purchasing. In addition to the Host's representation pursuant to Section 16(a)(iii), Host further represents and warrants (A) Host is a signatory to the SAVE Agreement, (B) Pima County is also a signatory to the SAVE Agreement, (C) Pima County has, pursuant to Solicitation No. 0901065, executed with Provider that Power Purchase Agreement dated February 3, 2010, and (D) the provisions of A.R.S. § 41-2631, et seq. and the SAVE Agreement authorize Host to execute this Agreement.

## 17. **FORCE MAJEURE.**

(a) Excuse for Force Majeure Event. Except as provided in Section 17(b) or otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

(b) No Excuse for Payment for Prior Services. Obligations to make payments for services already provided shall not be excused by a Force Majeure Event.

(c) Restoration. In the event of a casualty event, to the extent that such casualty event is attributable to the occurrence of a Force Majeure Event, which destroys all or a substantial portion of the Premises, Host shall elect, within ninety (90) days of such event, whether it will restore the Premises, which restoration will be at the sole expense of Host. If Host does not elect to restore the Premises, then Provider shall not restore the Project and this Agreement will terminate. If Host does elect to restore the Premises, Host shall provide notice of such election to Provider and Provider shall then elect, within ninety (90) days of receipt of such notice, whether or not to restore the Project, subject to the Parties agreeing on a schedule for the restoration of the Premises and an equitable extension to the Term of this Agreement. If the Parties are not able to so agree or if Provider does not elect to restore the Project, Provider shall promptly remove any portions of the Project remaining on the Premises, and this Agreement shall terminate. If Provider does elect to restore the Project, it shall do so at its sole expense. In the event of termination of this Agreement pursuant to this Section 17(c), (i) the Parties shall not be released from any payment or other obligations arising under this Agreement prior to the casualty event; and (ii) the confidentiality provisions of Section 14, the indemnity obligations under Section 15 hereof, and the dispute resolution provisions of Section 23 hereof shall continue to apply notwithstanding the termination of this Agreement.

(d) Termination for Force Majeure Event. Notwithstanding anything to the contrary in this Section 17, if nonperformance on account of a Force Majeure Event continues beyond a continuous period of three hundred and sixty-five (365) days, then either Party shall have the right to terminate this Agreement upon thirty (30) days notice to the other. Upon such termination, Provider shall be required to decommission and remove the Project from the applicable Site in accordance with the provisions of Section 9(e) (unless there has been a casualty event, in which case the provisions of clause (c) above shall apply to the removal of the Project). In the event of such a termination of this Agreement with respect to the Project, the Parties shall not be released from any payment or other obligation arising under this Agreement which accrued prior to the shutdown of the Project or the Premises, and the indemnity, confidentiality and dispute resolution provisions of this Agreement shall survive the termination of this Agreement.

## 18. CHANGE IN LAW.

In the event there is a Change in Law that is applicable to the operation of the Project, the sale of electric energy produced by the Project, or any other obligation of the Provider hereunder, and compliance with the Change in Law results in an increase in Provider's costs to operate and/or maintain the Project, Provider will promptly submit to Host a written notice setting forth (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Provider's costs; and (iii) Provider's proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Host agrees to an adjustment in the then applicable and future rates such that the new rates compensate Provider for the total cost increase arising from the Change in Law and said adjustment will remain in effect for as long as the costs arising from the Change in Law continue to be incurred by the Provider; provided, however any such increase shall be no greater than ten percent (10%) of the rates set forth in Exhibit A.

## 19. PROVIDER DEFAULT AND HOST REMEDIES.

(a) Provider Events of Default. Provider shall be in default of this Agreement if any of the following ("Provider Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Provider under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Host identifying the defect.

(ii) Abandonment During Installation. After commencement of installation of the Project, Provider abandons installation of the Project for thirty (30) days and fails to resume installation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has abandoned installation of the Project.

(iii) Failure to Operate. After the Commercial Operation Date, Provider fails to operate the Project for a period of 90 days which failure is not due to equipment failure, or damage to the Project, act of governmental authority, or exercise of Provider's rights under this Agreement, or otherwise excused by the provisions of Section 17(b) (relating to Force Majeure Events); and Provider fails to resume operation within thirty (30) days after receipt of notice from Host stating that, in Host's reasonable determination, Provider has ceased operation of the Project, provided, however, that the cure period shall be extended by the number of calendar days during which Provider is prevented from taking curative action if Provider had

begun curative action and was proceeding diligently, using commercially reasonable efforts, to complete such curative action.

(iv) Obligation Failure. Provider fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to make payment when due or maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Host identifying the failure.

(v) Insolvency. Provider (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or is generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Provider in an involuntary case under bankruptcy law or seeking to dissolve Provider under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Financing Party Opportunity to Cure; Host Remedies. Upon an Event of Default by Provider, provided that Host complies with its obligations under Section 21 and Financing Party does not cure such Event of Default by Provider, Host may terminate this Agreement, seek to recover damages for costs of replacement electricity and pursue other remedies available at law or equity.

## 20. HOST DEFAULT AND PROVIDER REMEDIES.

(a) Host Events of Default. Host shall be in default of this Agreement if any of the following ("Host Events of Default") shall occur:

(i) Misrepresentation. Any representation or warranty by Host under Section 16 hereof, is incorrect or incomplete in any material way, or omits to include any information necessary to make such representation or warranty not materially misleading, and such defect is not cured within fifteen (15) days after receipt of notice from Provider identifying the defect.

(ii) Obstruction. Host obstructs commencement of installation of the Project or fails to take any actions necessary for the interconnection of the Project, or fails to take electric energy produced by the Project, and fails to correct such action within ten (10) days of when such payment was due.

(iii) Payment Failure. Host fails to make any payment due under the terms of this Agreement, and fails to make such payment within ten (10) days after receipt of notice thereof from Provider.

(iv) Obligation Failure. Host fails to perform any obligation hereunder, such failure is material, such failure is not excused by the provisions of Section 17(b) (relating to Force Majeure Events), and such failure is not cured within: (A) ten (10) days if the failure involves a failure to maintain required insurance; or (B) sixty (60) days if the failure involves an obligation other than payment or the maintenance of insurance, after receipt of notice from Provider identifying the failure.

(v) Insolvency. Host (A) applies for or consents to the appointment, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or a substantial portion of its property; (B) admits in writing its inability, or be generally unable, to pay its debts as such debts become due; (C) makes a general assignment for the benefit of its creditors; (D) commences a voluntary case under any bankruptcy law; (E) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; (F) acquiesces in, or fails to contest in a timely manner, any petition filed against Host in an involuntary case under bankruptcy law or seeking to dissolve Host under other Applicable Law; or (G) takes any action authorizing its dissolution.

(b) Default Damages. Upon an Event of Default by Host, Provider may require Host to pay to Provider the Early Termination Amount, sell electricity produced by the Project to persons other than Host, and recover from Host any loss in revenues resulting from such sales, and/or pursue other remedies available at law or in equity. After Provider's receipt of such Early Termination Amount pursuant to this Section 20(b), Provider shall collect no additional damages resulting from lost revenues from sales of electricity from the Project.

**21. COLLATERAL ASSIGNMENT, FINANCING PROVISIONS.**

(a) Financing Arrangements. Provider may mortgage, pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to any persons providing financing for the Project. Host acknowledges that Provider will obtain construction financing for the Project from third party and that Provider may either obtain term financing secured by the Project or sell or assign the Project to a Financing Party or may arrange other financing accommodations from one or more financial institutions and may from time to time refinance, or exercise purchase options under, such transactions. Host acknowledges that in connection with such transactions Provider may secure Provider's obligations by, among other collateral, an assignment of this Agreement and a first security interest in the Project. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any lender or lessor, as applicable, Host agrees as follows:

(i) Consent to Collateral Assignment. Host hereby consents to both of the sale of the Project to a Financing Party and the collateral assignment to the Financing of the Provider's right, title and interest in and to this Agreement.

(ii) Rights of Financing Party. Notwithstanding any contrary term of this Agreement:

(A) Step-In Rights. The Financing Party, as owner of the Project, or as collateral assignee of this Agreement, shall be entitled to exercise, in the place and stead of Provider, any and all rights and remedies of Provider under this Agreement in accordance with the terms of this Agreement. The Financing Party shall also be entitled to exercise all rights and remedies of owners or secured parties, respectively, generally with respect to this Agreement and the Project;

(B) Opportunity to Cure Default. The Financing Party shall have the right, but not the obligation, to pay all sums due under this Agreement and to perform any other act, duty or obligation required of Provider thereunder or cause to be cured any default of Provider thereunder in the time and manner provided by the terms of this Agreement. Nothing herein requires the Financing Party to cure any default of Provider under this Agreement or (unless the Financing Party has succeeded to Provider's interests under this Agreement) to perform any act, duty or obligation of Provider under this Agreement, but Host hereby gives it the option to do so;

(C) Exercise of Remedies. Upon the exercise of remedies, including any sale of the Project by the Financing Party, whether by judicial proceeding or under any power of sale contained therein, or any conveyance from Provider to the Financing Party (or any assignee of the Financing Party as defined below) in lieu thereof, the Financing Party shall give notice to Host of the transferee or assignee of this Agreement. Any such exercise of remedies shall not constitute a default under this Agreement;

(D) Cure of Bankruptcy Rejection. Upon any rejection or other termination of this Agreement pursuant to any process undertaken with respect to Provider under the United States Bankruptcy Code, at the request of Financing Party made within ninety (90) days of such termination or rejection, Host shall enter into a new agreement with Financing Party or its assignee having substantially the same terms and conditions as this Agreement.

(iii) Right to Cure.

(A) Cure Period. Host will not exercise any right to terminate or suspend this Agreement unless it shall have given the Financing Party prior written notice of its intent to terminate or suspend this Agreement, as required by this Agreement, specifying the condition giving rise to such right, and the Financing Party shall not have caused to be cured the condition giving rise to the right of termination or suspension within thirty (30) days after such notice or (if longer) the periods provided for in this Agreement; provided that if such Provider default reasonably cannot be cured by the Financing Party within such period and the Financing Party commences and continuously pursues cure of such default within such period, such period for cure will be extended for a reasonable period of time under the circumstances, such period not to exceed an additional ninety (90) days. The Parties' respective obligations will otherwise remain in effect during any cure period.

(B) Continuation of Agreement. If the Financing Party or its assignee (including any purchaser or transferee), pursuant to an exercise of remedies by the Financing Party, shall acquire

title to or control of Provider's assets and shall, within the time periods described in Section 21(a)(iii)(A) above, cure all defaults under this Agreement existing as of the date of such change in title or control in the manner required by this Agreement and which are capable of cure by a third person or entity, then such Person shall no longer be in default under this Agreement, and this Agreement shall continue in full force and effect.

(b) Financing Party a Third Party Beneficiary. Host agrees and acknowledges that Financing Party is a third party beneficiary of the provisions of this Section 21.

(c) Entry to Consent to Assignment; Opinions of Counsel. Host agrees to (i) execute any consents to assignment or acknowledgements and (ii) provide such opinions of counsel as may be reasonably requested by Provider and/or Financing Party in connection with such financing or sale of the Project, including but not limited to opinions with respect to the enforceability of this Agreement pursuant to the terms of the SAVE Agreement and A.R.S. § 41-2631.

## 22. LIMITATIONS ON DAMAGES.

EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT (including, without limitation, in Sections 10 and 20(b)), NEITHER PARTY NOR ANY OF ITS INDEMNIFIED PERSONS SHALL BE LIABLE TO THE OTHER PARTY OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

## 23. DISPUTE RESOLUTION.

(a) Negotiation Period. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy or claim arising out of or relating to this Agreement (a "Dispute") within 30 days after the date that a Party gives written notice of such Dispute to the other Party.

(b) Mediation. If, after such negotiation in accordance with Section 23(a), the Dispute remains unresolved, either Party may require that a non-binding mediation take place. In such mediation, representatives of the Parties with authority to resolve the Dispute shall meet for at least three (3) hours with a mediator whom they choose together. If the Parties are unable to agree on a mediator, then either Party is hereby empowered to request the American Arbitration Association to appoint a mediator. The mediator's fee and expenses shall be paid one-half by each Party.

(c) Arbitration of Disputes.

(i) Rules of Arbitration. Any Dispute that is not settled to the mutual satisfaction of the Parties pursuant to Sections 23(a) or 23(b) shall (except as provided in Section 23(d)) be settled by binding arbitration between the Parties conducted in Phoenix, Arizona or such other location mutually agreeable to the Parties, and in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "AAA") in effect on the date that a Party gives notice of its demand for arbitration.

(ii) Dispute Submission. The Party initiating the Arbitration (the "Submitting Party") shall submit such Dispute to arbitration by providing a written demand for arbitration to the other Party (the "Responding Party"), which demand must include statements of the facts and circumstances surrounding the Dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief, accompanied by all relevant documents supporting the demand.

(iii) Arbitrator Selection. The arbitrator(s) selected shall have contract resolution experience and experience in the electric power business and shall not have any current or past substantial business or financial relationships with the Parties or their Affiliates. Arbitrators must agree to be bound by the confidentiality provisions of this Agreement. If the amount in controversy is less than \$250,000, the Dispute will be determined by a single neutral arbitrator, who will be chosen by the Parties within forty-five (45) days of submission of the demand on the Responding Party. If the Parties cannot agree on a single neutral arbitrator within such period, the arbitrator shall be chosen by the AAA. If the amount in controversy is \$250,000 or greater, the Dispute will be determined by a Panel of three (3) arbitrators. Each Party shall select one arbitrator, but if a Party fails to select an arbitrator within forty-five (45) days of the submission of the demand on the Responding Party, the arbitrator will be chosen by the AAA. The two arbitrators so selected will select the third arbitrator, who shall act as the chairman of the panel. If the two arbitrators

cannot select the third arbitrator within thirty (30) days (or such additional time as the Parties may agree) of the selection of both of the first two arbitrators, the third arbitrator shall be chosen by the AAA. As used herein, "Panel" means either a single arbitrator or a group of three arbitrators selected as provided herein.

(iv) Discovery. Within fifteen days (15) of the selection of the third arbitrator, the Parties shall submit statements to the Panel summarizing the issues in the case and including recommendations for discovery. Within twenty (20) days of receipt of the statements from the Parties, the Panel will meet with the Parties and issue orders on the scheduling of the case and any discovery to be permitted.

(v) Decision. Upon ten (10) days of completion of the hearing conducted by the Panel, each Party shall submit to the Panel its proposal for resolution of the dispute. The Panel in its award shall be limited to selecting only one of the two proposals submitted by the Parties. The award shall be in writing (stating the amount and reasons therefore) and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy between the Parties regarding any claims and counterclaims presented to the Panel. The Panel shall be permitted, in its discretion, to add pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction.

(vi) Expenses. Unless otherwise ordered by the Panel, each Party shall bear its own expenses and one-half of the cost of the Panel. Payments of the Panel's costs shall be made on a monthly basis prior to the Award.

(d) Exceptions to Arbitration. The obligation to arbitrate shall not be binding upon any Party with respect to (i) requests for preliminary injunctions, temporary restraining orders, specific performance, or other procedures in a court of competent jurisdiction to obtain interim relief deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual Dispute; (ii) actions to enforce an award of a Panel or otherwise to collect payments not subject to bonafide dispute; or (iii) claims involving third parties who have not agreed to participate in the arbitration of the Dispute.

(e) Survival of Arbitration Provisions. The provisions of this Section 23 shall survive any termination of this Agreement and shall apply (except as provided herein) to any Disputes arising out of this Agreement.

## 24. NOTICES.

Delivery of Notices. All notices or other communications which may be or are required to be given by any party to any other party pursuant to this Agreement shall be in writing and shall be either (i) delivered by hand; (ii) mailed by first-class, registered or certified mail, return receipt requested, postage prepaid; (iii) delivered by a recognized overnight or personal delivery service; (iv) transmitted by facsimile (such transmission to be effective on the day of receipt if received prior to 5:00 pm local time on a business day or in any other case as of the next business day following the day of transmittal); or (v) transmitted by email if receipt of such transmission by email is specifically acknowledged by the recipient (automatic responses not being sufficient for acknowledgement), addressed as follows:

If to Host:

Town of Quartzsite  
Attn.: Steve Henrichs  
P.O. Box 2812  
Quartzsite, AZ 85346

If to Provider:

SunEdison Origination1, LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705-6347  
Attention: General Counsel

Notices shall be effective when delivered (or in the case of email, when acknowledged by the recipient) in accordance with the foregoing provisions, whether or not (except in the case of email transmission) accepted by, or on behalf of, the Party to whom the notice is sent.

Each Party may designate by Notice in accordance with this section to the other Party a new address to which any notice may thereafter be given.

## 25. MISCELLANEOUS.

(a) Governing Law. This Agreement shall be governed by the laws of the State of Arizona, including principles of good faith and fair dealing that will apply to all dealings under this Agreement.

(b) Rules of Interpretation. Section headings are for convenience only and shall not affect the interpretation of this Agreement. References to sections are, unless the context otherwise requires, references to sections of this Agreement. The words "hereto", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular provision of this Agreement. The word "person" shall include individuals; partnerships; corporate bodies (including but not limited to corporations, limited partnerships and limited liability companies); non-profit corporations or associations; governmental bodies and agencies; and regulated utilities. The word "including" shall be deemed to be followed by the words "without limitation". In the event of any conflict between the text of this Agreement and the contents of an Exhibit hereto, the text of this Agreement shall govern.

(c) Severability. If any term, covenant or condition in the Agreement shall, to any extent, be invalid or unenforceable in any respect under Applicable Law, the remainder of the Agreement shall not be affected thereby, and each term, covenant or condition of the Agreement shall be valid and enforceable to the fullest extent permitted by Applicable Law. If a material provision is determined to be unenforceable, then the Parties shall negotiate in good faith to amend the Agreement to restore to the Party that was the beneficiary of such unenforceable provision the benefits of such provision. If the Parties are unable to agree upon an amendment that restores the Party's benefits, the matter shall be resolved under Section 23(c) in order to restore to the Party that was the beneficiary of the unenforceable provision the economic benefits of such provision.

(d) Amendment and Waiver. This Agreement may only be amended by a writing signed by both Parties. Any waiver of any of the terms hereof shall be enforceable only to the extent it is waived in a writing signed by the Party against whom the waiver is sought to be enforced. Any waiver shall be effective only for the particular event for which it is issued and shall not constitute a waiver of a subsequent occurrence of the waived event nor constitute a waiver of any other provision hereof, at the same time or subsequently.

(e) Assignment. Neither Party may assign, sell, transfer or in any other way convey its rights, duties or obligations under this Agreement, either in whole or in part, without the prior written consent of the other Party which consent shall not be unreasonably withheld or delayed, except that without consent of Host, Provider (i) may assign its rights and obligations hereunder to an Affiliate of Provider and (ii) may sell or collaterally assign this Agreement in accordance with Section 21. For purposes of this Section 25(e), transfer does not include any sale of all or substantially all of the assets of Provider or Host or any merger of Provider or Host with another person, whether or not Provider or Host is the surviving entity from such merger, or any other change in control of Provider or Host, provided any such surviving entity assumes all obligations of Provider or Host, as appropriate, under this Agreement; provided however, with respect to Host, such surviving entity is acceptable to Financing Party in its sole discretion.

(f) Service Contract. This Agreement is intended to be a service contract pursuant to Section 7701(e)(3) of the Internal Revenue Code.

(g) Immigration Law Compliance. The Provider warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other federal and state immigration laws and regulations related to the immigration status of its employees. Provider shall obtain statements from its subcontractors of every tier certifying compliance, and shall furnish the statements to the Host upon request. These warranties shall remain in effect through the term of the Agreement, and the Provider and its subcontractors of every tier shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act for all employees performing work pursuant to this Agreement. I-9 forms are available for download at USCIS.GOV. The Host may request, and the Provider agrees to furnish, verification of compliance from the Provider or its subcontractors of any tier performing work pursuant to this Agreement. Should the Host reasonably believe or discover that the Provider or its subcontractors of any tier are not in compliance, the Host may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Provider and its subcontractors. All costs necessary to verify compliance are the responsibility of the Provider.

(h) OSHA Compliance. Provider shall require that all employees, contractors, subcontractors and any agents and other representatives of Provider adhere to all applicable OSHA requirements and safety laws or codes in the performance of this Agreement.

(i) Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, as applicable, the provisions which are incorporated herein by this reference, this Agreement is subject to cancellation within three years from the Effective Date by Host if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement is, at any time while this Agreement is in effect, an employee or agent of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

(j) Retention and Inspection of Records. Provider shall retain, and shall contractually require each contractor and subcontractor to retain, all books, accounts, reports, files and other records relating to the performance of this Agreement for a period of five (5) years after the completion of this Agreement and to make such documents open for Host's inspection and audit at reasonable times as requested by Host.

(k) Nondiscrimination. Provider agrees not to discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, age or disability in violation of federal or state law. The parties shall comply with Section 202 of Executive Order 11246, 41 CFR 60-1.4, 41 CFR 60-250.4 and 41 CFR 60-741.5(a) and Arizona Executive Order 99-4 prohibiting discrimination in employment, to the extent applicable to this Agreement.

(l) Compliance with A.R.S. §§ 35-391.06 and 35-393.06. Pursuant to A.R.S. §§ 35-391.06 and 35-393.06, Provider hereby certifies that it does not have a scrutinized business operation in either Sudan or Iran.

(m) No Joint Venture. This Agreement does not create a joint venture, partnership or other form of business association between the Parties.

(n) Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes any prior or contemporaneous oral or written representations with regard to the subject matter thereof. This Agreement may not be modified except by a writing signed by both Parties.

(o) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery of signature by fax, or scan delivered by email, receipt acknowledged, or electronic signature are effective to bind a Party hereto.

(rest of page left blank intentionally – signatures appear on next page)

IN WITNESS WHEREOF, intending to be legally bound hereby, Provider and Host have executed this Power Purchase Agreement as of the date first set forth above.

**SunEdison Origination1, LLC**

By: Sun Edison LLC, sole member

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

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

**Town of Quartzsite**

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

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

## GLOSSARY OF TERMS

“Access Rights” means the rights provided in this Agreement for Provider and its designees, including Installer, to enter upon and cross the Site to install, operate, maintain, repair and remove the Project, and to interconnect the Project with the Local Electric Utility and to provide water, electric and other services to the Project.

“Affiliate” means, as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person means the power, directly or indirectly, to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

“Agreement” means this Power Purchase Agreement, including all exhibits attached hereto, as the same may be amended from time to time in accordance with the provisions hereof.

“Applicable Law” means any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, or guideline issued by a Governmental Authority that is applicable to a Party to this Agreement or the transaction described herein. Applicable Law also includes an approval, consent or requirement of any Governmental Authority having jurisdiction over such Party or its property, enforceable at law or in equity.

“Applicable Solar Program” means the program indicated on Exhibit H.

“Business Day” means a day other than Saturday, Sunday, or other day on which commercial banks in New York City are authorized or required by law to be closed.

“Change in Law” means that after the date of this Agreement, an Applicable Law is amended, modified, nullified, suspended, repealed, found unconstitutional or unlawful, or changed or affected in any material respect by any Applicable Law. Change in Law does not include changes in federal or state income tax laws. Change in Law does include material changes in the interpretation of an Applicable Law.

“Commercial Operation Date” means the date, which shall be specified by Provider to Host pursuant to Section 4(f), when the Project is physically complete and has successfully completed all performance tests and satisfies the interconnection requirements of the Local Electric Utility.

“Confidential Information” means information of a confidential or proprietary nature, whether or not specifically marked as confidential. Such information shall include, but not be limited to, any documentation, records, listing, notes, data, computer disks, files or records, memoranda, designs, financial models, accounts, reference materials, trade-secrets, prices, strategic partners, marketing plans, strategic or other plans, financial analyses, customer names or lists, project opportunities and the like, provided however that Confidential Information does not include information which (i) was in the possession of the receiving Party before receipt from the disclosing Party; (ii) is or becomes publicly available other than as a result of unauthorized disclosure by the receiving Party; (iii) is received by the receiving Party from a third party not known by the receiving Party with the exercise of reasonable diligence to be under an obligation of confidentiality respecting the information; or (iv) is independently developed by the receiving Party without reference to information provided by the disclosing Party.

“Credit Purchase Agreement” has the meaning set forth in Section 7(f).

“Dispute” means a controversy or claim arising out of or relating to this Agreement.

“Early Termination Amount” means an amount determined in accordance with Exhibit B, as of the applicable anniversary date set forth thereon, which includes all lost revenues from the sale or utilization of electrical energy, Environmental Attributes, or Tax Attributes.

“Electric Service Provider” means any person, including the Local Electric Utility, authorized by the State of Arizona to provide electric energy and related services to retail users of electricity in the area in which the Site is located.

“Environmental Attributes” means Renewable Energy Certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Project and its displacement of conventional energy generation, or any other entitlement pursuant to any federal, state, or local program applicable to renewable energy sources, whether

legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes and the Applicable Solar Program.

“Fair Market Value” means the price that would be paid in an arm’s length, free market transaction, in cash, between an informed, willing seller and an informed, willing buyer (who is neither a lessee in possession nor a used equipment or scrap dealer), neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age and performance of the Project and advances in solar technology, provided that installed equipment shall be valued on an installed basis and costs of removal from a current location shall not be a deduction from the valuation.

“Financing Party” means a Project Lessor or Lender.

“Force Majeure Event” means any act or event that prevents the affected Party from performing obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party had been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Subject to the foregoing, Force Majeure Event may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; and (iv) strikes or labor disputes. Force Majeure Events shall not include equipment failures or acts or omissions of agents, suppliers or subcontractors, except to the extent such acts or omissions arise from a Force Majeure Event. Changes in prices for electricity shall not constitute Force Majeure Events.

“Governmental Authority” means any international, national, federal, provincial, state, municipal, county, regional or local government, administrative, judicial or regulatory entity operating under any Applicable Laws and includes any department, commission, bureau, board, administrative agency or regulatory body of any government.

“Hazardous Materials” means all hazardous or toxic substances, wastes or other pollutants, including petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of “hazardous substances,” “hazardous materials,” “hazardous wastes,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollutants,” “regulated substances,” “solid wastes,” or “contaminants” or words of similar import, under any Applicable Law.

“Host” means the Town of Quartzsite, Arizona, an Arizona municipal corporation, and all successors and assigns.

“Indemnified Person” means the person who asserts a right to indemnification under Section 15.

“Indemnifying Party” means the Party who has the indemnification obligation under Section 15 to the Indemnified Person.

“Initial Period” has the meaning provided in Section 2.

“Installer” means the person designated by Provider to install the Project on the Premises.

“Land Registry” means the office where real estate records for the Site are customarily filed.

“Lender” means persons providing construction or permanent financing to Provider in connection with installation of the Project.

“Liens” has the meaning provided in Section 8(c).

“Local Electric Utility” means the entity authorized and required under Applicable Law to provide electric distribution service to Host at the Site.

“Losses” means any and all losses, liabilities, claims, demands, suits, causes of action, judgments, awards, damages, cleanup and remedial obligations, interest, fines, fees, penalties, costs, and expenses (including all

attorney's fees and other costs and expenses incurred in defending any such claims or matters or in asserting or enforcing any indemnity obligation).

"Operations Period" has the meaning provided in Section 2.

"Operations Year" means a twelve month period beginning at 12:00 am on an anniversary of the Commercial Operations Date and ending at 11:59 pm on the day immediately preceding the next anniversary of the Commercial Operations Date, provided that the first Operations Year shall begin on the Commercial Operations Date.

"Party" means either Host or Provider, as the context shall indicate, and "Parties" means both Host and Provider.

"Point of Delivery" has the meaning set forth in Section 5(a) and Exhibit E.

"Premises" means the portions of the Site described on Exhibit D.

"Project" means an integrated system for the generation of electricity from solar energy consisting of the photovoltaic panels and associated equipment to be installed on each of the Premises in accordance with this Agreement.

"Project Lessor" means, if applicable, any Person to whom Provider transferred the ownership interest in the Project, subject to a leaseback of the Project from such Person.

"Provider" means SunEdison Origination<sup>1</sup>, LLC, a Delaware limited liability company, and all successors and assigns.

"Relocation Event" means the relocation of the Project, starting at the shutdown of the Project pursuant to such relocation, and ending at the commercial operation of the Project when such relocated Project is reinstalled at a new location, as determined by the Provider in its reasonable discretion.

"Renewable Energy Certificate" or "REC" means a certificate, credit, allowance, green tag, or other transferable indicia, howsoever entitled, created by an applicable program or certification authority indicating generation of a particular quantity of energy, or product associated with the generation of a megawatt-hour (MWh) from a renewable energy source by a renewable energy project.

"Site" means the real property described on Exhibit C attached hereto.

"Tax Attributes" means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).

"Term" shall have the meaning provided in Section 2 hereof.

EXHIBIT A

ENERGY PURCHASE RATES

Operations Year	Price per kWh
1	\$0.073
2	\$0.074
3	\$0.076
4	\$0.077
5	\$0.079
6	\$0.081
7	\$0.082
8	\$0.084
9	\$0.086
10	\$0.087
11	\$0.089
12	\$0.091
13	\$0.093
14	\$0.094
15	\$0.096
16	\$0.098
17	\$0.100
18	\$0.102
19	\$0.104
20	\$0.106

EXHIBIT B

EARLY TERMINATION AMOUNTS

Operations Year	Early Termination Amount*
1	\$ 446,472
2	\$ 397,961
3	\$ 359,144
4	\$ 320,280
5	\$ 285,055
6	\$ 266,166
7	\$ 240,408
8	\$ 223,236
9	\$ 207,781
10	\$ 199,195
11	\$ 190,609
12	\$ 177,730
13	\$ 169,144
14	\$ 162,705
15	\$ 154,548
16	\$ 147,679
17	\$ 124,068
18	\$ 111,618
19	\$ 107,325
20	\$ 98,739
After Year 20	Fair Market Value

\*Subject to change upon determination of final system design and financing.

EXHIBIT C

DESCRIPTION OF SITE

Site Address: 465 N. Plymouth Ave., Quartzsite, AZ 85346

Aerial Photograph:



Legal Description of Host's property to follow.

=====

EXHIBIT D

DESCRIPTION OF PREMISES

Premises includes all Access Rights pursuant to Section 3 of the Agreement.

Aerial photograph of the Premises:

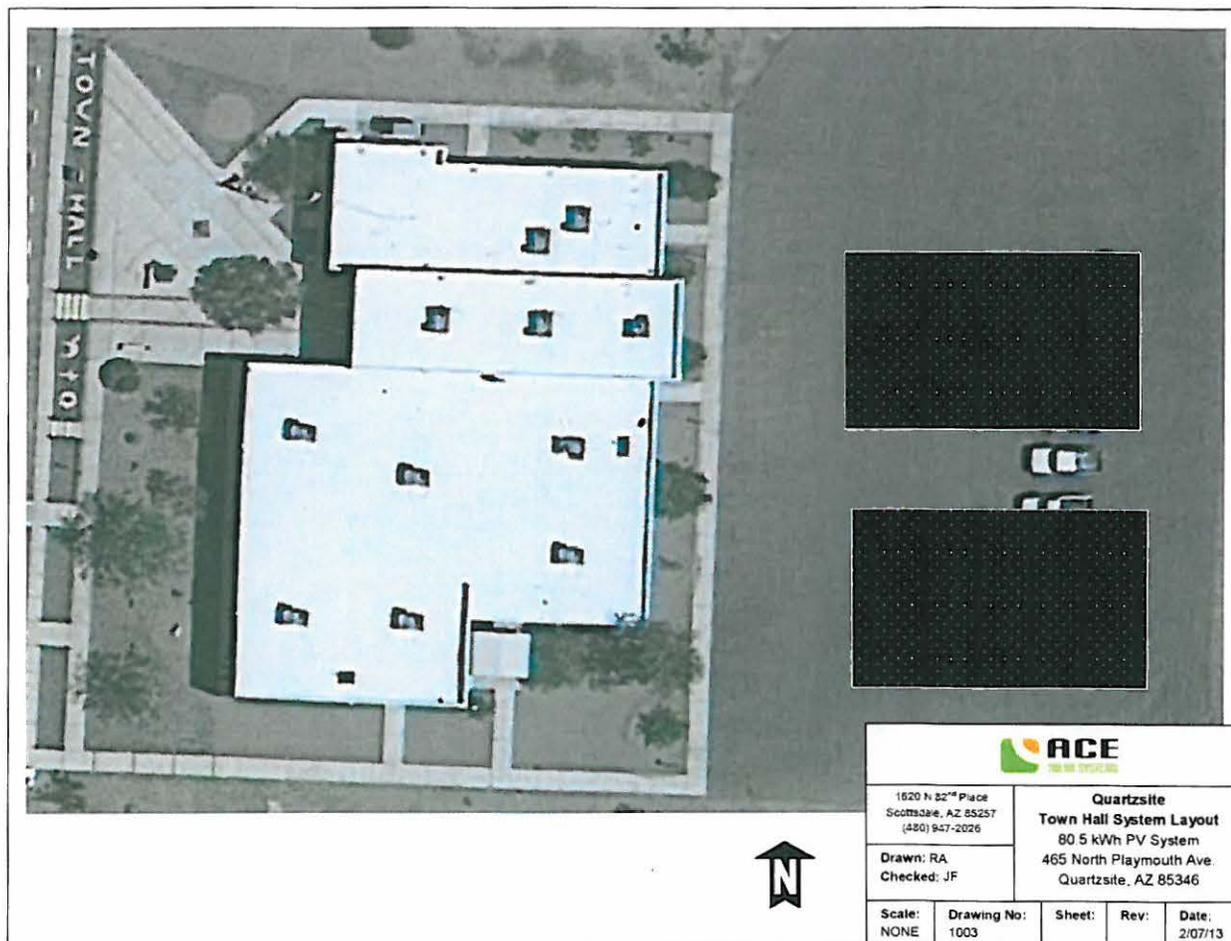


EXHIBIT E

DESCRIPTION OF PROJECT

Estimated Nameplate capacity (kW DC STC):	81 kW DC
Array Footprint:	5,500 sqft
Output Criteria [60 cycle 120 hertz 3 phase]:	120/208 Volt, 3-Phase, 60-cycle
System CEC-AC rated Capacity (kW AC CEC):	70 kW AC CEC
Quantity and type of Photovoltaic Modules:	322 x REC Solar 250 watt modules (or equivalent)
Quantity and type of Inverters:	1 x AE 75kW (or equivalent)
Type of Mounting Structure:	Schletter Carport
Other Balance-of-System items:	DC combiner boxes, wiring, grounding, and ancillary equipment needed for code compliant installation and interconnection to utility grid.
Data	Power One Internet Monitoring (or equivalent)
Perimeter Fencing:	N/A

## EXHIBIT F

### INSURANCE REQUIREMENTS

#### 1. General Liability

(a) Both Host and Provider will have a minimum level of commercial general liability insurance for the term of the Power Purchase Agreement of one million dollars (\$1,000,000) for each occurrence, and two million dollars (\$2,000,000) in the aggregate. Insurance coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form, with no coverage deletions.

(b) Both the Host and Provider general liability insurance coverage shall:

(i) endorsed to specify that the Provider's and Host's insurance is primary and that any insurance or self-insurance maintained by the Local Electric Utility shall not contribute with it.

(ii) name utility the Local Electric Utility as an additional insured if required pursuant to local regulations

#### 2. Workers' Compensation

Both Host and Provider will have Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, at the Site where the work is performed. Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

#### 3. Business Auto

Both Host and Provider will have not less than one million dollars (\$1,000,000) each accident for bodily injury and property damage, and two million dollars (\$2,000,000) in the aggregate.

#### 4. Additional Insurance Requirements

Additional insurance requirements and terms are included in the Applicable Solar Program contract.

#### 5. Additional Insurance Provisions

Host shall furnish Provider with certificates of insurance and endorsements of all required insurance, as may be reasonably requested, including for purposes of compliance with Applicable State Solar rebate program. The documentation required for the Applicable Solar Program shall state that coverage shall not be canceled except after thirty (30) days prior written notice has been given to the Local Electric Utility. The documentation must be signed by a person authorized by the insurer to bind coverage on its behalf.

#### 6. Additional Installation Contractor Requirements

Installation contractors will have valid commercial general liability, workers compensation, and business auto insurance as follows:

- Commercial general liability insurance will be in the following amounts: \$2,000,000 for each occurrence and \$4,000,000 aggregate.
- Workers compensation insurance or self-insurance indicating compliance with any applicable labor codes, laws or statutes, state or federal, where Installer performs work.
- Auto coverage not less than one million dollars (\$1,000,000) each accident for bodily injury and property damage, and two million dollars (\$2,000,000) in the aggregate.
- Excess liability insurance on an occurrence basis covering claims (on at least a following form basis) in excess of the underlying insurance for Commercial General Liability, Auto Liability and Employers' Liability with a minimum limit per occurrence of four million dollars (\$4,000,000) and six million dollars (\$6,000,000)

in the aggregate. The amounts of insurance required for Commercial General Liability, Auto Liability, Employers' Liability and Excess Liability may be satisfied by Installer purchasing coverage in the amounts specified or by any combination of primary and excess insurance, so long as the total amount of insurance meets the requirements specified above.

EXHIBIT G

FORM OF NOTICE OF GRANT OF INTEREST IN REALTY

SunEdison Origination1, LLC  
c/o Sun Edison LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705-6347

NOTICE OF GRANT OF INTEREST IN REALTY

In accordance with the provisions of [\_\_\_\_\_] , notice is hereby given of that Power Purchase Agreement dated as of [\_\_\_\_\_] for purchase and sale of electrical energy (the "Agreement"). This notice may be executed in counterparts by the parties to the Agreement.

**Parties to the Agreement:**

**Host:** Town of Quartzsite  
[\_\_\_\_\_]   
[\_\_\_\_\_]

**Provider:** SunEdison Origination1, LLC  
12500 Baltimore Avenue  
Beltsville, MD 20705-6347

**Date of Execution:** [\_\_\_\_\_]

**Description of Premises:** See Exhibit A

**TERM OF AGREEMENT:**

The term of the Agreement shall be until the last day of the calendar month in which the twentieth (20th) anniversary of the Commercial Operations Date (as that term is defined in the Agreement) occurs, subject to any extensions or early termination pursuant to the terms of the Agreement.

(signature pages follow)

Witness the execution hereof under seal by said parties to said Agreement this [ ] day of [ ].

Provider:

SUNEDISON ORIGINATION1, LLC ,  
a Delaware limited liability company

By: Sun Edison LLC,  
its sole and managing member

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

Host:

Town of Quartzsite,  
a [ ]

By: \_\_\_\_\_  
Name (printed): \_\_\_\_\_  
Title: \_\_\_\_\_

**[FOR FORM PURPOSES ONLY – DO NOT EXECUTE]**



EXHIBIT H

APPLICABLE SOLAR PROGRAM

APS 2012 Schools & Government Production Based Renewable Energy Incentive Program, and all similar programs.



Date: May 8, 2013

To: Town of Quartzsite

Attn: Lora Bruno

RE: SunEdison PPA Financing for Quartzsite WWTP and Town Hall

Dear Ms. Bruno:

On behalf of SunEdison and Ace Solar, we would like to express our sincere gratitude to the Town of Quartzsite and its Board of Supervisors for the opportunity develop solar PPA projects at the Waste Water Plant and Town Hall.

Our combined experience, expertise, and financial resources have made us leaders in the Arizona renewable energy market and we look forward to making these projects a great success.

As the PPA Provider, SunEdison will develop, finance, own and operate these two solar projects and sell the renewable energy generated to the Town at a fixed rate over the next 20 years. SunEdison's PPA contract is a low risk way to achieve electricity savings with no upfront capital costs. Through this arrangement, ownership of the solar system and any operational risk will also fall upon SunEdison.

In the last two years alone, SunEdison has secured over \$2.5 billion in project finance through strong relationships with institutional investors like JP Morgan, First Reserve, Wells Fargo, HSH Nordbank, MetLife, Union Bank of California and others. These partnerships have afforded us a clear understanding of a project's financial viability and have strengthened our ability to move projects through the funding process. This proven track record of securing project financing for solar projects is unrivaled in the solar industry.

Contained in this package, please find execution copies of the two Power Purchase Agreements for the Town's consideration.

We look forward to working with you in bringing these exciting projects to fruition!

Best Regards,

A handwritten signature in black ink, appearing to read "Cory Vaughan".

Cory Vaughan  
Director of Sales  
SunEdison



Date: May 8, 2013

To: Town of Quartzsite

Attn: Lora Bruno

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Best Regards,

A handwritten signature in black ink that reads "Cory Vaughan".

Cory Vaughan  
Director of Sales  
SunEdison



## TOWN OF QUARTZSITE

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### REGULAR COUNCIL MEETING

Tuesday, May 14, 2013

- Agenda Item #5**      Conduct hearing and consider approval of a location transfer of a Beer and Wine Liquor License for Beer Belly's located at 35 W. Kuehn Rd.
- Summary:**            The Town Council previously approved a Beer and Wine Liquor License for Beer Belly's located at 35 W. Kuehn Rd. The business is relocating to 121 W. Kuehn Rd., and is applying for a location to location transfer of the license to the new address.
- Responsible Person:**    Steve Henrichs, Acting Director of Community Development
- Attachment:**            Arizona Department of Liquor Licenses and Control Application for Liquor License location to location transfer.
- Action Requested:**      **Approve a location to location transfer of a Beer and Wine Liquor License for Beer Belly's.**

ARIZONA DEPARTMENT OF LIQUOR LICENSES AND CONTROL

800 W Washington 5th Floor  
Phoenix AZ 85007-2934  
www.azliquor.gov  
(602) 542-5141

AFFIDAVIT OF POSTING

Date of Posting: 4/23/13 Date of Posting Removal: 5/13/13

Applicant Name: Oys Barbara Helen  
Last First Middle

Business Address: 121 W. Kuehn Rd. Quartzsite, Az. 85346  
Street City Zip

License #: 07150013

I hereby certify that pursuant to A.R.S. § 4-201, I posted notice in a conspicuous place on the premises proposed to be licensed by the above applicant and said notice was posted for at least twenty (20) days.

Stephen C. Henrichs Community Development Director 928-927-4333  
Print Name of City/County Official Title Telephone #

[Signature] 5/13/13  
Signature Date Signed

Return this affidavit with your recommendation (i.e., Minutes of Meeting, Verbatim, etc.) or any other related documents.

If you have any questions please call (602) 542-5141 and ask for the Licensing Division.

Individuals requiring special accommodations please call (602) 542-9027

Arizona Department of Liquor Licenses and Control  
 800 West Washington, 5th Floor  
 Phoenix, Arizona 85007  
 www.azliquor.gov  
 602-542-5141

**APPLICATION FOR LIQUOR LICENSE**  
 TYPE OR PRINT WITH BLACK INK

Notice: Effective Nov. 1, 1997, All Owners, Agents, Partners, Stockholders, Officers, or Managers actively involved in the day to day operations of the business must attend a Department approved liquor law training course or provide proof of attendance within the last five years. See page 5 of the Liquor Licensing requirements.

**SECTION 1** This application is for a:

- MORE THAN ONE LICENSE
- INTERIM PERMIT *Complete Section 5*
- NEW LICENSE *Complete Sections 2, 3, 4, 13, 14, 15, 16*
- PERSON TRANSFER (Bars & Liquor Stores ONLY)  
*Complete Sections 2, 3, 4, 11, 13, 15, 16*
- LOCATION TRANSFER (Bars and Liquor Stores ONLY)  
*Complete Sections 2, 3, 4, 12, 13, 15, 16*
- PROBATE/WILL ASSIGNMENT/DIVORCE DECREE  
*Complete Sections 2, 3, 4, 9, 13, 16* (fee not required)
- GOVERNMENT *Complete Sections 2, 3, 4, 10, 13, 15, 16*

**SECTION 2** Type of ownership:

- J.T.W.R.O.S. *Complete Section 6*
- INDIVIDUAL *Complete Section 6*
- PARTNERSHIP *Complete Section 6*
- CORPORATION *Complete Section 7*
- LIMITED LIABILITY CO. *Complete Section 7*
- CLUB *Complete Section 8*
- GOVERNMENT *Complete Section 10*
- TRUST *Complete Section 6*
- OTHER (Explain) \_\_\_\_\_

**SECTION 3** Type of license and fees LICENSE #(s): 07150013

1. Type of License(s): Beer & Wine #7
2. Total fees attached: \$ 100.00 Department Use Only

**APPLICATION FEE AND INTERIM PERMIT FEES (IF APPLICABLE) ARE NOT REFUNDABLE.**

**The fees allowed under A.R.S. 44-6852 will be charged for all dishonored checks.**

**SECTION 4** Applicant

1. Owner/Agent's Name: Ms. Oyo Barbara Helen  
(Insert one name ONLY to appear on license) Last First Middle
2. Corp./Partnership/L.L.C.: \_\_\_\_\_  
(Exactly as it appears on Articles of Inc. or Articles of Org.)
3. Business Name: Beer Belly's  
(Exactly as it appears on the exterior of premises)
4. Principal Street Location: 121 W. Kuehn Rd Quartzsite La Paz 85346  
(Do not use PO Box Number) City County Zip
5. Business Phone: 928-927-8500 Daytime Phone: \_\_\_\_\_ Email: beerbellysaz@yahoo.com
6. Is the business located within the incorporated limits of the above city or town?  YES  NO
7. Mailing Address: \_\_\_\_\_  
City State Zip
8. Price paid for license only bar, beer and wine, or liquor store: Type \_\_\_\_\_ \$ \_\_\_\_\_ Type \_\_\_\_\_ \$ \_\_\_\_\_

**DEPARTMENT USE ONLY**

Fees: 100.00 Application Interim Permit Site Inspection Finger Prints \$ 100.00  
**TOTAL OF ALL FEES**

Is Arizona Statement of Citizenship & Alien Status For State Benefits complete?  YES  NO

Accepted by: JB Date: 04-18-13 Lic. # 07150013

**SECTION 7 Corporation/Limited Liability Co.:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

- CORPORATION *Complete questions 1, 2, 3, 5, 6, 7, and 8.*
- L.L.C. *Complete 1, 2, 4, 5, 6, 7, and 8.*

1. Name of Corporation/L.L.C.: \_\_\_\_\_  
(Exactly as it appears on Articles of Incorporation or Articles of Organization)
2. Date Incorporated/Organized: \_\_\_\_\_ State where Incorporated/Organized: \_\_\_\_\_
3. AZ Corporation Commission File No.: \_\_\_\_\_ Date authorized to do business in AZ: \_\_\_\_\_
4. AZ L.L.C. File No.: \_\_\_\_\_ Date authorized to do business in AZ: \_\_\_\_\_
5. Is Corp./L.L.C. Non-profit?  YES  NO
6. List all directors, officers and members in Corporation/L.L.C.:

Last	First	Middle	Title	Mailing Address	City	State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

7. List stockholders who are controlling persons or who own 10% or more:

Last	First	Middle	% Owned	Mailing Address	City	State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)

8. If the corporation/L.L.C. is owned by another entity, attach a percentage of ownership chart, and a director/officer/member disclosure for the parent entity. Attach additional sheets as needed in order to disclose personal identities of all owners.

**SECTION 8 Club Applicants:**

EACH PERSON LISTED MUST SUBMIT A COMPLETED QUESTIONNAIRE (FORM LIC0101), AN "APPLICANT" TYPE FINGERPRINT CARD, AND \$22 PROCESSING FEE FOR EACH CARD.

1. Name of Club: \_\_\_\_\_ Date Chartered: \_\_\_\_\_  
(Exactly as it appears on Club Charter or Bylaws) (Attach a copy of Club Charter or Bylaws)
2. Is club non-profit?  YES  NO
3. List officer and directors:

Last	First	Middle	Title	Mailing Address	City	State	Zip

(ATTACH ADDITIONAL SHEET IF NECESSARY)



STATE OF ARIZONA  
DEPARTMENT OF LIQUOR LICENSES  
AND CONTROL  
ALCOHOLIC BEVERAGE LICENSE

License 07150013

Issue Date: 12/4/2012

Expiration Date: 7/31/2013

Issued To:  
BARBARA HELEN OYS, Owner

Beer & Wine Bar

Location:  
BEER BELLY'S  
35 W KUEHN RD  
QUARTZSITE, AZ 85346

Mailing Address:  
BARBARA HELEN OYS  
BEER BELLY'S  
P O BOX 3336  
QUARTZSITE, AZ 85359

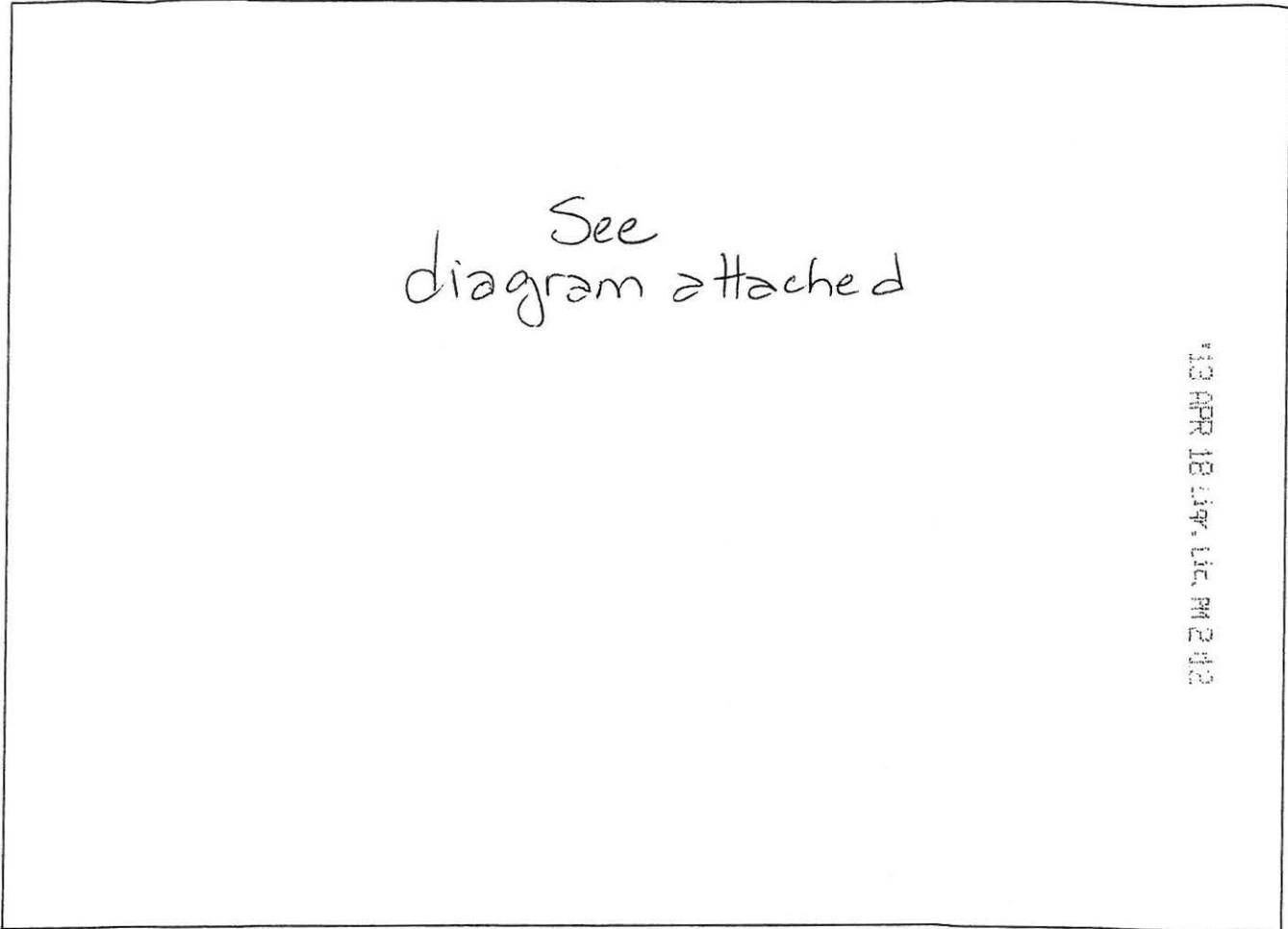


POST THIS LICENSE IN A CONSPICUOUS PLACE

**SECTION 15** Diagram of Premises

4. In this diagram please show only the area where spirituous liquor is to be sold, served, consumed, dispensed, possessed or stored. It must show all entrances, exits, interior walls, bars, bar stools, hi-top tables, dining tables, dining chairs, the kitchen, dance floor, stage, and game room. Do not include parking lots, living quarters, etc. When completing diagram, North is up ↑.

If a legible copy of a rendering or drawing of your diagram of premises is attached to this application, please write the words "diagram attached" in box provided below.



**SECTION 16** Signature Block

I, Barbara H. Oys, hereby declare that I am the OWNER/AGENT filing this application as stated in Section 4, Question 1. I have read this application and verify all statements to be true, correct and complete.

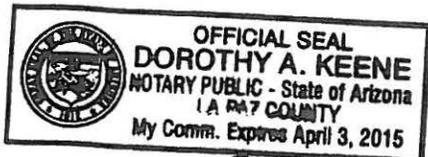
Barbara H. Oys  
(signature of applicant listed in Section 4, Question 1)

State of Arizona County of La Paz

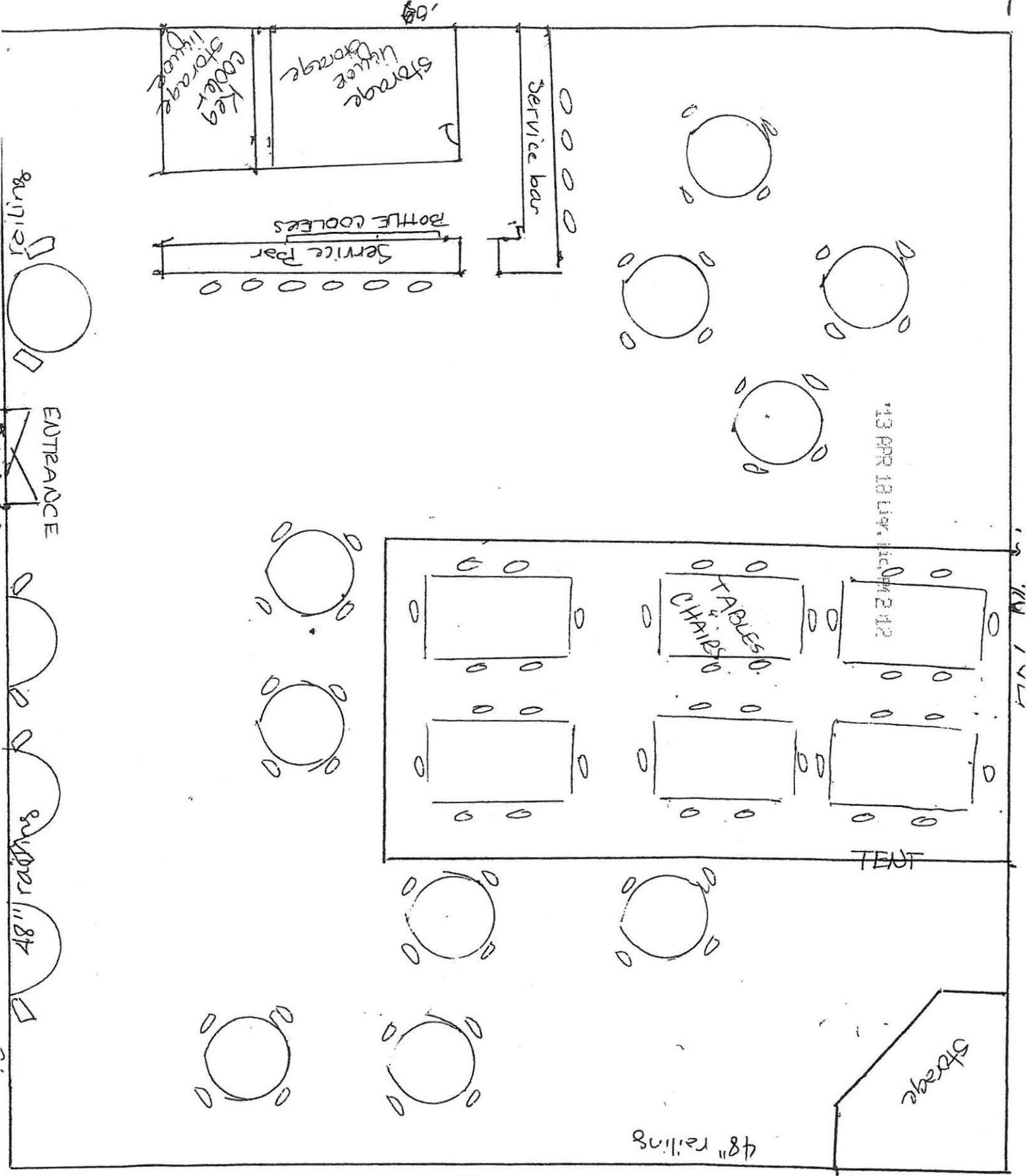
The foregoing instrument was acknowledged before me this

18 of April, 2013  
Day Month Year

Dorothy A. Keene  
signature of NOTARY PUBLIC



My commission expires on: April 3, 2015  
Day Month Year



4200 sq ft

1/8 SCALE

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor  
Phoenix AZ 85007-2934  
(602) 542-5141

FP current 9-201  
PROG7567 JB

QUESTIONNAIRE

Attention all Local Governing Bodies: Social Security and Birthdate information is Confidential. This information may be given to local law enforcement agencies for the purpose of background checks only but must be blocked to be unreadable prior to posting or any public view.

Read carefully. This instrument is a sworn document. Type or print with BLACK INK. An extensive investigation of your background will be conducted. False or incomplete answers could result in criminal prosecution and the denial or subsequent revocation of a license or permit.

TO BE COMPLETED BY EACH CONTROLLING PERSON, AGENT, OR MANAGER. EACH PERSON COMPLETING THIS FORM MUST SUBMIT AN "APPLICANT" TYPE FINGERPRINT CARD AVAILABLE AT THIS OFFICE. FINGERPRINTS ON FBI-APPROVED CARDS ARE ACCEPTED FROM LAW ENFORCEMENT AGENCIES, BONA FIDE FINGERPRINT SERVICES, OR THE DEPARTMENT OF LIQUOR. THE DEPARTMENT CHARGES A \$13 FEE.

In addition to other fingerprint fees, a \$22 DPS background check fee will be charged for each fingerprint card.

The fees allowed by A.R.S. § 44-6852 will be charged for all dishonored checks.

Liquor License #

07150013

(If the location is currently licensed)

1. Check appropriate box →  Controlling Person (Complete Questions 1-19)  Agent (Complete Questions 1-19)  Manager (Only) (Complete All Questions except # 14, 14a & 21)  Controlling Person or Agent must complete #21 for a Manager  Controlling Person or Agent must complete # 21

2. Name: Oys Barbara Helen Date of Birth: [Redacted]  
Last First Middle (NOT a Public Record)

3. Social Security Number: [Redacted] Drivers License #: [Redacted] State: AZ  
(NOT a public record) (NOT a public record)

4. Place of Birth: [Redacted] Height: [Redacted] Weight: [Redacted] Eyes: [Redacted] Hair: [Redacted]  
City State Country (not county)

5. Marital Status  Single  Married  Divorced  Widowed

6. Name of Current or Most Recent Spouse: Oys Charles M Date of Birth: [Redacted]  
(List all for last 5 years - Use additional sheet if necessary) Last First Middle Maiden (NOT a public record)

7. You are a bona fide resident of what state? AZ If Arizona, date of residency: [Redacted]

8. Telephone number to contact you during business hours for any questions regarding this document. [Redacted]

9. If you have been an Arizona resident for less than three (3) months, submit a copy of your Arizona driver's license or voter registration card.

10. Name of Licensed Premises: Beer Belly's Premises Phone: 928-927-8500

11. Physical Location of Licensed Premises Address: 35 W. Kuehn Rd Quartzsite La Paz 85346  
121 Street Address (Do not use PO Box #) City County Zip

12. List your employment or type of business during the past five (5) years. If unemployed part of the time, list those dates. List most recent 1st.

FROM Month/Year	TO Month/Year	DESCRIBE POSITION OR BUSINESS	EMPLOYER'S NAME OR NAME OF BUSINESS (street address, city, state & zip)
1/12	CURRENT	Beer Garden	Beer Belly's 35 W. Kuehn Rd. Quartzsite AZ 85346
8/11	12/11	Housewife	[Redacted]

ATTACH ADDITIONAL SHEET IF NECESSARY FOR EITHER SECTION

13. Indicate your residence address for the last five (5) years:

FROM Month/Year	TO Month/Year	Rent or Own	RESIDENTIAL Street Address If rented, attach additional sheet with name, address and phone number of landlord	City	State	Zip
1/12			[Redacted]			
			[Redacted]			
			[Redacted]			

Disabled individuals requiring special accommodations, please call the Department. (602) 542-9027

Question # 19

I am the sole owner 07150013  
Beer Belly's at 35 W. Kuehn Rd  
Quartzsite, AZ 85346

Barbara Helen Oys.  
Barbara Helen Oys

13 APR 18 09: 42 PM '13



ARIZONA STATEMENT OF CITIZENSHIP AND ALIEN STATUS FOR STATE PUBLIC BENEFITS

Professional License and Commercial License Department of Liquor Licenses and Control

Liquor License #: 07150013

Ownership Name: Barbara Helen Oys (as listed on the current liquor license application or renewal application)

Title IV of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (the "Act"), 8 U.S.C. § 1621, provides that, with certain exceptions, only United States citizens, United States non-citizen nationals, non-exempt "qualified aliens" (and sometimes only particular categories of qualified aliens), nonimmigrants, and certain aliens paroled into the United States are eligible to receive state or local public benefits.

Arizona Revised Statutes § 1-501 requires, in general, that a person applying for a license must submit documentation to the licensing agency that satisfactorily demonstrates that the applicant is lawfully present in the United States.

Directions: All applicants must complete Sections I, II, and IV. Applicants who are not U.S. citizens or nationals must also complete Section III. Submit this completed form and copy of one or more documents that evidence your citizenship or alien status with your application for license or renewal.

APR 14 10 47 AM '13

SECTION I - APPLICANT INFORMATION

APPLICANT'S NAME (Print or type) Barbara H. Oys DATE 4-18-13

TYPE OF APPLICATION (check one) INITIAL APPLICATION RENEWAL

TYPE OF LICENSE

SECTION II - CITIZENSHIP OR NATIONAL STATUS DECLARATION

Directions: Attach a legible copy of the front, and the back (if any), of a document from the attached List A or other document that demonstrates U.S. citizenship or nationality. Name of document provided: passport

A. Are you a citizen or national of the United States? (check one) Yes No

B. If the answer is "Yes" where were you born? List city, state (or equivalent) and country

If you are a citizen or national of the United States, go to Section IV. If you are not a citizen or national of the United States, please complete Sections III and IV.

## Attachment to Form 1 Applicant Statement

### EVIDENCE OF U.S. CITIZENSHIP, U.S NATIONAL STATUS, OR ALIEN STATUS

#### LIST A: U.S. CITIZEN OR U.S. NATIONAL

Note: In this List, the term "Service" refers to the U.S. Citizenship and Immigration Service, formerly, the U.S. Immigration and Naturalization Service (INS).

[Source: Proposed Rules, Verification of Eligibility for Public Benefits, 8 CFR § 104.23; 63 FR 41662-01 August 4, 1998); and Interim Guidance of Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Interim Guidance"), 62 FR 61344 (Nov. 17, 1997), Attachment 4]

**Evidence showing U.S. citizen or U.S. national status includes the following:**

**a. Primary Evidence:**

- (1) A birth certificate showing birth in one of the 50 states, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, or the Northern Mariana Islands (on or after November 4, 1986, Northern Mariana Islands local time) (unless the applicant was born to foreign diplomats residing in such a jurisdiction);
- (2) United States passport;
- (3) Report of birth abroad of a U.S. citizen (FS-240) (issued by the Department of State to U.S. citizens);
- (4) Certificate of Birth (FS-545) (issued by a foreign service post) or Certification of Report of Birth (DS-1350), copies of which are available from the Department of State;
- (5) Form N-561, Certificate of Citizenship;
- (6) Form I-197, United States Citizen Identification Card (issued by the Service until April 7, 1983 to U.S. citizens living near the Canadian or Mexican border who needed it for frequent border crossings) (formerly Form I-179, last issued in February 1974);
- (7) Form I-873 (or prior versions), Northern Marianas Card (issued by the Service to a collectively naturalized U.S. citizen who was born in the Northern Mariana Islands before November 3, 1986);
- (8) Statement provided by a U.S. consular official certifying that the individual is a U.S. citizen (given to an individual born outside the United States who derives citizenship through a parent but does not have an FS-240, FS-545, or DS-1350); or
- (9) Form I-872 (or prior versions), American Indian Card with a classification code "KIC" and a statement on the back identifying the bearer as a U.S. citizen (issued by the Service to U.S. citizen members of the Texas Band of Kickapoos living near the U.S./Mexican border).

[Source: Interim Guidance of Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ("Interim Guidance"), 62 FR 61344 (Nov. 17, 1997), Attachment 4]

**b. Secondary Evidence**

If the applicant cannot present one of the documents listed in (a) above, the following may be relied upon to establish U.S. citizenship or U.S. national status:

- (1) Religious record recorded in one of the 50 states, the District of Columbia, Puerto Rico (on or after January 13, 1941), Guam, the U.S. Virgin Islands (on or after January 17, 1917), American Samoa, or the Northern Mariana Islands (on or after November 4, 1986, Northern Mariana Islands local time) (unless the applicant was born to foreign diplomats residing in such a jurisdiction) within three 3 months after birth showing that the birth occurred in such jurisdiction and the date of birth or the individual's age at the time the record was made;

43 APR 18 11:47 AM '12

# We the People

*Of the United States,  
in Order to form a more perfect Union,  
establish Justice, insure domestic Tranquility,  
provide for the common defence,  
promote the general Welfare, and secure  
the Blessings of Liberty to ourselves and  
our Posterity, do ordain and establish this  
Constitution for the United States of America.*



*Barb Cap*

SIGNATURE OF BEARER / SIGNATURE DU TITULAIRE / FIRMA DEL TITULAR

3

PASSPORT  
PASSEPORT  
PASAPORTE

UNITED STATES OF AMERICA



Type / Type / Tipo / Categoría / Code / Dorsale / Passport No. / No. du Passeport / No. del Pasaporte  
P  
Surname / Nom / Apellido  
[REDACTED]  
OYS  
Given Names / Prénoms / Nombres  
BARBARA HELEN  
Nationality / Nationalité / Nacionalidad  
UNITED STATES OF AMERICA  
Date of birth / Date de naissance / Fecha de nacimiento  
[REDACTED]  
Place of birth / Lieu de naissance / Lugar de nacimiento  
[REDACTED]  
Sex / Sexe / Sexo  
F  
Date of issue / Date de délivrance / Fecha de expedición  
[REDACTED]  
Authority / Autorité / Autoridad  
United States  
Department of State  
Date of expiration / Date d'expiration / Fecha de caducidad  
[REDACTED]  
Endorsements / Mentions Spéciales / Anotaciones  
SEE PAGE 27

USA

Arizona Department of Liquor Licenses and Control  
800 West Washington, 5th Floor  
Phoenix, Arizona 85007  
www.azliquor.gov  
602-542-5141

**CERTIFICATE OF TITLE 4 TRAINING COMPLETION**

Do Not Duplicate This Form

Certificates must be completed by a state-approved training course provider, in black ink, on an original form.

BARBARA H. OYS

Full Name (please print)

*Barbara H. Oys*

Signature

11/29/12

Training Completion Date

Type of Training Completed (check Yes or No)

11/29/15

Certificate Expiration Date

(MANAGEMENT - 5 years from completion date)  
(BASIC - 3 years from completion date)

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	BASIC	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	ON SALE
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	MANAGEMENT	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	OFF SALE
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	BOTH	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	OTHER

If Trainee Is Employed By A Licensee

Name of Licensee

Business Name

Liquor License #

**Alcohol Training Program Provider Information**

BARTENDING ACADEMY

Company or Individual Name (please print)

1250 EAST APACHE BLVD. SUITE 111 TEMPE, ARIZONA 85281

Address

Tempe

AZ

85281

(480 ) 9219925

City

State

Zip

Daytime Contact Phone #

13 APR 18 11:49 AM Lic. M212

I certify the above named individual has successfully completed the training specified above in accordance with Arizona Revised Statute, Arizona Administrative Code, and the training course curriculum approved by the Department of Liquor Licenses and Control:

JEFF PATTERSON

Name of Trainer (please print)

*Jeff Patterson*

Trainer Signature

11/29/12

Date

Pursuant to A.R.S. § 4-112(G)(2), mandatory Title 4 liquor law training is required prior to the issuance of all new liquor license applications submitted after November 1, 1997.

The persons(s) required to attend both the BASIC and MANAGEMENT Title 4 liquor law training, on- or off-sale, will include all of the following:

Owner(s)

Licensee/agent or manager(s) actively involved in daily business operation

A valid (not expired) Certificate of Title 4 Training Completion must be submitted to the Department of Liquor Licenses and Control before a liquor license application is considered complete.

Before acceptance of a manager's questionnaire and/or agent change for an existing liquor license, proof of attendance for the BASIC and MANAGEMENT Title 4 liquor law training (on- or off-sale) is required.

Arizona Department of Liquor Licenses and Control  
800 West Washington, 5th Floor  
Phoenix, Arizona 85007  
www.azliquor.gov  
602-542-5141

**CERTIFICATE OF TITLE 4 TRAINING COMPLETION**

Do Not Duplicate This Form

Certificates must be completed by a state-approved training course provider, in black ink, on an original form.

Barbara H. Oys  
Full Name (please print)  
Barb Oys  
Signature

November 14, 2009  
Training Completion Date

11/14/09  
Certificate Expiration Date  
(MANAGEMENT - 5 years from completion date)  
(BASIC - 3 years from completion date)

Type of Training Completed (check Yes or No)

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	BASIC	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	ON SALE
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	MANAGEMENT	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	OFF SALE
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	BOTH	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	OTHER

If Trainee Is Employed By A Licensee

Name of Licensee Business Name Liquor License #

**Alcohol Training Program Provider Information**

Bartending Academy  
Company or Individual Name (please print)  
513 W. Thunderbird Rd.  
Address  
Glendale Arizona 85306  
City State Zip  
(602) 548 1300  
Daytime Contact Phone #

11 APR 18 11:41 AM '09

I certify the above named individual has successfully completed the training specified above in accordance with Arizona Revised Statute, Arizona Administrative Code, and the training course curriculum approved by the Department of Liquor Licenses and Control:

Dwayne Crissey  
Name of Trainer (please print)

[Signature]  
Trainer Signature

11/14/09  
Date

Pursuant to A.R.S. 4-112(G)(2), mandatory Title 4 liquor law training is required prior to the issuance of all new liquor license applications submitted after November 1, 1997.

The persons(s) required to attend both the BASIC and MANAGEMENT Title 4 liquor law training, on- or off-sale, will include all of the following:  
Owner(s)  
Licensee/agent or manager(s) actively involved in daily business operation

A valid (not expired) Certificate of Title 4 Training Completion must be submitted to the Department of Liquor Licenses and Control before a liquor license application is considered complete.

Before acceptance of a manager's questionnaire and/or agent change for an existing liquor license, proof of attendance for the BASIC and MANAGEMENT Title 4 liquor law training (on- or off-sale) is required.



## TOWN OF QUARTZSITE

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### REGULAR COUNCIL MEETING

Tuesday, May 14, 2013

**Agenda Item #6** Preliminary discussions on the Fiscal Year 2013-2014 Budget for the Town of Quartzsite.

**Summary:** The Fiscal Year 2013-2014 Budget Calendar for the Town of Quartzsite provides for a preliminary budget discussion at the regular Council meeting of May 14 2013.

The Town's Management Team will present and discuss each department's objectives, staffing considerations and capital requests for the upcoming year.

**Responsible Person:** Laura Bruno, Town Manager

**Attachment:** Fiscal Year 2013-2014 Budget Calendar

**Action Requested:** **Open a preliminary budget discussion on the Fiscal Year 2013-2014 Budget.**

**Town of Quartzsite  
Fiscal Year 2013-2014 Budget Calendar**

Date	Activity
March 20	State Shared Revenue estimate received from AZ League of Cities & Towns
Mid-April	State Expenditure Limitation Information available
April 17	Department budget estimates and requests due
April 22 - 26	Town Manager review and discussion with each Department
May 1	Revised Shared Revenue estimates provided by AZ League of Cities & Towns
May 14	Preliminary Budget discussion at Regular Council Meeting
June (month of)	Fiscal Year 2013-2014 Setup in Accounting System
June 4	Submit Tentative Budget to Council for review Council Budget discussion at Special Council Meeting
June 18	Council Budget discussion at Special Council Meeting
June 25	Adoption of Tentative Budget at Regular Council Meeting
June 26	Publication of Tentative Budget Notice of Public Hearings
July 1, 2013	Fiscal Year 2013 - 2014 begins
July 3	Publication of Tentative Budget Notice of Public Hearings
July 9	Public Hearing #1 at Regular Council Meeting Revisions to Tentative Budget upon Council review
July 23	Public Hearing #2 at Regular Council Meeting
August 6	Final Review of FY 13-14 Budget at Special Council Meeting
August 13	Adoption of Final Proposed Budget at Regular Council Meeting
July 1, 2013 - June 30, 2014	FY 12-13 Closeout; FY 12-13 Audit FY 13-14 Budget: Monitor, Assess, Report, Adjust



## TOWN OF QUARTZSITE

---

### REGULAR COUNCIL MEETING

Tuesday, May 14, 2013

**Agenda Item #8** Consider rejection of claims filed against the Town by Anton Coetzee, Jennifer Marie Jones and Al Johnson.

**Summary:** The Town Clerk's Office has received Notices of Claims against the Town as follows:

Claim dated: April 8, 2013  
Claimant: Anton Coetzee  
Claim for: Wrongful Termination  
Amount of Claim: \$500,000

Claim dated: April 23, 2013  
Claimant: Jennifer Marie Jones  
Claim for: Intentional harassment, malicious prosecution, First Amendment retaliation, etc.  
Amount of Claim: \$100,000

Claim dated: April 26, 2013  
Claimant: Al Johnson  
Claim for: Wrongful Termination  
Amount of Claim: \$500,000

**Responsible Person:** Laura Bruno, Town Manager

**Attachment:**

1. Claim from Anton Coetzee
2. Claim from Jennifer Marie Jones
3. Claim from Al Johnson

**Action Requested:** **Reject Claims filed against the Town by Anton Coetzee, Jennifer Marie Jones and Al Johnson.**

**BIHN & McDANIEL, P.L.C.**

ATTORNEYS AT LAW

SUITE 1775  
2600 NORTH CENTRAL AVENUE  
PHOENIX, ARIZONA 85004

MARTIN A. BIHN  
e-mail: MBihn@phxlegal.com

602 248 9779  
FAX 602 248 9749

DONNA M. McDANIEL  
e-mail: Donna.McDaniel@azbar.org

April 8, 2013

*Via facsimile 928-927-4400*

Terry Frausto  
Quartzsite Town Clerk  
PO Box 2812  
Quartzsite, Arizona 85346

Re: Notice of Claim Pursuant to A.R.S. 12-821.01 by Anton Coetzee

Dear Town Clerk Frausto:

This letter is Anton Coetzee's notice of claim against the Town of Quartzsite ("Town") pursuant to A.R.S. 12-821.01. This claim arises out of the Town's wrongful termination of Coetzee. Facts giving rise to liability:

Coetzee was a police officer with the Town. The Town's police chief called Coetzee into a two hour "counseling session" in which the chief repeatedly threatened Coetzee. Coetzee reported the chief to Town Manager Taft. Taft advised Coetzee to submit a memo outlining his concerns. Taft also advised Coetzee that he was a protected whistleblower. The Town investigated Coetzee's memo, upheld his complaint and placed the chief on administrative leave. Taft and the Assistant Town Manager had deep concerns regarding the chief and his conduct both in the Coetzee matter and in many other matters.

In the following days, the Town council placed Taft on administrative leave. The Assistant Town Manager then issued a notice of termination for the chief. The Town Council hired Bruno, as Interim Town Manager. Bruno immediately fired the Assistant Town Manager and the Town Council fired Taft.

In September Coetzee submitted a memo to Bruno again outlining what he reasonably believed to be violations of Arizona law by the chief. Acting in her capacity as a Town employee, Bruno fired Coetzee. Bruno's actions violated Arizona statutes to include ARS 23-1501(A)(3)(c)(ii).

As a result of the termination Coetzee has been damaged, suffering lost wages and emotional distress, reputational injuries and other consequential damages. Because the claim statute requires a sum certain, Coetzee will settle this claim for \$500,000.00.

Page 2  
April 8, 2013

Please feel free to call me if you have any questions or concerns.

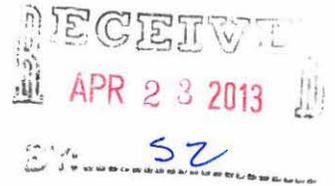
Best regards,

**BIHN & McDANIEL, PLC**

A handwritten signature in black ink, appearing to be 'M. Bihn', with the word 'FOR' written in a similar style to the right of the signature.

Martin A. Bihn

**Notice of Claim Letter**



**VIA PROCESS SERVER, EMAIL & FIRST CLASS MAIL**

**April 23, 2013**

Town of Quartzsite, via Quartzsite Town Clerk's Office (928) 927- 4400

P.O Box 2812

Quartzsite, AZ

85346

Laura Bruno; Town Manager

Quartzsite Town Manager's Office (928) 927- 4400

P.O Box 2812

Quartzsite, AZ

85346

115 N. Emelia Ave

Quartzsite, AZ 85346

Stephen Henrichs - Community Development Director

Town of Quartzsite (928) 927- 4414

P.O Box 2812

Quartzsite, AZ

85346

165 E. Lizard St.

PO Box 310

Quartzsite, AZ 85346

David Ward; Town Prosecutor

Town of Quartzsite

(928) 927- 4400

P.O Box 2812

Quartzsite, AZ

85346

2224 W. Northern Ave.,

Suite D270

Phoenix, AZ 85021

Mark Orgeron

PO Box 384

Quartzsite, AZ 85346

243 W. Cherokee Ln.

Quartzsite, AZ, 85346

Norma Crooks

PO Box 4654

Quartzsite, AZ 85359

658. W. Cowell St.

Quartzsite, AZ 85346

Mike Jewitt

PO Box 450

Quartzsite, AZ 85346

6900 E. Mockingbird St

Quartzsite, AZ 85346

Carol Kelley

PO Box 4982

Quartzsite, AZ 85359

846 S. Cienega Ave.

Quartzsite, AZ 85346.

Patricia Anderson

PO Box 4656

Quartzsite, AZ 85359

770 Mountain View, space #89

Quartzsite, AZ 85346.

**(Separate service, letters, emails and facsimiles  
were executed for each Officer)**

**Re: Notice of Claim**

Jennifer Marie Jones

PO Box 1320

Quartzite, AZ 85346

Date of Birth: June 27, 1966

Date of loss: October 24, 2012 (the date when Steve Henrichs, the Town of Quartzsite Building Official, committed "simulating legal process" (a class 2 misdemeanor under A.R.S. 13-2814) against claimant by serving me with an order to appear in court under threat of arrest warrant, which contained no case number, and began a clear pattern of intentional harassment, malicious prosecution, and retaliation against me for my First Amendment protected free speech and political activism.

Summary of Loss: Summary of loss: Intentional harassment, malicious prosecution, First Amendment retaliation, denial of equal protection under the law, abuse of power, interference with contract, political retaliation, intentional infliction of emotional distress, and conspiracy among defendants to commit all of the above.

Location of Loss: Quartzsite, Arizona

Today's date: April 23, 2013

Dear Town of Quartzsite, Laura Bruno, Steve Henrichs, and David Ward, et al:

In compliance with A.R.S. §12-821.01, I, Jennifer Marie Jones, present this Notice of Claim for \$100,000.00 against the Town of Quartzsite; Town Manager Laura Bruno, Community Development Director Steve Henrichs, Town Prosecutor David Ward, Councilman Mark Orgeron, Councilwoman Norma Crooks, Councilman Mike Jewiit, Councilwoman Carol Kelley, former Councilwoman Patricia Anderson and their respective spouses where applicable . (Other complicit Does to be added later.)

This claim is timely and arises out of various civil rights violations as a result of myself, Jennifer Jones being ordered to appear in court on 603 individual counts of allegedly violating the Town of Quartzsite Zoning Code, all of which were invalid charges that did not apply to the facts of the situation, punishing me for lawful activities, which were known to the town. This had the effect of forcing me to relocate my pet grooming business, at a significant financial loss and loss of business, and to incur considerable emotional distress and hardship, stress in my marriage, and occupying my time and

diminishing my ability to work as a journalist in the community and as a political activist, after which all bogus charges in the case (PZ-2012-0003) were then dismissed.

It may very well be that the above named employees and/or officials of the Town conspired in these acts, and there is evidence of a concerted effort to target political opponents of members of the Town Council, Town Administration, and of the Chief of Police - all those who dare to criticize Town actions and policies, or who dare to run for political office - and anyone associated with them (such as spouses, close friends and supporters).

Since the Town was notified by the Mayor of the likelihood of resulting litigation in this matter, the Town is especially culpable since it disregarded that warning and pursued baseless charges against me with malice, despite that notification.

If more violations are discovered, they will be amended to this claim.

This Notice of Claim will serve as a reasonable foundation for representatives of the Town of Quartzsite to fully and completely investigate the circumstances of the claim to reach an informed decision about whether to settle. If I have been unclear or more information is required, please contact me.

### **Factual Background**

I am one of the "self-styled activists" named by former Town Attorney Martin Brannan in a Town Press Release. I've been targeted for abuse by Quartzsite Police officials because I speak out against the corrupt Town government, and because I publish a newspaper that is editorially opposed to several members of town government and have dared to run for public office against sitting members of the Town Council. Prior to this incident, I've been previously arrested and charged with over twenty bogus charges (which were all subsequently dismissed, or I was acquitted). Even the former La Paz County Attorney Sam Vederman saw the abuse and asked the FBI to investigate. I had no negative contact with the Town of Quartzsite and no contact whatsoever with the Quartzite Police Department prior to my public announcement that I was going to run for Town Council, and start my newspaper in the fall of 2010. I have run a pet grooming and pet sitting business out of a variety of recreational vehicles for over a decade in Quartzsite.

Late winter, or early in the spring of 2012, I entered into a verbal agreement to have Desert Gardens (owned by Charles Richard Oldham) renovate a Holiday Rambler Travel trailer with a full length slide out into a grooming shop. Upon "turnkey" completion of the work, I was to occupy a space at Main St. Swap Meet, also owned by Oldham. This

was to be a permanent, not seasonal or temporary location. I gave Desert Gardens substantial "good faith" money to cover the cost of supplies and labor.

When Desert Gardens moved the travel trailer to Main St. Swap Meet in order to finish the work on location, the Town claimed that parking the travel trailer and placing ordinary jack stands under the slide-out required a site plan and set permit, as would be required for installing a manufactured home, and Stephen Henrichs, Acting Community Development Director for Quartzsite, served a "stop work order" on it. Oldham ceased all work on the travel trailer, and filed a written dispute with the town. The town did not respond. Instead, Henrich swore out a blatantly false complaint against Oldham (under penalty of perjury) with the Arizona Registrar of Contractors. AZROC held a hearing, but the town did not bother to show up and the case was dismissed.

I gave Desert Gardens power of attorney to interact with the Motor Vehicle Department on my behalf, and the travel trailer registration was transferred into my name, with Desert Gardens as the lien holder. Oldham and I agreed to renegotiate the selling price since the work was not completed, but no purchase agreement was ever signed. After being unable to use the trailer for months, my husband finally did the remaining work himself and we moved into the trailer, sometime in early September

My husband and I had spent weeks setting up the shop when Henrichs showed up on October 24th with what looked to be court papers in his hand. He stated that I was served, and that if I didn't show up to court, a warrant would be issued for my arrest, and I would go to jail. (The "summons" had no case #, he is not a process server, and he was a party to the charges against me). I was informed later that day that Henrichs had also served Oldham with papers that had no case number on them.

I spoke with Mayor Ed Foster that afternoon, who in turn spoke with Town Manager Laura Bruno about the matter, as noted in a memo to all members of the Town Council dated October 29<sup>th</sup>, 2012. In this memo, my name was added to a list of properties that had been publicly discussed as being chronic offenders, even though I was only the "tenant." Mr. Oldham was also added to that list by Bruno. That day's conversation between Foster and Bruno was mentioned in the memo, and Bruno wrote to the council that she had investigated the charges against me and had been assured that the charges were appropriate.

Some days later, Oldham went to the Town Municipal Court and complained to Judge King about his summons having no case number. Subsequently, QPD Sergeant Jim Schultz showed up at my shop around 10am on November 7<sup>th</sup>, and he served me with a summons containing two charges, alleging that I "did install a park model trailer", which I did not do, and that I "did install or allow to be installed a prohibited sign", which I did not do, as the sign was located at the entrance to the swap-meet months before I moved in. These were the very same charges brought against Mr. Oldham. The

complaint was made by Quartzsite Town Prosecutor David E, Ward. I asked Sgt. Schultz if his camera was on, and he replied “yes”, so I asked him if this meant that he knew I was not legally served on October 24<sup>th</sup>, but he wouldn’t answer me.

I was arraigned on November 13<sup>th</sup>, 2012 and a plea of not guilty was entered by Judge King after he read a third charge against me that was not included in the summons. That charge was for vending without a permit, even though I had paid for a business license. The Quartzsite Magistrate Court falsely submitted to the Supreme Court case look up that I had been summonsed on October 24<sup>th</sup>, for three charges. The charges against me were a separate count for each day, 201 days beginning on April 6th, 2012 when Desert Gardens moved the travel trailer there, through October 23rd, 2012 - times the 3 separate counts, for a total of 603 counts. I filed a notice of change of judge, and on December 11<sup>th</sup>, 2012, Prosecutor Ward dismissed all of the charges. Eventually, the charges were also dismissed against Mr. Oldham.

During the first week of November, 2012, I had to relocate my business to a more expensive, temporary location and forfeit the “good faith” money given to Oldham because I refused to sign the purchase agreement for a travel trailer that the town clearly intended to tie up in court during the tourist season (pre-trial and trial dates had been scheduled by Judge King through February 13<sup>th</sup>, 2013, and the “tourist season” normally ends when the “shows” do, by the end of February. I had to renovate my existing grooming shop and replace the entire bath tub. In addition to the other losses, I lost about two weeks work because of the unanticipated relocation and repairs.

The fact that Town Management approved of the actions taken against me, and may have encouraged them, demonstrates the Town Council (Foster and Workman excluded), not only failed to supervise, but are complicit or conspired in the bringing of false charges against me, with intent to harass, frustrate, and prevent me from plying my trade, all in retaliation for my political activism and free speech.

This Notice of Claim, will serve as a reasonable foundation for representatives of the Town of Quartzsite to fully and completely investigate the circumstances of the claim and reach an informed decision about whether to settle. If I have been unclear or more information is required, please contact me.

## Conclusion

Given the above, I am asking for \$50,000.00 at this time (that is, before litigation and subsequent attorney fees). Naturally, should I need to litigate; this claim will inflate to cover attorney fees and additional emotional distress.

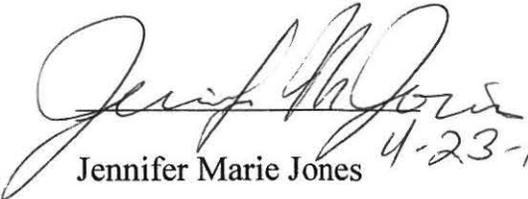
The Town of Quartzsite has been in the national spotlight for almost two years now, ever since my false arrest went viral on YouTube. The local and national press continues to report abuses of power and corruption among leadership of the Town. The very fact that the FBI was asked to investigate town government by the County Attorney Sam Vederman is damning to the Town. The Arizona Municipal Risk Retention Pool identified at least thirty nine lawsuits against Quartzsite from 2011 through 2012 alone and subsequently refused to continue to provide insurance coverage to the town. There may be other investigations, finding of fact and conclusions of law pending.

It is abundantly apparent that the actions of the above named town officials, and members of the Quartzsite Town Council, were retaliatory and meant to punish, degrade, intimidate and harass me in retaliation for my free speech and my political opposition to Chief Gilbert and his allies on the Town Council. A jury will be appalled at the contemptuous manner in which I was treated as my rights were violated. No citizen should fall victim to a rogue police department or have their constitutional rights grossly infringed on by their elected government simply for taking part in the political process and voicing my political opinions.

Suppression of free speech by intimidation, harassment, malicious prosecution, and retaliation, is the hallmark of dictatorships and corrupt government the world over, and has no place in America.

A jury of my peers will be horrified at the way the Town, and Town Management have abused their power to target me for simply exercising my First Amendment right—for being politically outspoken. (a.k.a., an "activist"). The Town's repressive and retaliatory policies are wholly un-American and Americans will side with me in a civil action against the Town.

Given this history of Quartzsite and pattern of harassment toward me in particular, I am being more than reasonable. I suggest you consider these facts. I hope to hear from you within 60 days with an offer to settle.

  
Jennifer Marie Jones 4-23-13

**BIHN & McDANIEL, P.L.C.**

ATTORNEYS AT LAW

SUITE 1775  
2600 NORTH CENTRAL AVENUE  
PHOENIX, ARIZONA 85004  
602 248 9779  
FAX 602 248 9749

MARTIN A. BIHN  
e-mail: MBihn@phxlegal.com

DONNA M. MCDANIEL  
e-mail: Donna.McDaniel@azbar.org

April 26, 2013

Terry Frausto  
Quartzsite Town Clerk  
P.O. Box 2812  
Quartzsite, AZ 85346

Re: Notice of Claim Pursuant to A.R.S. 12-821.01 by Al Johnson

Dear Town Clerk Frausto:

This letter is Al Johnson's notice of claim against the Town of Quartzsite ("Town") pursuant to A.R.S. 12-821.01. This claim arises out of the Town's wrongful termination of Johnson. Facts giving rise to liability:

Johnson served the Town of Quartzsite as its Assistant Manager. Johnson was placed on administrative leave by acting Town Manager Bruno within minutes of her appointment. Days later Johnson was served with a notice of intent to dismiss. Bruno's notice alleged numerous false and fabricated reasons justifying Johnson's dismissal. Included in the notice were two allegations that Johnson had committed crimes of falsifying public records. These allegations were false and defamatory.

Ten days later Bruno dismissed Johnson. The grounds for the dismissal were false and pretextual. Bruno wrongfully terminated Johnson without cause, in violation of Town policies and for improper political reasons. Johnson had reported his reasonable belief to the Town officials that chief of police had violated state statutes in misreporting his girlfriend's overtime. As a result of his disclosure of the violations, Town officials hired Bruno to dismiss Johnson. Johnson's wrongful termination claims include, but are not limited to under A.R.S. § 23-1501(A)(3)(c)(ii).

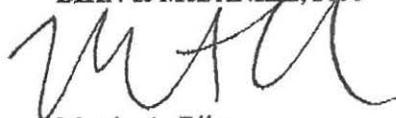
As a result of the termination Johnson has been damaged, suffering lost wages, emotional distress, reputational injuries and other consequential damages. Because the claim statute requires a sum certain, Johnson will settle this claim for \$500,000.00.

Page 2  
April 26, 2013

Please feel free to call me if you have any questions or concerns.

Best regards,

**BIHN & McDANIEL, PLC**

A handwritten signature in black ink, appearing to read 'M A Bihn', written in a cursive style.

Martin A. Bihn

**BIHN & MCDANIEL, P.L.C.**  
ATTORNEYS AT LAW

SUITE 1775  
2600 NORTH CENTRAL AVENUE  
PHOENIX, ARIZONA 85012  
602 248 9779  
FAX 602 248 9749

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**FACSIMILE TRANSMITTAL SHEET**

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DATE: **APRIL 26, 2013** FROM: **MARTIN BIHN**

TO: **TERRY FRAUSTO** FAX NUMBER: **(928) 927-4400**  
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