

AGENDA
CITY COUNCIL - CITY OF ONTARIO, OREGON
Monday, December 19, 2011, 7:00 p.m., M.T.

1) Call to order

Roll Call: Norm Crume _____ Jackson Fox _____ Charlotte Fugate _____ Dan Jones _____
David Sullivan _____ Ron Verini _____ Mayor Joe Dominick _____

2) Pledge of Allegiance

This Agenda was posted on Wednesday, December 14, 2011, and a study session was held on Thursday, December 15, 2011. Copies of the Agenda are available at the City Hall Customer Service Counter and on the city's website at www.ontariooregon.org.

3) Motion to adopt the entire agenda

4) Consent Agenda: Motion Action Approving Consent Agenda Items

A) Approval of Minutes of Regular Meeting of 12/05/2011 1-11
B) Meetings Calendar: Jan-Jun, 2012.....12
C) Resolution #2011-129: Accept/Expend ODOT Grant..... 13-14
D) Approval of the Bills

5) Public Comments: Citizens may address the Council on items not on the Agenda. Council may not be able to provide an immediate answer or response, but will direct staff to follow up within three days on any question raised. Out of respect to the Council and others in attendance, please limit your comment to three (3) minutes. Please state your name and city of residence for the record.

6) New Business

A) Contract with Nyssa Police Services..... 15-22
B) Resolution #2011-128: Amend Beck-Kiwanis Master Plan (add maps)..... 23-25
C) Ordinance #2664-2011: LID #47 Assessments (1st Reading)..... 26-33
D) Site Based Energy Project..... 34-166

7) Topics for Discussion: Thursday

A) Underpass Update: Chuck Mickelson
B) Gang Officer Update: Officer Tomas Elizondo

8) Correspondence, Comments and Ex-Officio Reports

9) Adjourn

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COUNCIL MEETING MINUTES

December 5, 2011

The regular meeting of the Ontario City Council was called to order by Council President Norm Crume at 7:00 p.m. on Monday, December 5, 2011, in the Council Chambers of City Hall. Council members present were Norm Crume, Jackson Fox, Charlotte Fugate, Dan Jones, David Sullivan and Ronald Verini. Joe Dominick was excused.

Members of staff present were Henry Lawrence, Tori Barnett, Larry Sullivan, Mark Alexander and Lisa Hansen. The meeting was recorded on tape, and the tapes are available at City Hall.

President Crume offered the sympathies to the Mayor and his family on their loss.

Dan Jones led everyone in the Pledge.

AGENDA

Requested to move Approval of the Bills to New Business, (6B) and to add Contracting Police Services (City of Nyssa Interim Police Chief Contract) to New Business, as Item 6A.

David Sullivan moved, seconded by Ron Verini, to adopt the Agenda as amended. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

CONSENT AGENDA

Tori Barnett, City Recorder, stated at the request of Councilor Jones and Councilor Fox, she had reviewed the minutes from the meeting of November 21, 2011, and had made some adjustments to the minutes. A new set for approval had been distributed to the Council at their seats.

Councilor Fox asked how he could get a complete copy of the video or the minutes.

Ms. Barnett stated she did not transcribe the minutes verbatim.

Councilor Fox asked for a copy of the video from that meeting.

Ms. Barnett states he would provide him a copy.

Charlotte Fugate moved, seconded by David Sullivan, to approve Consent Agenda Item A: Approval of the Regular Minutes of 11/21/2011; Item B: Water Line Easement Request: Valley Family Health Care, Inc.; and Item C: Declaration of Surplus Property: 1973 John Deere Road Grader. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

NEW BUSINESS

City of Nyssa Interim Police Chief Contract

Mark Alexander, Police Chief, stated the City had before them an opportunity they could take advantage of. Nyssa Police Chief Rick Stoke resigned, and accepted a position in Boardman. This provided an opportunity to receive live, hand-on experience for an officer. He had talked with Nyssa City Manager Roberta Vanderwall about one of the Ontario officers filling that interim position. Ontario currently had four Patrol Sergeants, who acted as the

Assistant Chief to him and as Chief in the Chief's absence. There was generally no contact with the media, and they were rarely before Council. Chief Alexander felt it would give a Sergeant some hands-on experience by becoming the Interim Chief in Nyssa, obtaining a broader know of all aspects of being a Chief. The Sergeant he had in mind had grown up in Nyssa, and currently resided there. He knew the community, and the department shared the same company of policies and procedures, as well as the same record management procedures. In relating this opportunity to his own experience attending the FBI Academy, he was not able to help the Ontario department while over there. Sgt. Esplin would be able to. He could also be brought back to Ontario in an emergency situation, and would remain a value to the Ontario department.

At the Thursday study session, they discussed the difference between the Ontario Police Department and the Nyssa Chief position. One thing to point out was the number brought before the Council was the fully burdened cost, which included sick time, vacation, retirement, PERS, etc. Sgt. Esplin did make more than the Nyssa Police Chief would, with a difference of \$1,262. The City of Nyssa would be willing to meet halfway, at around \$600, which would be the cost to Ontario. At that, Sgt. Esplin would be in Nyssa, and that value would be readily recaptured as Sgt. Esplin could do work for Ontario while in Nyssa. The Nyssa City Manager had agreed to allow that.

In comparing trainings, a leadership training course would be approximately \$1,000 a week. The Oregon Executive Development Institute provided a week-long high quality training, which included lodging, meals and the training, for \$1,350 per person. Chief Alexander compared the Nyssa Interim Chief experience with that Oregon training. And with Nyssa, there would be actual hands-on experience. There had been some media coverage on this issue, and he had heard nothing but positive comments. That being said, he had distributed a proposed contract to the Council for approval. He was satisfied with contact, as was the City Manager in Nyssa.

Councilor Sullivan stated at the Thursday study session, the Council had discussed this, and reached a tentative agreement. The paper, however, had given it a negative twist. He wanted to see, and it hadn't been discussed, if the City of Ontario did this, the numbers were \$25,500 which would be reimbursed to Ontario, with \$3,600 to move a Patrolman to the Interim Sergeant position, leaving a net of \$21,900. He wanted to see that put into a contingency fund, using that rather than taking money from wages and salaries to invest in technology upgrades in the department. They struggled with vandalism and graffiti, and they talked about investing in cameras or something, which would be a benefit to the citizens of Ontario.

Chief Alexander agreed. One part he had left out was that if Sgt. Esplin went to Nyssa, that would give someone an opportunity to fill in as an Interim Sergeant. The difference in funding with Nyssa would cover that portion. He would love to invest that money for crime prevention.

Councilor Verini stated it was a tremendous opportunity to work a partnership with Nyssa, and Ontario would come out ahead with contingency funds.

Chief Alexander stated he would get with the Council for ideas on ways to utilize the money.

Councilor Sullivan stated he had spoken with some of the other Councilors, and there were some reservations on what they discussed, but he personally felt they put a deal out there on the table when representatives from Nyssa were present, and they needed to follow through.

Councilor Fox he didn't know what deal Councilor Sullivan was referring to. He didn't see a deal. He didn't see the value for the City of Ontario. The City was telling them they were not short on officers, but all the other times they were short on officer, and now they were willing to send an officer to Nyssa and pay extra to do it. He was a no vote.

Councilor Sullivan stated he viewed it as an opportunity. They had the Mayor of Nyssa and the City Manager present, numbers had been thrown around, and he thought they kind of reached an agreement. Technically, they hadn't reached an agreement, he understood that, however, it was an opportunity to generate a little capital and

do some different things, invest in some technology, and still get the benefits of having one of Ontario's officers train in a different atmosphere, create a better cohesion between the two departments, and from that stand point, it was justifiable to the tax payers. Ontario would get a benefit from it.

Councilor Fox asked if the department was short-handed, or not. That was how his logic worked. If they were, and they wanted to control crime in Ontario, it didn't make sense to him.

Chief Alexander stated that during the budget process...

Councilor Sullivan stated Chief Alexander had actually come in with a proposal for fewer.

Councilor Fox stated they were constantly told it was a tight budget, which it was, so it was about the money.

Chief Alexander stated he was not going to say his department was adequately staffed, or that it would be an easy time while Sgt. Esplin was gone. There would be sacrifices made. It was a body that would be gone, but as mentioned, three months in the big picture was not that long as to what he would bring back. When Chief Alexander was out of the office, having someone experienced with dealing with media or other things, was better representation for the department. Sgt. Esplin would bring back great insight on how things might be done differently. By no means would it be easy, or would they be okay on staff. It would be a burden while he was gone, but it was an investment. The payback was great, and it was an opportunity they might not get again.

Councilor Fugate stated it was an opportunity to be a good neighbor. It was a good opportunity for Ontario to learn about Nyssa, and to share knowledge, for the price of \$630 per month. That was reasonable.

Chief Alexander had hired about five or six officers away from Nyssa. He looked at it like it was an investment that OPD would get, it would also be career development for Sgt. Esplin, and it fostered a good relationship. The number one priority was what Ontario would get out of it.

Councilor Jones asked Chief Alexander to explain the different of Sgt. Esplin going to that small town, being a Chief over there, versus him possibly doing, as there was no Captain currently, he was a little concerned about that size of town, he wasn't sold on if Sgt. Esplin would receive that much experience. Explain the difference between Sgt. Esplin going over there versus maybe stepping up and possibly doing some Captain's duties here.

Chief Alexander stated the four Sergeants rotated shifts. They worked week-ends and nights. One quarter of the time, Sgt. Esplin was on a day shift. He was the front-line supervisor to seven officers, the Student Resource Officer, Detectives, and the 9-1-1 Dispatch Center. Chief tried to throw other things at them as well, such as supply purchasing. The sergeants looked at the budget, but not too in-depth. If Sgt. Esplin went to Nyssa, that would be his shift. He would be responsible for it, responsible to the City Manager, responsible to the Mayor and Council. He would be making the calls to the media, he would be promoting the department, and going to meetings, that type of thing. He suggested developing Policies and Procedures for the department. It would be another level up where he was not just the front-line supervisor.

Councilor Jones stated with that being said, he made the suggestion at Thursday's study session, and he had thought a lot about this, and the more he thought about it, he couldn't support this own suggestion. He was very uncomfortable with the cost and taking away another man from the city and offering that to our neighbor, but there were also other issues within Nyssa that he didn't think the three months were time well spent for the OPD Sergeant. He couldn't support this.

Councilor Crume stated, for him, he was concerned with the expense, and Councilor Jones has suggested an alternative. The numbers not entirely correct. Councilor Fugate had stated \$630, but when they threw in the \$1,000 per month for the officer to jump up to Sgt., so it would be \$1,630 a month if they approved the contract. The press didn't express anything about the officer jumping to the Sergeant role and the associated expense of that. On Thursday, his main concern was the expense. This week-end, he spent three hours cleaning up graffiti and

things weighed in on his mind. He was frustrated with volunteering his time and money, going over the same places over and over and over. His conclusion was that for whatever reason, they were not being successful in catching the graffiti artists and the vandals. All the vandalism at Rocking "R", all the tires that had their tires slashed, and he asked himself how they were going to improve on productivity of catching the vandals, with less officers? The answer was that they weren't. In listening to everyone's ideas, he did not see how gaining that type of management education would help with what OPD needed right now. He'd love to ask those who were vandalized if they would rather see the city take a loss of funds to get some education for a Sergeant, or to have the cop on the beat catching criminals. He believed it would be the cop on the beat. Taking the expenses out, his job as a Councilor was to do what was best for Ontario. He agreed in being a good neighbor, but Ontario came first. They needed the cop on the beat to catch the criminals. He didn't hear of anyone being arrested or prosecuted, but he'd heard from the County asking what it cost to clean up the graffiti, but the amount he cleaned up didn't jive with the amount of money spent in the OPD trying to protect the citizens. He just couldn't be in favor of the action.

Councilor Sullivan stated asked if Councilor Crume would agree, by his own assessment, they needed to take a different avenue to fight the graffiti? Adding more police officers was not going to solve the problem. It would be worth the opportunity if the City could invest \$20K in new technology and cameras, they could possibly stop some of the problems. He did not think another police officer on the beat was going to go catch the graffiti people. He wanted to take another avenue and invest in some technology to look at different ways to solve the problem, rather than just hire more personnel in the police department. It was not fair to say, "Here, you have enough personnel, stop crime from happening". Without technology, their ability to investigate crime was severely hindered. The city needed to take this opportunity not only for the training, not only for being a cohesive partner and a good neighbor, but it gave a little bit of money to invest in things that were needed.

Councilor Verini stated the opportunity, especially in the Nyssa community and the knowledge Ontario would receive, especially in Sgt. Esplin's position, with gang related individuals, getting to know that part of the community better, the interaction between the gangs, which would benefit Ontario.

Councilor Crume stated to go along with what Councilor Sullivan was saying, he understood the need to purchase cameras, or whatever. But, the numbers were going backwards. It was going to cost \$1,630. If they wanted to spend the money to purchase surveillance cameras, they would still be spending the money for the employee anyway.

Councilor Sullivan disagreed. The money would be reimbursed. They would be doing without the personnel, but the city would be getting reimbursed. When an officer went to training, such as the FBI Academy, there was no reimbursement for that.

Councilor Crume agreed, but the city was still losing an officer.

Councilor Sullivan viewed it as a reallocation of resources. Adding more officers had not solved the problem. Look to invest in some technologies to address the situation. Be proactive. Think about what they could do with it. Back to the Thursday meeting, he didn't like the idea of sitting there, tentatively cutting a deal with someone, and then backtracking. That was not a good business policy. Ontario threw the number out there, and Nyssa agreed to it. If he offered someone "x" amount for a car, and they agreed to it, he'd buy it.

Councilor Verini stated it was a consensus on the Council when Nyssa walked out the door, or the City Manager would have been there that night.

Councilor Jones couldn't believe they were not there. It was a City Council meeting. They held a workshop to discuss ideas. They started off with Ontario eating the cost of an officer going to Nyssa. He made the suggestion, and he wished he hadn't, but he was under the impression they would discuss it at the Monday night meeting. He didn't understand why Nyssa was present.

Councilor Sullivan stated they listened to three hours of the Ontario Council going around...

Councilor Jones stated Nyssa needed a Police Chief, whether it lasted three hours, or six hours.

Councilor Sullivan stated they threw out the numbers out there, they talked about the numbers, Nyssa agreed, and it was something the city should move forward on as a matter of good business.

Councilor Fox stated if any Councilor felt they weren't representing the tax payers well, they had a right to change their mind. Everyone had a right to change their minds anytime they were voting.

Councilor Sullivan agreed; however, as a body, when they represented that at \$8,500, they should stick together as a body rather than second-guessing and going back on their word.

Councilor Jones stated a workshop was to gather information and debate and discuss. Then step away. He stepped away and looked at what was discussed, he looked at his information. And the more he thought about it, and the more he analyzed the City of Nyssa and their situation, and analyzed Ontario's situation, he was pulling back and coming forward on Monday night with a changed mind.

Councilor Sullivan stated in all fairness, at the Thursday study session, there was no indication that this was going to be readdressed and rediscussed.

Councilor Jones stated he would make it more clear next time.

Councilor Sullivan stated he believed Nyssa left on Thursday with the understanding that they were in agreement.

Councilor Jones stated then he did not understand the study sessions. A work session was a session gathering information and debating it. Then you returned Monday. If there was a misunderstanding, then he apologized. But with this type of number, and for the man, again, he had changed his position.

Larry Sullivan, City Attorney, stated one alternative would be to table the issue and give Nyssa an opportunity to come back and address the Council.

Councilor Crume asked if having Nyssa in attendance was going to change anyone's opinion?

Councilor Verini stated he didn't know. It had already changed in some cases.

Councilor Fox stated it wouldn't change his mind.

Councilor Sullivan stated they really needed to look at how they did business. When the Council was throwing numbers out, when Nyssa was in attendance, asking if that would work for their budget, and they stated they could work it, then Ontario needed to stand by their word. If they couldn't, then the numbers shouldn't have been thrown own. Nyssa and Ontario both agreed. Now, that Ontario was having second thoughts, they wanted to pull out of it. That was not a good way to do business

Councilor Verini stated when Nyssa left the room on Thursday, they had a deal.

Councilor Jones stated no, there was no deal. There might have been a nod of the head, but there was no vote, and there was no deal. Nyssa had to run it by their Council.

Councilor Verini stated there was an agreement that Nyssa would have \$600....

Councilor Jones asked wouldn't Nyssa have to run it by their Council?

Councilor Fugate stated Nyssa was going to take it back to their Council.

Councilor Jones stated exactly, and they were not at tonight's meeting. There had been no decision from the City of Nyssa. Again, they all walked out of the work session, possibly there had been a resolution, but Nyssa had to take it to their Council, and Ontario took it to their Council that night.

Councilor Sullivan stated back to the principle – look at the upside that Ontario had the opportunity to invest in some technology. Councilor Crume had just talked about how he was tired of doing the graffiti. Why didn't the city invest in some cameras and try to solve that problem? There the tax payers benefited in two ways, and Nyssa would benefit.

Chief Alexander stated he needed to let the Council know that he had told the Nyssa City Manager, Roberta, not to be at tonight's meeting. He had been under the impression that only the contract would be discussed that night. Ms. Vanderwall would have been in attendance, but he told her it wasn't necessary. Ms. Vanderwall did NOT necessarily have to take it back to her Council. Chief Alexander thought tonight's issue was solely to discuss the contract, and had received no indication that Ms. Vanderwall needed to be in attendance.

Councilor Sullivan stated that procedurally, if they had known it was going to be a debate, they should have gotten in touch with the Mayor to have him get in contact with Nyssa. Councilor Sullivan had no idea they were going to debate it that night.

Councilor Crume stated the Mayor knew they would be voting on it at the meeting.

Councilor Sullivan stated he might have had the same impression that they all had, that there was an agreement.

Councilor Crume stated Councilor Sullivan used the expression that it was "all of them", had an agreement with Nyssa. He hadn't. He never shook his head yes. He voiced his opinion Thursday, and he was still on the same side of it. He changed it for different reasons, but was still on the same side.

Councilor Sullivan stated Councilor Crume just stated he had changed it, so what was it?

Councilor Crume stated his topic was for the dollar part of it, and now, he wasn't even looking at the dollar. He was looking at losing an officer.

Councilor Sullivan stated he hadn't heard any objections by Councilor Crume on Thursday.

Councilor Crume stated he had made them very clearly, that he couldn't see any sense in it, that he couldn't see the city paying that kind of money. The offer that was originally brought to them, was for Ontario to spend the entire extra \$2,262. Then, when Councilor Jones presented the "half" idea, in his head, he still didn't agree with it. He hadn't said anything at that time, but he didn't agree with it. If that mistake was made, by whoever, then he was sorry. It was up for a vote.

Councilor Fox stated he was not sure how the vote would go, but he agreed with Councilor Sullivan. He wanted the motion amended, however the vote came out.

Ron Verini moved, seconded by David Sullivan, that the Council sign the Intergovernmental Agreement between the City of Ontario and the City of Nyssa, Interim Police Chief Services, as written, except for one typographical error, Page One, last Whereas, where it read "...Esplin's services should read "as" an Interim Police Chief. The word currently was "and". Roll call vote: Crume-no; Fox-no; Fugate-yes; Jones-no; Sullivan-yes; Verini-yes; Dominick-out. Motion failed 3/3/1.

Approval of the Bills

Henry Lawrence, City Manager, stated there were two items up for discussion. First, on page 7, the Hutchison-Smith Architect bill - their October services of \$1,775.79. Councilor Fox asked that all invoices and contracts, etc., be pulled. It was quite thick, but if they wanted to go through it, they certainly could; however, for tonight, they could pull that bill aside. The \$1,775.79 was outlined on a spreadsheet handout. On November 7th, he had jumped on the sword, and admitted some mistakes were made. Two items were circled, amount remaining, the Safe Waiting Area, \$1,137.50, which included services from October. Also, the \$510 for services was for doing the bidding and negotiations related to the Safe Waiting Area portion of the project. There were also some reimbursables, and it all totaled up to the \$1,775.79.

Councilor Fox stated his questions were, could Mr. Lawrence, very simply, explain, without waiting for all of the information and minutes, how was any of the money above the \$75K approved, and when? And these expenditure in front of them now, also.

Mr. Lawrence stated that as he had mentioned, it was the same issue as the Safe Waiting Area, the \$8,500, he had approved, and he had told them that a month ago. The Small Mechanical Room, \$4550, he had approved as a change. The Budget Committee and this Council told staff to move forward on the project, and they did. To do that, there was a budget approved, which included bidding and negotiation, and the City did their best to bring it in under those numbers. They did not just wave a magic wand. Those numbers were discussed with the Budget Committee, who approved it as a part of the budget. He hadn't just made up \$13,800, other than the \$510 for the Safe Waiting Area. They could lay that on him. The bidding and negotiation services were not part of the \$75K original contract.

Councilor Fox confirmed that somewhere in the minutes, Council would see that the Budget Committee and the Council said to go forward with all of this money, except for \$15,817 and whatever. The difference between, they knew \$75K was approved. Somewhere, the Council was going to see documentation that more than that, in-between the \$129K already spent, between \$75K, there would be documentation with the \$15,817 set aside? That's all he was really looking for.

Mr. Lawrence stated he did not know what the minutes were going to say, but they would pull those minutes for him. The \$129K that Councilor Fox was citing also included almost \$21K for a Master Plan that was approved by a previous Council. Anything over the \$75K included the Safe Waiting Area, the Small Mechanical Room, Reimbursables not in the contract, and the bidding and negotiations. Councilor Fox would be provided any documentation the City had for that, whether it was minutes, purchase orders, contracts, or whatever.

Councilor Fox stated that this last bill, had it been approved or not, in those minutes, or that \$75K that he kept referring to?

Mr. Lawrence stated it was an agreement to pay the architect in some fashion, whether it was formal Council approval, by the City Manager, a purchase order extension, or whatever. They were entitled to get paid. If there was still an issue with him, he was not doing anything different than had done in the past three and a half years. He was trying to do the right thing. If he was wrong, he would step up and admit it. But by the same token, he sometimes moved too fast in making a management decision to move forward, and he had done that in this case. This Council had been in office about a year, and he didn't recall ever sitting down and talking about what the expectations were for the City Manager. He wasn't shady or unethical; he was just trying to move the Council forward. Anyone on the Council could ask about money spent. It was the Council's job to watch the checkbook, and to make sure the policies were followed. He would appreciate, in fact insist, that sometime soon, as a full Council, sitting down and give him some marching orders, so he could understand exactly what their expectations were. He had seven different personalities, and seven different bosses. He hadn't just fallen off the turnip truck. He had been at this a long time, and it was tough to balance seven different personalities whatever city you were in. Sometimes, it was virtually impossible. He needed them to sit down with him, as a full Council, in executive session, and the discussion they needed to have was what was he, the City Manager, going to do to help the city move forward. The Council could decide it was time for him to move on. He didn't make that decision. He was

more than willing to resign his position. He went to cities and he fixed things. These were not lifetime appointment. He worked at the pleasure of the Council. He wanted to stay where he was welcome and wanted, and he wanted to be working with them. He didn't want to be violating policies. He didn't want to be doing the wrong things. And he wanted to be following their expectations. If there was anything he was doing that was keeping this Council from working together, he was wise enough to be able to change his mind, too. But, he wanted some clear direction from this Council. He didn't believe he had gotten that in the last 11 months. Yes, they needed to follow budgets, and they needed to follow policies, and that was pretty commonsense stuff. If he made a mistake, he admitted to it. He wasn't hiding anything.

Councilor Fox stated he simply wanted his questions answered. And he still wanted his questions answered about the chip seal project. That money was spent on a different project.

Councilor Sullivan stated in Mr. Lawrence's defense, at one time they had the discussion that they would go to him as a Council, not as individuals. They needed to get together as a Council to decide what they were going to take to Mr. Lawrence, not each of them individually.

Mr. Lawrence stated he would be responding to Councilor Fox's letter, as promised.

Councilor Crume asked if there were any more questions on the bills.

Councilor Fox asked the City Attorney what they should do with that bill.

Mr. Sullivan stated the City contracted with the architects to perform a service, whether through the City Manager, or the Council, as a matter of policy, especially considering the amount, it was possible, in some circumstances, for a Council to state that a staff member was not authorized to enter into a contract. Then use that as a basis for not paying what would otherwise be a legitimate bill. The Council needed to decide, as a matter of policy, if this was one of those cases, or whether the Council should simply acknowledge that considering the amount owing, it was better to save that discussion for another day, and authorize payment of the bill. Legally, the Council could review whether or not a particular staff member had authority to enter into a contract.

Councilor Verini stated they were dealing with two separate issues. They needed to approve the bills.

Councilor Sullivan agreed.

Councilor Fox asked if they could wait to see the documents from Mr. Lawrence.

Councilor Sullivan asked why? If the City had to pay the bill, then pay the bill.

Councilor Fox stated he hadn't heard that from legal counsel. The City *had* to pay the bill? There was no questioning it? He thought Mr. Sullivan said they could.

Mr. Sullivan stated what he said was that in any contract that the city entered into, was not approved by the City Council. He couldn't recall, but Hutchison-Smith was actually hired through a contract with the City Council, correct? So any work that was performed under that contract was work that Hutchison-Smith had a right to tell the city they did under the contract, and the city had a legal obligation to pay the bills under that contract. If the bills were incurred outside the city's budget, that wasn't necessarily a basis for the city to refuse to pay the bill. That was a totally separate issue.

Councilor Sullivan stated the work had been done.

Councilor Fox stated he misunderstood what Mr. Sullivan said originally.

Councilor Crume stated he didn't know if every rule and regulation had been followed, but for him, he thought it was at least a consensus to go forward with this. There might be some discrepancies. He didn't know if any of them knew the total of what it was costing. He knew the \$75K was stuck in everyone's mind. He also knew, when he saw the \$129K, he wondered how that had been spent. That was his own fault for not looking at all the figures, all the time. Something he hadn't ever known about, that Mr. Lawrence had brought to their attention was the Small Mechanical Room, but they had been told how that happened. As for the rest of it, they all had a general understanding of what was going on, with maybe not understanding or knowing the total dollars spent. They did ask those people to do the work, and they had done it. If there were mistakes, hopefully they wouldn't be done again.

David Sullivan moved to approve the bills, seconded by Ron Verini. No roll call.

Councilor Fox stated there was another question on the bills, or was the motion for that specific bill?

Councilor Sullivan stated his motion was to approve all the bills on the billing statement. He didn't have any problems with any of the bills.

Councilor Fox stated there was still the question of Dickey and Tremper Accounting Firm.

Councilor Sullivan stated he believed it fell under the same principle that they owed them money, than they needed to pay the bill. They did approve that one. There wasn't any indication that that hadn't been approved by the Council.

Councilor Fox agreed, but he wanted to speak towards it.

Councilor Sullivan asked if they were there to pay the bills, or discussion them?

Councilor Fox stated he had other information he thought the Council should hear. Perhaps Councilor Sullivan didn't want one of them, but he was going to hand it out anyway.

Councilor Sullivan stated he had a motion on the floor to approve the bills.

Councilor Crume stated there was a motion and a second, but Councilor Fox had further discussion.

Councilor Fox passed out a document. It was brought up at the work session that \$9K to Dickey Tremper. Several people got on board saying not to pay them. He contacted the man, and there was a timeline in the document that everyone could read later, but he wanted to speak towards it. The city did owe the money, and that was why he asked earlier for exact minutes, because regarding this particular correspondence, and it said Ontario Chevron, and he wanted to thank Councilor Jones for letting him use his email, so that man emailed it to Councilor Jones, and Councilor Fox made copies for everyone. He thought they owed the money there, too, and he was going to have a lot more questions about his when he got the specific minutes because he was really concerned about what the City Manager said, what he believed was the 17th, was that if they weren't done by the next day or two, he was going to go up in his own car and get it. Mr. Lawrence put all the blame on Dickey Tremper and that's what misled the Council last work session, for people to speak out and say don't pay them. He believed the money was earned.

Mr. Lawrence asked what he had said that misled the Council.

Councilor Fox stated he didn't know verbatim, but he wanted the Council to see those minutes, because Mr. Lawrence had said if Dickey-Tremper was not done by tomorrow or the next day, as he remembered it, Mr. Lawrence was going to drive up there and get it himself. Then later they found out that the City of Ontario hadn't even delivered all the information to Dickey-Tremper until last Thursday morning at 10:00 a.m.

Mr. Lawrence stated what happened last Thursday morning at 10:00 a.m was that the city signed the Management Letter and it was faxed back.

Councilor Fox stated maybe he was mistaken, but he was believed he was led to believe that it was all on them. Those were misleading statements, and he hadn't appreciated that. And then when he read the email, and spoke to the man personally, it was eye-opening. They were led to believe Rachel [Hopper] said "Let's get rid of Dickey-Tremper and go to this other auditing firm", and he believed Mr. Lawrence led them to believe that was the way it was

Mr. Lawrence stated that was the way it was.

Councilor Fox stated that man said they wanted rid of the City of Ontario because they couldn't the information in time, and that concerned him.

Mr. Lawrence stated he never laid the blame on Dickey-Tremper, although there had been issues such as one of their auditors getting into a motorcycle accident, and having to reschedule weeks later. He never laid blame because the fact that the city was changing out the Finance Director, really did delay getting the information to them. Right in the middle of the budget season, the focus was on getting a budget to the Budget Committee, to meet, and get the budget approved by the end of June. The fact that Rachel [Hopper] was leaving, and had already left, working part-time at that point, he couldn't wave a magic wand and make things different. He had to work with what he had been given. Nobody liked a late audit. He hated it. It put him in a very bad light. He had never misled this Council.

Councilor Fox stated this man had a different story to tell. The audit had been in delinquency since December 31, 2010. So he didn't understand why, since December 31, 2010, Rachel [Hopper] should have had plenty of time to furnish that man all the information.

Mr. Lawrence agreed. She should have, and he was her supervisor, so the responsibility was his. It was not something they planned on.

Councilor Sullivan stated that back to the issue at hand, with respect to the bills, there was one thing they agreed on. They needed to pay \$9,100 invoice before the auditor would release the final report. If they were there to solve the problem, he wanted to get back to the bills. Pay those guys, move forward, and deal with their own personal business at a time more appropriate, where they would have the documentation to discuss it in a more thorough manner.

Councilor Fox stated he had no personal business.

David Sullivan moved, seconded by Ron Verini, to approve the bills as presented. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

CORRESPONDENCE, COMMENTS, AND EX-OFFICIO REPORTS

- Chief Alexander stated Rene' Cummings, Harvest House, had a project called Hospitality House, at the old National Guard Armory. They were running some services Tuesdays and Thursdays, 11am-2pm, so the homeless could get something to eat, do some laundry, that type of thing. Frank Maloney, 1st Christian Church, had appeared before the Council about a year ago, speaking of the meals they were doing there, and provided some ideas for working with the homeless. That was for some type of shelter that never came to fruition. Ms. Cummings had the project running, and he wanted to get his department involved. Some things already discussed was the issue of the panhandlers, and the people who supported them doing so in a responsible manner, and really promoting toe in a giving mood to donate to the Hospitality House. Would like to see it go from two days a week to full time.

- Chief Alexander stated he was the Past President of the Chamber of Commerce, and there was a committee of Past Presidents who took on a difficult task each year, but it was a serious one. He now had the honor, and the privilege, to let Councilor Verini, Mr. Dough Dean, and Ms. Charlene Pellan that the Veteran's Advocates of Ore-Ida were selected as the 2011 Chamber of Commerce Business of the Year. It was very well deserved.
- Mr. Lawrence stated he had met with Chris Harden that day, and Mr. Hardin had signed the contract previously approved by the Council, and presented the \$50K to Mr. Lawrence, which would be deposited tomorrow. The new contract deadline would be May 5, 2012.
- Councilor Verini stated there were a lot of homeless in the community, especially around the K-Mart and Wal-Mart area. His business had been working with them, trying to get them out of the syndrome, and the Elks stepped up, helping tremendously, with providing food and incentives of actually getting the people off the streets, getting them jobs, and possibly getting them places to live, so they were not a burden on the community. He thanked the Elks and all the other organizations who were helping. He believed it would be a big benefit for the city.

ADJOURN

David Sullivan moved, seconded by Ron Verini, that the meeting be adjourned. Roll call vote: Crume-yes; Fox-yes; Fugate-yes; Jones-yes; Sullivan-yes; Verini-yes; Dominick-out. Motion carried 6/0/1.

APPROVED:

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

MEETINGS LIST JANUARY THROUGH JUNE, 2012

JAN	3	(TUE) Council Meeting	7:00 pm	City Hall
	4	Police Board	12 Noon	City Hall
	5	V&C Board	7:00 am	Holiday Inn
	9	Airport Committee	7:00 pm	Airport
	9	Planning Commission	7:00 pm	City Hall
	10	Golf Committee	5:30 pm	Golf Course
	12	Council Work Session	12:00 Noon	City Hall
	17	(TUE) Council Meeting	7:00 pm	City Hall
	18	Recreation Board	3:30 pm	City Hall
19	Public Works Committee	3:00 pm	City Hall	
FEB	1	Police Board	12 Noon	City Hall
	2	V&C Board	7:00 am	Holiday Inn
	2	Council Work Session	12 Noon	City Hall
	6	Council Meeting	7:00 pm	City Hall
	13	Airport Committee	7:00 pm	Airport
	13	Planning Commission	7:00 pm	City Hall
	14	Golf Committee	5:30 pm	Golf Course
	15	Recreation Board	3:30 pm	City Hall
	16	Council Work Session	12 Noon	City Hall
	16	Public Works Committee	3:00 pm	City Hall
	21	(TUE) Council Meeting	7:00 pm	City Hall
MAR	1	V&C Board	7:00 am	Holiday Inn
	1	Council Work Session	12 Noon	City Hall
	5	Council Meeting	7:00 pm	City Hall
	7	Police Board	12 Noon	City Hall
	12	Airport Committee	7:00 pm	Airport
	12	Planning Commission	7:00 pm	City Hall
	13	Golf Committee	5:30 pm	Golf Course
	15	Council Work Session	12 Noon	City Hall
	15	Public Works Committee	3:00 pm	City Hall
	19	Council Meeting	7:00 pm	City Hall
	21	Recreation Board	3:30 pm	City Hall
29	Council Work Session	12 Noon	City Hall	
APR	2	Council Meeting	7:00 pm	City Hall
	4	Police Board	12 Noon	City Hall
	5	V&C Board	7:00 am	Holiday Inn
	9	Airport Committee	7:00 pm	Airport
	9	Planning Commission	7:00 pm	City Hall
	10	Golf Committee	5:30 pm	Golf Course
	12	Council Work Session	12 Noon	City Hall
	16	Council Meeting	7:00 pm	City Hall
	18	Recreation Board	3:00 pm	City Hall
19	Public Works Committee	3:00 pm	City Hall	
MAY	2	Police Board	12 Noon	City Hall
	3	Council Work Session	12 Noon	City Hall
	3	V&C Board	7:00 am	Holiday Inn
	7	Council Meeting	7:00 pm	City Hall
	8	Golf Committee	5:30 pm	Golf Course
	14	Airport Committee	7:00 pm	Airport
	14	Planning Commission	7:00 pm	City Hall
	16	Recreation Board	3:30 pm	City Hall
	17	Council Work Session	12 Noon	City Hall
	17	Public Works Committee	3:30 pm	City Hall
	21	Council Meeting	7:00 pm	City Hall
31	Council Work Session	12 Noon	City Hall	
JUN	4	Council Meeting	7:00 pm	City Hall
	6	Police Board	12 Noon	City Hall
	7	V&C Board	7:00 am	Holiday Inn
	11	Airport Committee	7:00 pm	Airport
	11	Planning Commission	7:00 pm	City Hall
	12	Golf Committee	5:30 pm	Golf Course
	14	Council Work Session	12 Noon	City Hall
	18	Council Meeting	7:00 pm	City Hall
	20	Recreation Board	3:30 pm	City Hall
	21	Public Works Committee	3:00 pm	City Hall
	28	Council Work Session	12 Noon	City Hall

CONSENT AGENDA REPORT

December 19, 2011

TO: Mayor and City Council

FROM: Mark Alexander, Police Chief

THROUGH: Henry Lawrence, City Manager

SUBJECT: RESOLUTION NO. 2011-129: A RESOLUTION ACKNOWLEDGING RECEIPT OF ODOT TRAFFIC SAFETY FUNDS AND APPROPRIATING EXPENDITURES FOR CHILD PROTECTION SEATING WITHIN THE GRANT FUND

DATE: December 12, 2011

SUMMARY:

Attached is the following document:

- Resolution 2011-129

PREVIOUS COUNCIL ACTION:

Council has approved similar Resolutions for the same grant for several years.

BACKGROUND:

On average, 90% of child safety seats in motor vehicles in Oregon are either improper for the age of the child, installed incorrectly or even under recall. Proper safety seat fitment reduces injuries and saves lives in the event of a motor vehicle crash.

The Oregon Department of Transportation has awarded a grant in the amount of \$3,000 to fund the purchase of child protection seats and technician training.

Once a month, a fitting station is conducted under the direction of the police department in order to assure motorists have the correct child safety seat and that it is also being used correctly. The purchase of seats will be used during those fitting stations.

FINANCIAL IMPLICATIONS:

It is proposed that the grant revenues and expenditures for supplies be budgeted as an increase within the City's Grant Fund.

RECOMMENDATION:

Staff recommends the Council adopt Resolution 2011-129, A RESOLUTION ACKNOWLEDGING RECEIPT OF ODOT TRAFFIC SAFETY FUNDS AND APPROPRIATING EXPENDITURES FOR CHILD PROTECTION SEATING AND TECHNICIAN TRAINING WITHIN THE GRANT FUND.

RESOLUTION NO. 2011- 129
A RESOLUTION ACKNOWLEDGING RECEIPT OF ODOT TRAFFIC SAFETY FUNDS
AND APPROPRIATING EXPENDITURES FOR CHILD PROTECTION SEATING AND
TECHNICIAN TRAINING WITHIN THE GRANT FUND

WHEREAS, the 2011-2012 Biennial Budget was adopted without the knowledge of funding for a traffic safety project; and

WHEREAS, the City was awarded an Oregon Department of Transportation grant thru its Police Department to purchase child safety seats and fund technician training; and

WHEREAS, the City desires to modify the 2011-2012 Budget, acknowledging new grant revenue of \$3,000 and appropriating expenditures within the Grant Fund to complete the project.

NOW THEREFORE, BE IT RESOLVED by the Ontario City Council to approve the following adjustments to the 2011-2012 Biennial Budget:

Line Item	Item Description	FY 11-12 Budget	Amount of Change	Adjusted Budget
GRANT FUND				
Revenue				
010-000-456182	Police SAFE Kids Project	\$0	\$3000	\$3000
Expenses				
010-038-714182	Police SAFE Kids Project	\$0	\$3000	\$3000

Effective Date: Upon adoption

Passed and adopted by the Ontario City Council this _____ day of _____ 2011.

Ayes:

Nays:

Absent:

Approved by the Mayor this _____ day of _____ 2011.

 Joe Dominick, Mayor

ATTEST:

 Tori Barnett, MMC, City Recorder

AGENDA REPORT
December 19, 2011

TO: Mayor and City Council

FROM: Chief Mark Alexander

THROUGH: Henry Lawrence, City Manager

SUBJECT: NYSSA POLICE INTERIM CHIEF OF POLICE SERVICES AGREEMENT

DATE: December 12, 2011

SUMMARY:

Attached is the following document:

- ◆ Nyssa Police Interim Chief of Police Services Agreement
- ◆ Rules and Procedures of the Ontario City Council: Section XIII(m) and (n)

The Ontario Police Department would like to enter into an agreement with the City of Nyssa to provide an Interim Chief of Police while they search for a permanent replacement.

PREVIOUS COUNCIL ACTION:

This proposal was brought before the Council during a worksession on Thursday, December 1st, 2011. A proposed contract was then brought before the Council during a regular meeting on Monday, December 5, 2011. A tied vote of 3-3 defeated the proposal during that meeting.

BACKGROUND:

Nyssa Police Department is looking for an Interim Chief of Police for 2-3 months, starting as soon as possible. Former Chief Rick Stokoe resigned to take another job. His last day was Monday, November 28, 2011.

Nyssa City Manager Roberta Vanderwall contacted the Oregon Association of Chiefs of Police (OACP) for assistance in finding an Interim Chief. OACP has a committee who assists cities in finding qualified personnel, either currently employed or retired to act in these positions. They promote the program as an opportunity for supervisors or assistant chiefs to gain valuable experience and career growth.

The Ontario Police Department has four Sergeants who would be eligible to take advantage of this opportunity. Sergeant Rick Esplin is interested and qualified. Nyssa Mayor Brent Huffman and City Manager Roberta Vanderwall are very interested in this opportunity as well.

Ontario Police Sergeants not only supervise patrol and dispatch, but also act as Assistant Chiefs and Chief of Police in the absence of Chief Alexander.

Career development is important to the police department. Promotions and varied job assignments have been and will continue to be, limited.

Nyssa City Manager Roberta Vanderwall has had only one other interested party, an Assistant Chief out of the Portland area. That person would have needed to find housing and spend some time learning the area, people and the department. That candidate has since declined further consideration.

Ontario Police Sergeant Rick Esplin lives and grew up in Nyssa. He knows officers and the community. Nyssa Police Department shares the same Records Management System (RMS) as the Ontario Police Department. Nyssa Police Department also subscribes to Lexipol, who provides an extensive policies and procedures manual. Nyssa Police Department's policy manual is very similar to Ontario Police Department's.

This opportunity would give Sergeant Esplin further experience with public relations, city council relations, city manager relations, budget knowledge, policy and procedure development, media relations, understanding of police organizations, working under a contracted 9-1-1 PSAP and will enhance relations between local law enforcement and criminal justice agencies.

Sergeant Esplin will have access to the Ontario Police Department's records management system and can continue OPD work from the remote location. He can access his email and on-line training that is done on a daily basis. Many crimes that occur in this area have people associated between our two cities. Being only 10 miles away, Sgt Esplin can still be available to cover shifts or respond to emergencies from Nyssa.

Sergeant Esplin will be asked to merely maintain the Nyssa Police Department. He will not have the time and will not be in a position to implement substantial changes. He will be tasked with preparing and maintaining the department in order for a smooth transition and start for a new police chief. That will go a long way for the criminal justice system in Malheur County once the new Chief is hired.

This opportunity will enhance Sergeant Esplin's abilities when he returns, which is very important to the police department.

To further career paths, the police department would like to assign a patrol officer as an Interim Sergeant during Sergeant Esplin's re-assignment. This will give another employee career development, which is valuable to the police department as well.

A proposed contract with the City of Nyssa accompanies this report. The contract was drafted to be in effect for 90 days while the City of Nyssa searches for a permanent replacement. The contract could extend upon mutual agreement if needed.

In the Rules and Procedures of the Ontario City Council, adopted May 16, 2011, Section XIII (m) and (n) state if an issue is defeated because of a tie vote, the issue shall automatically be placed on the next regular meeting agenda.

ALTERNATIVE:

The Council could deny the request to enter into an agreement with the City of Nyssa.

FINANCIAL IMPLICATIONS:

The fully burdened monthly wage for an OPD Sergeant is \$9222. The fully burdened monthly wage for the Nyssa Police Chief is \$7960, a difference of \$1262. The City of Nyssa is in a financial position to meet approximately half way and pay \$8500/mo.

The difference in pay between an OPD police officer and sergeant is approximately \$1200/mo at a fully burdened rate.

RECOMMENDATION:

Staff recommends that the Council authorize the Mayor to enter into an Interim Chief of Police Services Agreement with the City of Nyssa.

**INTERGOVERNMENTAL AGREEMENT
CITY OF ONTARIO/CITY OF NYSSA
INTERIM POLICE CHIEF SERVICES**

THIS AGREEMENT, commencing on the _____ day of _____, 2011 by and between the CITY OF ONTARIO, hereinafter referred to as "Ontario", and CITY OF NYSSA, hereinafter referred to as "Nyssa", both of which are political subdivisions of the State of Oregon and units of local government.

RECITALS

WHEREAS, the parties to this Agreement are authorized by the laws of the State of Oregon to enter into such an agreement pursuant to ORS 190.003 through 190.085.

WHEREAS, Nyssa's police chief recently resigned, and it will likely take Nyssa several months to hire a permanent replacement. In the meantime, Nyssa desires to contract with Ontario to use the services of Ontario police sergeant Rick Esplin, hereinafter referred to as "Esplin", as an interim police chief.

WHEREAS, Ontario is willing to allow Nyssa to use Esplin's services and an interim police chief for up to 90 days on the terms and conditions set forth in this Agreement.

AGREEMENT

The parties hereto agree as follows:

1. TERM.

- a. The term of this Agreement shall be for 90 days commencing on _____, 2011.
- b. The term may be extended beyond 90 days by mutual agreement of the parties in writing.
- c. If Nyssa hires a permanent police chief during the contract term, or if Nyssa is unsatisfied with Esplin's performance as interim police chief, Nyssa may unilaterally terminate this Agreement upon giving reasonable advance notice to Ontario.
- d. If Esplin is unwilling or unable to serve as Nyssa interim police chief for any reason, the parties will terminate this contract by mutual agreement.

2. RESPONSIBILITIES OF ONTARIO.

- a. At the beginning of the contract term, Ontario will provide to Nyssa the services of Esplin to serve as an interim police chief for Nyssa.
- b. Esplin will be available to Nyssa on a full-time basis, except: 1) during brief emergencies in which Ontario requires Esplin's services as a police officer; and 2) upon reasonable advance notice to Nyssa, when there are no other officers reasonably available for a shift. If Ontario's use of Esplin as an Ontario police officer substantially interferes with Nyssa's use of him as interim police chief, the parties will renegotiate the compensation paid by Nyssa to Ontario for Esplin's services.
- c. Ontario will provide all standard equipment for Esplin's use as an interim police chief, with the exception of a badge, uniform and a motor vehicle, which will be provided by Nyssa.
- d. During the contract term, Ontario will permit Esplin to continue to have access to all computer databases and other law enforcement information normally available to Ontario police officers.
- e. Ontario will continue to pay Esplin his regular salary and benefits as an Ontario police sergeant during the contract term.

3. RESPONSIBILITIES OF NYSSA.

- a. Nyssa will pay to Ontario the cash sum of \$8,500 per month during the contract term, with the first payment due on the _____ day of _____, and on the same day of each month thereafter.
- b. Nyssa will provide Esplin with a uniform, badge and motor vehicle, at Nyssa's sole expense. Nyssa will pay for all of Esplin's work-related incidental expenses as interim police chief, including fuel and maintenance for the motor vehicle.
- c. While acting as Nyssa interim police chief, Esplin will act under the direction and control of the Nyssa city manager and Nyssa city council, and Nyssa will be responsible for providing adequate supervision of his services. Esplin will remain under the direction and control of Ontario at all other times.

4. OVERTIME. This contract does not authorize the working of overtime hours by Esplin for services provided under this contract. The parties shall cooperate to limit

the total number of hours worked by Esplin as a police officer for Nyssa and for Ontario to not more than forty hours per week.

5. INDEMNIFICATION.

- a. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Nyssa shall indemnify, defend and hold harmless Ontario from and against all liability, loss, and costs arising out of or resulting from the acts of Nyssa, its officers, employees, and agents in the performance of this Agreement, including any actions of Esplin while acting as Nyssa interim police chief.
- b. Subject to the conditions and limitations of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, Ontario shall indemnify, defend and hold harmless Nyssa from and against all liability, loss, and costs arising out of or resulting from the acts of Ontario, its officers, employees, and agents in the performance of this Agreement, with the exception of any actions of Esplin while acting as Nyssa interim police chief.

6. MISCELLANEOUS.

- a. This Agreement encompasses the entire agreement of the parties and may not be modified or changed in any way except by written document signed by all the parties hereto.
- b. Any provision of this Agreement which is found by a court of competent jurisdiction to be invalid or illegal shall in no way affect or invalidate any other provision of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect.
- c. Ontario and Nyssa are the only parties to this contract and are the only parties entitled to enforce its terms. Nothing in this contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this contract.

7. EXECUTION. This Contract shall be executed in two (2) originals, one for each party.

IN WITNESS WHEREOF, the parties have adopted this Agreement by its governing bodies and this Agreement has been signed and attested by the authorized officials of each party.

DATED this _____ day of _____, 2011.

Ontario Police Chief

Ontario City Mayor

Mark Alexander Date

Joe Dominick Date

Attest:

Tori Barnett, MMC, Ontario City Recorder

Nyssa City Manager

Nyssa City Mayor

Roberta Vanderwall Date

Brent Huffman Date

Attest:

Marla Roberts, Nyssa City Recorder

- g) **MOTION FOR PREVIOUS QUESTION:** The purpose of this motion is to close debate on the main motion. It is undebatable, and no further discussion shall be permitted until the motion is acted upon. If the motion fails, debate is reopened; if motion passes, then the Council shall vote on the main motion.
- h) **DIVISION OF THE QUESTION:** This may be used when a motion or resolution contains several parts, and the group wishes to vote on each part separately.
- i) **WITHDRAWAL OF MOTION:** When a motion is made and seconded, it shall be so stated by the Chair before debate commences. A motion may not be withdrawn by the mover without the consent of the member seconding it.
- j) **CONFLICT OF INTEREST:** Council members shall abide by the provisions of ORS 244.010. When a Council member determines that he or she has a conflict of interest, the member shall announce such conflict and refrain from discussing or voting upon the matter. Council members shall step down from the dais and join the audience until action is completed, when they shall return to their seat.
- k) **EX-PARTE CONTACT:** Council members shall abide by the provisions of ORS 227.180 regarding pre-hearing or ex-parte contacts.
- l) **COUNCIL MEMBER REQUIRED TO VOTE:** Council members are required to vote on all issues placed before them unless excused under provisions of subsection (j) above.
- m) **RECORDING VOTE - THE VOTES:** The journal of the proceedings of the Council shall record each individual Council member's vote on all ordinances, resolutions, and franchises. In the case of a tie in votes on any motion, the motion shall be considered lost; however, in the case of a tie vote the questions shall automatically be placed on the next regular meeting agenda.
- n) **MOTION TO RECONSIDER:** A motion to reconsider any action taken by the Council may be made only on the day the action was taken or at the next regularly scheduled meeting following the day when the action was taken. It may be made during the same session or at an adjourned session. A motion to reconsider must be made by one of the prevailing side, but may be seconded by any member. A question failing by virtue of a tie vote may be reconsidered by motion of any member of the Council. The motion may be made at any time. It shall be debatable. Nothing herein shall be construed to prevent any member of the Council from making or remaking the same or any other motion at a subsequent meeting of the Council, except that no action shall be taken on any subject not included in the published agenda.

SECTION XIV - PROCEDURES FOR DEBATE DURING THE PUBLIC HEARING:

The following shall be the procedure during public hearings:

- 1) Presiding officer asks members of the Council to state for the record any instance of ex-parte contact, any conflicts of interest, or if there are any objections to the Council's jurisdiction over the action that could be pertinent to the public hearing.
- 2) A staff report will be given by the appropriate staff member, followed by relevant questions by Council members.

AGENDA REPORT
December 19, 2011

TO: Mayor and City Council

FROM: Kathy Daly, Aquatics/Recreation/Parks/Cemetery Director

THROUGH: Henry Lawrence, City Manager

**SUBJECT: RESOLUTION #2011-128: ADDITION OF TRAIL MAP TO PARKS AND RECREATION
MASTER PLAN RECOMMENDATION**

DATE: December 9, 2011

SUMMARY:

Attached are the following documents:

- Resolution #2011-128
- Greenbelt Beck Map Pond Trail

Staff is requesting authority from the City Council to add the Beck Pond Map to the existing Parks and Recreation Master Plan recommendations.

PREVIOUS COUNCIL ACTION:

11/03/2003 Council adopted the Parks and Recreation Master Plan.

BACKGROUND:

The Master Plan addresses recommendations for all existing and non-existing resources such as land acquisition, planning, development, and upgrades. Beck Kiwanis Park is the largest city park with 30.96 acres and is the most heavily used. The facilities at the site include two youth baseball fields, open grass areas, children's playground, tennis courts, picnic shelters, the restroom building, a maintenance/storage building, a pond, an unpaved trail around the pond, and three parking areas. The addition of the Beck Pond trail expansion would allow for the trail to continue around the perimeter of the park for approximately one mile.

RECOMMENDATION:

Staff recommends approval of the resolution.

PROPOSED MOTION:

I move that the City Council adopt Resolution #2011-128, A RESOLUTION ADDING A MAP TO THE ONTARIO PARKS AND RECREATION MASTER PLAN SPECIFICALLY ADDRESSING THE BECK KIWANIS PARK POND TRAIL.

RESOLUTION #2011-128

**A RESOLUTION ADDING AN ADDITIONAL MAP TO THE ONTARIO
PARKS AND RECREATION MASTER PLAN**

WHEREAS, The current recommendation for the existing Beck Kiwanis Park is planning, acquisition and development, more specifically to install pathways; and

WHEREAS, Staff requests the addition of the Greenbelt Beck Map Pond Trail to make the entire trail .99 miles.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Ontario City Council, to Include the Greenbelt Beck Map Pond Trail in the Ontario Parks and Recreation Master Plan.

EFFECTIVE DATE: Effective immediately upon passage.

PASSED AND ADOPTED by the City Council of the City of Ontario this _____ day of _____ 2011, by the following vote:

AYES:

NAYES:

ABSENT:

APPROVED by the Mayor this _____ day of _____, 2011.

Joe Dominick, Mayor

ATTEST:

Tori Barnett, MMC, City Recorder

Attachment

Resolution 2017-128
Greenbelt Beck Park Trail



gms aug 2017

AGENDA REPORT
December 19, 2011

TO: Mayor and City Council

FROM: Chuck Mickelson, Public Works Director

THROUGH: Henry Lawrence, City Manager

SUBJECT: ORDINANCE #2664-2011 – LID #47 FINAL ASSESSMENTS NADINE DRIVE AND ALAMEDA STREET SOUTH OF SW 16TH AVENUE (First Reading by Title Only)

DATE: December 12, 2011

SUMMARY:

Attached are the following documents:

- Ordinance #2664-2011
- Property Owner Assessment Spreadsheet

Local Improvement District (LID) No. 47 was formed to install sewer and water in an area that was adjacent to the city limits but in the county. This project solved a potential public health problem due to failing drain fields. This project was initiated by the property owners in the spring of 2010. After numerous public meetings and public hearings, the city council approved the annexation of the property and created LID 47 for the installation of water and sewer an upgrading of the street cross section. Ontario Municipal Code Title 8 gives the City authority to form an LID and identifies the necessary steps to pass the cost of the improvements on to the benefited property owners.

The construction is complete, all of the property owners have connected to the sewer and all but three have connected to the city water system. The proposed assessments have been calculated and are required to be levied through the adoption of an assessment ordinance by the City Council. Staff has prepared Ordinance No. 2664-2011 for Council review and approval.

Pursuant to Ontario Municipal Code 8-2-8, each property owner was notified by mail of their proposed assessment and has been given an opportunity to raise objections to the proposed amount by writing to the City Recorder. Letters with assessment amounts were mailed out on December 1st giving property owners until December 14th to file objections with the City Recorder.

OMC 8-2-8 reads in part as follows:

“...Notice of such proposed assessment shall be mailed to his last known address or personally delivered to the owner of each lot proposed to be assessed, which notice shall state the amount of assessment proposed on that property, and shall fix a date by which time objections shall be filed with the Recorder. Any such objection shall state grounds thereof.

The Council shall consider such objections and may adopt, correct or modify or revise the proposed assessment and shall determine the amount of assessment to be charged against each lot within the district according to the special and peculiar benefits accruing thereto from the improvements, and shall by ordinance set out such assessments.”

Upon adoption of the ordinance at its final reading, assessment amounts become final and the City Recorder will send by registered or certified mail a notice of assessment to the last known address advising the property owners that they will be given thirty (30) days to pay the assessment in full with no additional interest, or enter into a repayment agreement. The City may sell General Obligation bonds in accordance with the Bancroft Bonding Act or Finance the improvements at a competitive interest rate from the City’s reserves in the sewer or water fund. Funds from the bond sale or any principal and interest payments if the city self-funds the LID will be deposited into the Capital Projects fund to reimburse the fund for project costs.

PREVIOUS COUNCIL ACTION:

- | | |
|---------------|--|
| November 2010 | Council adopted Resolution 2010-152, a resolution of intent to construct sanitary sewer and water mains on Alameda and Nadine Drive. |
| January 2011 | Council adopted the Director’s report by resolution 2011-101 |
| June 2011 | Council approved annexation Ordinance 2655-2011 |
| June 2011 | Council approved award of construction contract to Eastern Oregon Construction |
| July 2011 | Council approved resolution 2011-118 setting aside money for the construction expenses in a separate account |

SUMMARY OF COSTS THAT ARE INCLUDED IN LID ASSESSMENT:

The bid by Eastern Oregon Construction was \$198,415. Total cost for construction including change orders, surveying and BOLI wage submittal was \$219,105.60. Rural Road District #3 contributed the gravel to the project which resulted in a savings of approximately \$10,000 which is not being charged to the property owners. Additionally, staff has included legal, administrative, engineering, annexation fees, water meter costs and construction loan interest for six months in the final assessment. The overall cost is approximately 5% less than the cost estimate that was included in the Director’s report approved by the city council in January.

There are three properties that have not yet connected to the water system. I have discussed the water meter costs with each of them and they have all asked that it be removed from the final assessment as they will simply pay for it when and if they connect to the water system. I have lowered each of their final assessments by \$380.

ALTERNATIVE:

The Council could determine that the method of assessment distribution should be modified if it hears legitimate objections from property owners. No objections have been filed.

The project costs have been incurred and any decision other than passing an assessment ordinance would obligate the City for the full value of the project.

FINANCIAL IMPLICATIONS:

This project was funded through available funds within the Capital Projects Fund. Upon adoption of the ordinance at its final reading, assessment amounts become final and due from property owners within thirty (30) days. Property owners have the option of entering into a repayment agreement with the city.

Staff recommends that the City self-fund the LID assessments from sewer and water contingency at a 4.5% annual interest rate. This is approximately ½% higher than a quote that I received from Intermountain Community Bank. This ½ % will cover billing costs during the 15 year amortization period. This will be a senior lien on the property so any time a property is sold, the LID will likely be paid off.

RECOMMENDATION:

Staff recommends the Council pass Ordinance No. 2664-2011 providing for and assessing the costs of improvements to the benefiting property owners included in LID 47.

PROPOSED MOTION:

I move the Council pass Ordinance No. 2664-2011, AN ORDINANCE PROVIDING FOR AND ASSESSING THE COST OF IMPROVEMENTS ON NADINE DRIVE AND ALAMEDA ST SOUTH OF SW 16TH AVENUE IN THE CITY OF ONTARIO, AND MALHEUR COUNTY, OREGON, BY THE CONSTRUCTION OF WATER, SEWER AND STREET IMPROVEMENTS WITHIN THE BOUNDARIES OF LOCAL IMPROVEMENT DISTRICT NO. 47; DECLARING THE PROPORTIONATE SHARE OF THE TOTAL COST OF IMPROVEMENTS TO BE CHARGED AND ASSESSED AGAINST EACH LOT, PARCEL, AND TRACT OF PROPERTY LIABLE FOR SUCH ASSESSMENT; AND DIRECTING THE CITY RECORDER TO ENTER SUCH ASSESSMENT AGAINST EACH LOT, PARCEL, AND TRACT OF PROPERTY LIABLE THEREFORE IN ITS PROPORTIONATE SHARE IN THE LIEN DOCKET OF THE COUNTY OF MALHEUR; AND DIRECTING THE SERVICE OF NOTICE OF SAID ASSESSMENT UPON THE OWNERS OF SUCH PROPERTY on First Reading by Title Only.

ORDINANCE # 2664-2011

AN ORDINANCE PROVIDING FOR AND ASSESSING THE COST OF IMPROVING NADINE DRIVE FROM ALAMEDA DRIVE WEST TO THE END OF THE CULDESAC; AND ALAMEDA DRIVE FROM SW 16TH AVENUE TO 150 FEET FROM SW 18TH AVENUE, IN THE CITY OF ONTARIO, AND MALHEUR COUNTY, OREGON, BY THE CONSTRUCTION OF WATER, SEWER AND STREET IMPROVEMENTS WITHIN THE BOUNDARIES OF LOCAL IMPROVEMENT DISTRICT NO. 47; DECLARING THE PROPORTIONATE SHARE OF THE TOTAL COST OF IMPROVING SAID WATER, SEWER AND STREETS TO BE CHARGED AND ASSESSED AGAINST EACH LOT, PARCEL, AND TRACT OF PROPERTY LIABLE FOR SUCH ASSESSMENT; AND DIRECTING THE CITY RECORDER TO ENTER SUCH ASSESSMENT AGAINST EACH LOT, PARCEL, AND TRACT OF PROPERTY LIABLE THEREFORE IN ITS PROPORTIONATE SHARE IN THE LIEN DOCKET OF THE COUNTY OF MALHEUR; AND DIRECTING THE SERVICE OF NOTICE OF SAID ASSESSMENT UPON THE OWNERS OF SUCH PROPERTY

WHEREAS A notice of proposed assessments was prepared and mailed to the owners of each lot proposed to be assessed, which designated a time and place for City Council action, which was fixed on the 19th day of December, 2011, at the City Council meeting in City Hall, in Ontario, Oregon, as the place for hearing and considering objections to the proposed assessments; and

WHEREAS, Council at said time and place heard all interested parties present and provided all persons present an opportunity to make protests and objections and to comment on the proposed assessments.

NOW THEREFORE, THE CITY OF ONTARIO ORDAINS AS FOLLOWS:

Section 1: That the Common Council of the City of Ontario, Oregon, hereby declares that it has been found necessary and expedient to improve by the construction of water, sewer and street improvements within the boundaries of Local Improvement District No. 47, the following described area(s):

Tax Map 18-47-09CC, Tax Lots 4400, 4300, 4500, 4600, 4700, 4900, 3800, 3900, 4000, 4100, 4200, 3100, 3200, 3400, 3500, 3701 and 3702.

Said construction having been in accordance with the plans and specifications of the Public Works Director's Report duly and regularly adopted by the Common Council on January 18, 2011, which said plans and specifications now are on file in the office of Public Works.

Section 2: That the improvements herein above described are based on the Public Works Director's estimate in the sum of \$266,122.31; that the said improvements have been made.

That the proposed assessment based on actual cost is \$258,570.82 which is hereby assessed against the lots, parcels and tracts of property adjacent to or abutting upon said streets and/or Local Improvement District No. 47 established and created by Resolution #2010-152, adopted and approved by the Common Council of the City of Ontario, Oregon, on the 22nd day of November, 2010.

- Section 3:** That the proportionate share of the total assessed cost of said improvements on said streets within said Local Improvement District No. 47 have been ascertained and determined and apportioned to each lot, parcel and tract of property adjacent to or abutting upon said streets and/or Local Improvement District No. 47 and specially benefited thereby. That said proportionate shares, together with the names of the owners thereof and descriptions of the property assessed hereby, are set out in Section 4 of this ordinance and the said City Council hereby adjudges and declares that each lot, parcel and tract of land in said Section 4 described will be benefited by the making of said improvements in the full sum of money set opposite the description of each of said lots, parcels and tract of property and the same as in Section 4 described are hereby declared to be benefited in aggregate in the full sum of money specified to be assessed in Section 2 hereof.
- Section 4:** Each lot, parcel and tract of property in the tabulated statement set forth is hereunto attached and by reference incorporated herein, the same as though fully and at length set forth herein in this Section, in the amounts set forth opposite the description of each lot, parcel and tract of property in accordance with the statement of names, descriptions and amounts of property set forth as each property will be individually liened with the County of Malheur. That the same is the designated amount of assessment that each lot, parcel or tract of property has herein before been found liable for the proportionate cost of making said improvements, and in the proportions that each such lot, parcel or tract of property is liable for making the said improvement of said streets is more particularly set forth hereunto attached.
- Section 5:** That the City Recorder is hereby directed to enter on the lien docket of the County of Malheur, a statement of all assessments made by this ordinance, the same to be entered in due and regular form as provided in Section 8-2-11 of the City of Ontario municipal code.
- Section 6:** That the ownership of the several lots, parcels and tracts of property liable for said assessment is found to be in the person, persons, firm or corporation whose name appears in the appropriate column of descriptions of said property, and the City Recorder hereby is directed to prepare and send within ten (10) days after adoption of the ordinance, by registered mail or certified mail, to his or her last known address, a notice of assessment and lien to said owners, all in accordance with the provisions of Section 8-2-12 of the City of Ontario municipal code.
- Section 7:** The provision of the Assessment Bonding portion of the laws of the State of Oregon, as amended, and the provisions of the City of Ontario municipal code, permitting said owners to make application to bond such assessments insofar as the same may be applicable, are hereby adopted and reference incorporated herein.

PASSED AND ADOPTED by the Common Council of the City of Ontario this ____ day of _____, 2012 by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINED:

APPROVED by the Mayor this ____ day of _____, 2012.

ATTEST:

Joe Dominick, Mayor

Tori Barnett, MMC, City Recorder

LID # 47

PROPERTY OWNER ASSESSMENT

WATER & SEWER .. NADINE DRIVE / ALAMEDA DRIVE (Residential Properties)

ITEM	1	2	3	4	5	6
	Tax Lot 4400	Tax Lot 4300	Tax Lot 4500	Tax Lot 4600	Tax Lot 4700	Tax Lot 4900
	Larry & Leanna Hoffman 1671 Alameda Dr	George & June Krasznavolgyi 1689 Alameda Dr	Larry & Lois Hoffman 1345 Nadine Dr	Craig & Stephanie Geddes 1349 Nadine Dr	Housing Authority of Malheur Co. 1377 Nadine Dr	Roberty & Regina Ormsby 1399 Nadine Dr
	12,632.40	9,147.60	20,473.20	25,700.40	25,264.80	26,571.60
<i>Square Footage of Property -->></i>						
Water & Sewer	12,271.38	12,271.38	12,271.38	12,271.38	12,271.38	12,271.38
Engineering, Legal, & Administration Fees	\$20,000 / 17	1,176.47	1,176.47	1,176.47	1,176.47	1,176.47
Annexation Fee	\$330 / 17	19.41	19.41	19.41	19.41	19.41
Annexation Fee / Lot	\$0.02 / Sq.Ft.	252.65	182.95	409.46	514.01	531.43
Water Meter	380.00	380.00	380.00	380.00	380.00	0.00
Construction Loan Interest 1% (6 months)	122.71	122.71	122.71	122.71	122.71	122.71
Total	14,222.62	14,152.93	14,379.44	14,483.98	14,475.27	14,121.41

ITEM	7	8	9	10	11	14
	Tax Lot 3800	Tax Lot 3900	Tax Lot 4000	Tax Lot 4100	Tax Lot 4200	Tax Lot 3100
	Ellen B. King 1392 Nadine Dr	Marlene Reel Vacant Lot	Marlene Reel 1348 Nadine Dr	Melina Pucket 1340 Nadine Dr	Bobby & Paula Puckett 1725 Alameda Dr	Francis & Janet Kittelman 1674 Alameda Dr
	13,503.60	15,246.00	10,980.00	10,018.80	10,018.80	13,503.60
<i>Square Footage of Property -->></i>						
Water & Sewer	12,271.38	12,271.38	12,271.38	12,271.38	12,271.38	12,271.38
Engineering, Legal, & Administration Fees	\$20,000 / 17	1,176.47	1,176.47	1,176.47	1,176.47	1,176.47
Annexation Fee	\$330 / 17	19.41	19.41	19.41	19.41	19.41
Annexation Fee / Lot	\$0.02 / Sq.Ft.	270.07	304.92	219.60	200.38	270.07
Water Meter	380.00	0.00	380.00	380.00	0.00	380.00
Construction Loan Interest 1% (6 months)	122.71	122.71	122.71	122.71	122.71	122.71
Total	14,240.05	13,894.89	14,189.57	14,170.35	13,790.35	14,240.05

LID # 47

PROPERTY OWNER ASSESSMENT

WATER & SEWER -- NADINE DRIVE / ALAMEDA DRIVE (Residential Properties) continued.

ITEM	15		16		17	
	Tax Lot 3200	Tax Lot 3400	Tax Lot 3400	Tax Lot 3500	Tax Lot 3500	Tax Lot 3500
	Clyde & Glenna Underwood 1694 Alameda Dr	Wayland & Dana Duncan 1726 Alameda Dr	Daleese Lavinka 1712 Alameda Dr			
<i>Square Footage of Property -->></i>	160,300.80	11,761.20	23,598.00			
Water & Sewer Engineering, Legal, & Administration Fees	Equal Cost / Lot \$20,000 / 17	12,271.38	12,271.38	12,271.38		
Annexation Fee	\$330 / 17	1,176.47	1,176.47	1,176.47		
Annexation Fee / Lot	\$0.02 / Sq.Ft.	19.41	19.41	19.41		
Water Meter	Each	3,206.02	235.22	471.96		
Construction Loan Interest	1% (6 months)	0.00	380.00	380.00		
Total		122.71	122.71	122.71		
		16,795.99	14,205.20	14,441.93		

Total for Residential Properties -->>

Total for Residential Properties	184,070.70	17,647.06	291.15	7,774.42	4,180.00	1,840.71	215,804.03
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WATER & SEWER -- Calvary Chapel

ITEM	12		13	
	Tax Lot 3702	Tax Lot 3701	Tax Lot 3702	Tax Lot 3701
	Calvary Chapel 1775 Alameda Dr			
<i>Square Footage of Property -->></i>	52,272.00	105,415.20		
Water & Sewer Engineering, Legal, & Administration Fees	Lump Sum	35,034.90		
Annexation Fee	\$20,000 / 17	2,352.94		
Annexation Fee / Lot	\$330 / 17	38.85		
Water Meter	\$0.02 / Sq.Ft.	3,153.74		
SDC Water & Sewer	Each	380.00		
Construction Loan Interest	1% (6 months)	1,456.00		
Total		350.35		
		42,766.78		

GRAND TOTAL -- LID #47 ASSESSMENT COSTS -->>

GRAND TOTAL LID 47 Assessment	219,105.60	20,000.00	330.00	10,928.16	4,560.00	2,191.06	258,570.82
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AGENDA REPORT
December 19, 2011

TO: Mayor and City Council

FROM: Larry Sullivan, City Attorney

THROUGH: Henry Lawrence, City Manager

SUBJECT: IDAHO POWER SOLAR PILOT PROGRAM

DATE: December 12, 2011

SUMMARY:

Attached are the following documents:

- SBE Proposal Packet
- SBE Letter of Intent

The purpose of this agenda item to determine whether the City of Ontario should enter into an agreement with Site Based Energy, LLC (SBE), of Hailey, Idaho, in order to participate in a solar power pilot program conducted by Idaho Power.

PREVIOUS COUNCIL ACTION:

October 17, 2011 Council moved the City Council authorize City staff to take the preliminary steps necessary to participate in Idaho Power's Oregon Solar Photovoltaic Pilot Program and to negotiate with SBE to finance the City's participation in Idaho Power's Oregon Solar Photovoltaic Pilot Program.

BACKGROUND:

A 2009 Oregon statute requires power companies operating in Oregon, including Idaho Power Company, to participate in pilot programs for the generation of solar power. In simplified terms, Idaho Power pays its customers for the power generated by the solar (photovoltaic) panels installed on the property of its customers who participate in the pilot program at a rate of \$0.317/kWh for the entire 15 year life of the agreement (Schedule 88). The customer continues to pay for electricity used as they currently do during that 15 year period. Once the agreement has expired, the customer can choose to negotiate a net metering agreement with Idaho Power that will offset electricity consumed at the location by that produced by the solar system.

Staff submitted applications for the installation of ten solar photovoltaic systems under the program, which were approved by Idaho Power that same day. The locations selected for this project are as

follows: Ontario Aquatic Center (no longer being considered); Wastewater Treatment Plant (3 meters); City Hall; Public Works Shop; Water Treatment Plant (2 meters) and; Ontario Golf Club (2 meters).

Staff negotiated with SBE for the payment of an application fee equal to \$500 per meter/installation to Idaho Power on the City's behalf. The \$5,000 fee is refundable so long as the City completes installation of the solar panels within the 12 month deadline, or if Idaho Power decides not to award a Capacity Reservation to the City as discussed in the Idaho Power Overview. If the City Council decides not to proceed with the Idaho Power Pilot Program, the City will have to repay SBE the \$5,000 paid by SBE on the City's behalf.

SBE sent staff a proposal packet with draft documents outlining the terms, conditions and cash flow models for a public/private partnership geared towards taking advantage of Idaho Power's Oregon Solar Photovoltaic Pilot Program.

If a lease/financing contract between SBE and the City is approved by the Council, SBE will purchase the panels at SBE's expense, as well as install and maintain the panels in accordance with Idaho Power's specifications and timelines. SBE will lease the space required for the project from the City at the cost of \$1 per year until full ownership of the project is transferred to the City. SBE's proposed financing arrangement would allow the City to own the solar panels at no additional cost after a period not exceeding eight years, by the end of which time SBE will have recouped their investment costs through Idaho Power's Volumetric Incentive Payments due to the City under the pilot program.

SBE's intent is to build these solar photovoltaic installations at no cost to the City, and projects that this project will bring approximately \$204,000 in revenues to the City over the first 15 years. Staff recognizes that this projection is based on assumptions that may prove to be inaccurate. A net metering agreement that would help offset electricity costs at each installation location can be negotiated with Idaho Power at the end of the 15 year Energy Sales Agreement. The overall life expectancy of the equipment to be installed is 25 years.

RECOMMENDATION:

Staff is requesting Council authority as follows:

1) For City Manager to sign an intent letter with SBE stating that the City will participate in Idaho Power's Oregon Solar Photovoltaic Pilot Program if SBE is able to generate an agreement that satisfies the City's terms and conditions.

2) For staff to continue negotiations with SBE to finance the City's participation in Idaho Power's Oregon Solar Photovoltaic Pilot Program. Staff will bring any proposed contracts with SBE and Idaho Power to the Council for its approval.

PROPOSED MOTIONS:

- 1) "I move that the City Council authorize City Manager to sign an intent letter with SBE stating that the City will participate in Idaho Power's Oregon Solar Photovoltaic Pilot Program if SBE is able to generate an agreement that satisfies the City's terms and conditions."

- 2) "I move that the City Council authorize City staff to continue negotiations with SBE to finance the City's participation in Idaho Power's Oregon Solar Photovoltaic Pilot Program."



21 Comet Lane
P.O. Box 3432
Hailey, ID 83333
208.928.7583
sitebasedenergy.com

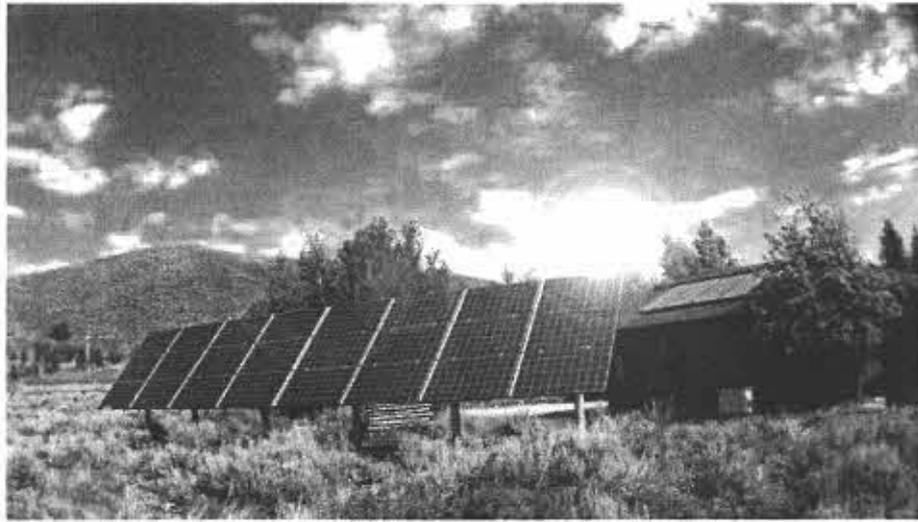
Document Submittal

Job: City of Ontario Solar FIT
Project

Date: 12/12/11

Subject: Submittal of documents related to the City of Ontario Solar FIT Project

1. Document Submittal
2. City of Ontario Project 12_09_2011
3. Appendix A – SBE-Ontario Ground Lease Draft 12_09_2011
4. Exhibit A1 – Legal Description of Land – City Hall 12_09_2011
5. Exhibit A2 – Legal Description of Land – City Shop 12_09_2011
6. Exhibit A3 – Legal Description of Land – WWTP 12_09_2011
7. Exhibit A4 – Legal Description of Land – Airport (Golf Course) 12_09_2011
8. Exhibit A5 – Legal Description of Land – WTP 12_09_2011
9. Exhibit B1-B9 – Description or Depiction of Premises 12_09_2011 (will be broken apart for final ground leases)
10. Exhibit C – Schedule 88 Oregon Solar PV Pilot
11. Exhibit D – Energy Sales Agreement 2011
12. Addendum 1 – Ontario Solar Project Cash Flow – 8 Year Model



City of Ontario Solar PV Project A Public/Private Partnership

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APPENDIX A: COPY OF UNSIGNED LAND LEASE AGREEMENT, DATED: DECEMBER 9, 2011

Executive Summary:

Renewable energy development and ownership is attractive to many people, but the process to develop these projects is very challenging. Bringing all the pieces together to ensure the proper stakeholders are involved and their needs are met is the primary responsibility of the developer. Site Based Energy has diligently been working on doing just that by bringing all the stakeholders together to build the most cost effective, community minded renewable energy solar project for the City of Ontario (City).

Normally energy projects, including renewable energy like solar, are privately built or built by the local utility. However, in an area with few incentives, low utility rates, and a difficult financial landscape, public-private partnerships, can be used to achieve the goals of greater energy independence and lowering our environmental impact.

By combining public assets with private capital, experience and tax appetites, we hope to develop a community based solar project for the City at no cost to the City while bringing a revenue generating asset over the life of the system to the community.

The following document is an outline of the many issues Site Based Energy is addressing in order to answer the following:

- Why build a community energy project?
- How will the project work?
- Who will own the project?
- How much revenue is the project expected to generate for Site Based Energy, the Invertors, and Ontario?
- How will the project be financed?

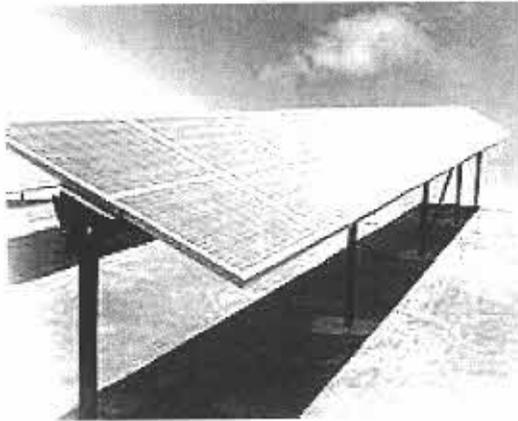
Additionally we identify critical elements of a renewable energy project:

- Policy and incentives
- Utility contract
- Financing
- Ownership transfer

We are confident that this project will be built at no cost to the City of Ontario and will bring revenue to the City over the first 15 years of approximately **\$204,000**

It is our hope that the City can approve our land lease agreement with reasonable conditions such as: meeting any additional requirements brought by the City Council, City Manager, or City Attorney, providing final financial estimates when the final investor has committed, and providing final site designs.

Project Snapshot:



Systems Specifications

System Size: 9 x 9.9 (kW) DC = 89.1 kW DC

Characteristics: Ground & Roof Mounted
tilt approximately 22.5-45°

Annual Output: 117,000 kWh Annually

117 Megawatt-hours annually

2,925 Megawatt-hours / 25 years

Location: Ontario, OR

Start of Operation: Spring 2012

System Specification & Details (per each unique system – may vary according to site)

Item	Quantity	Description/Unit
Modules	44	Solar World SW225 Poly
Inverters	2	PV Powered PVP4800
Source Circuits	4	
Land Requirement	1,000	Square Feet

Financial Terms

Power Purchase Agreement:

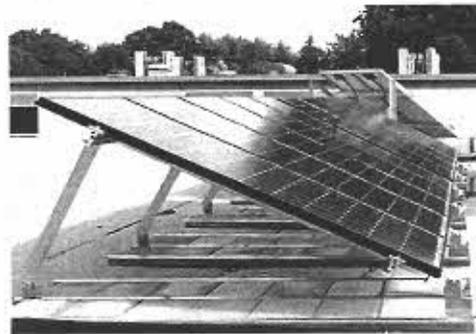
City of Ontario & Idaho Power enter a 15 yr power sale @ \$0.317/ kwh

Land Lease: 8 year lease w/ City

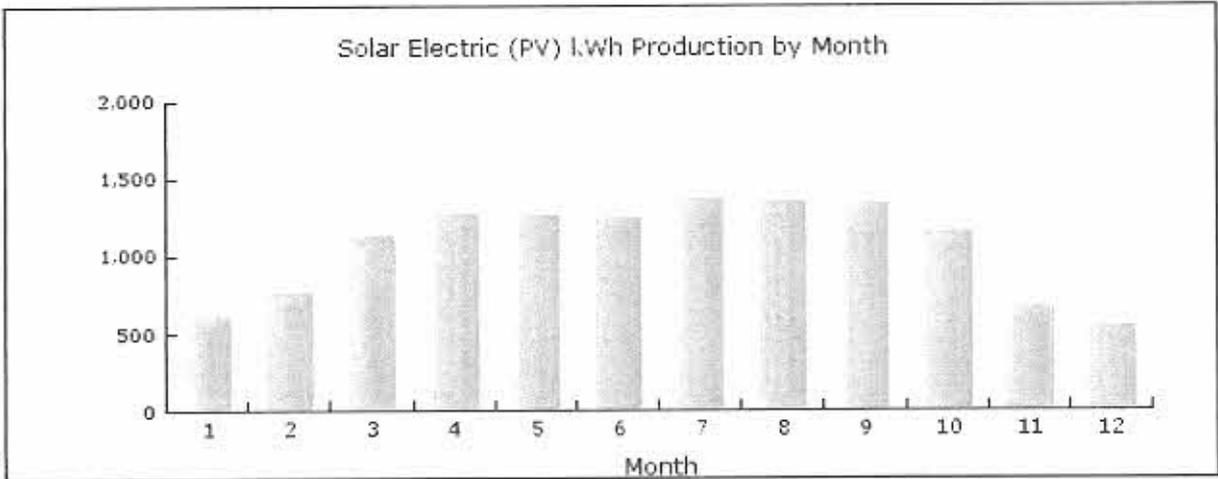
Environmental Impact: 2,640 tons of carbon over 25 years, equivalent to planting 1,300 trees or driving 5 million miles

Financial Terms:

Site Based Energy will develop, build, and manage the projects for the first 8 years before donating the system to the City, free and clear. Site Based Energy and the investors will own the project long enough to pay for the cost of installation and financing fees, which we have estimated will take 8 years. This arrangement allows Site Based Energy to take advantage of federal tax incentives and allows the City to acquire a revenue generating system with no upfront investment. It is estimated at this time that this project will return approximately \$200,000 to the City over 25 years



Average Monthly Output per Meter (independent PV system)



Locations (See Appendix A: Lease Agreement for visual of proposed project premise at each location.)

1. Aquatic Center	790 SW 3 rd AVE
2. Wastewater Treatment	2405 Malheur Drive
3. Wastewater Aerators	2405 Malheur Drive
4. Wastewater Lift Station	2405 Malheur Drive
5. City Hall	444 SW 4 th Street
6. Public Works Shop	1551 NW 9 th Street
7. Wastewater Plant	1900 SE 5 th Ave
8. Wastewater Treatment Ponds	1900 SE 5 th Ave
9. Golf Clubhouse	1345 Golf Course Road
10. Golf Pumphouse	1345 Golf Course Road

Project Summary:

Project Description

Site Based Energy (SBE) proposes to use a Public-Private Ownership Structure for the purposes of building and operating a solar photovoltaic (PV) project on the “host” (City) property. The purpose of this structure is to allow the City to take advantage of the volumetric incentive rate (VIR) program offered by Idaho Power. The VIR program will guarantee a set electric rate (31.7 cents) for the purchase of power generated by the solar PV project, a rate approximately 5 times higher than the current rate paid by typical small commercial customers. This one time opportunity for the City can be augmented by a partnership with a private entity, SBE, to take advantage of current federal tax incentives to reduce the overall capital cost, which will be the burden of SBE, not the City.

To accomplish this task, SBE will be responsible for all permitting, design, procurement, construction, financing and maintenance of the plant until ownership is turned over to the Host. A limited liability corporation (LLC) will be created for this project for the sole purpose of owning this project. The LLC will also enter into an O&M contract with SBE to operate and maintain their asset until the project is turned over to the City.

Project Location:

The LLC will lease the space required for the project from the City for \$1 per year while the LLC owns the project. That lease will terminate when full ownership of the project is transferred to the host at the end of year 8.

Project Financing & Ownership:

The LLC will be responsible for providing the upfront capital for the project. Project payback and future revenues will be realized through the sales of electricity produced by way of an Energy Sales Agreement between the project owner(s) and Idaho Power. The project will be initially owned by a LLC during the payoff period before full ownership with all associated rights and risks is transferred to the host. The host will continue to pay their electricity bills in the same manner as is currently performed with the exception of transferring the credit associated with the renewable energy production to SBE every month or quarter. As the VIR has been awarded, but the project has not commenced, both parties agree to work exclusively with one-another, and in good faith to execute the project in a timely and organized manner.

The LLC will contractually transfer full project ownership once all upfront capital investment, any and all interest, and all project associated maintenance is paid in full. SBE estimates this to be 8 years from project commissioning. Assuming 8 years to ownership transfer, the balance of the VIR - Energy Sales Agreement (owned by City) will be 7 years (15 – 8). At the end of the VIR contract, the City will transfer the solar project to net metering contracts as per Idaho Power’s Schedule and receive credit at net metering rates. Please refer to Idaho Power VIR documentation for further clarification: www.idahopower.com/oregonsolar

Incentives + Credits

- The VIR is the only state level incentive for the State of Oregon. Other state level incentives for the State of Oregon do not qualify for VIR projects through Idaho Power.
- Financial modeling performed by SBE is predicated on achieving safe harbor prior to December 31, 2011 as per Federal Department of Treasury payment in lieu of Investment Tax Credit. H.R. 4853, 12/17/2010



- The LLC will also claim all rights to depreciation associated with the project under Modified Accelerated Cost-Recovery System (MACRS) + Bonus Depreciation. (26 USC § 168(e)(3)(B)(vi))

Operations and Maintenance:

SBE will be responsible for the operations and maintenance of the project, but reserves the right to sub-contract that work to either the City or another qualified entity.

The LLC and/or SBE will provide the City with funds for the entire inverter replacement cost, including labor.

After the City acquires the land, they can continue to engage SBE for operations and maintenance or they can terminate the operations and maintenance agreement at their discretion.

Local Employment:

SBE is committed to using local sub-contractors where financially and logistically feasible.

However, we reserve the right to use no local labor if it is technically, financially, or otherwise unfeasible.

Responsibilities:

SBE will assume responsibility for building the project within the approved project budget. SBE assumes responsibility for any and all defects in workmanship during our ownership, and will honor all warranties expressed. SBE will not assume responsibility for direct or accidental damage that may occur onsite after ownership transfer as a result of local conditions. SBE will have full bonding for the project and has all the necessary insurance licenses required to complete this work in Oregon.

Installation:

Image showing high angle (approx 30°) ballasted solar system as proposed for a flat roof.

Ballasted system allows for non-penetrating solar array that is anchored with concrete blocks lying in an aluminum tray.

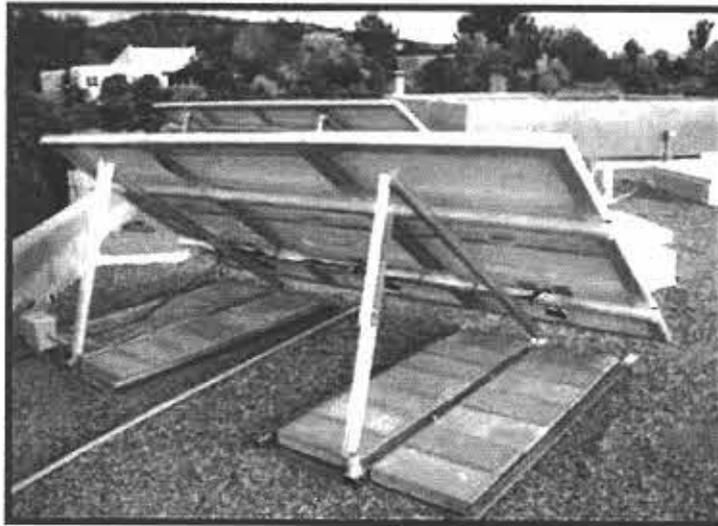
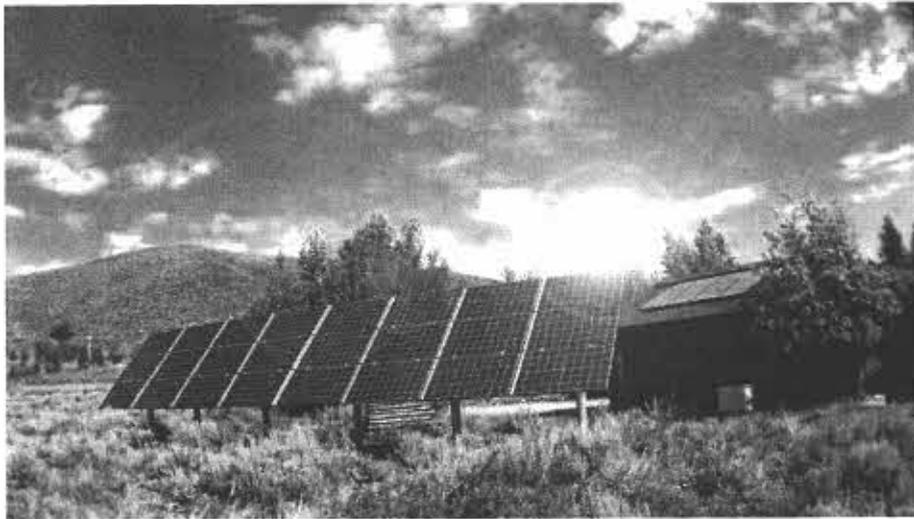


Image below is an example of similar installation type as proposed for a sloped metal roof. The proposed system is composed of an aluminum rail / footing framework that is attached to the roofing structural members. The array is designed to align parallel to the roof and separated approximately 2-3" from the roof.



Image below is an example of a ground mount installation. The proposed system is an aluminum rail and steel post racking system with a concrete footing. The array is designed to face due south at a 45 degree angle.



Projected Revenue:

Introduction

Site Based Energy (SBE) has completed a preliminary review of:

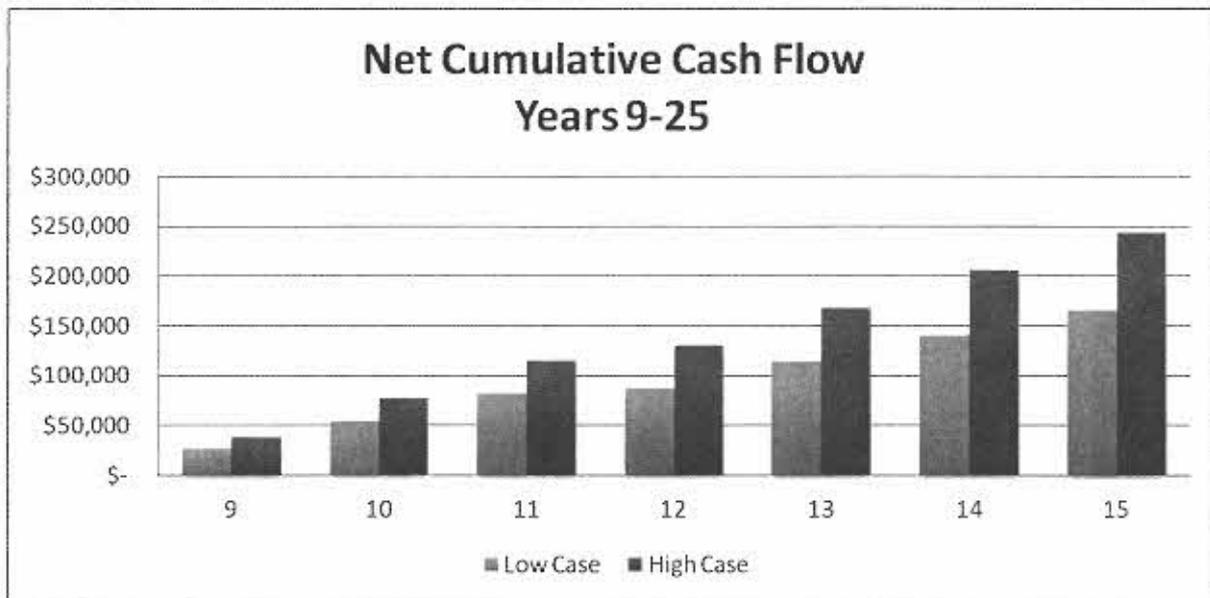
- Site feasibility
- Upfront and annual costs and equipment replacement
- Insurance, permitting, environmental, and regulatory requirements
- Projected power production
- Estimated power sales rate after initial VIR
- Project financing during LLC ownership period

There is always uncertainty when producing projected project revenues and net income. SBE has diligently reduced as many of these uncertainties as possible and will continue to reduce uncertainty through the construction and O&M periods. For the purposes of this project, SBE will assume all financial obligations associated with the project during the first 8 years, including, but not limited to: lower than expected production, faster than expected degradation, increased insurance premiums, excessive soiling, and increased O&M costs.

After the City assumes ownership of the City, the City will assume all of the financial obligations for the same identified items. For that reason, we have generated a high revenue case and low revenue case for the time period the City will own the systems. It should be noted that both the high and low revenue cases are still conservative overall. As it is highly unlikely that every assumption we have will tilt to the maximum in one direction, we are confident the systems will perform at or above the average of the two cases and have included the mean case as well. For full disclosure, we have also included the assumptions for each revenue case.

We have projected the city will make approximately \$204,000, with a range between \$166,000 and \$243,000.

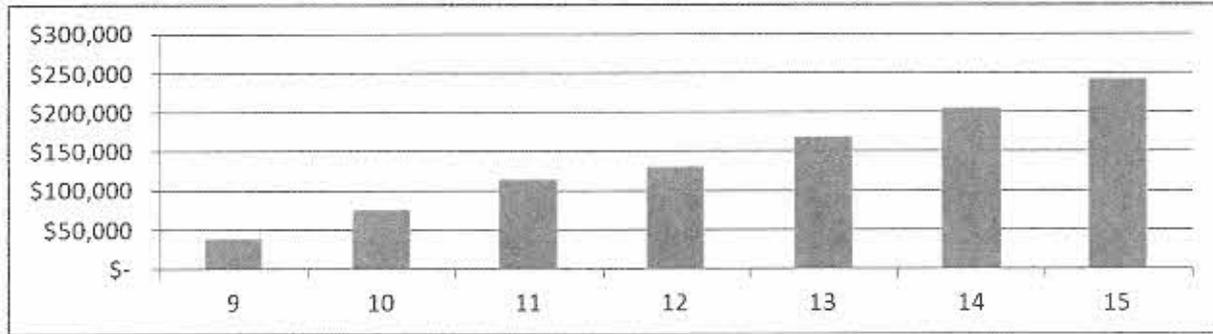
Overall Revenue Projection for the City of Ontario



Overall assumptions with implications include:

- Projections for the City's revenue start at year 9.
- Operations and maintenance costs are based on the expected cost to Site Based Energy and include our 3rd party insurance for each project. The insurance cost and labor costs could be substantially lower for the City. We have taken average O&M costs that include the cost of inflation.
- We have added a capital replacement fund into our financing model for replacement of the invertors at year 12. We have used the full budgeted amount required for inverter replacement, including installation, at today's cost. However, inverter costs have been dropping annually and are expected to drop considerably more over the next 12 years as market adoption picks up. The cost of labor is expected to increase however, and will likely result in a similar overall replacement cost. We have included 8/15 of the cost of replacing the invertors in the capital replacement fund as we will own the system for 8 years out of the 15 year expected life of the project. In addition, the annual revenue for just one year will be enough to replace the invertors, which means the City could replace the invertors in any given year with the previous year's revenues.

High Revenue Case

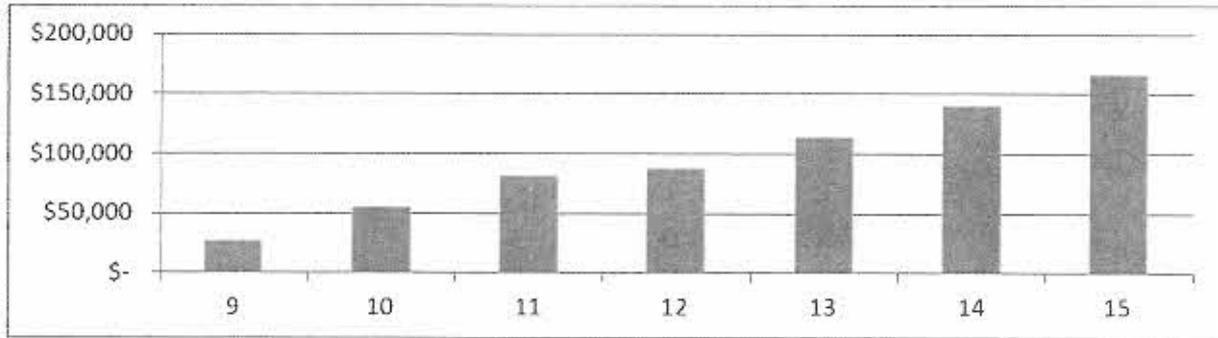


Cash Flow in Year	9	10	11	12	13	14	15
O & M Cost	(3000)	(3000)	(3000)	(25500)	(3000)	(3000)	(3000)
Energy Production (kWh / year) @ 10% loss / 25 year rate	131,237	130,581	129,928	129,279	128,632	127,989	127,349
Energy Revenue from FIT	\$41,602	\$41,394	\$ 41,187	\$ 40,981	\$ 40,776	\$ 40,573	\$ 40,370
Net Metering							
Net Annual Cash Flow	\$38,602	\$38,394	\$ 38,187	\$ 15,481	\$ 37,776	\$ 37,573	\$ 37,370
Cumulative Cash Flow	\$38,602	\$76,996	\$ 115,184	\$ 130,665	\$ 168,442	\$ 206,014	\$ 243,384

High case assumptions with implications include:

- O &M costs of \$3,000 annually is minimal
- Panel losses of 10% over 25 years and 3% electricity rate escalation are low end for industry estimates

Low Revenue Case



Cash Flow in Year	9	10	11	12	13	14	15
O & M Cost	(5000)	(5000)	(5000)	(25500)	(5000)	(5000)	(5000)
Energy Production (kWh / year) @ 20% loss / 20 year rate	103,208	102,073	100,950	99,840	98,741	97,655	96,581
Energy Revenue from FIT Net Metering (@ 3% annual utility cost increase)	\$32,717	\$32,357	\$32,001	\$ 31,649	\$ 31,301	\$ 30,957	\$ 30,616
Net Annual Cash Flow	\$27,717	\$27,357	\$27,001	\$ 6,149	\$ 26,301	\$ 25,957	\$ 25,616
Cumulative Cash Flow	\$27,717	\$55,074	\$82,075	\$ 88,224	\$ 114,525	\$ 140,482	\$ 166,098

Low case assumptions with implications include:

- O &M costs of \$5,000 annually is high
- Panel losses of 20% over 25 years and 1% electricity rate escalation are high end for industry estimates

Financial Summary:

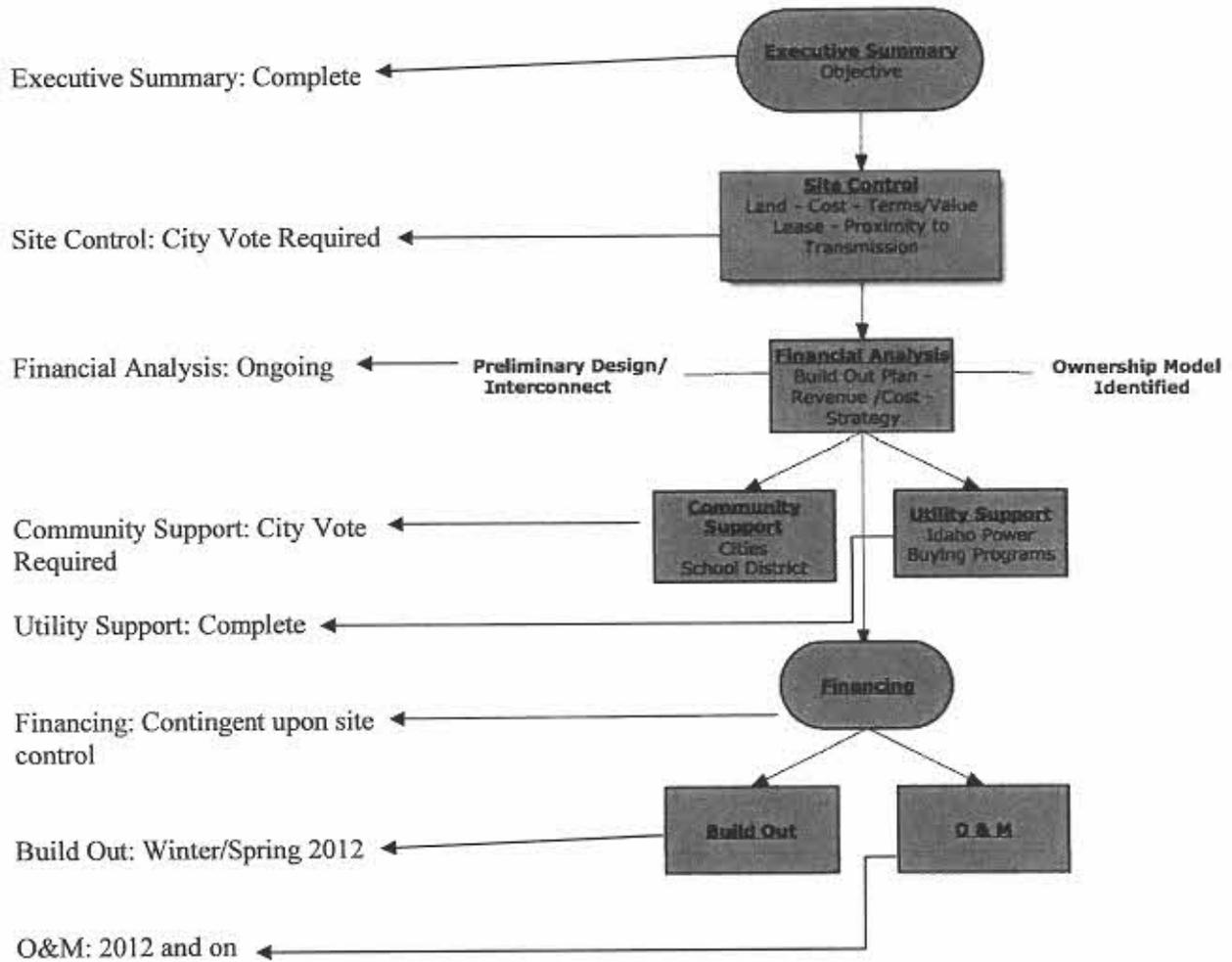
Due to the uncertainty with our investors; we are still working through a financial summary that outlines the project cash flow. We can release the expected purchase price range for this project. The total project cost is expected to be approximately \$7.25/watt to \$7.75/watt. For this breakdown, we assume we will build 9 projects at 9.9kW/project for a total project cost range of **\$645,975 and \$690,525**. The breakdown for that cost is:

Category	Low	High
Construction:	\$5.53	\$5.83/watt (parts and labor)
Financial Analyst Fee:	\$0.82	\$0.82/watt (already under contract and deposit paid)
Development Fee:	\$0.90	\$1.10/watt (legal, accounting, project development)
Total:	\$7.25	\$7.75/watt
Total: (89.1kW)	\$645,975	\$690,525

Timeline for Public-Private Partnership Project:

Current Status

Visual Outline



Financial/Ownership Structure Questions:

- Who will own the project?

SBE will own and operate the project through the initial approximate 8 years. After SBE has built the project and recouped its costs, the project will be turned over to the City of Ontario as a donation or for a nominal \$1 transfer fee.

- What is SBE's role in the project?

SBE has three roles in the project. The first role is the project developer. As project developer, SBE has spent the past 4 months putting together all of the pieces necessary to build this project for the City, including, but not limited to: initial project feasibility, project application preparation and submittal, legal, permitting, zoning, financing, construction estimates, and preliminary procurement. The second role will be the project constructor. As project constructor, SBE will build the project at the lowest possible cost for the investors, and thus the City. SBE will be responsible for meeting all the expectations normally reserved for a general contractor, including procurement, construction, workmanship, budget, and timeline. The third role is the project operator. As project operator, SBE will be responsible for operating and maintaining the investment. SBE will be responsible for routine inspections and maintenance, warranty parts and labor, insurance, and major equipment replacement.

- What is the anticipated installed cost of the project?

The anticipated initial turnkey cost of the project is currently expected to be \$7.25-\$7.75/watt.

- What incentives are the owners eligible to receive?

Federal Investment Tax Credit, MACRS, Volumetric Incentive Rate

- What revenues will be generated by the project?

The annual revenues for the total project are expected to be approximately \$40,000 in the first year. Each year will see slightly lower revenues as the equipment degrades about 1% per year. The annual revenues by year 15 are expected to be about \$36,000. The revenues after year 15 will depend on the current market rates at that time per net metering agreement with Idaho Power.

- Who will be the beneficiaries of the revenues generated?

The beneficiaries of the revenues for the first 8 years will be the stakeholders in the LLC. After that time period, the City of Ontario will be the beneficiaries of the revenues generated.

- What roles will various partners and participants play in project development?

The City will lease the sites at \$1.00 per year. The investors will inject the required capital to build the project and will receive a modest return on their investment over the 8 years needed to pay for the project. SBE will provide project development and EPC services and will be



reimbursed for all development, engineering, procurement, and construction services by the investors. Idaho Power will pay for the power produced per the contract, initially assigned to SBE followed by direct payments to the City.

- Who will provide operations and maintenance?

SBE will provide all O&M while the project is owned by the SBE. The City reserves the right to enter into an agreement with whomever they choose to manage the project after it is turned over to the City

- Who will pay for the inverter replacement cost?

SBE will start a capital replacement fund for the City that will be turned over when the project is turned over to the City equal to a pro-rated portion of the cost to replace the inverter. The City will be responsible for the remaining cost of the inverter at the time of replacement. Notes: We have estimated the cost using the full replacement cost today. The product cost for inverters has been steadily dropping and can be expected to be less than it is currently. However, the cost for installation may go up, so we have used today's overall cost of replacement for our analysis.

- Who will be responsible for project decommissioning?

The City will be responsible for decommissioning the system. However, the panels are expected up to 30 years and the system is expected to generate revenue throughout their lifetime.

Technical Questions:

- What size will the project be?

Approximate 9 projects with a 9.9 kW nameplate capacity each for total nameplate capacity of 89.1 kW.

- What is the expected production estimate?

Each site will have an actual interconnection production of approximately 13,000 kWh/year for a total production of 117,000 kWh/year.

- How much space will the project require?

Each site takes approximately 1000 sqft.

- Is the project location confirmed?

Yes. See project summary and Land Lease Agreement

- How will the project be interconnected to the utility grid?

Connection will be connected to the grid near the site meter.

- What are the equipment design specifications?

All equipment to be industry standard UL listed equipment with a minimum 25 year warranty on solar panels and 10 year warranty on inverters. Exact equipment to be determined at purchasing based on market conditions but is currently expected to be:

- How and by whom will equipment be selected, purchased, and installed?

SBE will provide all of the EPC needs. Equipment will be selected based on lowest cost panels that meet minimum specifications. Equipment will be purchased to meet cost estimates and will be installed in to meet all code requirements and will meet or exceed industry best practices.

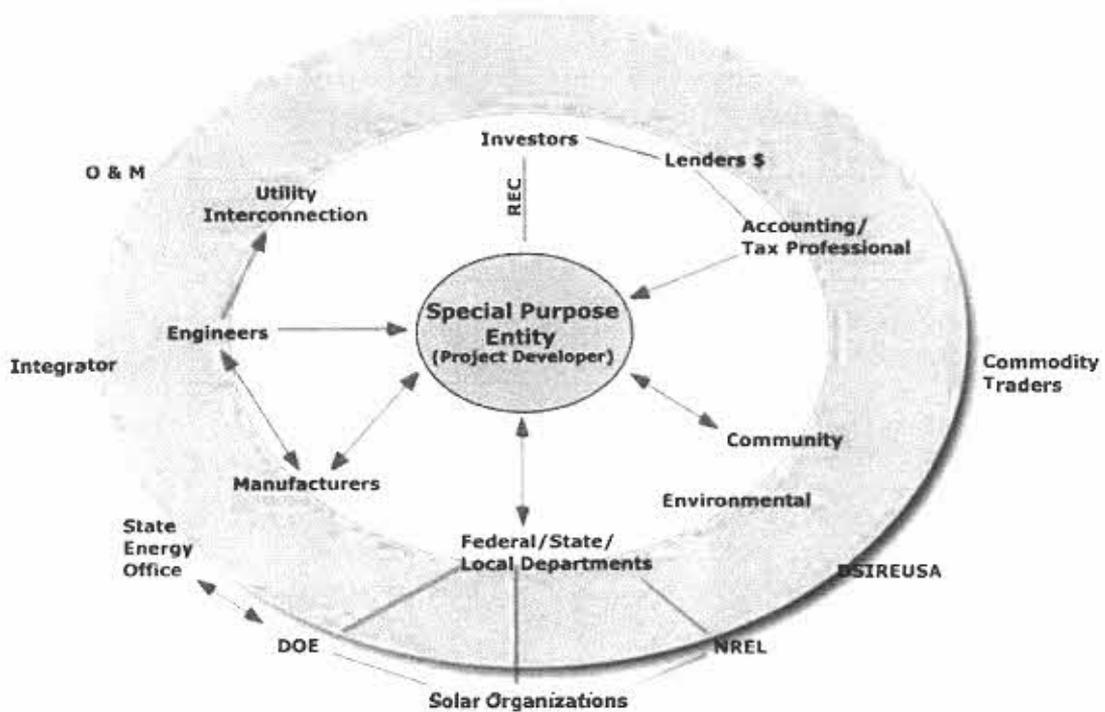
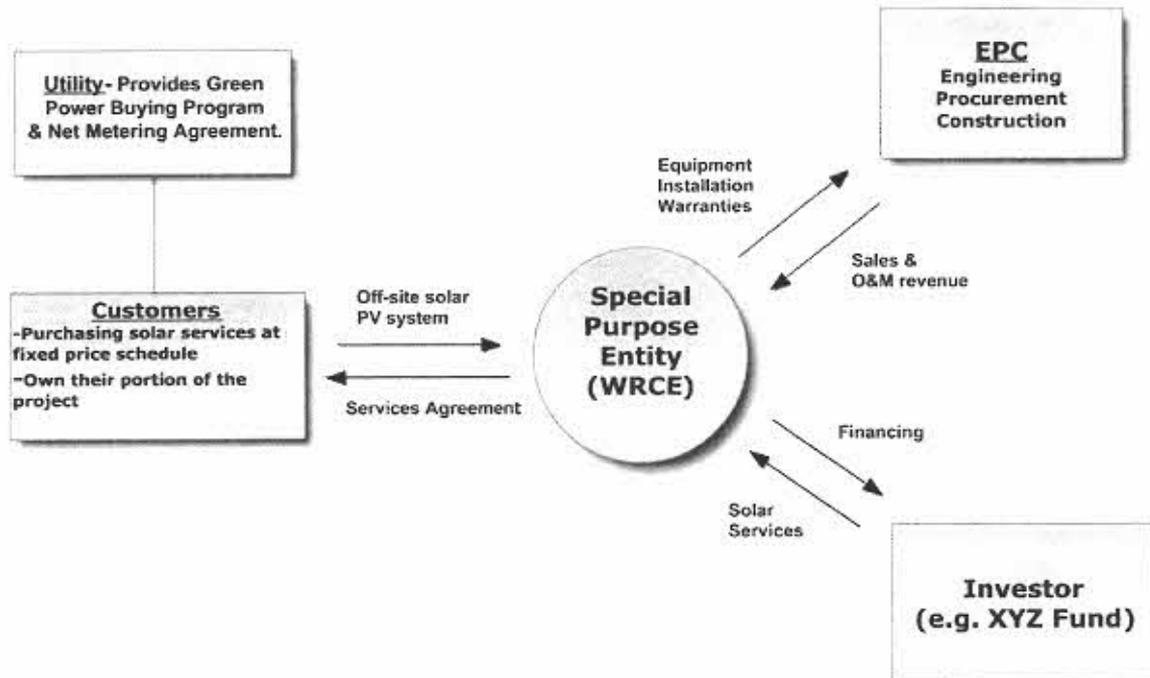
- What permits need to be obtained?

Idaho Power Interconnection
Local building permits and zoning
Applicable environmental rules

- What will long-term operations and maintenance require?

Yearly electrical and mechanical inspections, periodic panel washing, inverter replacement at 12 to 15 years, decommissioning study at 15 and 25 years. Decommissioning is not factored into the projections.

Special Purpose Entity Model:



Statement of Qualifications:

Introduction

Site Based Energy, llc. (SBE) is a full service energy management and renewable energy engineering, procurement and construction firm with over 45 years in combined experience in energy business and construction.

SBE is a professional business providing a broad range of comprehensive energy solutions including designs and implementation of energy savings projects, energy infrastructure, power generation and energy supply. SBE performs in-depth project analysis, designs energy solutions, installs designed systems, and maintains systems to ensure energy savings during the payback period.

Energy Services

SBE offers a full scope of services for the renewable energy industry.

- ❖ Strategy and Planning
- ❖ Resource and Site Assessment
- ❖ Policy & Compliance
- ❖ Environmental & Permitting
- ❖ Design & Engineering
- ❖ Procurement, Construction, Interconnection, O & M
- ❖ Financial Analysis
- ❖ Financing, Performance Based Contracting

Principal Contacts

Paul Conrad – President / CEO
Business Development, Administration
paul@sitebasedenergy.com

Paul is the founder of SBE and is in charge of Business Development, Administration, and Finance. Paul has over 20 years experience in construction and business development, with projects representing more than \$100 million in gross revenue. An early adopter of green building techniques, including on and off grid power systems, the principal manages a stable, opportunistic team that excels at bidding and building in conjunction with best-in-class subcontractors and suppliers. The team's experience and strengths (development, project analysis, execution, scheduling, budget control) are well suited to the field of renewable energy.

Jon Riley – COO
LEED AP
Business Development / System Design and Engineering
Jon@sitebasedenergy.com

Jon has been in the solar industry for over 6 years. Jon excels in design, engineering integration, procurement and financial analysis for a variety of renewable energy and efficiency applications. His proficiency in solar design and analysis software, a strong understanding of building and construction, coupled with detailed estimating and scheduling abilities make Jon a versatile and very important member of the SBE team.

Leif Elgethun – Senior Vice President
PE, LEED AP
Business Development / Management
Leif@sitebasedenergy.com

Leif brings the ability to put the pieces of a site-based energy plan together. With his prior experience as a renewable energy consultant for agriculture, he's no stranger to the needs of farmers and business owners, nor to the perseverance and hard work it takes to develop successful energy projects. He also brings a depth of knowledge regarding energy's future, from conservation to renewables to distributed generation, with a strong engineering background (B.S. Chemistry, Chemical Engineering, Mathematics and P.E., Idaho) and special focus on sustainability (LEED AP), as well as first-hand knowledge of the energy landscape as Vice-Chair of the Idaho Chapter of US Green Building Council and as an active participant in the Idaho Strategic Energy Alliance Energy Efficiency and Conservation Task Force. He sees Site Based Energy as offering something new: a team that understands the energy development process from beginning to end, focus on an overlooked market and a commitment to finding the best technology for each client.

Peter Chaffey
NABCEP Certified PV Installer
Solar Energy Design and Installation Expert
chaffnot@gmail.com

Peter has worked in the solar field for over 16 years, designing and installing PV and thermal systems throughout Idaho. Peter was one of the first NABCEP Certified professionals in the State of Idaho (2003) and has completed advanced PV design training at Solar Energy International. Peter is very knowledgeable and experienced team member, drawing on 8 years of solar project management. Peter was educated in the UK with a 2 year electrical engineering degree and a 3 year apprenticeship with British Telecom.

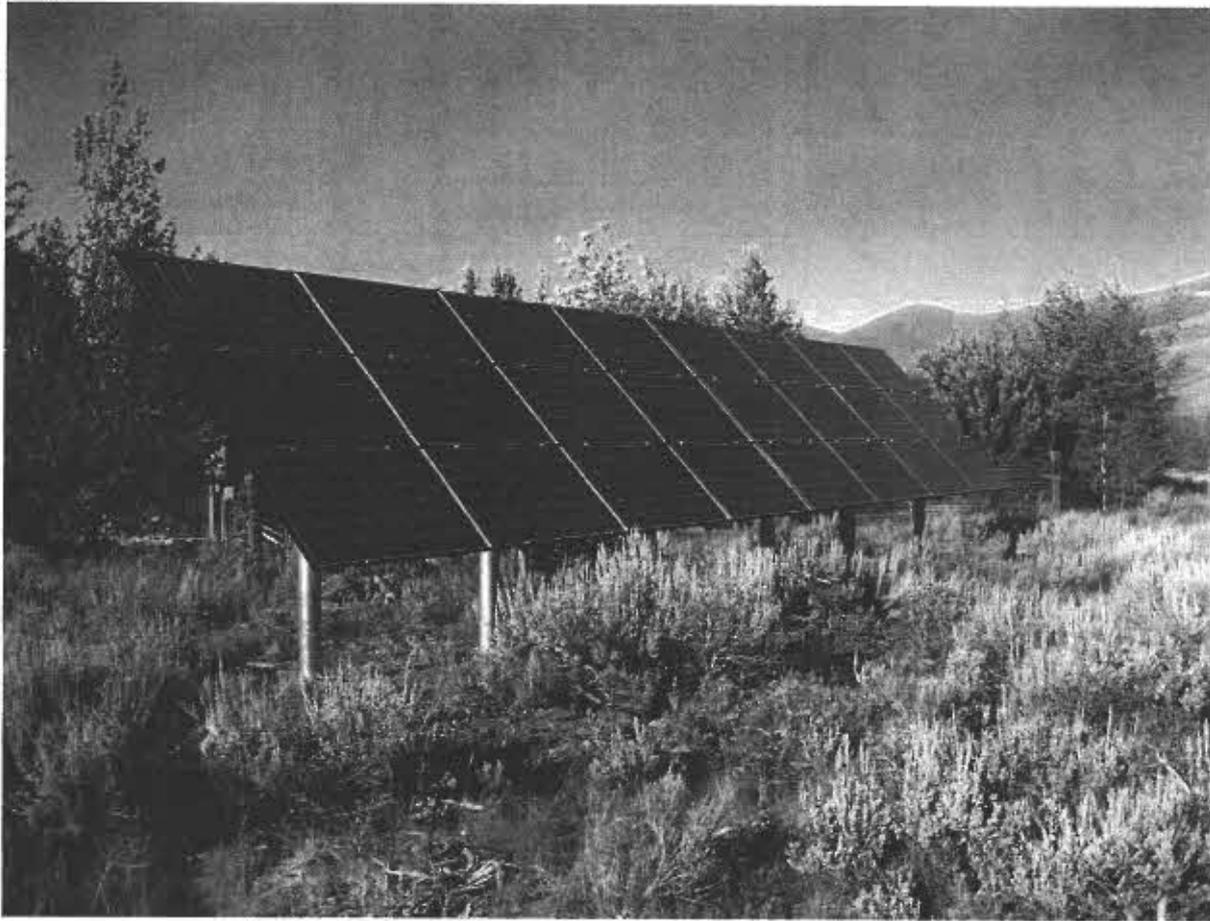
Glen Carsten
Project Management
Mechanical Contractor
glen@sitebasedenergy.com

Glen is a co-founder of SBE and leads auditing, design and construction teams, and manages the O&M side of the company. Glen has 22 years experience in Commercial/Industrial Mechanical design and installation, with over 5 years of renewable energy design and installation experience. Glen is Energy Star Certified, LEED certified, a member of the United States Green Building Council and a member of the Associated Builders and Contractors of America and an integral part of the company's dynamic and progressive approach.

Trent Stumph
Environmental & Permitting
trent@sitebasedenergy.com

With a background in Natural Resource Management and Environmental Conservation Trent has 22 years of experience in environmental consulting, planning and policy work in the Inter-Mountain West. Working on and managing diverse environmental projects including: environmental evaluations, environmental remediation, landscape restoration, wildlife studies, regulatory compliance and permitting. Working for and cooperatively with landowners, corporations, environmental organizations, cities, states, government agencies, and other resource consultants has provided him valuable experience that brings innovation to demanding resource management projects. With his commitment to provide timely, professional and cost-effective solutions for our clients Trent brings added dedication to the SBE team.

Project Profile – Torrence:



Location:

Torrence Residence

2 Pioneer View Dr

Hailey, ID 83333

Contact Paul Conrad for a tour: paul@sitebasedenergy.com, 208-309-1200

HYBRID GRID-TIED RENEWABLE ENERGY SYSTEM – GRID TIED WITH EMERGENCY
STANDBY FUNCTION

24 X 230 WATT REC POLYCRYSTALLINE PANELS

DPW MULTI-POLE MOUNTING STRUCTURE – ADJUSTABLE TILT

XANTREX XW 6048 INVERTER

48 VOLT BATTERY BANK COMPOSED OF 24 X CONCORDE PVX 9150T BATTERIES

AUTOMATIC TRANSFER SWITCH INTEGRATED WITH PV SYSTEM AND GENERATOR
SYSTEM

Site Based Energy Financial Statement:

1:45 PM
12/09/11
Accrual Basis

Site Based Energy LLC Balance Sheet As of December 9, 2011

	Dec 9, 11
ASSETS	
Current Assets	
Checking/Savings	
10010 - DL Evans Bank	10,029.91
Total Checking/Savings	10,029.91
Accounts Receivable	
12000 - Accounts Receivable	110,380.77
Total Accounts Receivable	110,380.77
Other Current Assets	
12100 - Inventory Asset	55,886.48
13000 - Loans to HydroGen LLC	13,500.00
Total Other Current Assets	69,386.48
Total Current Assets	189,797.16
Other Assets	
18000 - Start-Up Costs	38,717.14
Total Other Assets	38,717.14
TOTAL ASSETS	<u>228,514.30</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
20000 - Accounts Payable	25,757.17
Total Accounts Payable	25,757.17
Other Current Liabilities	
24000 - Payroll Liabilities	4,920.69
25000 - Paul Conrad Loans	190,203.20
25500 - Use & Sales Tax Payable	
25510 - Idaho Sales Tax	3,066.23
25500 - Use & Sales Tax Payable - Other	-1,834.61
Total 25500 - Use & Sales Tax Payable	1,231.62
Total Other Current Liabilities	196,355.51
Total Current Liabilities	222,112.68
Total Liabilities	222,112.68
Equity	
30200 - Trent Stumph Equity	40,000.00
30400 - Paul Conrad Equity	3,000.00
30600 - Jolyon Sawrey Equity	5,272.35
30800 - Glen Carsten Equity	3,000.00
Net Income	-44,870.73
Total Equity	6,401.62
TOTAL LIABILITIES & EQUITY	<u>228,514.30</u>

Resources:

- **Idaho Power Oregon Solar Photovoltaic Pilot Program**
http://www.idahopower.com/AboutUs/BusinessToBusiness/GenerationInterconnect/oregonSolarPhotovoltaic_advance.cfm
- **Cooperative Community Energy**
<http://cooperativecommunityenergy.com/>
- **NW Community Energy**
<http://nwcommunityenergy.org/>
- **Solar America Cities (DOE)**
<http://solaramericacommunities.energy.gov/>
- **Department of Energy**
<http://www.energy.gov/>
- **National Renewable Energy Laboratory**
<http://www.nrel.gov/>
- **Energy Efficiency and Renewable Energy (US Department of Energy)**
<http://www.eere.energy.gov/>
- **Solar Energy Industries Association**
<http://www.seia.org/>
- **Solar Electric Power Association**
<http://www.solarelectricpower.org/>
- **Northwest Seed**
<http://www.nwseed.org/>
- **Interstate Renewable Energy Council**
<http://irecusa.org/>
- **In My Backyard (National Renewable Energy Laboratory)**
<http://www.nrel.gov/eis/imby/>
- **Idaho National Laboratory**
<https://inlportal.inl.gov/portal/server.pt/community/home>
- **New Energy Cities**
<http://newenergycities.org/>
- **Climate Solutions**
<http://climatesolutions.org/>

Appendix: Copy of Unsigned Land Lease Agreement, Dated: November 28, 2011

SOLAR PROJECT GROUND LEASE

among

**CITY OF ONTARIO
“Landlord”**

and

**SITE BASED ENERGY LLC
an Idaho limited liability company,
“Tenant”**

Dated: December _____, 2011

SOLAR PROJECT GROUND LEASE

THIS SOLAR PROJECT GROUND LEASE (this "**Lease**") is made and entered into as of December _____, 2011 (the "**Effective Date**") by and between CITY OF ONTARIO, a city incorporated under the laws of the State of Oregon ("**Landlord**"), and SITE BASED ENERGY LLC, an Idaho limited liability company ("**Tenant**"). Capitalized terms used and not otherwise defined herein have the meanings set forth on Schedule A.

RECITALS

A. Landlord owns certain real property in the city of Ontario, State of Oregon, legally described on Exhibit A, attached hereto and incorporated herein (the "**Land**").

B. Tenant desires to ground lease a portion of the Land from Landlord as legally described or graphically depicted on Exhibit B, attached hereto (the "**Premises**"), in order to construct, maintain and operate a photovoltaic power system and related improvements (the "**System**") in accordance with that certain Schedule 88, Solar Photovoltaic Pilot Program (the "**Program**") established by Idaho Power Company, an Idaho corporation ("**Idaho Power**"), a copy of which is attached hereto as Exhibit C (the "**Program Requirements**").

C. Landlord has determined it is in the public interest to lease the Premises, not needed for public purposes, to Tenant for the implementation of the Program and the operation of the System in accordance with the terms and conditions contained herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. Land; Access.

Commencing on the Effective Date, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises. Tenant acknowledges that it has examined the Premises and accepts the same as being in the condition called for by the Lease. Tenant, its agents, contractors, approved third parties and employees, and lenders, have a non-exclusive right of ingress and egress over the Land to access the Premises to carry out the purposes set forth in this Lease, which right of access may not be terminated by Landlord during the Term of this Lease.

2. Term.

2.1 Construction Term. The initial term of this Lease (the "**Construction Term**") shall commence on the Effective Date and continue until the Operation Date, as defined in the Energy Sales Agreement, substantially in the form attached hereto as Exhibit D.

2.2 Operations Term. The operations term (the "**Operations Term**") shall commence upon the expiration of the Initial Term and continue to that date which is the later of

(i) eight (8) years or (ii) that period of time necessary to collect the Assigned Payments in an amount sufficient to pay the Initial Development Costs of the construction of the Project, provided however that the Operations Term shall not be longer than fifteen (15) years.

2.3 Service Term. Upon the written election of Tenant to Landlord, the Service Term (the "**Service Term**") shall commence upon the expiration of the Operations Term and continue for the remainder of the term of the Energy Sales Agreement unless earlier terminated by Landlord or Tenant at the end of any calendar quarter upon not less than six (6) months notice.

The Construction Term, Operations Term and Service Term shall be referred to collectively herein as the "**Term**".

3. Rent; Assignment of Payments.

3.1 Rent. Commencing on the Effective Date and continuing through the **Expiration Date**, Tenant shall pay to Landlord at the place directed by Landlord, rent in the amount of One Dollar (\$1.00) per year (the "**Rent**"), which shall be paid on the first (1st) business day of each calendar year of the Term.

3.2 Assignment of Volumetric Incentive Payments. During the Term and as additional consideration for the services provided by Tenant hereunder, Landlord assigns and conveys to Tenant, as a **Qualifying Assignee** pursuant to the Program, one hundred percent (100%) of the Volumetric Incentive Payments Landlord receives from Idaho Power pursuant to the terms of the Energy Sales Agreement ("**Assigned Payments**"). Landlord shall pay to Tenant the Assigned Payments within ten (10) days of receiving the Volumetric Incentive Payments from Idaho Power.

3.3 Interest and Late Charge. On default in payment of any installment of Rent or payment of Assigned Payments on the date on which such installment or payment is due, the defaulting party shall also be obligated to pay a late charge of four percent (4%) of the amount due. Any amounts payable under this Lease shall bear interest from the date due at the rate of eighteen percent (18%) per annum.

4. Construction and Ownership of the System and Improvements.

4.1 Construction of System. During the Construction Term, Tenant shall at its sole cost and expense construct the System on the Premises in accordance with the provisions hereof and the Program Requirements. Prior to commencing construction of the System, Tenant shall submit to Landlord, for its review, preliminary plans in sufficient detail to enable Landlord to determine the design, style and character of the proposed System. Landlord shall provide Tenant will all necessary information and support and cooperation as may be reasonably necessary to complete the construction and installation of the System and Improvements on the Premises during the Construction Term.

4.2 Other Improvements. Subject to Landlord's prior written approval, which approval shall not be unreasonably withheld, Tenant shall have the right to make

improvements and alterations to the System as Tenant from time to time deems necessary or desirable in connection with the use permitted under Section 7.1 below.

4.3 Legal Requirements. All construction, alteration, maintenance, repair, replacement or renewal of the System shall be in accordance with applicable Legal Requirements. Landlord shall cooperate with Tenant in all respects in connection therewith, including the execution of any applications, consents or other instruments upon request. Tenant shall pay all fees and costs reasonably necessary to comply with such Legal Requirements.

4.4 Ownership of the System. The System shall be and remain the sole property of Tenant until conveyed to Landlord at the end of the Operations Term. Upon termination of the Operations Term, Tenant shall convey the System to Landlord by bill of sale for a purchase price of One Dollar (\$1.00).

5. Operations of System and Improvements.

5.1 Taxes.

(a) Tenant shall pay in full and discharge, or cause to be paid and discharged, prior to delinquency, all personal property taxes assessed on the System.

(b) Landlord shall be responsible for and pay when due all taxes assessed on the Land, if any.

5.2 Liens. Tenant shall keep the Land free from any liens arising out of work performed, materials furnished to or obligations incurred by or on behalf of Tenant. If any mechanic's or materialmen's lien is filed against the Land for work claimed to have been done for or materials claimed to have been furnished to or obligations incurred by Tenant, Tenant shall discharge the same as soon as reasonably practical. Tenant shall have the right to contest any such liens if it notifies Landlord of its intention to do so; provided, that Tenant shall diligently prosecute any such contest, at all times effectually stay or prevent any official or judicial sale of the Land under execution or otherwise, and pay or otherwise satisfy any final judgment adjudicating or enforcing such contested mechanics or other lien claim and thereafter procure and record a release and satisfaction thereof. Landlord agrees to cooperate fully with Tenant in good faith during the course of such contest.

5.3 Utilities. Tenant shall pay all charges for gas, electricity, light, water, telephone service, refuse and all other public or private utilities or services which shall be used in or charged against or in connection with the use of the Premises during the Term of this Lease.

6. Maintenance. Tenant shall maintain the Premises and the System in a good state of repair, subject to ordinary wear and tear, in accordance with the Program Requirements and prudent industry practices. Tenant shall not cause or permit waste, nuisance, contamination, or other similar act upon the Premises. Subject to Section 16 below, Tenant shall at the expiration of this Lease surrender and deliver the Premises in as good condition, normal wear and tear excepted, as hereafter improved.

7. Use.

7.1 Permitted Use. Tenant is permitted to use the Premises for the design, construction, and operation of the System and Improvements, and for no other use or purpose without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed.

7.2 Legal Compliance. Throughout the Term, Tenant shall promptly comply in all material respects with all Legal Requirements and Program Requirements that may apply to the Premises, Systems and/or to the Improvements, to the use or manner of uses of the Premises, System or the Improvements. Tenant shall have the right, after prior written notice to Landlord, to contest by appropriate legal proceedings, diligently conducted in good faith in the name of Tenant or Landlord or both and without cost or expense to Landlord, the validity or application of any Legal Requirement; provided, that if any lien or charge would be incurred by reason of any delay in compliance with such Legal Requirement, Tenant nevertheless may contest the matter and delay compliance, provided, that such delay would not subject Landlord to civil or criminal liability or fine, and Tenant furnishes to Landlord security, reasonably satisfactory to Landlord, against any lien or charge by reason of such contest or delay. Landlord shall execute and deliver any appropriate papers that may be necessary or proper to permit Tenant to contest the validity or application of any Legal Requirement, provided all the requirements of this Section have been satisfied by Tenant and Landlord will incur no cost (or Tenant shall have agreed to reimburse such cost).

8. Representations and Warranties of Landlord.

As of the Effective Date and during the Term, Landlord hereby represents and warrants that the following is true and correct in all respects:

8.1.1 Landlord is a city duly incorporated under the laws of the State of Oregon.

8.1.2 Landlord is authorized by the laws and regulations of the State of Oregon and the ordinances of the Landlord, including but not limited to the laws, regulations, and ordinances governing leasing of public property, procurement of goods and services, and conduct of public meetings, to enter into this Lease and to carry out its obligations hereunder.

8.1.3 Landlord has duly authorized the execution and delivery of this Lease, which is the legal, valid and binding obligation of the Landlord, enforceable against the Landlord in accordance with its terms.

8.1.4 Neither the execution and delivery of this Lease, the consummation of the transactions contemplated hereby, nor the fulfillment or compliance of the terms and conditions of this Lease conflicts with or results in a breach of any of the terms, conditions, or provisions of any restriction or any agreement or instrument to which the Landlord is now a party or by which it is bound, or constitutes a default under any of the foregoing or results in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Landlord under the terms of any instrument or agreement.

8.1.5 To Landlord's knowledge, there is no litigation pending or threatened against Landlord affecting its ability to perform its obligations under this Lease.

9. Further Agreements.

9.1 Interconnection Application – Part B. Landlord shall submit the Interconnection Application – Part B (the “**Interconnection Application**”) to Idaho Power on or before December 19, 2011, which is the deadline established by Idaho Power. Tenant shall provide Landlord with all necessary information and support and cooperation as may be reasonably necessary to complete the Interconnection Application – Part B and shall reimburse Landlord for all application fees incurred in connection with the Interconnection Application. In the event Idaho Power rejects the Interconnection Application, this Lease will terminate and be of no further force or effect.

9.2 Energy Sales Agreement. Upon approval of the Interconnection Application, Landlord shall, within thirty (30) days of receiving notice of such approval, provide the information required by Idaho Power to execute the Energy Sales Agreement. Landlord shall execute the Energy Sales Agreement as soon as practicable and no later than thirty (30) days after Tenant's request.

9.3 Authorized Agent of Landlord. Landlord authorizes Tenant to serve as Landlord's agent and attorney-in-fact to communicate with the Oregon Public Utilities Commission and Idaho Power and to execute any necessary documents on behalf of Landlord regarding the Program and this Lease. Landlord shall execute the Consent Form attached hereto and incorporated herein as Exhibit E, authorizing Idaho Power and Tenant to communicate regarding the implementation of the Program, this Lease and all other transactions contemplated by this Lease and the Program Requirements.

9.4 Tax Benefits. All tax benefits available to Tenant or Landlord as a result of the construction and operation of the System, including, without limitation, the U.S. Treasury Grant, established in Section 1603 of the American Recovery and Reinvestment Tax Act; the Business Energy Investment Tax Credit, codified at 26 U.S.C. § 48; the Renewable Electricity Production Tax Credit, codified at 26 U.S.C. § 45; and the Modified Accelerated Cost-Recovery System + Bonus Depreciation, codified at 26 U.S.C. § 168, shall be for the benefit of Tenant, and Landlord shall execute and deliver any assignments or other documentation, at no cost to Tenant, required to assign any rights and benefits under such programs from Landlord to Tenant.

9.5 Renewable Energy Certificates. Pursuant to the Program Requirements, all Renewable Energy Certificates (also known as renewable energy credits, green tags, green certificates, and RECs) associated with the System under any existing or implemented law, regulation or ordinance are the property of the Idaho Power and neither Landlord nor Tenant shall have any right, title or interest in such benefits or allowances.

10. Insurance.

10.1 Property Insurance. Tenant, at its sole expense, shall obtain and keep in force at all times during the term hereof on all Improvements insurance coverage, with extended coverage endorsement, including coverage against losses by fire, extended risk, vandalism, flood and malicious mischief.

10.2 Liability Insurance. Tenant shall, during the entire Term, keep in full force and effect a policy of comprehensive general liability insuring property damage insurance and bodily injury with respect to the operations of the System by Tenant on the Premises, in amount not less than \$1,000,000.00 per occurrence, combined single limit.

10.3 Policy Form. Tenant shall provide Landlord with satisfactory evidence of Insurance, and the current effective status thereof. All liability policies shall be issued naming Landlord and Idaho Power as additional insureds or loss payees. All policies of insurance must contain a provision that the company writing said policy will give to Landlord and Idaho Power sixty (60) days notice in writing in advance of any cancellation or lapse or the effective date of any reduction in the amounts of insurance. All public liability, property damage and other casualty policies shall be written by insurance companies qualified to do business in the State of Oregon with an A.M. Best Company rating of A- or better.

10.4 Waiver of Subrogation. Whether loss or damage is due to the negligence of either Landlord or Tenant or their agents or employees, or any other cause, Landlord and Tenant do each hereby release and relieve the other and its agents and employees from responsibility for, and waive their entire claim of recovery for, any loss resulting from business interruption at the Land or loss of income from the Improvements or any loss or damage to the real or personal property of either located anywhere in the Land or Improvements, arising out of or incident to the occurrence of any of the perils which are covered by any all-risk direct physical damage insurance policy now or from time to time carried by the parties hereto or any of the perils which would be covered by the standard form of all-risk direct physical damage insurance policy in common use in the State of Oregon for comparable properties. Each party shall cause its insurance carriers to consent to such waiver and to waive all rights of subrogation against the other party. Notwithstanding the foregoing, no such release by Landlord or Tenant shall be effective unless such waivers are obtainable by each party.

11. Indemnification.

11.1 By Tenant. Tenant shall indemnify, protect, defend and hold Landlord harmless from and against any and all claims, demands, losses, damages, costs, charges, liabilities and reasonable attorneys' fees arising from damage or injury, actual or claimed, of whatsoever kind or character, to persons or property occurring in, on or about the Land, Premises

or the Improvements, arising from the negligence or intentional misconduct of Tenant or Tenant's agents or employees, provided, however, that nothing herein shall require Tenant to indemnify, protect, defend or save Landlord harmless from the consequences of Landlord's negligence or willful misconduct or the negligence or willful misconduct of any of Landlord's agents or employees.

11.2 By Landlord. Landlord covenants and agrees that it will at all times during the Term indemnify, protect, defend and hold Tenant harmless from and against any and all claims, demands, losses, damages, costs, charges, liabilities and reasonable attorneys' fees arising from damage or injury, actual or claimed, of whatsoever kind or character, to persons or property occurring in, on or about the Land or Premises arising from the negligence or intentional misconduct of Landlord or Landlord's agents or employees or any default by Landlord under the Energy Sales Agreement or Interconnection Agreement, provided, however, that nothing herein shall require Landlord to indemnify, protect, defend or save Tenant harmless from the consequences of Tenant's negligence or willful misconduct or the negligence or willful misconduct of any of Tenant's agents or employees.

12. Damage or Destruction.

12.1 During the Operations Term. In the event of damage to or destruction of the System or Improvements, by fire or any other casualty, during the Operations Term, Tenant shall, at its sole cost and expense, restore, repair, replace, rebuild, modify or alter the same as promptly as practicable to substantially their condition prior to said damage or destruction. Tenant shall diligently carry out such repair, replacement, reconstruction and rebuilding to full completion as soon as practical. All Insurance Proceeds shall be held in trust and applied to the payment of such restoration as such restoration progresses; provided, however, if Tenant determines, in its sole discretion, that restoration is not economically feasible then Tenant shall have the right to terminate this Lease and shall have no further obligations hereunder provided Tenant assigns the Insurance Proceeds to Landlord.

12.2 During the Service Term. In the event of damage to or destruction of the System or Improvements, by fire or any other casualty, during the Service Term, Landlord shall, at its sole cost and expense, instruct Tenant restore, repair, replace, rebuild, modify or alter the same as promptly as practicable to substantially their condition prior to said damage or destruction. Tenant shall diligently carry out such repair, replacement, reconstruction and rebuilding to full completion as soon as practical. All Insurance Proceeds shall be held in trust and applied to the payment of such restoration as such restoration progresses; provided, however, if Landlord determines, in its sole discretion, that restoration is not economically feasible then Landlord shall have the right to terminate this Lease and shall have no further obligations hereunder and shall be entitled to retain any Insurance Proceeds.

13. Condemnation.

13.1 Total Taking.

(a) If all of the Land, the Premises or the System is taken or condemned, by right of eminent domain or by purchase in lieu of condemnation, or, if such

portion of the Land, the Premises, the System shall be so taken or condemned that the portion remaining is not sufficient and suitable, in Tenant's reasonable commercial business judgment, to permit the restoration of the System and/or Improvements following such taking or condemnation as a viable and functional economic unit, then this Lease, at Tenant's option, shall cease and terminate as of the date on which the condemning authority takes possession (any taking or condemnation of the land described in this Section being called a "**Total Taking**"). Rent and accrued Assigned Payments shall be paid to the date of such Total Taking.

(b) If this Lease expires and terminates as a result of a Total Taking, the total award or awards for the Total Taking shall be apportioned and paid in the following order of priority:

(i) Landlord shall have the right to and shall be entitled to receive directly from the condemning authority that portion of the award which is hereinafter defined as the "**Land Award**," and Tenant shall not be entitled to receive any part of the Land Award. The term Land Award shall mean that portion of the award in condemnation that represents the fair market value of the Land as of the date of the taking, considered as vacant and unimproved but encumbered by this Lease.

(ii) For any total taking during the Operations Term, Tenant shall have the right to and shall be entitled to receive directly from the condemning authority, that portion of the award which reflects the value of Tenant's interest in the System as provided in this Lease and in the leasehold estate, which is hereinafter defined as the "**Tenant's Leasehold Award**."

(iii) It is the intent of the parties that the Land Award and the Tenant's Leasehold Award will equal the total amount of the awards respecting a Total Taking.

(iv) If the court or such other lawful authority as may be authorized to fix and determine the awards fails to fix and determine, separately and apart, the Land Award and the Tenant's Leasehold Award, such awards shall be determined and fixed by written agreement mutually entered into by and among Landlord and Tenant, and if an agreement is not reached within twenty (20) days after the judgment or decree is entered in the proceedings, the controversy shall be resolved by application to a court of competent jurisdiction.

13.2 Partial Taking. If during the Term, there is a taking or condemnation that is not a Total Taking and not a temporary taking of the kind described below in Section 13.3, this Lease and the Term shall not cease or terminate but shall remain in full force and effect with respect to the portion of the Land and of the Improvements not taken or condemned (any taking or condemnation of the kind described in this Section being referred to as a "**Partial Taking**"), and in such event:

(a) The total award or awards for the Partial Taking shall be apportioned and paid in the following order of priority:

(i) Landlord shall have the right to and shall be entitled to receive directly from the condemning authority, in its entirety and not subject to any trust, that portion of the award that equals the Land Award with respect to the portion of the Land that is taken, and Tenant shall be entitled to receive any part of the Land Award; and

(ii) Tenant shall have the right to and shall be entitled to receive directly from the condemning authority the balance of the award.

(b) Rent payable during the remainder of the Term after taking of possession by said condemning authority shall be reduced on a just and proportionate basis considering the relative value and square footage of the portion of the Land thus taken or condemned as compared to the remainder thereof and taking into consideration the extent, if any, to which Tenant's use of the remainder of the Premises shall have been impaired or interfered with by reason of such partial taking or condemnation.

13.3 Temporary Taking. If the temporary use (but not leasehold title) of the whole or any part of the Land shall be taken as aforesaid, this Lease shall not be affected in any way and Tenant shall continue to pay all Rent and Landlord shall pay all Assigned Payments due hereunder. The entire award paid as a result of such temporary use shall be paid to Tenant.

13.4 Proceedings. In any condemnation proceeding affecting the Land which may affect the Landlord's Estate and Tenant's Estate, both parties shall have the right to appear in and defend against such action as they deem proper in accordance with their own interests. To the extent possible, the parties shall cooperate to maximize the award payable by reason of the condemnation. Issues between Landlord and Tenant required to be resolved pursuant to this Section 13 shall be joined in any such condemnation proceeding to the extent permissible under then applicable procedural rules of such court of law or equity for the purpose of avoiding multiplicity of actions and minimizing the expenses of the parties.

14. Assignment by Tenant. Tenant may assign all or any part of this Lease without Landlord's consent.

15. Default and Remedies.

15.1 Tenant Events of Default. Upon the occurrence of any of the following events (each, a "Tenant Event of Default"), Landlord shall have the remedies set forth hereunder:

(a) Landlord fails to pay any Rent when due.

(b) Tenant fails to perform any other term, condition or covenant to be performed by it pursuant to this Lease within thirty (30) days after receipt of written notice of such failure from Landlord or, if cure would reasonably require more than thirty (30) days to complete, Tenant fails to commence performance within the thirty (30) day period or fails thereafter to diligently and continuously pursue such cure to completion.

(c) Tenant shall become bankrupt or insolvent or file any debtor proceedings or have taken against such party in any court pursuant to state or federal statute, a petition in bankruptcy or insolvency, reorganization or appointment of a receiver or trustee, unless such filings are dismissed within sixty (60) days of filing; or Tenant petitions for or enters into an arrangement for the benefit of creditors; or suffers this Lease to be taken under a writ of execution.

15.2 Landlord Event of Default. Upon the occurrence of any of the following events (each, a “**Landlord Event of Default**”), Tenant shall have the remedies set forth hereunder:

(a) Landlord fails to pay any Assigned Payments when due.

(b) Landlord fails to perform any other term, condition or covenant to be performed by it pursuant to this Lease within thirty (30) days after receipt of written notice of such failure from Tenant or, if cure would reasonably require more than thirty (30) days to complete, Landlord fails to commence performance within the thirty (30) day period or fails thereafter to diligently and continuously pursue such cure to completion.

(c) Landlord is in default under the terms of the Energy Sales Agreement, Interconnection Agreement or any other agreement with Idaho Power regarding the ownership, operation, maintenance or any other matter related to the System.

15.3 Remedies. In the Event of Default, the non-defaulting party shall have all rights and remedies available under law or at equity, including, without limitation, the right of specific performance.

16. Removal of Property. Upon expiration or sooner termination of this Lease, Tenant shall remove all personal property not necessary for the operation of the System (whether or not the System has been previously transferred to Landlord pursuant to the terms contained herein) not attached to or made part of the Premises. The System and other personal property affixed to the Premises shall become the property of Landlord and shall remain upon and be surrendered with the Premises.

17. Hazardous Substances.

(a) Tenant shall not permit or engage in any conduct or activity on, about or as to the Premises which involves or results in the handling, generation, emission, release, storage, treatment, processing, discharge, use, transportation, management or disposal (hereinafter collectively referred to as “**Hazardous Substances Activities**”) of any Hazardous Substances, except in accordance with all applicable Environmental Laws. Tenant further represents, warrants and covenants that it shall not allow any such Hazardous Substances (other than Hazardous Substances currently existing on the Premises and normal office supplies, paints, lubricants, water treatment chemicals, cleaning and other activities typical to its business operations) on or about the Premises unless Tenant obtains any required permits and licenses from all appropriate agencies. In the event any Hazardous Substances shall come on or about the Premises under any circumstances caused by the gross negligence or willful misconduct, Tenant, its employees, officers, authorized representatives, agents or contractors, Tenant shall be

responsible for managing such Hazardous Substances in compliance with all applicable Legal Requirements at all times such Hazardous Substances exist on or about the Premises during the Term of this Lease and for such other times as the existence of such Hazardous Substances may later be discovered.

(b) Landlord shall not permit or engage in any conduct or activity on, about or as to the Land permit or engage in Hazardous Substances Activities of any Hazardous Substances, except in accordance with all applicable Environmental Laws. Landlord further represents, warrants and covenants that it shall not allow any such Hazardous Substances (other than Hazardous Substances currently existing on the Premises and normal office supplies, paints, lubricants, water treatment chemicals, cleaning and other activities typical to its business operations) on or about the Land unless Landlord obtains any required permits and licenses from all appropriate agencies. In the event any Hazardous Substances shall come on or about the Land under any circumstances caused by the gross negligence or willful misconduct, Landlord, its employees, officers, authorized representatives, agents or contractors, Landlord shall be responsible for managing such Hazardous Substances in compliance with all applicable Legal Requirements at all times such Hazardous Substances exist on or about the Land during the Term of this Lease and for such other times as the existence of such Hazardous Substances may later be discovered.

(c) Tenant shall indemnify, defend and hold Landlord harmless from and against all obligations, claims, administrative proceedings, judgments, demands, causes of action, losses, damages, liabilities, costs and expenses (including reasonable attorneys', consultants' and experts' fees) asserted against or incurred by Landlord arising out of Tenant's failure to comply with or perform any covenant, agreement or obligation set forth in this Section; provided, however, that Tenant shall not indemnify, defend, or hold Landlord harmless against Hazardous Substances placed or coming on or about the Land under any circumstances caused by the act or omissions of Landlord, its employees, officers, authorized representatives, agents or contractors.

(d) Landlord shall indemnify, defend and hold Tenant harmless from and against all obligations, claims, administrative proceedings, judgments, demands, causes of action, losses, damages, liabilities, costs and expenses (including reasonable attorneys', consultants' and experts' fees) asserted against or incurred by Tenant arising out of Landlord's failure to comply with or perform any covenant, agreement or obligation set forth in this Section; provided, however, that Landlord shall not indemnify, defend, or hold Tenant harmless against Hazardous Substances placed or coming on or about the Land under any circumstances caused by the act or omissions of Tenant, its employees, officers, authorized representatives, agents or contractors.

18. Quiet Enjoyment. Subject to Tenant's performance of its duties and obligations hereunder, Landlord (and all successors and assigns of Landlord) covenants and warrants that Tenant shall and may peaceably and quietly have, hold, occupy, use and enjoy all of the Premises during the Term, free from claims of others arising by, through or under Landlord.

19. Estoppel Statements.

(a) Landlord shall at any time and from time to time, upon not less than ten (10) Business Days prior written notice from Tenant, execute, acknowledge and deliver to Tenant a statement in writing: (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect), and the date to which the rental and other charges are paid in advance, if any, (ii) acknowledging that there are not, to Landlord's knowledge, any uncured defaults on the part of Tenant hereunder, or specifying such defaults if any are claimed, and (iii) setting forth the date of commencement of rents and expiration of the term hereof. Any such statement may be relied upon by the prospective purchaser, assignee or encumbrancer of all or any portion of the System or Lease.

(b) Tenant shall at any time and from time to time, upon not less than ten (10) Business Days prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing: (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect), and the date to which the rental and other charges are paid in advance, if any, (ii) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults if any are claimed, and (iii) setting forth the date of commencement of rents and expiration of the term hereof. Any such statement may be relied upon by the prospective purchaser, assignee or encumbrancer of all or any portion of the real property of which the Land are a part.

20. General.

20.1 Successors. Subject to the provisions hereof pertaining to assignment and subletting, the covenants and agreements of this Lease shall be binding upon the successors and assigns of the parties hereto.

20.2 Notices. To be effective, all notices given or other communications made under this Lease shall be in writing and shall be sent by (a) first class United States mail, postage prepaid, registered or certified, (b) an overnight courier service that retains evidence of delivery or (c) personal delivery, in each case addressed as follows:

To Landlord:	City of Ontario 44 Southwest Fourth Street Ontario, Oregon 97914 Attention: Yorick De Tassigny
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To Tenant: Site Based Energy LLC
21 Comet Lane
Hailey, Idaho 83333
Attention: Paul Conrad

With a copy to, which shall not constitute notice: Givens Pursley LLP
601 West Bannock Street
Boise, Idaho 83702
Attention: Franklin G. Lee and Anne C. Kunkel

A party may change its address for notice by giving written notice to the other party of such change. A notice shall be deemed given when received or upon the refusal of an otherwise proper delivery.

20.3 Holdover. If Tenant shall continue to occupy the Premises after the termination of the Lease, Tenant shall be deemed to be occupying the Premises on a month-to-month tenancy on the terms hereof in accordance with the laws of the State of Oregon.

20.4 Captions. The captions to sections of this Lease are not a part of this Lease and shall have no effect upon the construction or interpretation of any part hereof.

20.5 No Partnership. Nothing contained herein shall be construed as creating a partnership or joint venture between Landlord and Tenant or cause either party to be responsible in any way for debts or obligations of the other party hereto.

20.6 Commissions. Landlord and Tenant represent and warrant that they have not engaged any broker, finder or other person who would be entitled to any commission or fee in respect of the negotiation, execution or delivery of this Lease and each party shall indemnify and hold harmless the other party against any loss, cost, liability or expense incurred by the other party as a result of any claim asserted by any such broker, finder or other person on the basis of any arrangements or agreements made or alleged to have been made by or on behalf of such party.

20.7 Entire Agreement; Severability. This Lease contains all covenants and agreements between Landlord and Tenant relating in any manner to the rental, use and occupancy of the Premises and Land and other matters set forth in this Lease. No prior agreements or understanding pertaining to the same shall be valid or of any force or effect and the covenants and agreements of this Lease shall not be altered, modified or added to except in a written agreement signed by Landlord and Tenant. If any provision of this Lease or the application thereof to any person or circumstance shall prove to any extent invalid or unenforceable, the remaining provisions hereof or the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

20.8 Time of the Essence. Time is of the essence with respect to each of the provisions of this Lease.

20.9 Governing Law. This Lease shall be governed by, and interpreted in accordance with, the laws of the State of Oregon as they shall exist from time to time. If either Landlord or Tenant shall commence any legal proceedings against the other with respect to any of the terms and conditions of this Lease, the substantially prevailing party, as determined by the court having jurisdiction over the matter, shall be entitled to recover from the other reasonable costs and expenses of such proceedings, including attorneys' fees, as may be fixed by the court.

20.10 Counterparts. This Lease may be executed in counterparts, each of which shall be an original, and all of which shall together constitute one and the same instrument.

20.11 Nonwaiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements of this Lease, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such covenants and agreements, or any other covenants or agreements, but the same shall be and remain in full force and effect. Any acceptance by either of a partial payment of any amounts due to such party shall not constitute a waiver of any remaining unpaid amounts which may have accrued at that time or which may accrue thereafter.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF the parties hereto have executed this Lease the day and year first above written.

Landlord:

Tenant:

EXHIBIT A

LEGAL DESCRIPTION OF LAND

City to review attached legal description of LAND for each location and confirm it includes an accurate description of the LAND for each location.

EXHIBIT B

DESCRIPTION OR DEPICTION OF PREMISES
City & SBE to review locations and confirm projects

EXHIBIT C
PROGRAM REQUIREMENTS

EXHIBIT D
FORM OF ENERGY SALES AGREEMENT

EXHIBIT E
CONSENT FORM

Landlord (Client) to insert signed consent form they received from Idaho Power here

SCHEDULE A

As used in this Lease, the capitalized terms set forth in the Lease shall have the following meanings:

1. "Business Day" shall mean a day other than a Saturday, Sunday or national holiday in the United States.

2. "Effective Date" shall have the meaning given to such term in the opening paragraph above.

3. "Environmental Laws" shall mean all federal, state and local statutes, ordinances, codes, rules, regulations, guidelines, orders and decrees regulating, relating to or imposing liability or standards concerning or in connection with Hazardous Substances, underground or above-ground storage tanks or the protection of human health or the environment, as any of the same may be amended from time to time, and any equivalent state or local laws or ordinances.

4. "Event of Default" shall have the meaning given to such term in Section 15.1 above.

5. "Hazardous Substances" shall mean any substance, material, waste, gas or particulate matter: (a) that is regulated by the United States government or any state or local governmental authority with jurisdiction over the Land, or (b) the exposure to which, or manufacture, possession, presence, use, generation, storage, transportation, treatment, release, disposal, abatement, cleanup, removal, remediation or handling of which, is prohibited, controlled or regulated by any Environmental Laws, or (c) that requires investigation or remediation under any Environmental Laws or common law, or (d) that is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous.

6. "Initial Development Costs" shall mean costs and fees associated with, but not limited to, the design, purchase, construction, and installation of the System; bridge loan financing; equipment storage; construction loan financing; operations and maintenance; equipment replacement; financing reserve requirements; financing; accounting services; attorney services; and project management.

7. "Insurance Proceeds" shall mean any amount paid by an insurance carrier under any of the policies of casualty insurance that Tenant is required by the Lease to carry, after deducting therefrom the reasonable out-of-pocket costs and expenses of collection, including but not limited to reasonable attorneys' fees and experts' fees.

8. "Land" shall have the meaning set forth in the Background.

9. "Landlord" shall mean City of Ontario.

10. "Landlord's Estate" shall mean all of Landlord's right, title and interest in its fee estate in the Land, their reversionary interest in the Improvements pursuant hereto, and all Rent and benefits due Landlord hereunder.

11. "Lease" shall mean this Solar Project Ground Lease, as it may from time to time be amended, modified, restated, supplemented or replaced.

12. "Lease Year" shall mean: (a) the twelve (12)-month period commencing on the Effective Date and ending at midnight on the day immediately preceding the first annual anniversary of the Effective Date and (b) each successive period of twelve (12) months that begins on an annual anniversary of the Effective Date, with the last such period ending on the expiration of the Term.

13. "Legal Requirements" shall mean all present and future laws, statutes, requirements, ordinances, orders, judgments, regulations, administrative or judicial determinations of every governmental or quasi-governmental authority, court or agency claiming jurisdiction over the Land, Improvements, Tenant or Landlord now or hereafter enacted or in effect (including, but not limited to, Environmental Laws and those relating to accessibility to, usability by, and discrimination against, disabled individuals), and all covenants, restrictions and conditions now or hereafter of record which may be applicable to Tenant or Landlord or to all or any portion of the Land or Improvements, or to the use, occupancy, possession, operation, maintenance, alteration, repair or restoration of the Land or Improvements, even if compliance therewith necessitates structural changes to the Improvements or the making of Improvements, or results in interference with the use or enjoyment of any of the Land.

14. "Permits" shall mean all applicable permits, certificates, licenses, consents, variances, authorizations and approvals of governmental authorities.

15. "Rent" shall have the meaning given to such term in Section 3.1 above.

16. "System" shall have that meaning set forth in the Background.

17. "Tenant" shall mean Site Based Energy LLC, an Idaho limited liability company, and its permitted successors and assigns.

18. "Tenant's Estate" shall mean all of Tenant's right, title and interest in its leasehold estate in the Land and its fee estate in the Improvements during the Term.

19. "Term" shall have the meaning given to such term in Section 2 above.

EXHIBIT A

LEGAL DESCRIPTION OF LAND

City Shop (N):

The Land:

City of Ontario, Malheur County Oregon, in the Corrected Plat of Oregon and Western

EXHIBIT A
LEGAL DESCRIPTION OF LAND

City Shop (N):

The Land:

City of Ontario, Malheur County Oregon, in the Corrected Plat of Oregon and Western Colonization Company Second Addition, Block 6, Lot 6 and the south 295 feet of lot 7.

(Need section, township, and range descriptions added)

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Waste Water Treatment Plant Property

The Land:

COUNTY, OREGON, a municipal corporation, Grantee, the following described real property free of encumbrances except as specifically set forth herein:

Land in Malheur County, Oregon, as follows:

In Twp. 17 S., R. 47 E., W.M.:

Sec. 31: S½SE¼ and all that portion of the N½SE¼ lying South and East of the Malheur River.

EXCEPTING THEREFROM the following parcel:

Beginning at a point located N. 0°11' E., 25 feet from the Southeast corner of said Sec. 31;

- thence N. 0°11' E., 144.5 feet;
thence N. 84°54' W., 417.5 feet;
thence S. 29°43' W., 310.8 feet;
thence S. 89°46' W., 521.9 feet;
thence S. 1°16' W., 212 feet;
thence S. 30°19' W., 173 feet;
thence S. 5°07' W., 304 feet;
thence S. 1°53' W., 509.8 feet;
thence East 1208.7 feet to the Point of Beginning.

1901
71B

Tax Ref. No. Code 15, Tax Lot No. 1901, Map No. 174731, Computer No. 07229

SUBJECT TO and TOGETHER WITH

Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.

Easements, liens or encumbrances, or claims thereof, which are not shown by the public records; unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.

Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose.

AS DISCLOSED by the tax roll the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will

subject to additional taxes or penalties and interest.
CHARGES AND ASSESSMENTS of the Warm Springs Irrigation District and any and all others pertaining thereto, if any.
RIGHTS OF THE PUBLIC in and to existing County road rights-of-way.
SUCH RIGHTS and easements for navigation and fishing as may exist over that portion of the property lying beneath the waters of the Malheur River.

GRANTEE, the following described real property free of encumbrances except as specifically set forth herein:

Land in the E½E½ of Township 17 South, Range 47 East of the Willamette Meridian, Malheur County, Oregon, as follows:

See attached Exhibit A

Tax Map No. 17-47-B, Tax Lot No. 2000

17-47-B
2000

SUBJECT TO and TOGETHER WITH

Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

EXHIBIT "A"
TO WARRANTY DEED

A parcel of land in Malheur County, Oregon more particularly described as follows:

In Twp. 17 S., R. 47 E., W.M.:

Sec. 31: A parcel of land in the E $\frac{1}{2}$ SE $\frac{1}{4}$ more particularly described as follows, to-wit:
Beginning at a point located N. 0° 11' E., 25 feet from the Southeast corner of said
Sec. 31;

thence N. 0° 11' E.,	1448.0 feet;
thence N. 84° 54' W.,	417.5 feet;
thence S. 29° 43' W.,	310.8 feet;
thence S. 89° 46' W.,	521.9 feet;
thence S. 1° 16' W.,	212.0 feet;
thence S. 30° 19' W.,	173.0 feet;
thence S. 5° 07' W.,	304.0 feet;
thence S. 1° 53' W.,	509.8 feet;
thence E. 1203.7 feet to the Point of Beginning.	

which has the address of 3203 Malheur Drive, Ontario, Oregon 97914.

Together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property.

encumbrances except as specifically set forth herein.

A parcel of land in Malheur County, Oregon more particularly described as follows:

In Twp. 17 s., R. 47 E., W.M.: W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 32

Tax Map No. 17 47 C, Tax Lot No. pt8701 Computer No. 07039

Together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property.

SUBJECT TO and TOGETHER WITH

Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

WARRANTY DEED

DON LEWIS and LARENA LEWIS, husband and wife, Grantor, convey and warrant to the CITY OF ONTARIO, OREGON, Grantee, for public use, the following described real property free of encumbrances except as specifically set forth herein:

SEE EXHIBIT A ATTACHED HERETO

SUBJECT TO and TOGETHER WITH

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose.

A parcel of land in Malheur County, Oregon more particularly described as follows:

In Twp. 17 s., R. 47 E., W.M.:

Section 29: SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$.

EXCEPTING THEREFROM road right of way, and

A parcel of land in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ as follows:

Beginning at the Southeast corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$

THENCE West along the South section line, a distance of 700 feet;

THENCE in a Northeasterly direction to the Northeast corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$;

THENCE South, along the East sideline of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ to the POINT of BEGINNING, being that part of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ lying South and East of the County road; and

SE $\frac{1}{4}$ SE $\frac{1}{4}$,

EXCEPTING THEREFROM highway right of way as taken by the State of Oregon, by and through its State Highway Commission, under Final Judgment in that certain Condemnation Proceeding entitled "State of Oregon, by and through its State Highway Commission, Plt. -vs- Glen E. Thayer, et al, Defs.", being File No. 7535-L in the Circuit Court of the State of Oregon, for the County of Malheur, entered Oct. 3, 1957.

AND FURTHER EXCEPTING two (2) parcels as more particularly described in Final Judgment in that certain Action No. 12,269-L entitled "State of Oregon, by and through its State Highway Commission -vs- Glenn E. Thayer, also known as Glen E. Thayer, et al", in the Circuit Court of the State of Oregon for the County of Malheur, entered Feb. 8, 1972.

Section 32: NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and that portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ lying North of the Malheur River.

Together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water rights and stock and all fixtures now or hereafter a part of the property.

EXHIBIT B

5. **RIGHTS OF THE PUBLIC** in and to existing County road rights-of-way.
6. Any Adverse Claim based upon the assertion that:
- Some portion of said land has been created by artificial means or has accreted to such portion so created.
 - Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Malheur River, or has been formed by accretion to any such portion.
7. **RIGHTS OF THE PUBLIC** and governmental bodies in and to any portion of the premises herein described lying below high water mark of the Malheur River, including any ownership rights which may be claimed by the State of Oregon below high water mark as it now exists or at any time has existed.
8. **EASEMENT**, including the terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded May 21, 1951, Book 86, Page 300, Deed Records, across the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of and NW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 32.
9. **EASEMENT**, including terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded October 6, 1947, Book 71, Page 342, Deed Records, across the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 29.
10. **EASEMENT**, including terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded December 22, 1947, Book 72, Page 324, Deed Records, across the South 300 feet of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 29.
11. **EASEMENT**, including terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded December 22, 1947, Book 72, Page 325, Deed Records, across the South 300 feet of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 29.
12. **EASEMENT**, including terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded May 21, 1951, Book 86, Page 299, Deed Records, across the South 300 feet of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Sec. 29.
13. **EASEMENT**, including terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded August 6, 1974, Instrument No. 180213, Deed Records, across the West 50 feet of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and the West 50 feet of the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and East 50 feet of the SW $\frac{1}{4}$ SW $\frac{1}{4}$, all in Sec. 29, Twp. 17 S., R. 47 E., W.M.
14. **RESERVATIONS AND ACCESS RESTRICTIONS** contained in Final Judgment in Action No. 7535-L entitled "State of Oregon, by and through its State Highway Commission -vs- Glen E. Thayer and Jand Doe, husband and wife, if married", in the Circuit Court of the State of Oregon, for Malheur County, Final Judgment filed October 3, 1957.
15. **ACCESS RESTRICTIONS** contained in the Final Judgment in Action No. 12,269-L, entitled "State of Oregon, by and through its State Highway Commission -vs- Glenn E. Thayer, aka Glen E. Thayer, et al", in the circuit Court of the State of Oregon, for Malheur County, entered February 8, 1972.

16. **RIGHT-OF-WAY CONTRACT**, including the terms and provisions thereof, between Grigg Anderson Farms and Cascade Natural Gas Corporation, recorded August 4, 1965, Book 35, Instrument No. 86574, Leases and Agreements, for pipe line across lands in Sec. 29 and 32.
17. **UNRECORDED LEASE AGREEMENT**, including the terms and provisions thereof, between A. Marguerite Decker, Lessor, and Ore-Ida Foods, Inc., a Delaware corporation, Lessee, as disclosed by Memorandum of Lease dated February 10, 1978, recorded April 7, 1978, Instrument No. 43569, Leases and Agreements, covering a portion of the lands and affecting hot water, steam, minerals, oil and gas.

grantor except as specifically set forth herein.

SEE EXHIBIT A ATTACHED HERETO

SUBJECT TO and TOGETHER WITH

1. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
2. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records; unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other facts which a correct survey would disclose.

SEE EXHIBIT B ATTACHED HERETO FOR CONTINUATION OF EXCEPTIONS.

Land in Malheur County, Oregon, as follows:

In Twp. 17 S., R. 47 E., W.M.:

Sec. 32: NW $\frac{1}{4}$ NW $\frac{1}{4}$,

EXCEPTING THEREFROM the following 2 parcels:

PARCEL NO. 1: Commencing at the Northeast corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$;

thence N. 89° 51' W., along the North boundary thereof, 555.62 feet to the POINT OF BEGINNING;

thence S. 26° 04' 55" W., 168.81 feet;

thence N. 96° 06' 52" W., 156.80 feet;

thence N. 27° 44' 50" E., to a point on the North boundary of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, 159.77 feet;

thence S. 89° 51' E., along the said North boundary 156.27 feet to the Point of Beginning.

PARCEL NO. 2: Beginning at a point 419.02 feet East and 203.12 feet South of the Northwest corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$;

thence S. 10° 13' E., 168.0 feet;

thence S. 76° 02' W., 179.1 feet;

thence S. 85° 41' W., 87.6 feet;

thence N. 16° 01' W., 39.5 feet;

thence N. 53° 49' E., 300.1 feet to the Point of Beginning.

ALSO the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and all that portion of the NW $\frac{1}{4}$ SW $\frac{1}{4}$ lying North of the Malheur River.

* * * *

4. AS DISCLOSED by the tax roll the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
5. CHARGES AND ASSESSMENTS of the Owyhee Irrigation District and any and all matters pertaining thereto.
6. EASEMENT, including the terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded September 22, 1943, Book 58, Page 320, Deed Records, over and across the NW $\frac{1}{4}$ /NW $\frac{1}{4}$.
7. EASEMENT, including the terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded June 13, 1947, Book 71, Page 20, Deed Records, across the NW $\frac{1}{4}$ /SW $\frac{1}{4}$ of Sec. 32.
8. EASEMENT, including the terms and provisions thereof, in favor of Idaho Power Company, a corporation, recorded May 21, 1951, Book 86, Page 288, Deed Records, over and across the NW $\frac{1}{4}$ /NW $\frac{1}{4}$.
9. RIGHTS OF THE PUBLIC in and to existing County road rights-of-way.
10. ANY ADVERSE CLAIM based upon the assertion that:
 - a. Some portion of said land has been created by artificial means or has accreted to such portion so created.
 - b. Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Malheur River, or has been formed by accretion to any such portion.
11. RIGHTS OF THE PUBLIC and governmental bodies in and to any portion of the premises herein described lying below high water mark of the Malheur River, including any ownership rights which may be claimed by the State of Oregon below high water mark as it now exists or at any time has existed.

The State of Oregon, Grantee, the following described real property in Malheur County, Oregon:

In T. 17 S., R. 47 E., W.M., Section 22:

Those parts of the SE $\frac{1}{4}$ /NW $\frac{1}{4}$ lying easterly and northerly of the Malheur River; and

Those parts of the W $\frac{1}{2}$ /SE $\frac{1}{4}$ /NW $\frac{1}{4}$ lying westerly and northerly of the Malheur River.

Tax lots	Reference Nos.	Map No.	17S47	Code 15
1400	17859			
1600	17858			
1800	17857			
1900	17860			

The true consideration for this conveyance is: \$0.00 and other valuable consideration in the way of public work services or labor valued at \$1900.

Conveyance of fee simple determinable. This conveyance is being made pursuant to ORS 271.330 (1) and so long as the Property is used by Grantee for a public purpose for not less than 20 years. If at anytime prior to 20 years from the date this deed is signed by Grantor, the Property is not used by Grantee for a public purpose, the estate created in this deed shall terminate and the Property shall automatically revert to the Grantor, its successors or assigns. If the Property is used by Grantee for a public purpose for at least 20 years from the date this deed is signed by Grantor, this fee simple determinable shall automatically expire.

Note the conveyance is dependent on the public purpose. The City will probably need to make that determination at some point to ensure compliance

City deed to Malheur County: (Is this to be excluded from the LAND? Will any of our projects be on this property? We hope not.)

A-7E

1747C
6701

INSTRUMENT NO. 2002-4079
Page 1 of 5 Pages

WJTP
ODOT
File 6822-120
10B-14-4

DONATION DEED

CITY OF ONTARIO, a municipal corporation of the State of Oregon, Grantor, for no monetary consideration does convey unto Malheur County, a political subdivision of the State of Oregon, Grantee, fee title to the following described property:

PARCEL 1 - Fee

A parcel of land lying in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 32, Township 17 South, Range 47 East, W.M., Malheur County, Oregon and being a portion of that property described in that Warranty Deed to the City of Ontario, Oregon, recorded April 25, 1993 Instrument No. 93-2552, Malheur County Deed Records; the said parcel being that portion of said property lying between lines at right angles to the "J" center line at Engineer's Stations "J" 2+100 and "J" 2+875 and included in a strip of land 18.268 meters in width, 9.144 meters on each side of said center line which center line is described as follows:

Beginning at Engineer's center line Station "J" 2+100, said station being 19.351 meters South and 504.417 meters West of the Southeast corner of Section 32, Township 17 South, Range 47 East, W.M.; thence North 87° 45' 36" East 42.265 meters; thence on a 50 meter radius curve left (the long chord of which bears North 43° 00' 27.5" East 70.425 meters) 78.137 meters; thence North 1° 45' 41" West 747.685 meters to Engineer's center line Station "J" 2+968.087.

Bearings are based upon the Oregon Coordinate System of 1963(91), south zone.

The parcel of land to which this description applies contains 1.266 hectares, more or less, outside of the existing right of way.

PARCEL 2 - Fee

A parcel of land lying in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 32, Township 17 South, Range 47 East, W.M., Malheur County, Oregon and being a portion of that property described in that Warranty Deed to the City of Ontario, Oregon, recorded April 25, 1993 Instrument No. 93-2552, Malheur County Deed Records; the

Filed at Malheur County
RETURN TO AND TAX STATEMENT TO
OREGON DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY SECTION
355 CAPITOL STREET NE, ROOM 420
SALEM OR 97301-3871

Account No.: 78,47C, 6701
17
Property Address:

Inst. No. 2002-4079

I certify that the within Instrument or writing was received for record on the 29 day of May, 2002 at 11:17 O'clock A.M. FEE 7

STATE OF OREGON, County of Malheur
DEBORAH R. DeLONG
County Clerk

By: *Sayle V. Scatter* Deputy

08/10/01
Page 1 of 5
gmh

said parcel being that portion of said property lying Easterly of Parcel 1 and included in a strip of land 18.268 meters in width, 9.144 meters on each side of the 'E' center line which center line is described as follows:

Beginning at Engineer's center line Station 'E' 10+000, said station being 11.167 meters South and 292.015 meters West of the Southeast corner of Section 32, Township 17 South, Range 47 East, W.M.; thence North 1° 45' 40" West 328.098 meters; thence on a 70 meter radius curve left (the long chord of which bears North 47° 00' 14" West 99.414 meters) 110.549 meters; thence South 87° 45' 11" West 50.106 meters to Engineer's center line Station 'E' 10+486.752.

Bearings are based upon the Oregon Coordinate System of 1983(91), south zone.

The parcel of land to which this description applies contains 65 square meters, more or less

PARCEL 3 - Fee

A parcel of land lying in the W½SE¼ of Section 32, Township 17 South, Range 47 East, W.M., Malheur County, Oregon and being a portion of that property described in that Warranty Deed to the City of Ontario, Oregon, recorded April 25, 1993 Instrument No. 93-2552, Malheur County Deed Records; the said parcel being that portion of said property lying Easterly of Parcel 1 and included in a strip of land 18.268 meters in width, 9.144 meters on each side of the 'T' center line which center line is described as follows:

Beginning at Engineer's center line Station 'T' 2+859.293, said station being 124.703 meters South and 410.842 meters West of the East ¼ corner of Section 32, Township 17 South, Range 47 East, W.M.; thence North 87° 47' 40" East 384.132 meters to Engineer's center line Station 'T' 3+243.425

Bearings are based upon the Oregon Coordinate System of 1983(91), south zone

The parcel of land to which this description applies contains 65 square meters, more or less

Grantor also grants to Grantee, its successors and assigns, a permanent easement to construct and maintain slopes, upon the following described property:

PARCEL 4 - Permanent Easement For Slopes

A parcel of land lying in the W½SE¼ of Section 32, Township 17 South, Range 47 East, W.M., Malheur County, Oregon and being a portion of that property described in that Warranty Deed to the City of Ontario, Oregon, recorded April 25, 1993 Instrument No. 93-2552, Malheur County Deed Records; the said parcel being that portion of said property lying between lines at right angles to the 'J' center line at Engineer's Station 'J' 2+100 and 'J' 2+860 and included in a strip of land variable in width, lying on the Northerly and Westerly side of said center line which center line is described in Parcel 1.

The widths in meters of the strip of land above referred to are as follows:

Station to	Station	Width on Northerly and Westerly Side of Center Line
'J' 2+100	'J' 2+ 260	12
'J' 2+260	'J' 2+ 560	12 in a straight line to 15
'J' 2+560	'J' 2+ 860	15 in a straight line to 14

EXCEPT therefrom Parcel 1

The parcel of land to which this description applies contains 3476 square meters, more or less.

IT IS UNDERSTOOD that the easement herein granted does not convey any right or interest in the above-described Parcel 4, except as stated herein, nor prevent Grantor from the use of said property, provided, however, that such use shall not be permitted to interfere with the rights herein granted or endanger the lateral support of the public way, that Grantee shall never be required to remove the slope materials placed by it upon said property, nor shall Grantee be subject to any damages to Grantor, and grantor's heirs, successors and assigns, by reason thereof or by reason of any change of grade of the public way abutting on said property.

Grantor also grants to Grantee, its successors and assigns, a permanent easement to construct and maintain slopes, upon the following described property:

PARCEL 5 - Permanent Easement For Slopes

A parcel of land lying in the W $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 32, Township 17 South, Range 47 East, W.M., Malheur County, Oregon and being a portion of that property described in that Warranty Deed to the City of Ontario, Oregon, recorded April 26, 1995 Instrument No. 93-2552, Malheur County Deed Records, the said parcel being that portion of said property lying Easterly of Parcel 1; between lines at right angles to the "J" center line at Engineer's Stations "J" 2+150 and "J" 2+880 and included in a strip of land variable in width, lying on the Easterly side of said center line which center line is described in Parcel 1.

The widths in meters of the strip of land above referred to are as follows:

Station to	Station	Width on Easterly Side of Center Line
"J" 2+150	"J" 2+ 210	13
"J" 2+210	"J" 2+ 460	13 in a straight line to 13
"J" 2+460	"J" 2+ 470	13 in a straight line to 14
"J" 2+470	"J" 2+ 520	14
"J" 2+520	"J" 2+ 580	14 in a straight line to 13
"J" 2+580	"J" 2+ 612	13 in a straight line to 15
"J" 2+612	"J" 2+ 620	15 in a straight line to 13
"J" 2+620	"J" 2+ 880	13

EXCEPT therefrom Parcels 2 and 3

The parcel of land to which this description applies contains 2332 square meters, more or less.

IT IS UNDERSTOOD that the easement herein granted does not convey any right or interest in the above-described Parcel 5, except as stated herein, nor prevent Grantor from the use of said property, provided, however, that such use shall not be permitted to interfere with the rights herein granted or endanger the lateral support of the public way, that Grantee shall never be required to remove the slope materials placed by it upon said property, nor shall Grantee be subject to any

damages to Grantor, and grantor's heirs, successors and assigns, by reason thereof or by reason of any change of grade of the public way abutting on said property.

Grantor also grants to Grantee, its successors and assigns, a permanent easement for the construction, operation and maintenance of drainage facilities over, under, and across the following described property

PARCEL 6 - Permanent Easement For Drainage Facilities

A parcel of land lying in the W½SE¼ of Section 32, Township 17 South, Range 47 East, W.M., Malheur County, Oregon and being a portion of that property described in that Warranty Deed to the City of Ontario, Oregon, recorded April 26, 1993 Instrument No. 93-2552, Malheur County Deed Records; the said parcel being that portion of said property lying Easterly of Parcel 1, between lines at right angles to the "J" center line at Engineer's Station "J" 2+835 and "J" 2+875 and included in a strip of land 18 meters in width, lying on the Easterly side of said center line which center line is described in Parcel 1.

EXCEPT therefrom Parcels 1 and 3.

The parcel of land to which this description applies contains 77 square meters, more or less.

IT IS UNDERSTOOD that the easement herein granted does not convey any right or interest in the above-described Parcel 6, except for the purposes herein above stated, nor prevent Grantor from the use of said property, provided, however, that such use does not interfere with the rights herein granted.

In construing this document, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this document shall apply equally to corporations and to individuals.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.530.

It is understood and agreed that the delivery of this document is hereby tendered and that terms and obligations hereof shall not become binding upon the Malheur County, Oregon, unless and until accepted and approved by the recording of this document

Dated this 19 day of November, 2001

APPROVED AS TO FORM:

CITY OF ONTARIO, a municipal corporation
of the State of Oregon

By _____

By LeRoy Cannon
Mayor

By Dore Anderson
Assistant City Recorder

08/10/01
Page 4 of 5
gmh

STATE OF OREGON, County of Malheur

Dated November 21, 2001 Personally appeared Le Roy Cammack
and Bri Ankrum who, being sworn, stated that they are the Mayor and ~~Recorder~~ Recorder of the City of
Ontario, Oregon, a municipal corporation, and that this instrument was voluntarily signed in behalf of said municipal
corporation by authority of its Ordinance No. _____ passed by the Council of said City on this _____ day of
_____, 20____.



Shannon C. Aguirre
Notary Public for Oregon
My Commission expires 2/26/04

Accepted on behalf of the Malheur County, Oregon:

Dan P. Joyce
Commissioner

EXHIBIT A
LEGAL DESCRIPTION OF LAND

Airport Property:
The Land

ACKNOWLEDGMENT OF STATE ASSISTANCE
Restrictive Covenant

Revised EXHIBIT B

Agreement Number: 24941, Amendment No. 1
Project Name: Ontario Airport Pavement Improvement
City of Ontario Authority to Record: OAR Chapter
731, Division 35; ORS 205.130(2)

MALHEUR COUNTY, OR 2010-7141
D RESTRICT COVEN 12/29/2010 09:24 AM
COP#1 Pgs#3 Total: \$52.00

00001313291000071410030037

I, Deborah R. DeLong, County Clerk for Malheur County, Oregon certify that the instrument identified herein was recorded to the Clerk's records.
Deborah R. DeLong - County Clerk

18477
4100
3001
3200
3300
3400

184762
800

18471AA
1800

18476C
101
500

After recording, return to:

Larry Sullivan
PO Box 220
Yale, OR 97314

ACKNOWLEDGMENT OF STATE ASSISTANCE as described in Ex. 1

The property and assets under the jurisdiction of City of Ontario, were improved with assistance from the State of Oregon, Department of Transportation under an agreement executed between City of Ontario, and the Oregon Department of Transportation (ODOT) dated 10/4/10. Such assistance was provided to City of Ontario, in reimbursement of costs associated with the Ontario Airport Pavement Improvement. The use and disposition of said property is subject to the terms of the above noted Agreement, copies of which may be obtained from the Director of ODOT.

By: [Signature]
Title: Henry Lawrence, Ontario City Manager

State of Oregon
County of Malheur

SUBSCRIBED and SWORN to before me this 17th day of Dec., 2010
[Signature]

NOTARY PUBLIC FOR OREGON
My commission expires: May 17, 2012



Which properties are on airport property? Need to confirm airport rule compliance.

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Water Treatment Plant:

The Land:

the following described real property: Land in Malheur County, Oregon, situated in the NW1/4 of Sec. 11, T. 18 S., R. 47, E.W.M., and more particularly described as follows:

Commencing at the SW corner of Lot 1 in the NW1/4 of said Sec. 11;
thence N 0° 09' W. a distance of 682 feet along the Westerly
Boundary of said Lot 1;
thence S. 89° 56' E. a distance of 1200 feet which is
the TRUE POINT OF BEGINNING;
thence N 0° 09' W. a distance of 30 feet;
thence S 89° 56' E. a distance of 60 feet;
thence S 0° 09' E. a distance of 60 feet;
thence N. 89° 56' W. a distance of 60 feet;
thence N 0° 09' W. a distance of 30 feet to
the TRUE POINT OF BEGINNING.

Ontario, Oregon, the following described real property, to-wit:

Land in Malheur County, Oregon, situated in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Twp. 18 S., R. 47 E., W.M., and more particularly described as follows:

Commencing at the SW corner of said NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Thence S. 89° 56' E. a distance of 938.4 feet along the South boundary of said NE $\frac{1}{4}$ NW $\frac{1}{4}$ to the TRUE POINT OF BEGINNING;
Thence N. 0° 9' W. a distance of 447.00 feet;
Thence S. 89° 56' E. a distance of 366.00 feet to a point on the west shore line of the Snake River;
Thence in a southwesterly direction along the west shore line of the Snake River measured along a line of bearing S. 11° 58' 50" W. to a point on the South boundary line of said NE $\frac{1}{4}$ NW $\frac{1}{4}$;
Thence N. 89° 56' W. a distance of 270.08 feet to the point of beginning;
EXCEPTING THEREFROM the following parcel:
Commencing at the SW corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Twp. 18 S., R. 47 E., W.M.;
Thence S. 89° 56' E. a distance of 1062.0 feet to the TRUE POINT OF BEGINNING;
Thence N. 8° 11' W. a distance of 246.0 feet;
Thence S. 89° 56' E. a distance of 104.4 feet;
Thence S. 8° 11' E. a distance of 246.0 feet;
Thence N. 89° 56' W. a distance of 104.4 feet to the point of beginning.

NOTE: S. 89° 56' E. is the basis of bearings on this description. This is the South boundary of the NW $\frac{1}{4}$ of Section 11, Twp. 18 S., R. 47 E., W.M.

RESERVING unto the GRANTORS a perpetual easement to use in common with the GRANTEE the W. 30 feet and the N. 30 feet of said property for road purposes, the GRANTEE to construct a culvert under the road to be constructed along the North boundary thereof.

RESERVING also to the GRANTORS a perpetual easement to convey irrigation water from the Snake River through the existing slough and ditch running from the Snake River in a generally northerly direction across the above described property for use on GRANTORS' property abutting said property on the North thereof, including the right of ingress and egress to repair, operate and maintain said irrigation system.,

cipal corporation, whose address is Ontario, Oregon, the following described real property:

Land in Malheur County, Oregon, as follows:

In Twp. 18 S., R. 47 E., N.M.:

Sec. 11: All that portion of Government Lot 1 lying within the following described parcel:

Commencing at the Northwest corner of Lot 1;
thence S. $0^{\circ} 09' E.$, along the West boundary of Lot 1, 216 feet;
thence S. $89^{\circ} 56' E.$, 702.81 feet to the TRUE POINT OF BEGINNING;
thence S. $89^{\circ} 56' E.$, 51.19 feet;
thence N. $9^{\circ} 12' 16'' W.$, 115.91 feet to a point on the South boundary of U. S. Highway No. 30 right of way;
- thence S. $81^{\circ} 52' 32'' E.$, along the South boundary of said right of way, 44.96 feet;
- thence along a spiral curve to the left, following the South boundary of U. S. Highway No. 30, 295.67 feet;
- thence N. $81^{\circ} 05' 30'' E.$, along said right of way, 25 feet to a point on the West bank of the Snake River;
- thence Southerly meandering along the West bank of the Snake River to a point located as follows:
Beginning at the Southwest corner of said Lot 1;
thence S. $89^{\circ} 56' E.$, along the South boundary of Lot 1, 938.4 feet;
thence N. $0^{\circ} 9' W.$, 447 feet;
thence S. $89^{\circ} 56' E.$, 366 feet to the above mentioned point;
thence N. $89^{\circ} 56' W.$, 366 feet;
thence S. $0^{\circ} 9' E.$, 447 feet;
thence N. $89^{\circ} 56' W.$, along the South boundary of Lot 1, 235.35 feet;
thence N. $0^{\circ} 09' W.$, 1,109.53 feet to the point of beginning.

EXCEPTING THEREFROM the following described parcel:
Beginning at a point S. $76^{\circ} 09' E.$, 1066.8 feet from the Northwest corner of Lot 1;
thence North 60 feet;
thence East 50 feet;
thence South 60 feet;
thence West 50 feet to the point of beginning.

15-AND

~~RESTRICTIONS~~

FURTHER EXCEPTING that parcel of land more particularly described as follows:
Commencing at the Southwest corner of Lot 1;
thence N. 0° 9' W., along the West boundary
of Lot 1, 682 feet;
thence S. 89° 56' E., 1200 feet to the
TRUE POINT OF BEGINNING;
THENCE N. 0° 9' W., 30 feet;
thence S. 89° 56' E., 60 feet;
thence S. 0° 9' E., 60 feet;
thence N. 89° 56' W., 60 feet;
thence N. 0° 9' W., 30 feet to the point
of beginning.

ALSO EXCEPTING that portion conveyed to the State of Oregon, by and through its State Highway Commission, dated March 28, 1966, recorded April 4, 1966, Book 132, Instrument No. 71648, Deeds.

SUBJECT to restrictions, reservations and easements of record;

WARRANT DEED

TWO BOYS, INC., an Idaho Corporation, by and through its president, Price Newdiger, Grantor, conveys and warrants to CITY OF ONTARIO, a Municipal Corporation, Grantee, the following described real property free of encumbrances created or suffered by the grantors except as specifically set forth herein:

Land in the CITY OF ONTARIO, Malheur County, Oregon, as follows:

In Twp. 18 S., R. 47 E., W.M.:

Sec. 11: A parcel of land in Government Lot 2 described as follows:

Partition Plat No. 90-1, recorded January 19, 1990, Instrument No. 90-328, Official Records of Malheur County, Oregon, as follows:

Parcel 2.

Subject to the following exceptions:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Any adverse claim based upon the assertion that some portion of said land have been removed from or brought with the boundaries thereof by an avulsive movement of the Snake River or has been formed by the process of accretion or reliction or has been created by artificial means or as accreted to such portion so created.
4. Governmental rights in connection with flood control and propagation of anadromous fish and public rights of fishing and recreational navigation in and to the water, bed and shoreline of the Snake River.
5. Ownership of the State of Oregon in and to the portion of the premises herein described lying below the high water mark of the Snake River as it now exists or at any time has existed.
6. An easement for power lines created by instrument, including the terms and provisions thereof;
Recorded: October 23, 1944, in Book 61, Page 344, Deed Records of Malheur County, Oregon in favor of Idaho Power Company.

A parcel of land lying within Government Lot 1 of Section 11, Twp. 18 S., R. 47 E., W.M., City of Ontario, Malheur County, Oregon, more particularly describes as follows:

Commencing at the NE corner of Parcel No. 1 of Partition Plat No. 95-19, recorded August 11, 1995 as Instrument No. 95-5115, Official Records of Malheur County, Oregon, said point being S. 0° 15' 20" E., 216.00 feet and N. 89° 44' 09" E., 702.81 feet from the NW corner of said Government Lot 1; thence S. 0° 15' 20" E., coincident with the East line of said Partition Plat 95-19, a distance of 332.55 feet to the POINT OF BEGINNING;

thence N. 89° 44' 09" E., a distance of 310.84 feet,
thence N. 29° 22' 34" W., a distance of 81.94 feet,
thence N. 13° 34' 42" W., a distance of 33.30 feet;
thence N. 46° 04' 41" W., a distance of 42.64 feet;
thence N. 17° 33' 48" W., a distance of 57.37 feet,
thence N. 35° 57' 56" W., a distance of 90.33 feet,
thence N. 1° 51' 18" W., a distance of 51.30 feet,
thence N. 39° 07' 24" W., a distance of 27.34 feet,
thence N. 31° 19' 11" W., a distance of 17.46 feet,
thence N. 3° 18' 01" W., a distance of 53.57 feet,
thence N. 17° 29' 00" W., a distance of 54.52 feet, more or less to a point on the southerly right of way of the relocated Olds Ferry - Ontario Highway as deeded to the State of Oregon by and through its State Highway Commission in deed recorded in Book 132 at page 367, recorded April 4, 1966, said point being on a 70 foot offset from a centerline 400 foot spiral curve,
thence coincident with said right of way on said offset spiral curve to the left a distance of 276.43 feet and a long chord which bears N. 81° 38' 33" E., a distance of 276.41 feet to a point on the Westerly Bank of the Snake River,
thence leaving said Right of Way and meandering along said Westerly Bank of the Snake River projected by a line which bears S. 15° 12' 24" E., a distance of 858.61 feet, more or less,
thence leaving said Westerly Bank and heading N. 90° 00' 00" W., a distance of 375.91 feet, more or less, to a point,
thence S. 00° 15' 20" E., a distance of 477.00 feet to a point on the South boundary of said Government Lot 1, said point being S. 90° 00' 00" E., a distance of 938.40 feet from the SW corner of said Government Lot 1,
thence N. 90° 00' 00" W., coincident with said South line, a distance of 235.59 feet, more or less, to a point of the East boundary of said Partition Plat 95-19,
thence coincident with said East boundary, N. 00° 15' 20" W., a distance of 779.90 feet, more or less, to the point of Beginning.

EXCEPTING THEREFROM the following described parcel.
Beginning at a point S. 76° 28' 51" E., 1066.8 feet from the Northwest corner of Lot 1,
thence N. 0° 19' 51" W., 60 feet,
thence N. 89° 40' 09" E., 50 feet,
thence S. 0° 19' 51" E., 60 feet,
thence S. 89° 40' 09" W., 50 feet to the point of beginning.

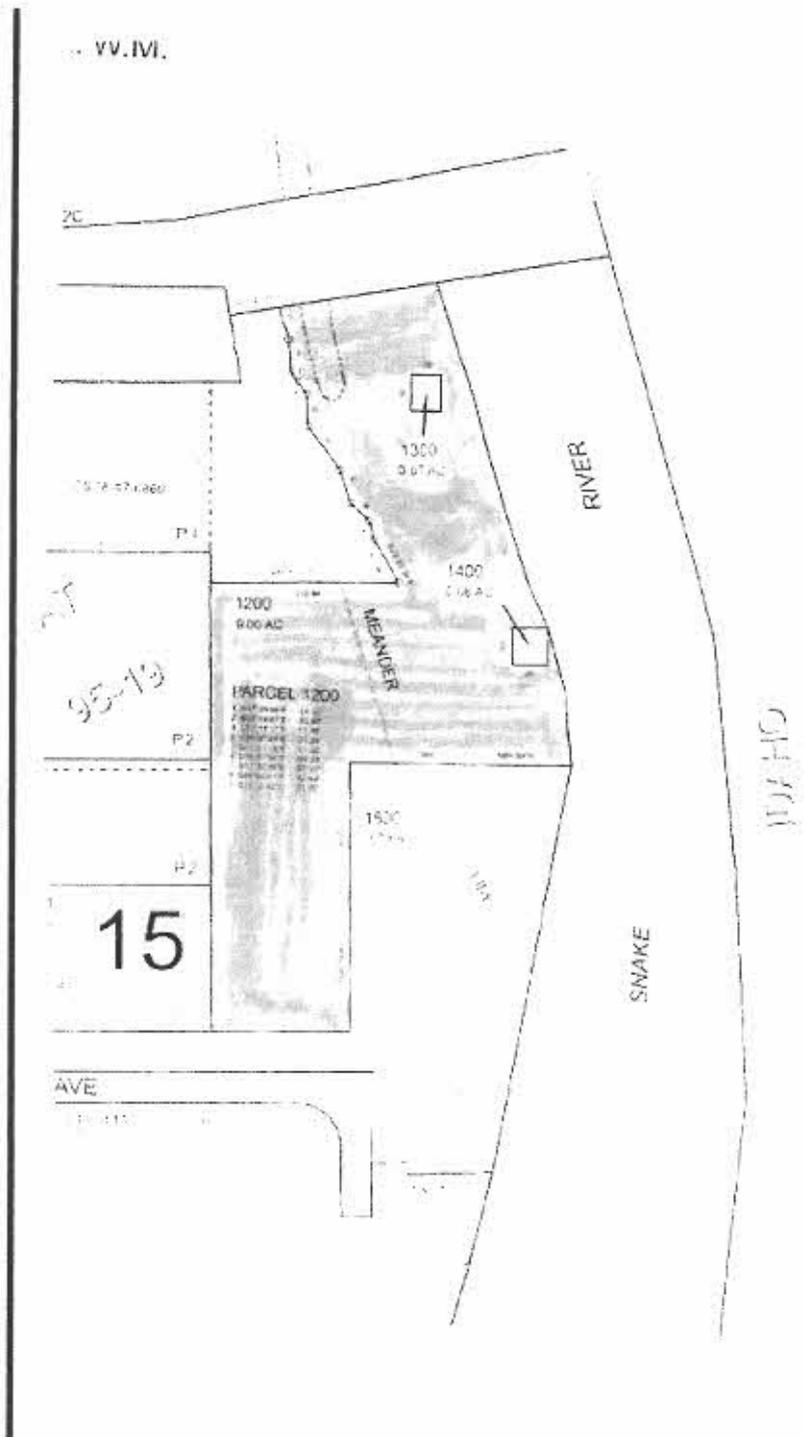
FURTHER EXCEPTING that parcel of land more particularly described as follows
Commencing at the Southwest corner of Lot 1,
thence N. 0° 15' 20" W., along the West boundary of Lot 1, 687 feet,
thence S. 90° 00' 00" E., 1200 feet to the TRUE POINT OF BEGINNING,
thence N. 0° 15' 20" W., 30 feet;
thence S. 90° 00' 00" E., 60 feet,
thence S. 0° 15' 20" E., 60 feet;
thence N. 90° 00' 00" W., 60 feet,
thence N. 0° 15' 20" W., 30 feet to the point of Beginning.

SUBJECT to restrictions, reservations and easements of record.

.. vv.IV.

18S47E11B & INDEX ONTARIO

- CANCELLED
- 201
 - 203
 - 205
 - 300
 - 311
 - 400 THRU
 - 402
 - 500
 - 503
 - 600
 - 601
 - 701
 - 702
 - 801 THRU
 - 804
 - 1500



State land held under easement held by Ontario
State of Oregon to-wit:

1. Beginning at a point which is South $76^{\circ} 09'$ East 1066.8 feet from the NW corner of Lot 1, Section 11, Township 18 South, Range 47 East, Willamette Meridian; thence North 60 feet; thence East 50 feet; thence South 60 feet; thence West 50 feet to the point of beginning.
2. Commencing at the SW corner of Lot 4 in the SW $1/4$ of Section 2, Township 18 South, Range 47 East, Willamette Meridian; thence North $0^{\circ} 09'$ West a distance of 250 feet along the Westerly boundary of said Lot 4; thence North $89^{\circ} 59' 40''$ East a distance of 880 feet which is the true point of beginning; thence North $0^{\circ} 09'$ West a distance of 30 feet; thence North $89^{\circ} 59' 40''$ East a distance of 60 feet; thence South $0^{\circ} 09'$ East a distance of 60 feet; thence South $89^{\circ} 59' 40''$ West a distance of 60 feet; thence North $0^{\circ} 09'$ West a distance of 30 feet to the true point of beginning.
3. Commencing at the SW corner of Lot 1 in the SW $1/4$ of Section 11, Township 18 South, Range 47 East, Willamette Meridian; thence North $0^{\circ} 09'$ West a distance of 682 feet along the Westerly boundary of said Lot 1; thence South $89^{\circ} 56'$ East a distance of 1200 feet which is the true point of beginning; thence North $0^{\circ} 09'$ West a distance of 30 feet; thence South $89^{\circ} 56'$ East a distance of 60 feet; thence South $0^{\circ} 09'$ East a distance of 60 feet; thence North $89^{\circ} 56'$ West a distance of 60 feet; thence North $0^{\circ} 09'$ West a distance of 30 feet to the true point of beginning. This parcel contains 0.08 acres.

Dr
Diane
X
M
D

Will be building on this property? If so, is it just the first easement point and the others are excluded? If not, can we exclude from legal description?

Ontario easement to Idaho Power:

INSTRUMENT NO. 2007 -8789
Page 2 of 2 Pages

Attachment A

A strip of land ten feet wide, five feet on each side of the centerline lying within Government Lot 1, Section 11, Township 18 South, Range 47 East, Willamette Meridian, Malheur County, Oregon, said centerline being more particularly described as follows:

Commencing at the Northwest Corner of said Section 11, Thence North 89°44'09" East a distance of 1319.62 feet to a point; Thence South 00°15'20" East a distance of 216.00 feet to a point; Thence North 89°57'40" East a distance of 702.81 feet to a point; Thence South 00°15'20" East a distance of 273.55 feet to the TRUE POINT OF BEGINNING, also herein known as Pt. "A". Thence South 73°42'46" West a distance of 6.45 feet to a point herein known as EH1

Also from said point A:

Thence North 82°11'06" East a distance of 192.43 feet to a point; Thence North 73°39'54" East a distance of 61.04 feet to a point herein known as WT4; Thence North 41°13'36" East a distance of 14.21 feet to a point

Also from said point A

Thence South 00°15'20" East a distance of 835.98 feet to a point
Thence North 89°57'40" East a distance of 463.35 feet to a point
Thence North 08°17'20" West a distance of 62.06 feet to a point
Thence North 81°42'40" East a distance of 7.77 feet to a point herein known as WT1

Thence North 03°40'40" West a distance of 112.85 feet to a point
Thence North 02°09'18" West a distance of 37.67 feet to a point
Thence North 13°31'13" East a distance of 37.76 feet to a point
Thence South 88°53'57" West a distance of 11.41 feet to a point herein known as WT2

Thence South 86°26'27" West a distance of 38.74 feet to a point
Thence South 89°40'00" West a distance of 50.52 feet to The Point of Terminus

Said electric line easement consists of a ten foot wide linear easement for underground electric lines and a 12.25 foot radius for points EH1, WT4, WT1, WT2, WT3 and with the central point being The Point of Terminus for locating a transformer and for working space around said transformer

Is intent to exclude this property from the LAND we are leasing or to subject it to the easement?

CITY OF ONTARIO - SBE FIT PROJECTS, MASTER SITE MAP



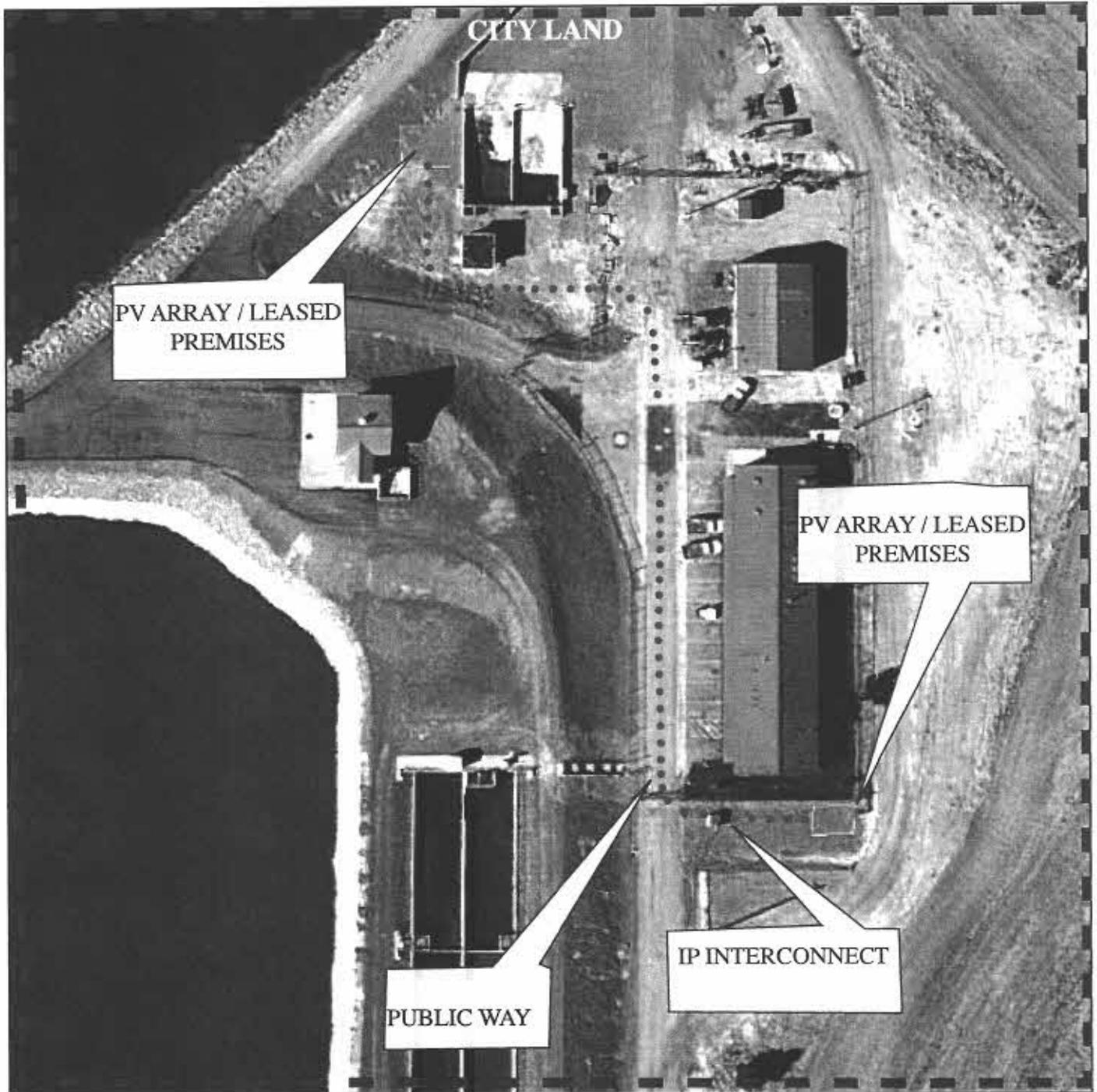
EXHIBIT B-1

ONTARIO 2 - WASTEWATER TREATMENT PLANT

(2) SINGLE AXIS TRACKERS - ground mount array

Two PV arrays, each with an average footprint measuring approximately 20ft. east-west and less than 15ft. north-south.

LEGAL DESCRIPTION: Map # 17 47, Tax Lots 1100, 1300, 1400, 1500, 1600, 1800, 1900,





ZONING: PF-UGA, PUBLIC FACILITY URBAN GROWTH AREA

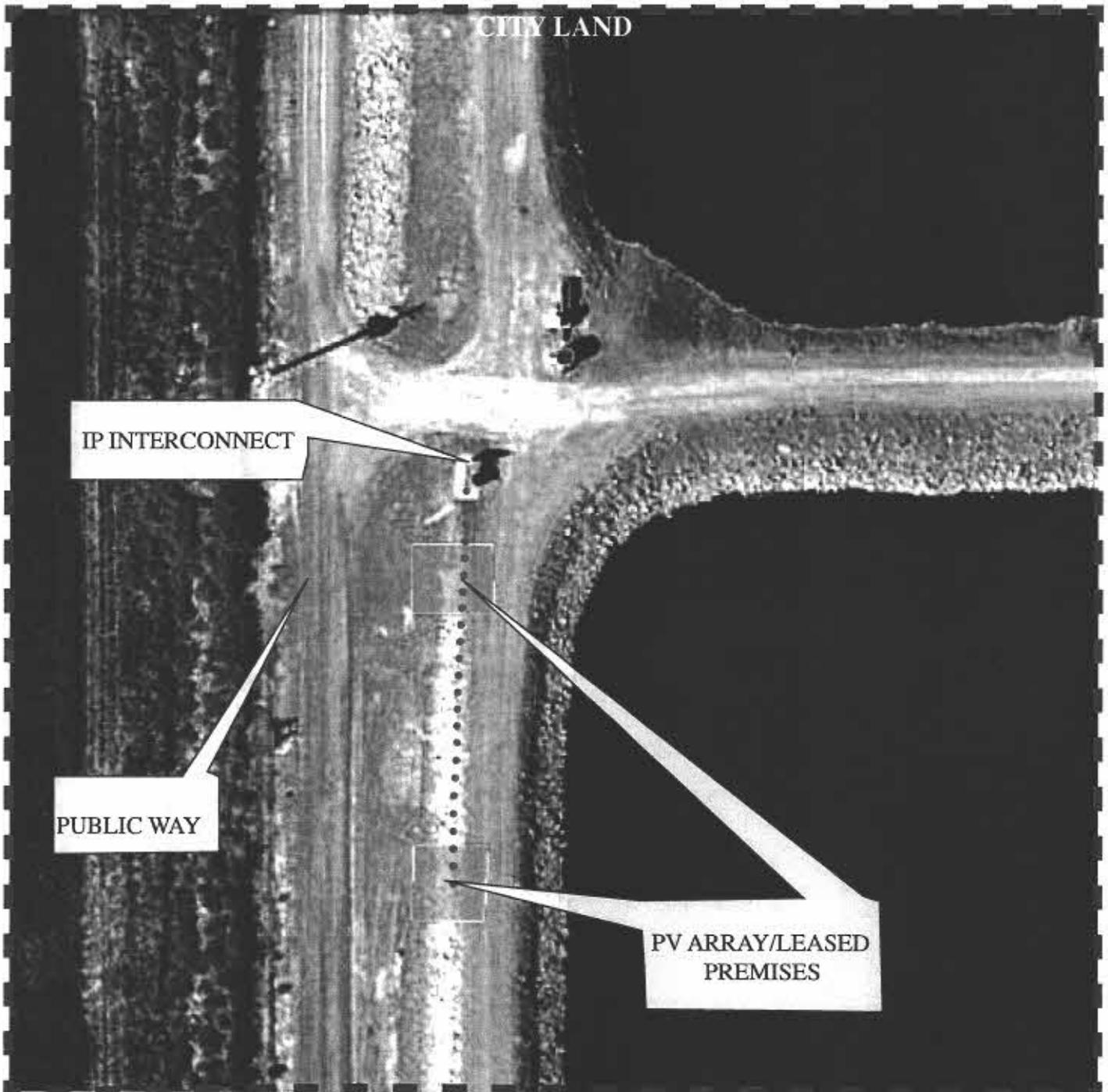
EXHIBIT B-2

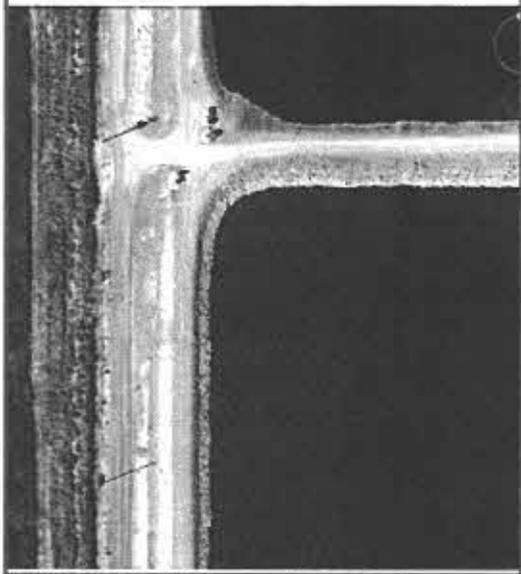
ONTARIO 3 - WASTEWATER TREATMENT PLANT AERATORS

(2) SINGLE AXIS TRACKERS - ground mount array

Two PV arrays, each with an average footprint measuring approximately 20ft. east-west and less than 15ft. north-south.

LEGAL DESCRIPTION: Map # 17 47, Tax Lots 1100, 1300, 1400, 1500, 1600, 1800, 1900, 2000. Map # 1747 31 Tax Lots 1901 & 2000. Map # 17 47 32 BB tax lot 100. Map # 1747 29 C tax lot 2900.





ZONING: PF-UGA, PUBLIC FACILITY URBAN GROWTH AREA

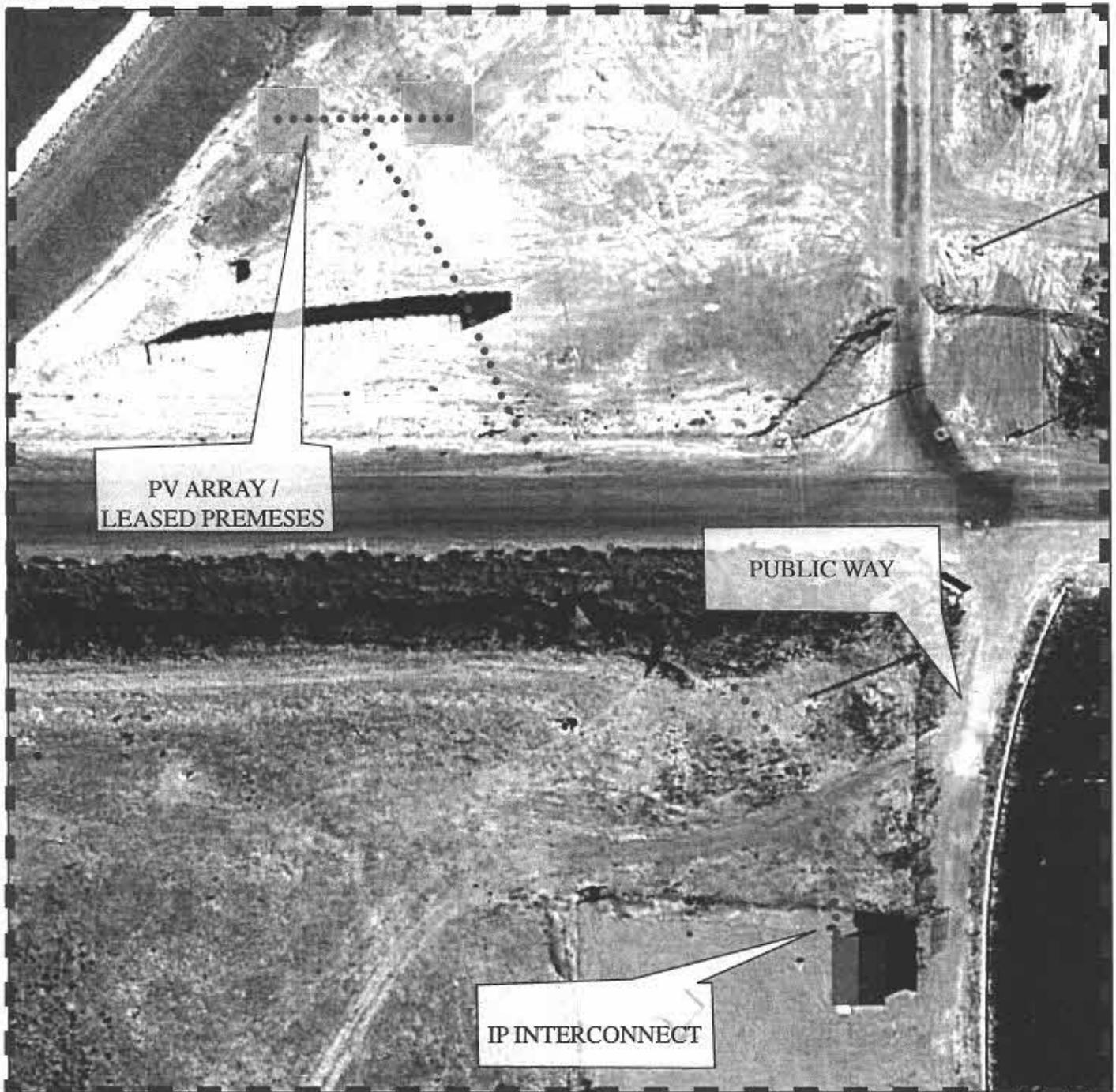
EXHIBIT B-3

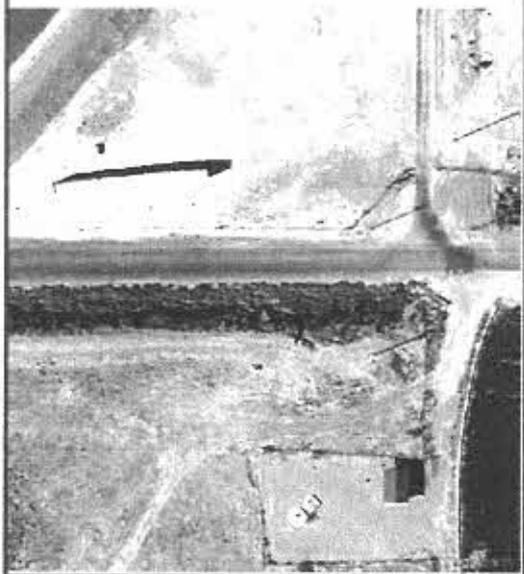
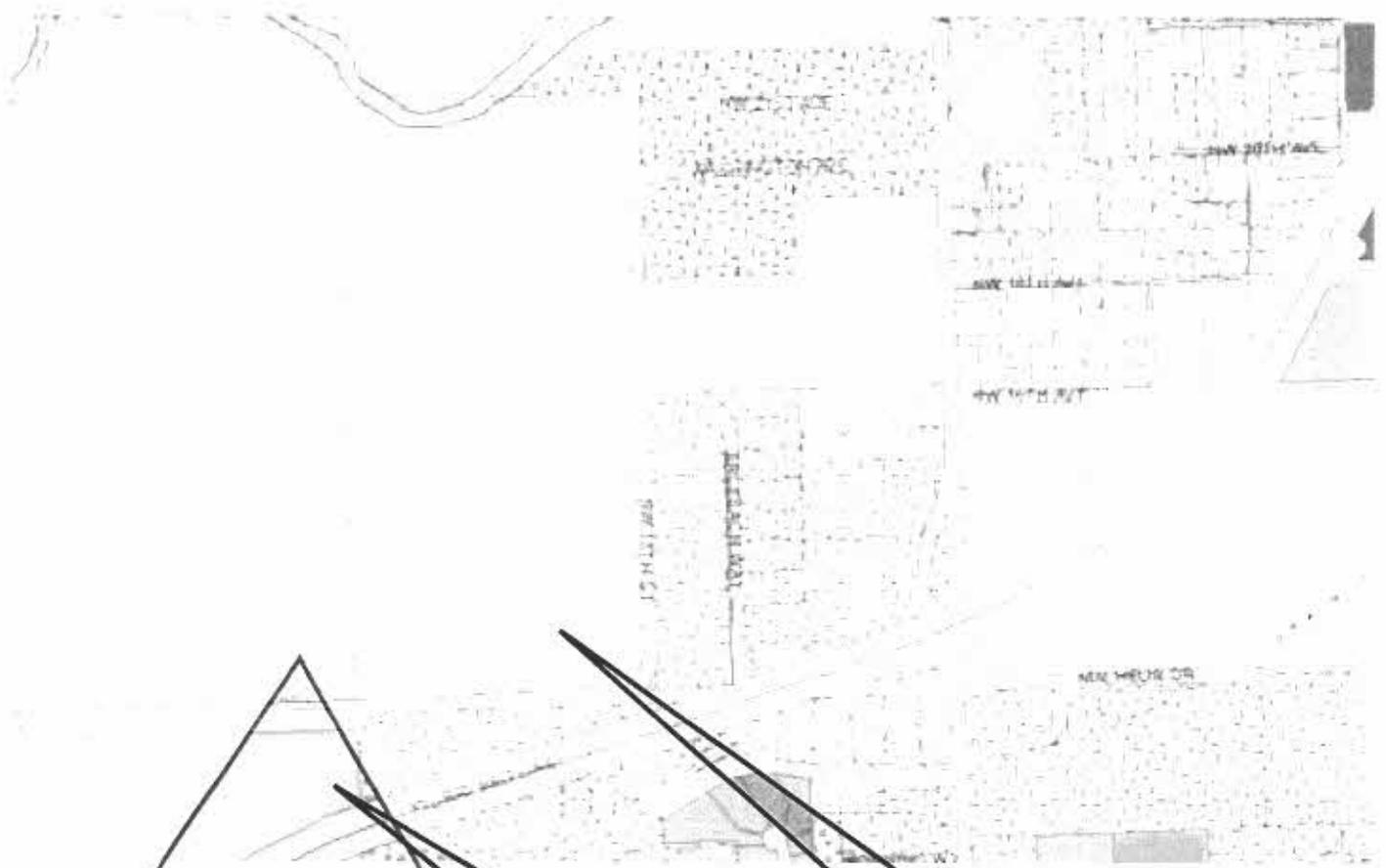
ONTARIO 4: WASTEWATER TREATMENT PLANT LIFT STATION

PROJECT DESCRIPTION: (2) *SINGLE AXIS TRACKERS* - ground mount array

Two PV arrays, each with an average footprint measuring approximately 20ft. east-west and less than 15ft. north-south.

LEGAL DESCRIPTION: Map # 17 47, Tax Lots 1100, 1300, 1400, 1500, 1600, 1800, 1900, 2000. Map # 1747 31 Tax Lots 1901 & 2000. Map # 17 47 32 BB tax lot 100. Map # 1747 29 C tax lot 2900.





ZONING: HEAVY INDUSTRIAL

ZONING: PF-UGA, PUBLIC FACILITY URBAN GROWTH AREA

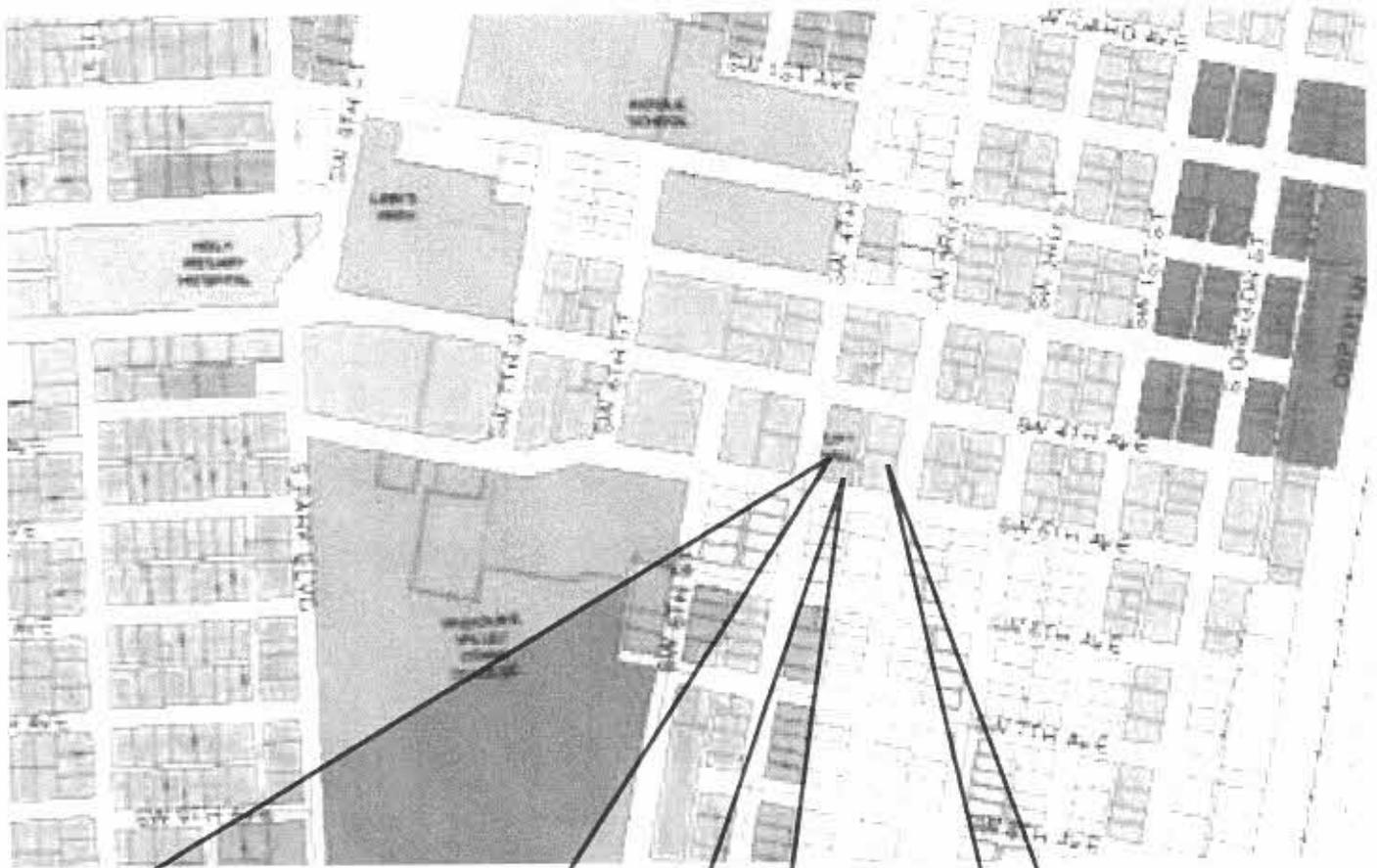
EXHIBIT B-4

ONTARIO 5: CITY HALL

PROJECT DESCRIPTION: fixed roof mounted ballast composed of vertically oriented PV array with two rows, each approximately 60ft. east-west and less than 6ft. north-south to be located on the existing EPDM roof, anchored by concrete blocks and aluminum raackin

LEGAL DESCRIPTION: Map # 1847 9AA tax lots 2900, City Hall and south parking lot, 3000 west parking lot, 3100 apartments





ZONING: PF PUBLIC
FACILITY

ZONING: GENERAL
COMMERCIAL



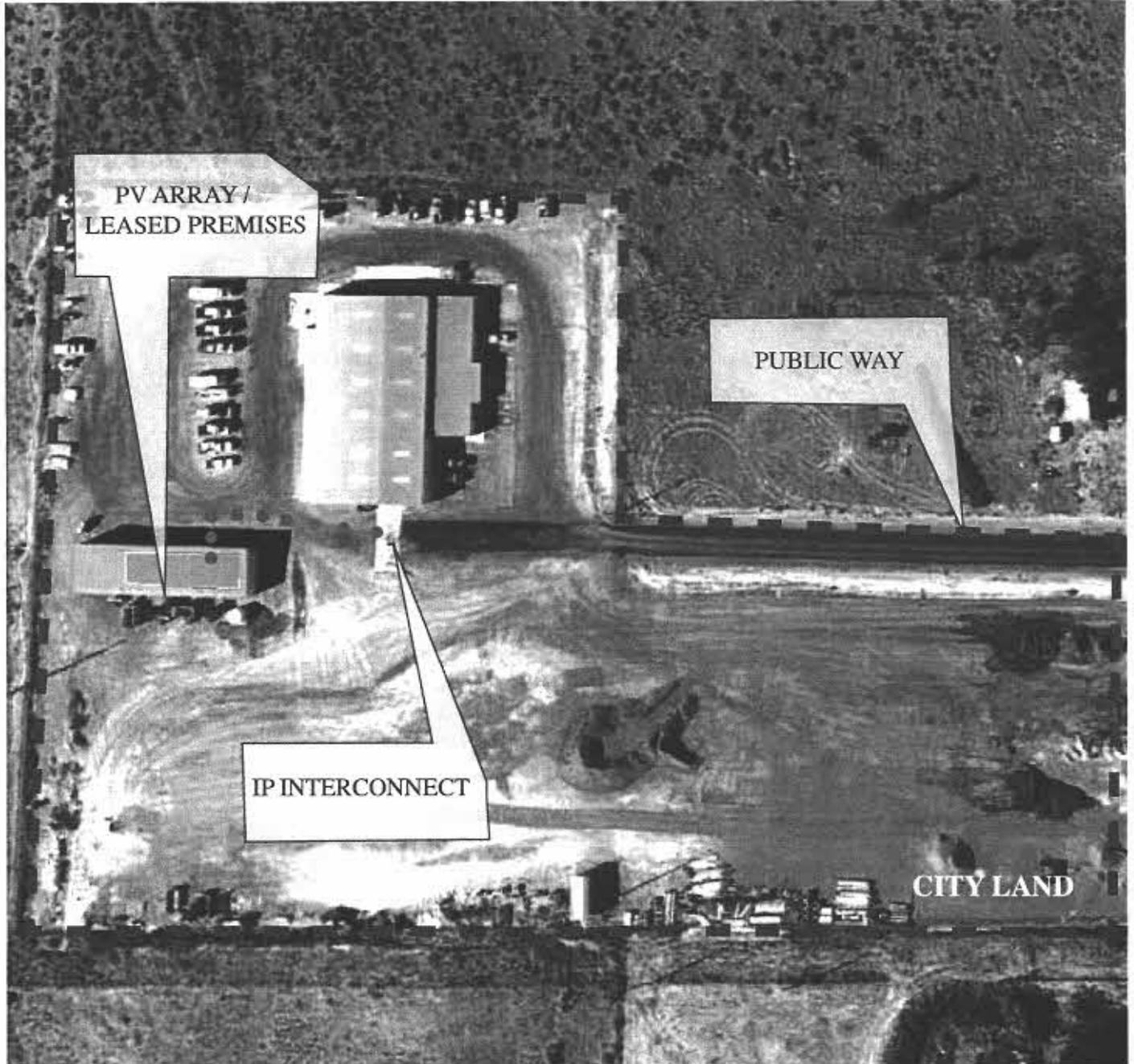
EXHIBIT B-5

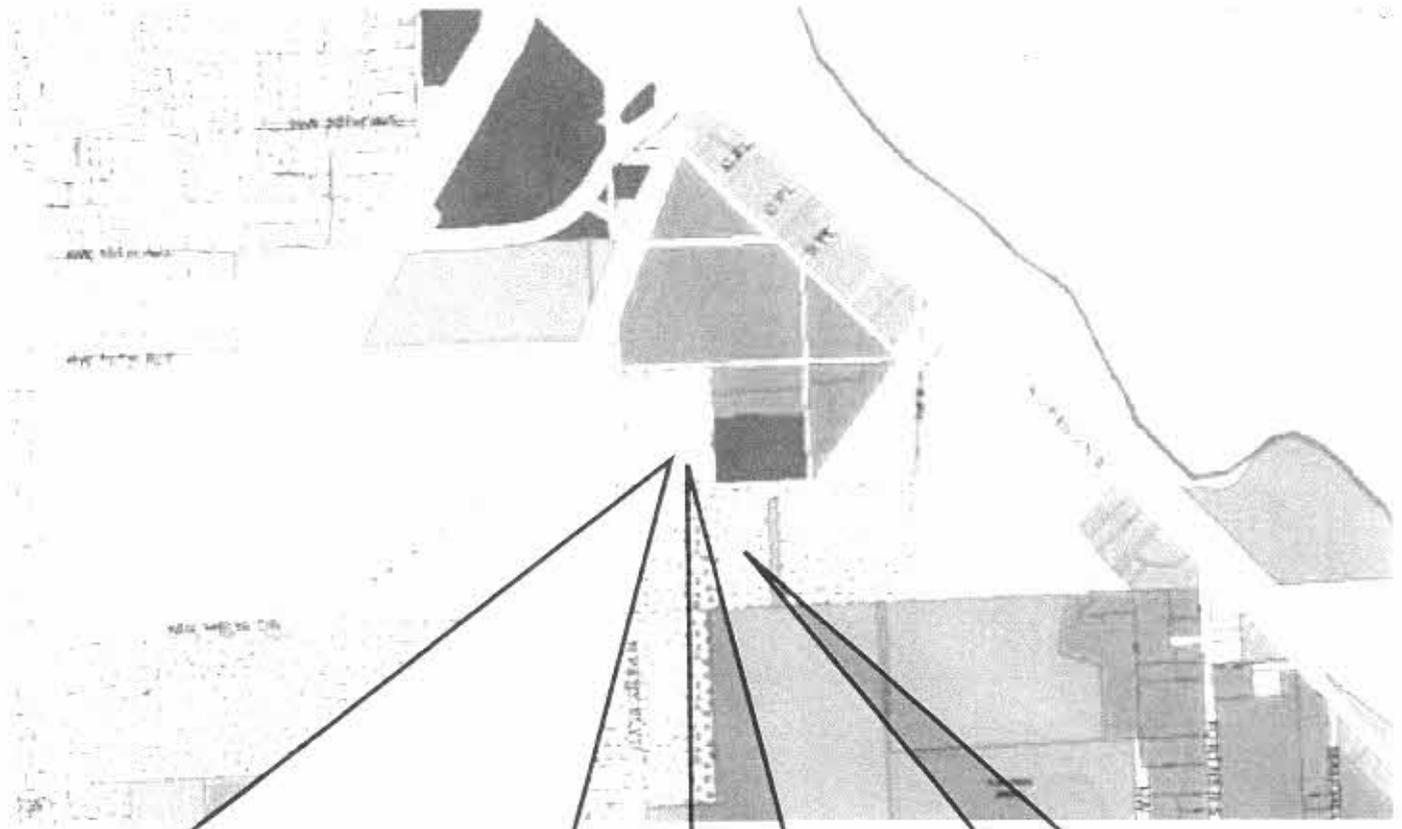
ONTARIO 6 - CITY SHOP

PROJECT DESCRIPTION: fixed roof mount array

PV array measuring approximately 60ft. east-west and less than 15ft. north-south to be located on roof of existing structure.

LEGAL DESCRIPTION: 17 47 33D, Tax Lots 3100 and 3400





ZONING: LIGHT INDUSTRIAL UGA

ZONING: RESIDENTIAL UGA



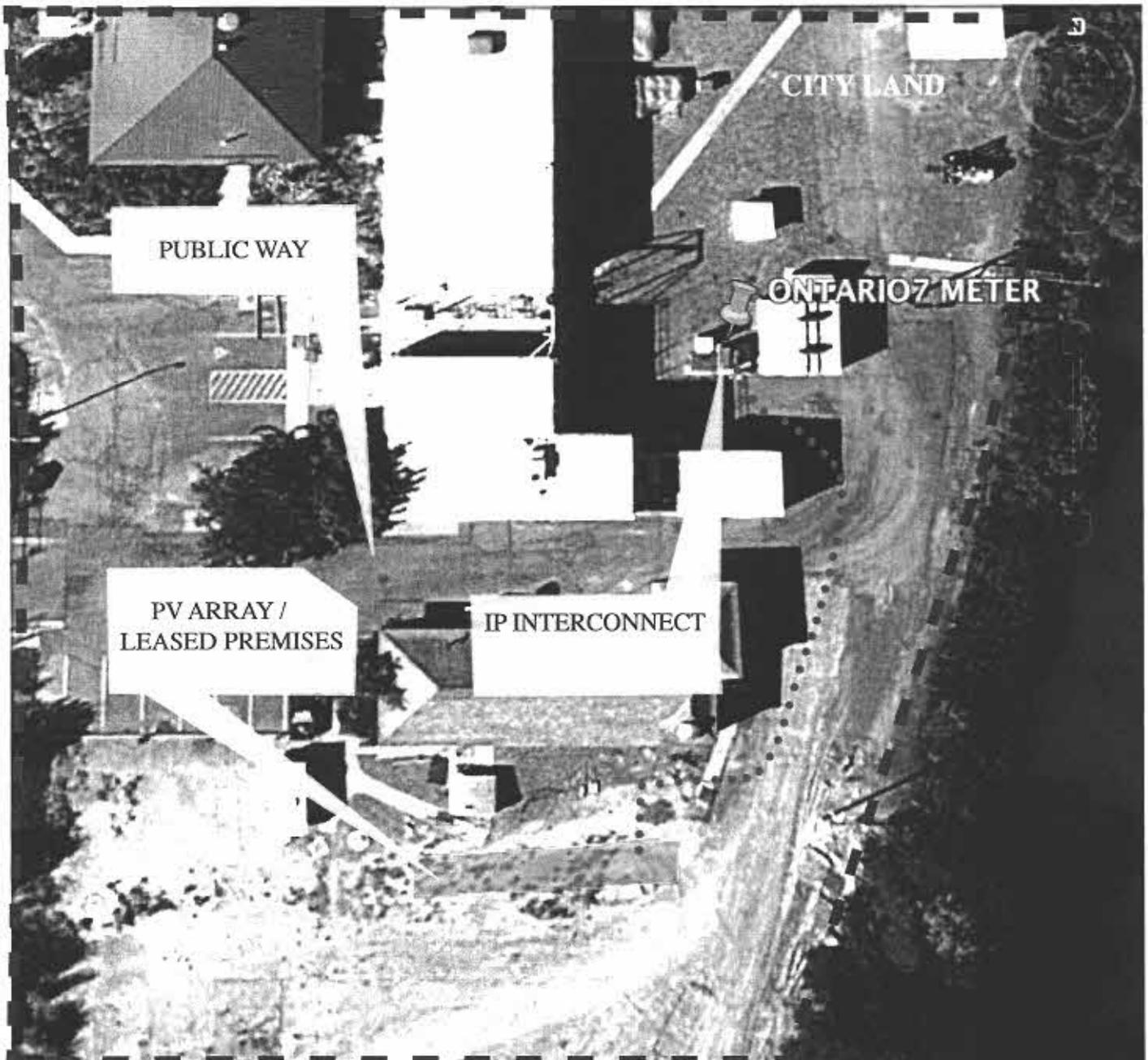
EXHIBIT B-6

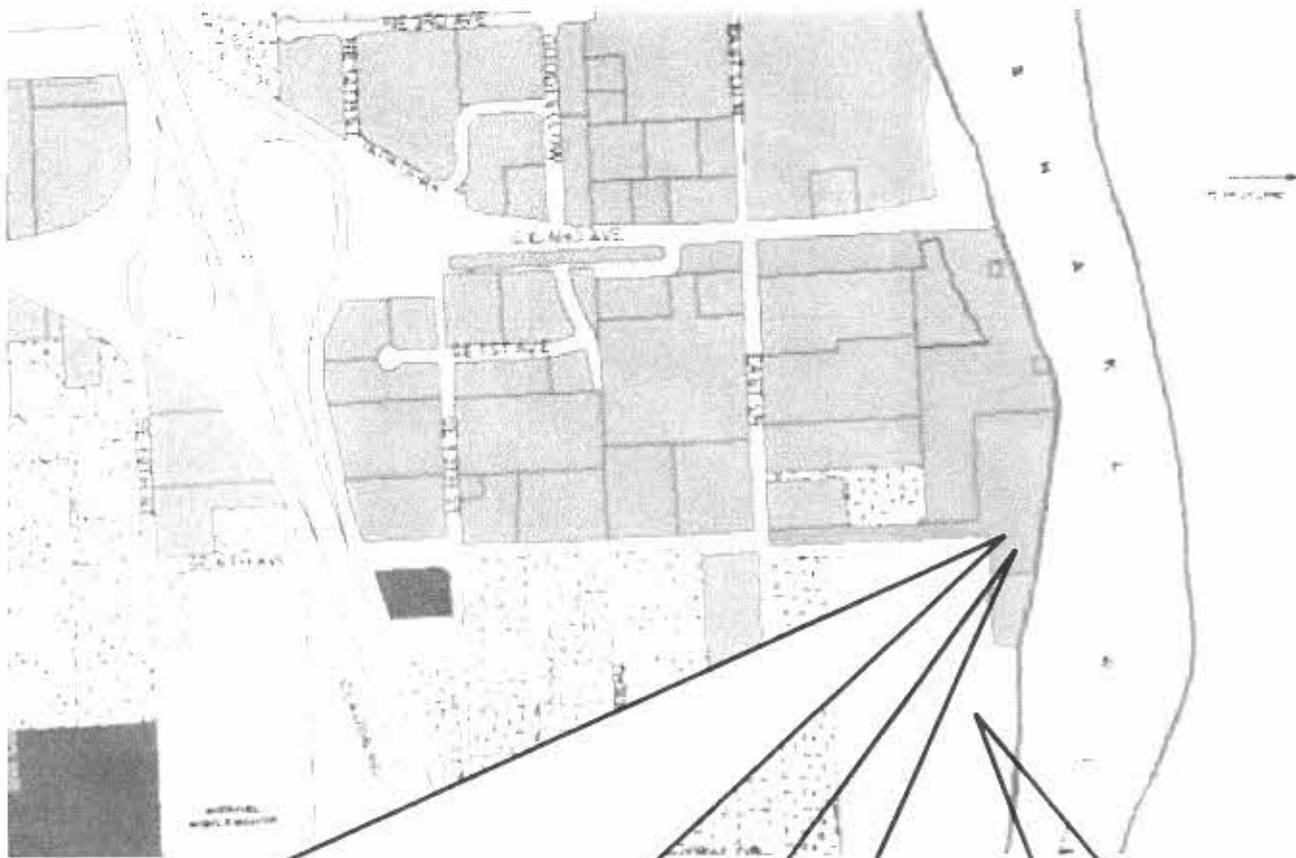
ONTARIO 7 - WATER TREATMENT PLANT

PROJECT DESCRIPTION: fixed ground mount array

PV array measuring approximately 90ft. east-west and less than 10ft. north-south to be located south of water treatment facility buildings.

LEGAL DESCRIPTION: Map # 18 47 11B tax lots 1300, "north well house," 1400 "south well house" both in lot 1200 which looks to have the settling ponds and property up to the ODOT right of way for the Snake River Bridge, tax lot 1500, main plant and north half of SE 5th Ave out to East Lane, 1801, former restaurant property & tax map 18 47 2C tax lot 1000, well house north of the Snake River Bridge.





ZONING: PUBLIC FACILITY

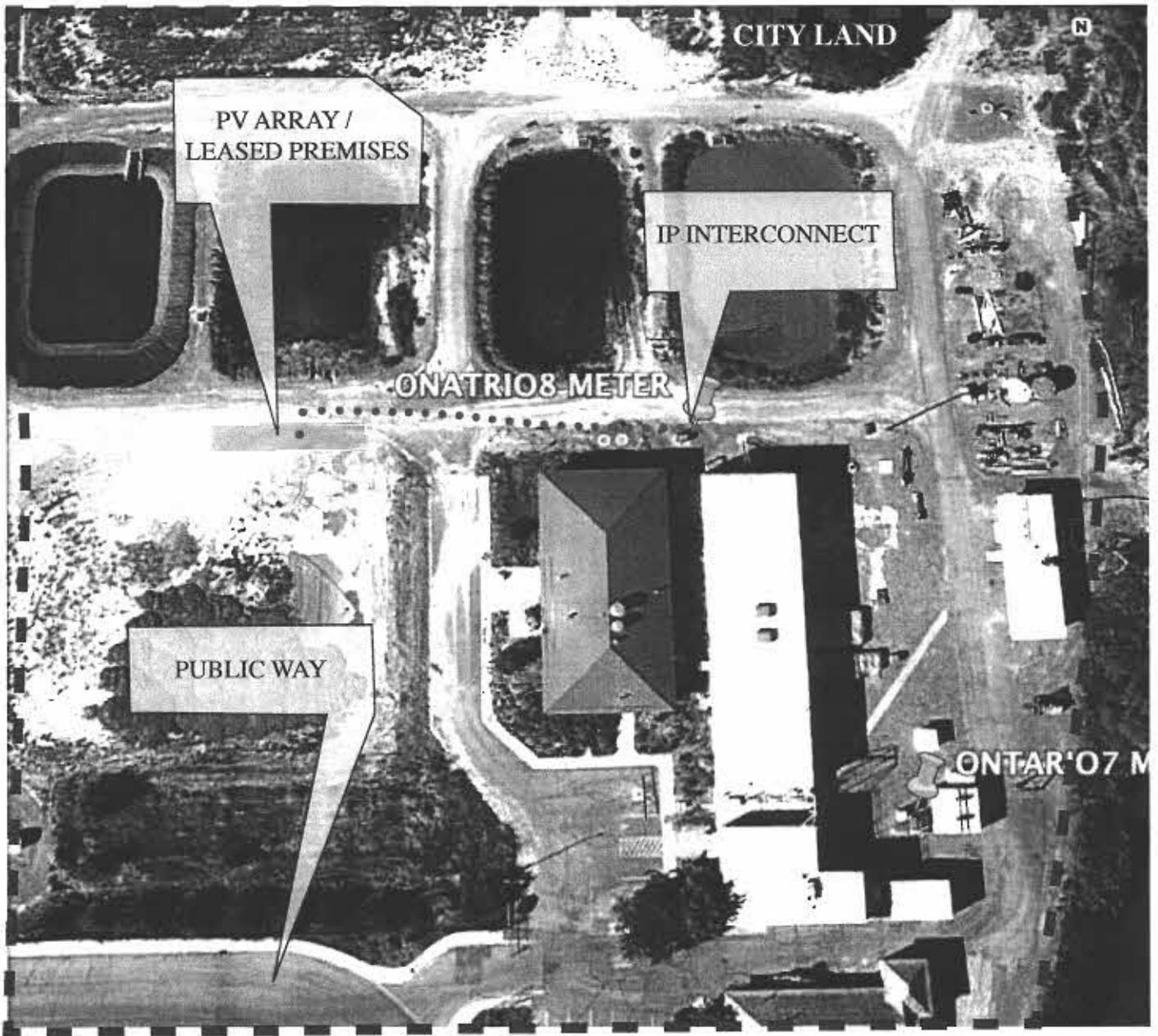
ZONING: GENERAL COMMERCIAL

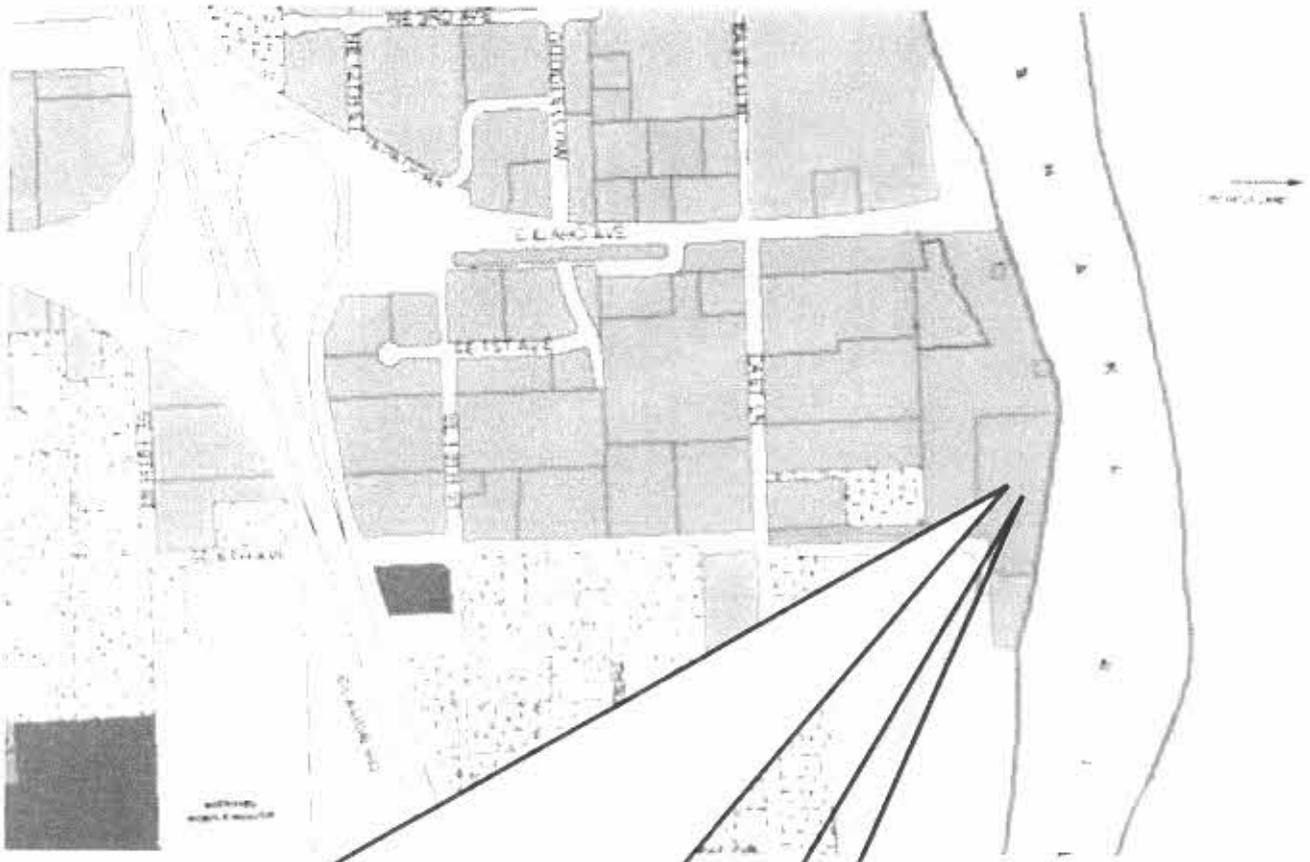
EXHIBIT B-7

ONTARIO 8 - WATER TREATMENT PONDS

PROJECT DESCRIPTION: fixed ground mount array

PV array measuring approximately 90ft. east-west and less than 10ft. north-south to be located in vacant lot west of water treatment facility.





ZONING: PUBLIC FACILITY

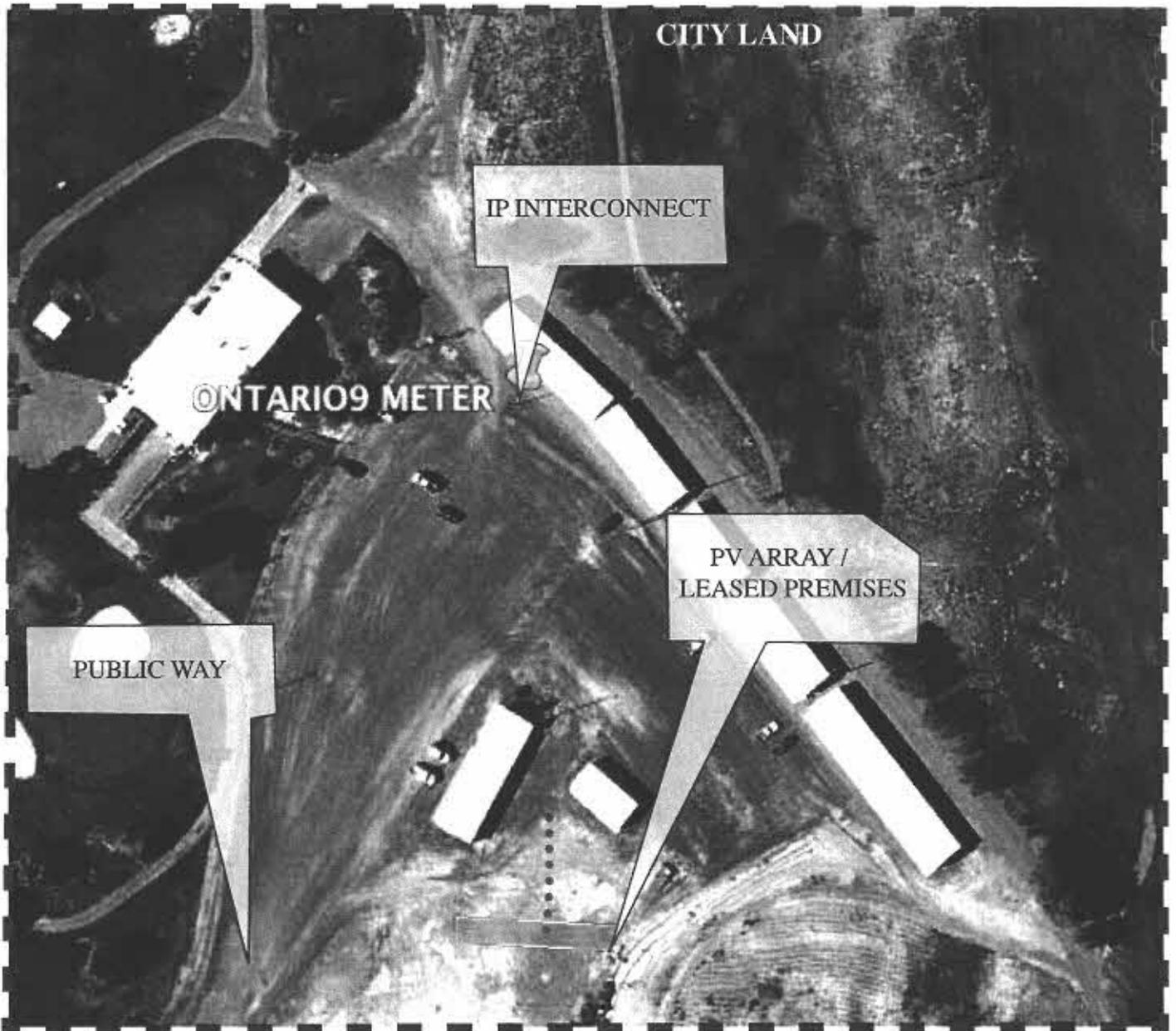


EXHIBIT B-8

ONTARIO - GOLF COURSE CLUBHOUSE

PROJECT DESCRIPTION: fixed ground mount array

PV array measuring approximately 90ft. east-west and less than 10ft. north-south to be located south of existing clubhouse and associated buildings.



ONTARIO
GOLF
CLUB



ZONING: AIRPORT DE-
VELOPMENT



EXHIBIT B-9

ONTARIO 9 - GOLF COURSE PUMPHOUSE

PROJECT DESCRIPTION: fixed ground mount array

PV array measuring approximately 90ft. east-west and less than 10ft. north-south to be located north of existing clubhouse, within close proximity to meter located at pumphouse.

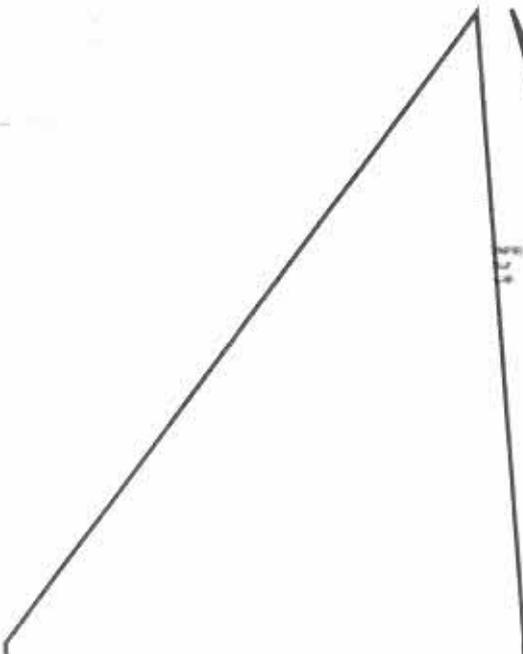
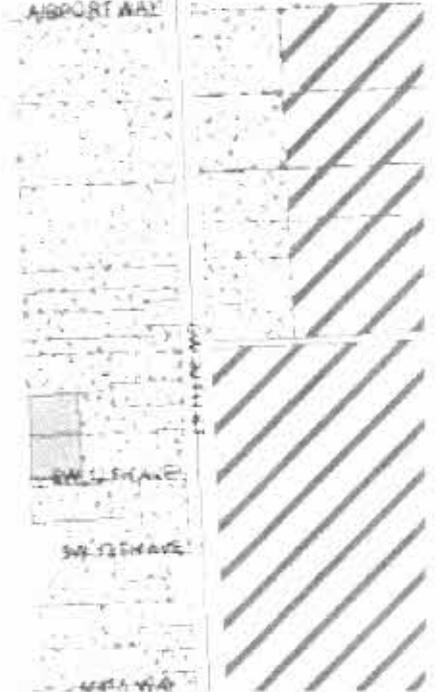


13410 01

201002
MAY 26, 2010
1:00PM



AIRPORT WY



ZONING: AIRPORT DE-
VELOPMENT



RECEIVED

JUN 27 2011

P U C
Utility ProgramSCHEDULE 88
SOLAR PHOTOVOLTAIC PILOT PROGRAMPURPOSE

The purpose of this pilot program is to demonstrate the use and effectiveness of volumetric incentive rates and payments for electricity delivered from qualifying solar photovoltaic energy systems. This schedule establishes a Solar Photovoltaic Pilot Program as required by HB 3039, HB 3690, and OAR 860-084-0100. The Solar Photovoltaic Pilot Program provides payments to Customers for electricity generated by permanently installed solar photovoltaic energy systems.

AVAILABILITY

Service under this schedule is available to Customers with Eligible Systems located at the Customers' facilities throughout the Company's service territory within the State of Oregon.

APPLICABILITY

Service under this schedule is applicable to Customers that have a new Eligible System not purchased with state or Company incentives, with installed nameplate generating capacity of 10 kW DC or less whose output is not offsetting load or paid for pursuant to another tariff schedule, that meet the eligibility requirements in OAR 860-084-0120.

DEFINITIONS

Average Monthly Retail Rate is the Customer's total monthly energy charges divided by the Customer's Eligible Energy (T)

Contracted System means an Eligible System under contract in the Solar Photovoltaic Pilot Program.

Eligible Energy or Eligible Generation means the kilowatt-hours that may be paid at the Volumetric Incentive Rate. For the net metering option of the pilot program, Eligible Energy is equal to the usage of the Customer in the year that the energy is generated by the Eligible System. In a given month, this Eligible Energy is equal to the actual usage of the Customer for that month.

Eligible Participant or Participant means a Customer who has signed a contract with the Company and is participating in the pilot program. A regulated utility is not an Eligible Participant in pilot programs.

Eligible System means a system that meets the requirements of OAR 860-084-0120 with a Nameplate Capacity of 10 kW DC or less.

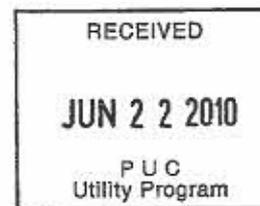
Excess Energy or Excess Generation means the kilowatt-hours generated in excess of actual annual usage under the net metering option of Solar Photovoltaic Pilot Program. In a given month, Excess Energy means kilowatt-hours generated in excess of monthly usage.

Nameplate Capacity means the maximum rated output of a solar photovoltaic system, measured at an irradiance level of 1000 W/m², with reference air mass 1.5 solar spectral irradiance distribution and cell or module junction temperature of 25°C.

On-Line means that the photovoltaic system is installed and providing power to the Company's electrical system or to serve the load of the Customer.

Payable Generation is the Eligible Generation for each month plus accrued Excess Generation, up to the actual monthly usage. Excess Generation accrues monthly.

SCHEDULE 88
SOLAR PHOTOVOLTAIC PILOT PROGRAM
(Continued)



DEFINITIONS (Continued)

Qualifying Assignee or Assignee means a person to whom a Customer may assign Volumetric Incentive Payments under the Oregon Solar Photovoltaic Pilot Program Energy Sales Agreement. The Company or its affiliate or any other regulated utility is not a Qualifying Assignee. Qualifying Assignees include, but are not limited to:

1. A lender providing up front financing to a Customer,
2. A company or individual who enters into a financial agreement with a Customer to own and operate a solar photovoltaic energy system on behalf of the Customer in return for compensation,
3. A company or individual who contracts with the Customer to locate a solar photovoltaic system on property owned by the Customer, or
4. Any party identified by the Customer to receive payments that the Company is obligated to pay to the Customer.

Reservation Start Date means the date the Customer is notified of securing capacity through a capacity reservation process and of the start and expiration dates for that capacity reservation. The Reservation Start Date initiates the Time To Complete Interconnection.

Time To Complete Interconnection means the time between the Reservation Start Date and the date an Eligible Participant completes interconnection.

Volumetric Incentive Payments or Payments means the monthly amount that the Company pays to an Eligible Participant or Assignee in the Solar Photovoltaic Pilot Program for payable energy generated by a Contracted System.

Volumetric Incentive Rate means the rate per kilowatt-hour paid by the Company to a Customer or Assignee for Payable Generation.

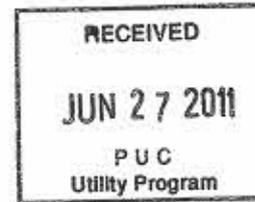
INTERCONNECTION PROCESS

Solar photovoltaic projects physically interconnecting to the Company's electrical system must meet all criteria under OAR Division 084 – Solar Photovoltaic Programs and successfully complete the Interconnection Process prior to the project delivering energy to the Company. A complete description of the application procedures for the Solar Photovoltaic Pilot Program, including all required applications and Company contact information, is maintained on the Idaho Power Web site at www.idahopower.com/oregonsolar, or the Customer may contact the Company at 1-208-388-5933 for further information.

Capacity Reservation

A capacity reservation starts when an application meeting the requirements of OAR 860-084-0230 (2) is received by the Company on-line as part of the Solar Photovoltaic Pilot Program procedures. This on-line application will secure a pending capacity reservation for the project.

SCHEDULE 88
SOLAR PHOTOVOLTAIC PILOT PROGRAM
(Continued)



INTERCONNECTION PROCESS (Continued)

Capacity Reservation (Continued)

To finalize the capacity reservation, Customers must submit the following documentation to the Company:

1. A signed copy of the Idaho Power Company email confirmation acknowledging receipt of the Capacity Reservation Application.
2. A capacity reservation deposit of \$20 per kW DC of the proposed system capacity
3. The completed Oregon Solar Photovoltaic (SPV) Pilot Program Interconnection Application – Part A.

A capacity reservation expires (1) one year from the Reservation Start Date if the system has not been installed; or, (2) if the interconnection process is not executed, two months from the Reservation Start Date. Once the capacity reservation expires, the Customer must newly apply for a capacity reservation and will not be given preferential treatment. See OAR's 860-084-0195 through 860-084-0230 for a complete description of capacity reservation rules.

The capacity reservation deposit will be refunded if the capacity reservation is not accepted by the Company or when the Customer's solar photovoltaic energy system comes On-Line. The capacity reservation deposit will not be refunded if the Customer's capacity reservation expires before their solar photovoltaic energy system comes On-Line.

Capacity Reservation Limits

The Company will enter into solar photovoltaic interconnection agreements from new Eligible Systems, up to the periodic available capacity of 200 kW AC until the cumulative generation capacity participating in the Program is 400 kW AC. Capacity is reserved on a first come, first served basis. The first capacity reservation allotment of 200 kW AC will be offered beginning 8:00 A.M. Mountain Daylight Time on July 1, 2010 and a subsequent allotment of 200 kW AC will be offered beginning 8:00 A.M. Mountain Daylight Time on October 3, 2011. Any capacity allotment that is not awarded during the first period will be made available during the second allotment period.

(C)

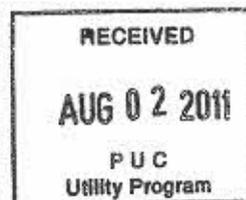
Interconnection Procedure

The Reservation Start Date will be assigned when a capacity reservation is secured, after which the Customer is required to complete the Oregon Solar Photovoltaic (SPV) Pilot Program Interconnection Application – Part B. The Time To Complete Interconnection is the period of time from the Reservation Start Date to the date an Eligible Participant completes interconnection. The Customer will be required to sign an Oregon Solar Photovoltaic Pilot Program Energy Sales Agreement no later than 30 days prior to the Eligible System coming On-Line.

METERING REQUIREMENTS

Customers served on this schedule must have a second, Company owned, meter that measures only the Eligible System's net solar photovoltaic generation. The meter must be placed at a location designated by the Company on the Customer load side of the retail meter and on the AC side of the inverter. The second meter does not alter or affect the Customer's Point of Delivery

SCHEDULE 88
SOLAR PHOTOVOLTAIC PILOT PROGRAM
 (Continued)

VOLUMETRIC INCENTIVE RATE

As established by Commission order, the Volumetric Incentive Rate is \$0.317/kWh. The rate in place at the time of the capacity Reservation Start Date applies to the entire 15 year life of the agreement. (D)

Rate-Adjustment Mechanism

The Rate-Adjustment mechanism is applied to the Volumetric Incentive Rate annually. If less than 100 kW AC of the 200 kW AC allotment is reserved before February 28, 2011, then the Volumetric Incentive Rate will increase by 10 percent beginning October 3, 2011. If 100 kW AC or more but less than 150 kW AC of the 200 kW AC allotment is reserved before February 28, 2011, then the Volumetric Incentive Rate will increase by 5 percent beginning October 3, 2011. If 150 kW AC or more but less than 200 kW AC of the 200 kW AC allotment is reserved before February 28, 2011, then the Volumetric Incentive Rate will not change.

If all 200 kW AC is reserved before February 28, 2011, the Volumetric Incentive Rate will decrease beginning October 3, 2011 depending on how quickly the full subscription level was achieved. If full subscription was received before November 15, 2010, the Volumetric Incentive Rate will decrease by 10 percent. If full subscription was received between November 15, 2010 and February 28, 2011, the Volumetric Incentive Rate will decrease 5 percent. No Volumetric Incentive Rate adjustment would occur if the 200 kW allotment was fully subscribed during the month of March, 2011.

VOLUMETRIC INCENTIVE PAYMENT

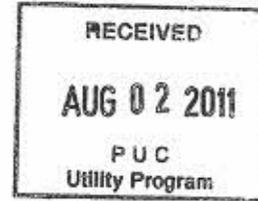
The Volumetric Incentive Payment applies to the Eligible System's generation up to the monthly retail kWh use. Excess Generation will be carried forward to the next month. At the end of the last monthly billing period ending on or before March 31 of each year, any Excess Generation will be transferred to the Company's low income assistance programs at the Average Monthly Retail Rate in effect at the time of the transfer, or, if the Customer has the required market rate authority from the Federal Energy Regulatory Commission, sold to the Company at market rates. The Customer's Excess Generation is set to zero for the beginning of the subsequent annual billing cycle.

Volumetric Incentive Payments under this pilot will be made no later than 45 days from the last day of the Customer's billing period. The Customer may choose among three payment options for the Volumetric Incentive Payment: (1) receive a direct payment, (2) have payments netted against the Customer's retail bill, or (3) assign 100% of the payment each month to a single Assignee. A one-time assignment fee of \$25 applies for each payment assignment or reassignment. A Customer may request to change their payment option once every 12 consecutive Billing Periods. The new payment option will become effective on the Customer's next regularly scheduled billing cycle.

MONTHLY RATE

The monthly rate is the net of the Meter Charge and the Volumetric Incentive Payment. Notwithstanding the Volumetric Incentive Payment, the Customer is responsible for the minimum monthly charge and the Power Supply Adjustment related to the retail electricity rate schedule and, where applicable, charges set forth in Schedule 55 (Annual Power Cost Update), Schedule 56 (Power Cost Adjustment Mechanism), Schedule 91 (Energy Efficiency Rider), Schedule 93 (Solar Photovoltaic Pilot Program Rider), Schedule 95 (Adjustment for Municipal Exactions), and Schedule 98 (Residential and Small Farm Energy Credit). Volumetric charges related to retail electricity rate schedules are calculated using the actual usage of the Customer for that month.

SCHEDULE 88
SOLAR PHOTOVOLTAIC PILOT PROGRAM
(Continued)



MONTHLY RATE (Continued)

Meter Charge

Meter Charge, \$10 00 per month for each separately metered Residential Qualifying System

Volumetric Incentive Payment

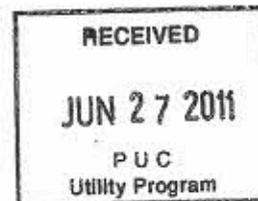
Volumetric Incentive Rate Payment \$0.317/kWh multiplied by the Payable Generation, up to the monthly retail kWh use. (D)

Solar Retail Credit: Payable Generation multiplied by the Average Monthly Retail Rate

TERMS AND CONDITIONS

Division 084 of the Oregon Administrative Rules (OAR) contains additional details that apply to this pilot. The terms and conditions listed below shall apply to all solar photovoltaic systems under this schedule:

- 1 Each Solar Photovoltaic Interconnection agreement shall have a term of 15 years at the applicable Volumetric Incentive Rate.
- 2 The Solar Photovoltaic Pilot Program will close to new enrollments the earlier of March 15, 2015 or when the cumulative capacity of Contracted Systems in the pilot reaches 25 MW AC statewide per OAR 860-084-0150
- 3 Qualifying systems must be installed on the customer side of the service meter.
- 4 Qualifying Systems must be constructed from new components and be first operational and On-Line no sooner than July 1, 2010
- 5 The Customer is responsible for obtaining all necessary government approvals relating to its Eligible System and must meet all applicable building codes and standards including standards specified in OAR 860-084-0260
- 6 The Customer is responsible for all costs associated with its Eligible System, including interconnection costs incurred by the Company, and is also responsible for all costs related to any modifications to the facility that may be required by the Company resulting from the reviews as provided for in OAR 860-084-0310
- 7 As provided in OAR 860-084-0340 where applicable, a manual disconnect switch capable of isolating the Eligible System facility from the Company's system must be provided by the Customer and will be accessible to the Company at all times.
- 8 The capacity of the qualifying systems must not exceed 90 percent of the three-year (or less) rolling average of the usage at the premises at which the qualifying system will be installed, consistent with OAR 860-084-0100. If less than one year of usage history is available, three years usage of a similarly situated Customer may be used. The Customer is responsible to determine the appropriate size of the qualifying system
- 9 For each separately metered account, a Customer is not eligible for service under both this schedule and Schedule 84, Customer Energy Production for Net Metering



SCHEDULE 88
SOLAR PHOTOVOLTAIC PILOT PROGRAM
 (Continued)

TERMS AND CONDITIONS (Continued)

- 10. A Customer who has a Contracted System under this schedule is not eligible to interconnect additional solar photovoltaic systems for service under this schedule.
- 11. All Renewable Energy Credits (RECs) or other benefits or allowances for which the Solar Photovoltaic Pilot Program project qualifies under current or future law relating to the renewable energy are property of the Company
- 12. The Company maintains the right to inspect the facilities with reasonable prior notice and at a reasonable time of day.
- 13. The Company maintains the right to disconnect, without liability, the Customer's Eligible System for issues relating to safety and reliability.
- 14. The Customer shall secure and continuously carry Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit. The insurance coverage shall be placed with an insurance company with an A.M Best Company rating of A- or better and shall include a provision stating that such policy shall not be cancelled or the limits of the liability reduced without sixty days prior written notice to Idaho Power (D)
(D)

OREGON SOLAR PHOTOVOLTAIC
PILOT PROGRAM
ENERGY SALES AGREEMENT
BETWEEN
IDAHO POWER COMPANY
AND

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19	Entire Agreement
20	Notices
	Exhibit A Eligible System Description
	Exhibit B Payee and/or Assignee Information
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OREGON SOLAR PHOTOVOLTAIC
PILOT PROGRAM
ENERGY SALES AGREEMENT

Project Name: _____

Project Number: _____

THIS AGREEMENT is entered into on this ____ day of _____ 20__ between _____ (Participant), and IDAHO POWER COMPANY, an Idaho corporation (Idaho Power), hereinafter sometimes referred to collectively as "Parties" or individually as "Party."

RECITALS:

WHEREAS, the Participant intends to maintain at their premises a solar photovoltaic energy system that meets the eligibility requirements of Oregon Administrative Rule ("OAR") 860-084-120. ("Eligible System")

WHEREAS, the specific location and additional details of the Eligible System are specified in Exhibit A.

WHEREAS, Participant certifies:

- a. The Eligible System will be permanently installed at the Participant's address, in the State of Oregon, at which the Participant receives retail electric service from Idaho Power.
- b. No investor in the Eligible System has accepted or will accept incentives from the Energy Trust of Oregon or Oregon state residential or business tax credits for the Qualifying System covered by this Agreement.
- c. The Eligible System and its individual components are new and have not been previously installed, and meet quality, reliability, and installation criteria approved by the Commission.

- d. The Eligible System is the only solar photovoltaic system on the Participant's premises that is being used to offset the Participant's electrical energy consumption and/or delivering energy to Idaho Power.
- e. The sum of the Nameplate Capacity of all solar panels comprising the Eligible System shall be less than or equal to 10 kW, and in compliance with OAR 860-084-0100 (2) (e), the Eligible System will be sized so that the estimated annual energy generation (kWh) shall not exceed 90 percent of the three year (or less) rolling average of the usage at the premises at which the Eligible System will be installed. If less than one year of usage history is available, three year's usage of a similarly situated customer may be used, as determined by Idaho Power.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement and the appendices attached hereto, the following terms shall have the following meanings:

- 1.1 **"Applicant"** means an Idaho Power customer that has submitted an application to participate in the Idaho Power Oregon Solar Photovoltaic Pilot Program but has not yet executed an Energy Sales Agreement.
- 1.2 **"Contract Year"** means the period commencing each calendar year on the same calendar date as the Operation Date and for one calendar year thereafter.
- 1.3 **"Commission"** means the Public Utility Commission of Oregon.
- 1.4 **"Effective Date"** shall have the meaning set forth in Section 2.1.
- 1.5 **"Eligible Generation"** means the Eligible System's metered generation, net of system requirements that was generated during the applicable customer billing period.
- 1.6 **"Eligible System"** shall have the meaning set forth in the Recitals.

- 1.7 "Excess Generation" (kWh) means the Eligible Generation in excess of the Participant's retail electricity consumption at the same location during the same billing period. Excess Generation calculated in one billing period shall be carried forward to the next billing period and will be available for use in calculating the Eligible Generation for the next billing period but only during that Generation Year.
- 1.8 "Expiration Date" shall have the meaning set forth in Section 2.3.
- 1.9 "Generation Interconnection Process" means Idaho Power's generation interconnection application and engineering review process developed to ensure a safe and reliable generation interconnection in compliance with all applicable regulatory requirements, Prudent Electrical Practices and national safety standards.
- 1.10 "Generation Year" means the period ending _____ (*month end calendar date*) or each year of the term of this Agreement. By default this date shall be March 31 unless another date is provided by the Participant at the time this Agreement is executed.
- 1.11 "Interconnection Facilities" means facilities and equipment installed in order to accommodate the interconnection of the Eligible System.
- 1.12 "Nameplate Capacity" means the DC capacity rating of a specific piece of equipment as specified by the manufacturer (measured in watts) or if the manufacturer's specification is not readily available it shall be the maximum rated output of a solar photovoltaic system, measured at an irradiance level of 1,000 watts per square meter (W/m^2), with reference air mass 1.5 solar spectral irradiance distribution and cell or module junction temperature of 25°C.
- 1.13 "Nameplate Capacity_{AC}" means 85% of the Nameplate Capacity.
- 1.14 "Operation Date" means the date that the Eligible System and the Interconnection Facilities are deemed by Idaho Power to be fully operational and able to begin

operations in a safe and reliable manner. The Operation Date shall be established as specified in Section 2.3

- 1.15 **"Payable Generation"** means Eligible Generation (kWh) during a billing period plus any previous month's Excess Generation (if any), up to Participant's actual retail usage (kWh) for the same billing period.
- 1.16 **"Program Year"** means the period ending March 31 or each year of the term of this Agreement.
- 1.17 **"Qualified Assignee"** means a person to whom Participant may assign Volumetric Incentive Rate payments. Idaho Power or its affiliate or any other regulated utility is not a qualifying assignee. Qualifying Assignees include, but are not limited to:
- (a) A lender providing up front financing to Participant,
 - (b) A company or individual who enters into a financial agreement with Participant to own and operate the Eligible System on behalf of Participant in return for compensation,
 - (c) A company or individual who contracts with Participant to locate the Eligible System on property owned by Participant, or
 - (d) Any entity identified by Participant to receive payments that Idaho Power is obligated to pay to Participant.
- 1.18 **"Renewable Energy Certificates"** is defined in Section 6.
- 1.19 **"Reservation Start Date"** means the date customer secured a capacity reservation under Idaho Power's Oregon Solar Photovoltaic Pilot Program.
- 1.20 **"Solar Photovoltaic Pilot Program"** or **"Pilot"** means the Commission's implementation of ORS 757.365 (2009) (as amended by House Bill 3690(2010)) via the Solar Photovoltaic Pilot Program Rules, including any subsequent revisions thereto.
- 1.21 **"Solar Photovoltaic Pilot Program Rules"**, or **"Rules"**, means Oregon Administrative Rules ("OAR") Chapter 860, Division 84 and related Commission orders interpreting or augmenting the Rules.

- 1.22 **“Solar Photovoltaic Pilot Program Application”** means the application form to be completed by Participant. This application will be available on the Idaho Power website at www.idahopower.com and must be completed and submitted online to establish a position in the capacity reservation allocation process.
- 1.23 **“Volumetric Incentive Rate”** means the incentive price paid by Idaho Power for Eligible Generation set forth in Schedule 88 in effect as of the Reservation Start Date so long as the Participant completes all requirements to maintain the Reservation Start Date.

ARTICLE II: TERM AND OPERATION DATE

- 2.1 This Agreement shall become effective after execution by both Parties (“Effective Date”).
- 2.2 Except as otherwise provided herein, this Agreement shall expire at midnight exactly 15 years after the Operation Date (“Expiration Date”).
- 2.3 Operation Date – Upon completion of the Interconnection Process as specified in Article VII and completion of construction and installation of the Eligible System, the Participant shall supply Idaho Power written confirmation that all permits, inspections and information as required by this Agreement, the Generation Interconnection Process, Schedule 88 and any other agencies having jurisdiction over the Eligible System have been completed and is therefore requesting an Operation Date be granted by Idaho Power. Upon receiving this request, Idaho Power will review the provided documentation and will provide written confirmation to the Participant either establishing the Operation Date or providing details as to why an Operation Date cannot be established.

ARTICLE III: CERTIFICATIONS AND WARRANTIES

Participant certifies and warrants to Idaho Power that:

- 3.1 The information provided by the Participant in the Participant’s Idaho Power Oregon Solar Photovoltaic Pilot Program Application, the Interconnection Application (Part A and

- Part B) is accurate, to the best of Participant's knowledge.
- 3.2 Participant's Eligible System is and shall for the term of this Agreement continue to be an Eligible System under OAR 860-084-120.
 - 3.3 The Eligible System complies with siting, design, interconnection, installation, and electric output standards and codes required by the laws of Oregon, to the best of Participant's knowledge.
 - 3.4 The Eligible System meets quality, reliability, and system installation requirements established by the Commission. (See OAR 860-084-0240(2) (e) (B); OAR 860-084-0120).
 - 3.5 Participant (and any subsequent owner of the Eligible System) will have a retail electricity customer account with Idaho Power at the same location of this Eligible System during the full term of this Agreement.
 - 3.6 Participant will notify Idaho Power within 30 days of any material changes to the Eligible System.

ARTICLE IV: OBLIGATIONS OF THE PARTIES

- 4.1 The Parties' performance of this Agreement is subject to the requirements set forth herein and subject to the requirements of Idaho Power's Schedule 88 tariff, as may be amended from time to time. In the event that the provisions of this Agreement conflict with the Oregon Solar Photovoltaic Pilot Program Rules or the Idaho Power tariff, the Commission's rules and Idaho Power's tariffs shall take precedence in that order.
- 4.2 Payable Generation. Commencing on the Operation Date, unless otherwise provided herein, Idaho Power will pay the Participant for Payable Generation from the Eligible System based upon the rates and calculations contained within this Agreement.
- 4.3 Excess Generation. At the end of each Generation Year, Participant shall forfeit accumulated Excess Generation, if any, and Idaho Power shall make a corresponding donation to Idaho Power's low-income energy assistance program at the Average

Monthly Retail Rate in effect at the time of the transfer. Idaho Power may retain for its benefit any Renewable Energy Certificates associated with Excess Generation.

ARTICLE V: VOLUMETRIC INCENTIVE RATES

- 5.1 Idaho Power shall pay Participant the Participant's Volumetric Incentive Rate ("VIR") as set forth in Idaho Power's Schedule 88 tariff for all Payable Generation. The Participant will continue to be responsible for full payment of all retail customer charges.

ARTICLE VI: RENEWABLE ENERGY CERTIFICATES

- 6.1 Idaho Power shall own all the Renewable Energy Certificates associated with the Eligible System and Participant shall reasonably cooperate as needed to help Idaho Power perfect its ownership thereof. Renewable Energy Certificates or "RECs" mean all right, title and interest in and to Environmental Attributes, plus the REC Reporting Rights. "Environmental Attributes" means any and all credits, benefits, claims, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, howsoever entitled, resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the generation of the Specified Energy by the Resource and the delivery of the Specified Energy to the electricity grid, and include without limitation any of the same arising out of legislation or regulation concerned with oxides of nitrogen, sulfur, or carbon, with particulate matter, soot, or mercury, or implementing the United Nations Framework Convention on Climate Change (the "UNFCCC") or the Kyoto Protocol to the UNFCCC or crediting "early action" with a view thereto, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency or successor administrator (collectively with any state or federal entity given jurisdiction over a program involving transferability of Environmental Attributes, the "CAMD"), but specifically excluding only (i) the wind production tax credits, if any, and (ii) matters designated by Idaho Power as sources of

liability or adverse wildlife or environmental impacts. "REC Reporting Rights" means the right to report to any agency, authority or other party, including without limitation under Section 1605(b) of the Energy Policy Act of 1992, or under any present or future domestic, international or foreign emissions trading program, exclusive ownership of the Environmental Attributes. "Specified Energy" means the number of megawatt-hours of electrical energy generated or to be generated by the Eligible System within the vintage period. One REC represents the Environmental Attributes attributable to the generation of 1 MWh of Specified Energy by the Eligible System and the delivery thereof to the electricity grid (except as otherwise allowed by state law or Commission rule, e.g. under Oregon HB 3690).

ARTICLE VII: INTERCONNECTION

- 7.1 At the time the Applicant submits an application requesting a capacity reservation in the Idaho Power Oregon Solar Pilot Program, the Applicant must also submit a complete Interconnection Application - Part A.
- 7.2 Within two months of the Reservation Start Date, the Applicant must submit a complete Interconnection Application - Part B to Idaho Power.
- 7.3 Failure to submit either parts of the Interconnection Application within the time frames specified above will result in either a capacity reservation not being granted to the Applicant and/or a previously granted capacity allocation being terminated.
- 7.4 Upon receipt, Idaho Power will evaluate the complete Interconnection Application (Part A and Part B) in accordance with OAR 860-084-0260, 860-084-0270 and 860-084-0280 and the Idaho Power established Generation Interconnection Process.
- 7.5 The Participant shall be responsible for all interconnection costs (if any) identified in this Generation Interconnection Process, except for the cost of the additional meter and automated telemetry system required under this program. These interconnection costs must be paid by the Participant as specified in the Generation Interconnection Process.

- 7.6 If, upon receipt and review of the Generation Interconnection Process results (i.e. required equipment and costs) the Participant elects not to move forward with the completion of this Eligible System, this Agreement may be terminated upon written notice from the Participant. This option to terminate shall expire at the time the Participant accepts the interconnection results and elects to continue development of this Eligible System.
- 7.7 Access. As provided in the Solar Photovoltaic Pilot Program Rules, Participant shall provide Idaho Power access to any required disconnect switch at the Eligible System at all times. Idaho Power will provide reasonable notice to Participant when possible prior to using its right of access. Additionally, both the retail meter and the Eligible System metering shall be located as specified by Idaho Power and Idaho Power shall have access to these meters at any time.

ARTICLE VIII: TEMPORARY DISCONNECTION

- 8.1 Idaho Power or Participant may temporarily disconnect the Eligible System from Idaho Power's system for so long as reasonably necessary in the event one or more of the following conditions or events occurs:
- 8.1.1 Emergency conditions. Idaho Power or Participant may immediately and temporarily disconnect the Eligible System in the event of an emergency.
 - 8.1.2 Scheduled maintenance, repair or construction. Idaho Power or the Participant may disconnect the Eligible System during maintenance of the Eligible System or Idaho Power's electrical system.
 - 8.1.3 Likelihood of harm to other customers. Idaho Power may disconnect the Eligible Facility if it will likely cause disruption or deterioration of service to other customers, or if operating the Eligible System could cause damage to Idaho Power's electrical system. In such event, Idaho Power shall

provide the Participant supporting documentation used to reach the decision to disconnect the Eligible Facility upon the Participant's request.

8.1.4 Unauthorized modifications. Idaho Power may disconnect the Eligible Facility if the Participant makes any change to the Eligible System, other than minor equipment modifications, without prior written authorization of Idaho Power.

8.1.5 Nonconformance with this Agreement. Idaho Power may disconnect the Eligible System if it determines that the Eligible System is noncompliant with this Agreement, the Rules or its tariffs.

8.2 If the Eligible System must be physically disconnected for any reason, and Idaho Power is unable to operate the manual disconnect dedicated to the Eligible System, Idaho Power may disconnect all electrical services to the premises where the Eligible System is located.

8.3 The Parties shall cooperate with each other to restore the Eligible System, Interconnection Facilities, and Idaho Power's system to their normal operating state as soon as reasonably practicable following any disconnection pursuant to this Section 8.

ARTICLE IX: PARTICIPANT'S ADDITIONAL COOPERATION

9.1 Agreement to Release Information. Participant hereby agrees to allow Idaho Power to release information concerning its participation in the Solar Photovoltaic Pilot Program, including lists of all Participants in the Pilot to the Oregon Department of Revenue, the Oregon Department of Energy, the Commission and the Energy Trust of Oregon ("ETO"). Idaho Power shall use reasonable efforts to pursue appropriate confidentiality terms with the above agencies and organizations. As required by OAR 860-084-0240 (1) (f), Idaho Power shall provide descriptions of the confidentiality requirements that those receiving this information must follow.

9.2 Agreement to Participate in Surveys. Participant hereby agrees to complete up to three

surveys on the effectiveness of the Pilot program in order to remain eligible for participation in the Pilot. Information to be provided may include, but is not limited to: understanding the various factors contributing to participation in the program; understanding decision processes used to choose between the volumetric incentive rate solar program and the existing net-metering solar program; and satisfaction with and recommendations for improving the Pilot program processes. Participant agrees that Idaho Power may release information concerning Participant obtained from the surveys to the Commission and the ETO. If Participant does not participate in surveys as required hereby, Idaho Power may cease making payments hereunder until such time as such surveys are completed.

ARTICLE X: METERING

- 10.1 Idaho Power shall install, own and maintain, at its sole expense but subject to Section 10.4, a meter in addition to the Participant's existing consumption meter. This additional meter will be dedicated to record the generation from the Eligible System in accordance with OAR 860-084-0280.
- 10.2 Participant shall provide, at its sole expense, adequate facilities, including, but not limited to, a current transformer enclosure (if required), meter socket(s) and junction box, for the installation of the meter and associated equipment. Participant hereby consents to the installation and operation by Idaho Power and at Idaho Power's expense, of one or more additional meters to monitor the flow of electricity in each direction. Such meters shall be located on the premises of Participant and at a location specified by Idaho Power.
- 10.3 Idaho Power may periodically inspect, test, repair and replace its metering equipment. If any of the inspections or tests discloses an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate

measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) billing periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered following the repair of the meter.

- 10.4 Monthly Meter Charge. In accordance with Commission Order No. 10-198, Participant shall pay a \$10 monthly meter fee for the term of this Agreement.

ARTICLE XI: BILLINGS, COMPUTATIONS AND PAYMENTS

- 11.1 On or before the forty-fifth (45th) day following the end of the Participant's billing period, Idaho Power shall send to the Participant or a Qualifying Assignee payment for Participant's Payable Generation, together with computations supporting such payment. The Participant shall elect one of the following payment options upon execution of this Agreement and may change this payment option only within 5 business days of the end of each Contract Year and only after written notice is received by Idaho Power.

- Option 1 - Payments will be paid directly to the Participant or a Qualifying Assignee as designated by the Participant and the Participant will continue to receive a standard monthly bill for electricity purchased and other standard charges as specified by the applicable tariff.
- Option 2 - Payments under this Agreement will be netted against the Participant's standard monthly bill for electricity purchased and other standard charges as specified by the applicable tariff and the Participant shall be responsible to pay any resulting amounts due as indicated on the billing.

A sample of these payment calculations is attached in Exhibit C.

- 11.2 The Participant may assign the Payment as calculated in Option 1 to a single Qualifying

Assignee and this assignee may be changed by the Participant at any time. Idaho Power shall charge the Participant a \$25 fee to process the Participant's requested change in assignees.

11.3 Prior to Idaho Power making any payments as specified within this Agreement the Participant must provide the payment information as specified within Exhibit B and a completed IRS Form W-9.

11.3.1 This information must be provided no later than 30 days prior to the Participant's Eligible System being assigned an Operation Date, and;

11.3.2 At any time the Participant assigns the payments to a different party than the party currently receiving the payments, and;

11.3.3 At any time the Participant wishes to revise any payee information previously provided.

Upon receipt of the payee information specified in Exhibit B, Idaho Power will provide the Participant with the IRS Form W-9 or its successor.

11.4 Idaho Power may deduct from any Participant's Payable Generation payment, amounts owing and delinquent more than 45 days on Participant's monthly utility bill or owing under this Agreement.

11.5 Corrections. Idaho Power shall have the right to adjust any payment made pursuant to Section 11.1. If Idaho Power determines an adjustment is required, Idaho Power shall provide written documentation to the Participant.

ARTICLE XII: DEFAULTS AND REMEDIES

12.1 Events of Default. The following events shall constitute defaults under this Agreement:

12.1.1 Breach of Material Term. Failure of a Party to perform any material obligation imposed upon that Party by this Agreement or breach by a Party of a representation or warranty set forth in this Agreement.

12.1.2 Non-delivery. The Eligible System's failure to generate any energy during any

12-month period shall constitute a default.

12.1.3 Participant is found by the Commission to have made a false certification hereunder.

12.2 Notice; Opportunity to Cure. For a default under Section 12.1.1, a defaulting Party shall have sixty (60) days to cure after receipt of written notice from the non-defaulting Party. If the default is not capable of cure within the 60-day period, the defaulting Party must begin to cure the default within twenty (20) calendar days after receipt of the written default notice, and must continuously and diligently complete the cure within six (6) months of the receipt of the notice.

12.3 Termination. If a default described herein has not been cured within the prescribed time, above, the non-defaulting Party may terminate this Agreement at its sole discretion by delivering written notice to the other Party. Upon termination, the Eligible System will be disconnected at Participant's expense. The termination of this Agreement will not relieve either Party of its liabilities and obligations, owed or continuing at the time of termination. In the event this Agreement is terminated because of Participant's default, neither Participant nor the Eligible System shall be eligible, at any location in Oregon, for subsequent volumetric incentive rates, other feed-in tariffs, or pilot programs prior to the Expiration Date. The non-defaulting Party may contest a termination by seeking dispute resolution with the Commission within 30 days of termination, else termination shall be final. The provisions of this Section 12.3 shall survive termination or expiration of this Agreement.

12.4 This Agreement shall terminate automatically if the Eligible System has not achieved an Operation Date within twelve (12) months of the Reservation Start Date.

ARTICLE XIII: INDEMNIFICATION AND LIABILITY

13.1 Indemnities

13.1.1 Indemnity by Participant - Participant shall release, indemnify and hold harmless

Idaho Power, its directors, officers, agents, and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (a) the energy generated by the Participant's Eligible System under this Agreement, (b) any facilities on Participant's side of the Participant's retail consumption meter, (c) Participant's operation and/or maintenance of the Eligible System, or (d) arising from this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to Idaho Power, Participant or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of Idaho Power, its directors, officers, employees, agents or representatives.

- 13.2 No Dedication. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of Idaho Power as an independent public utility corporation or Participant as an independent individual or entity.
- 13.3 No Consequential Damages. EXCEPT TO THE EXTENT SUCH DAMAGES ARE INCLUDED IN THE LIQUIDATED DAMAGES, DELAY DAMAGES, COST TO COVER DAMAGES OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY,

STATUTE OR OTHERWISE.

ARTICLE XIV: INSURANCE

- 14.1 Certificates. Prior to connection of the Eligible System to Idaho Power's electric system, Participant shall secure and continuously carry insurance in compliance with the requirements of this Section 14. Participant shall provide Idaho Power insurance certificate(s) (of "ACORD Form" or the equivalent) certifying Participant's compliance with the insurance requirements hereunder.
- 14.2 Required Policies and Coverages. During the term of this Agreement, the Participant shall secure and continuously carry the following insurance coverage:
- 14.2.1 Comprehensive General Liability Insurance for both bodily injury and property damage with limits equal to \$1,000,000, each occurrence, combined single limit.
- 14.2.2 The above insurance coverage shall be placed with an insurance company with an A.M. Best Company rating of A- or better and shall include a provision stating that such policy shall not be canceled or the limits of liability reduced without sixty (60) days' prior written notice to Idaho Power.

ARTICLE XV: FORCE MAJEURE

- 15.1 As used in this Agreement, a Force Majeure Event shall mean "any act of God, labor disturbance, act of the public enemy, war, acts of terrorism, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment through no direct, indirect, or contributory act of a Party, any order, regulation, or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure Event does not include an act of negligence or wrongdoing.
- 15.2 If a Force Majeure Event prevents a Party from fulfilling any obligations under this Agreement, the Party affected by the Force Majeure Event ("Affected Party") shall

promptly notify the other Party of the existence of the Force Majeure Event. The notification must specify in reasonable detail the circumstances of the Force Majeure Event, the expected duration, and the steps that the Affected Party is taking to mitigate the effects of the event on its performance, and if the initial notification was verbal, it should be promptly followed up with a written notification. The Affected Party shall keep the other Party informed on a continuing basis of developments relating to the Force Majeure Event until the event ends. The Affected Party will be entitled to suspend or modify its performance of obligations under this Interconnection Appendix (other than the obligation to make payments) only to the extent that the effect of the Force Majeure Event cannot be reasonably mitigated. The Affected Party will use reasonable efforts to resume its performance as soon as possible. The Parties shall immediately report to the Commission should a Force Majeure Event prevent performance of any non-waivable obligations required by Commission rules.

ARTICLE XVI: ASSIGNMENT

- 16.1 This Agreement may be assigned to an Idaho Power retail consumer that is residing at the same address where the Eligible System is installed and said consumer is eligible to participate in this program.

ARTICLE XVII: DISPUTES

- 17.1 Nothing in this Agreement shall restrict or enlarge the rights of any Party to file a complaint with the Commission under relevant provisions of the Commission's rules.

ARTICLE XVIII: MISCELLANEOUS

- 18.1 Amendment. The Parties may amend this Agreement only by a written instrument duly executed by both Parties in accordance with the provisions of the applicable Commission rules and Orders, or by the Commission for good cause shown.

- 18.2 No Third-Party Beneficiaries. This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, or where permitted, their successors in interest or their assigns.
- 18.3 Counterparts. This Agreement may be executed in one or more counterparts, whether electronically or otherwise, and each counterpart shall have the same force and effect as an original Agreement and as if all the Parties had signed the same document.
- 18.4 No Partnership. This Agreement will not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
- 18.5 Severability. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of the Agreement shall remain in full force and effect.
- 18.6 Several Obligations. Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Participant includes two or more parties, each such party shall be jointly and severally liable for Participant's obligations under this Agreement.

18.7 Waiver. Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

18.8 Subcontractors. Nothing in this Agreement shall prevent a Party from using the services of any subcontractor, or designating a third-party agent as one responsible for a specific obligation or act required in the Agreement (collectively subcontractors), as it deems appropriate to perform its obligations under the Agreement; provided, however, that each Party will require its subcontractors to comply with all applicable terms and conditions of the Agreement in providing such services and each Party will remain primarily liable to the other Party for the performance of the subcontractor.

18.8.1 The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made. Any applicable obligation imposed by the Agreement upon the hiring Party shall be equally binding upon, and will be construed as having application to, any subcontractor of such Party.

18.8.2 The obligations under this Section will not be limited in any way by any limitation of a subcontractor's insurance.

ARTICLE XIX: ENTIRE AGREEMENT

19.1 This Agreement (including all Exhibits and Appendices, and attachments thereto) supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding Idaho Power's purchase of Payable Generation from the Eligible System.

ARTICLE XX: NOTICES

20.1 All written notices under this Agreement shall be directed as follows and shall be considered delivered when deposited in the U. S. Mail, first-class postage prepaid, as follows:

To Participant: _____

To Idaho Power:
Oregon Solar Photovoltaic Pilot Program
Idaho Power Company
P. O. Box 70
Boise, Idaho 83707

20.2 The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 22. Payee and/or Qualified Assignee changes shall be provided as specified in Article 11 and Exhibit B and submitted to the Idaho Power notification address as specified in section 20.1 above.

IN WITNESS WHEREOF, The Parties hereto have caused this Agreement to be executed in their respective names on the dates set forth below:

Idaho Power Company _____

By _____ By _____

Date _____ Date _____

"Idaho Power"

"Participant"

EXHIBIT A

PROJECT NO. _____

Eligible System Name: _____

Eligible System Description

All information required by this Exhibit must be provided prior to Idaho Power establishing an Operation Date for this Eligible System.

A-1 DESCRIPTION OF ELIGIBLE SYSTEM

Nameplate Capacity: _____ Total Installed Cost: _____

Photovoltaic Module Cost: _____ Total Financing Cost: _____

Federal Tax Credit: _____

Financing Term: (including fees paid, loan term, and interest rate secured):

Non-photovoltaic Module Cost (including inverters, other hardware, labor, overhead and regulatory compliance cost): _____

Building Integrated, Stationary Rack mounted or Tracking System Installation:

Crystalline Silicon or Thin Film: _____

Expected In Service Date: _____

Expected Annual Energy Output: _____

Customer Retail Electrical Service Class: _____

Additional Description: _____

EXHIBIT A (Continued)

A-2 **PARTICIPANT'S ADDRESS WHERE ELIGIBLE SYSTEM IS PERMANENTLY
INSTALLED:**

Street: _____

Address: _____

City: _____ State: _____ Zip: _____

GPS Coordinates: _____

A-3 **NAME AND ADDRESS OF SOLAR INSTALLER OR CONTRACTOR**

Business Name: _____

Contact: _____

Street: _____

Address: _____

City: _____ State: _____ Zip: _____

A-4 **NAME AND ADDRESS OF QUALIFYING SYSTEM FINANCIER**

Business Name: _____

Contact: _____

Street: _____

Address: _____

City: _____ State: _____ Zip: _____

EXHIBIT B

PROJECT NO. _____

Eligible System Name: _____

Payee and/or Assignee Information

This information must be provided prior to Idaho Power making any payments to the Participant or a Qualified Assignee identified by the Participant.

At any time during the term of this Agreement, if the Participant wishes to change the payment information as previously provided, the new payment information must be provided on this form.

Payee Name: _____

Payee Address: _____

Payee City: _____ State: _____ Zip: _____

Yes No Is the above designated Payee a party a different party then the Participant?

Yes No Is the above designated Payee a Qualifying Assignee as defined within this Agreement?

If Yes, please provide information that validates the Qualifying Assignee's qualifications:

The information provided above is true and accurate.

Participant's Name: _____
(Please print – must be the Participant to this Agreement)

Participant's Signature: _____ Date: _____

EXHIBIT C

PROJECT NO.

Eligible System Name:

Example - VIR Payment Calculation

	Customer Usage	Current Standard Customer Base Rate	Current Monthly Charge
<u>Service Charge</u>	1	\$8.00	\$8.00
<u>Energy Charge</u>			
0-300 kWh	300	\$0.057970	\$17.39
All kWh over 300	1,700	\$0.071601	\$121.72
Total	2,000 kWh		\$139.11
		Total Base Charges	\$147.11
<u>Additional Charges</u>			
EE Rider	\$147.11	3.00%	\$4.41
PSA	2,000 kWh	\$0.002848	\$5.70
APCU	2,000 kWh	\$0.004585	\$9.17
Oregon Solar Investment	\$147.11	1.50%	\$2.21
Total Customer Monthly Bill			\$168.60
Less: Volumetric Incentive Net Metering Credit			
	<u>Measured Generation</u>	<u>Average Retail Rate</u>	
	1,000 kWh	\$0.069556	(\$69.56)
Customer Billing			\$99.04

EXHIBIT C (Continued)

Average Retail Rate Calculation

Total Energy Charges	\$139.11
Total Consumption	2,000 kWh

Average Retail Rate	\$0.069556
----------------------------	-------------------

Volumetric Payment Calculation

	Use	Current Standard Customer Base Rate	Current Monthly Charge
<u>Meter Charge</u>	1	\$10.00	\$10.00
Volumetric Incentive Rate (VIR)		\$0.550000	(per Schedule 88)
Less: Average Retail Rate		<u>\$0.069556</u>	
Applicable VIR		\$0.480444	

Eligible System Generation Payment

Measured Generation		
1,000 kWh	\$0.480444	\$480.44

Total VIR Payment to the Customer	\$470.44
--	-----------------

Ontario Solar Project Cash Flow - 8 year model



	0	1	2	3	4	5	6	7	8
Cash Provided From All Activities:									
Investor Cash	\$ 477,130.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Treasury Grant	\$ 204,484.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Energy Sales	\$ -	\$ 36,201.15	\$ 35,929.64	\$ 35,660.17	\$ 35,392.71	\$ 35,127.27	\$ 34,863.81	\$ 34,602.34	\$ 34,342.82
Cash from Depreciation Benefit	\$ -	\$ 121,668.28	\$ 32,444.87	\$ 19,466.92	\$ 11,680.15	\$ 11,680.15	\$ 5,840.08	\$ -	\$ -
Cash Available	\$ 681,615.00	\$ 157,869.42	\$ 68,374.51	\$ 55,127.09	\$ 47,072.87	\$ 46,807.42	\$ 40,703.89	\$ 34,602.34	\$ 34,342.82
Costs Incurred									
Net Project Cost	\$ 543,510.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TIMO	\$ -	\$ 4,500.00	\$ 4,635.00	\$ 4,774.05	\$ 4,917.27	\$ 5,064.79	\$ 5,216.73	\$ 5,373.24	\$ 5,534.43
Return to Investor	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 31,384.29	\$ -	\$ -
Restricted Funds Inverter Replacement	\$ -	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00
Gross Costs	\$ 543,510.00	\$ 7,470.00	\$ 7,605.00	\$ 7,744.05	\$ 7,887.27	\$ 8,034.79	\$ 8,343.24	\$ 8,343.24	\$ 8,504.43
Cash Generated from All Activities Current Period	\$ 138,105.00	\$ 150,399.42	\$ 60,769.51	\$ 47,383.04	\$ 39,185.60	\$ 38,772.63	\$ 1,132.87	\$ 26,259.10	\$ 25,838.39
Cumulative Cash Allocated for Distribution	\$ 138,105.00	\$ 288,504.42	\$ 349,273.94	\$ 396,656.98	\$ 435,842.57	\$ 474,615.21	\$ 475,748.08	\$ 502,007.18	\$ 527,845.57
Cumulative Return of Investor Capital	\$(339,025.50)	\$(188,626.08)	\$(127,856.56)	\$(80,473.52)	\$(41,287.93)	\$(2,515.29)	\$(1,382.42)	\$ 24,876.68	\$ 50,715.07

Definition:

- Investor Cash** is Investor's actual cash in the project and is Project Cost minus Treasury Grant
- Treasury Grant** is 30% of total Project Cost
- Energy Sales** is energy produced times \$0.317
- Depreciation** is (Total Project Cost - Treasury Grant/2)*Investor Tax Rate*Depreciation Schedule
- Cash Available** is sum of cash provided for all activities
- Net Project Cost** is project cost less the financial analysis fee and SBE profit
- TIMO** is taxes, insurance, maintenance, and operation and is \$500 in year one, inflation adjusted
- Return to Investor** is overall return to investor, lump sum
- Restricted Funds Inverter Replacement** is Inverter Replacement Cost*# of projects/15 years
- Gross Costs** is sum of project costs incurred
- Cash Generated from All Activities Current Period** is Gross Income - Gross Expenses
- Cumulative Cash Allocated for Distribution** is Running total of Annual Net Income
- Cumulative Return of Investor Capital** is Cumulative Net Income minus the initial cash

Inputs

Projects	9
Project Size	9.9 kW
Project Cost	\$ 7.65 per watt
Inverter Replacement Cost	\$ 4,950.00 per project
Investor Tax Rate	35%
Project Cost	\$ 681,615.00
SBE Profit Margin	7%

see Project Cost Summary
 = \$0.50/watt*project size
 = projects*project size*project cost
 = SBE Profit/Project Cost

Tax Depreciation Schedule

Year	1	2	3	4	5	6	Total
60%	16%	16%	9.60%	5.76%	5.76%	2.88%	100%

Project Cost Summary

Construction:	\$ 519,453.00	equipment, labor, SBE profit
Financial Analyst Fee:	\$ 73,062.00	Under contract, deposit paid
Development Fee:	\$ 89,100.00	legal, accounting, development
Total Project Cost:	\$ 681,615.00	

Net Project Cost Calculation

Project Cost:	\$ 681,615.00
-Cash Flow Reserve:	\$ 89,100.00
-SBE Profit:	\$ 49,005.00
Net Project Cost:	\$ 543,510.00



Date: December 12, 2011

21 Comet Lane
P.O. Box 3432
Hailey, ID 83333
208.928.7583

sitebasedenergy.com

AGREEMENT:

Idaho Power Solar PV Pilot Program

PARTIES:

Developer: Site Based Energy LLC ("Developer")

Program Applicant/Participant: City of Ontario ("Program Participant")

Projects: Nine (9) 9.9 kW systems ("Project Applications")

In consideration of the mutual covenants and conditions contained herein and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, Developer and Program Participant (collectively, the "Parties") hereby agree as follows:

- 1. Background on Program.** Pursuant to the requirements of Idaho Power Company's ("Idaho Power") Oregon Solar Photovoltaic Pilot Program ("Program"), only eligible Idaho Power customers can apply for the Program and execute an energy sales agreement pursuant to the Program with Idaho Power ("Eligible Participants"). The Contracted System must be constructed on the property of the Eligible Participant. The Program permits Eligible Participants to contract with third parties on the design, finance, procurement, construction, operation, and maintenance of the Contracted System and to assign the payments due to Eligible Participants under the Program to Qualified Assignees.
- 2. Review of Draft Lease.** Developer has prepared a draft Solar Project Ground Lease (the "Draft Lease") that would grant Developer the right to ground lease parcels of the Program Participants' land in order to construct, maintain, and operate a photovoltaic power system and related improvements in accordance with the Program, in exchange for Program Participant assigning all or a portion of the Volumetric Incentive Payment from Idaho Power to Developer. The Draft Lease also provides for a conveyance of the Contracted System from Developer to Program Participant upon completion of certain designated milestones. Parties are currently engaged in a review of the Draft Lease and intend to finalize the Draft Lease as soon as possible.
- 3. Purpose of Agreement.** Recognizing that the Parties intend to move forward with implementation of the Program, the purpose of this Agreement is to set forth the general understanding of the Parties to minimize future differences, promote the Parties' interests, and secure the Parties' interests by imposing the following restrictions and obligations and establishing the preliminary terms and conditions of the Parties' shared role in applying for and implementing the Program. Parties intend for this Agreement to be binding and enforceable and acknowledge that further agreements will be necessary to effectuate this Agreement and complete Program implementation, including without limitation a ground lease and assignment agreement ("the Related Agreements").
- 4. Summary of Program Implementation.** Program implementation is ongoing. The initial stage was completion of Part A of the Capacity Reservation/Interconnection Application Process on October 3, 2011, followed by a deposit of a Five Hundred Dollars (\$500) application fee per Project Application to Idaho Power ("Application Fee") on October 10, 2011 ("Capacity Reservation Stage"). Part B of the Capacity Reservation/Interconnection Application Process must be completed no later than December 19, 2011 ("Interconnection Application Stage"). In the event that both the Capacity Reservation Stage and Interconnection Application Stage (collectively, the "Application Process") are successful and Program Participant becomes an Eligible Participant under the Program, the design, finance, procurement, construction, operation, and maintenance of the



P.O. Box 3432 Hailey, ID 83333

www.sitebasedenergy.com

p208.928.7583 f 208.928.7584

Contracted System will proceed, pursuant to the terms and conditions generally described herein and the details of which will be further agreed upon by the Parties in the Related Agreements.

5. Exclusivity of Agreement. Program Participant agrees that while Developer is engaged in Program implementation as provided in this Agreement and the Related Agreements, Program Participant will not purchase, lease or otherwise acquire any assets or equipment necessary for the Constructed System other than as contemplated herein or enter into any agreement similar to this Agreement with any other party.
6. Good Faith Requirement. Parties agree to implement this Agreement and negotiate and implement the Related Agreements in good faith and in a commercially reasonable manner.
7. Completion of Application Process.
 - 7.1. Shared Responsibility. Pursuant to the Program requirements, Program Participant is responsible for completing the Application Process. Developer agrees to assist Program Participant with preparing the application materials and completing the Application Process in accordance with the Program requirements. Program Participant authorizes Developer to serve as the primary contact with the Oregon Public Utilities Commission ("OPUC") and Idaho Power during the Application Process, to communicate information to OPUC and Idaho Power, and to deliver or provide all necessary information and execute any necessary documents on behalf of Program Participant.
 - 7.2. Reimbursement of Application Fee. On October 10, 2011, Parties agreed that Developer would pay the Application Fee for each of the Project Applications on behalf of Program Participant for a total payment of Five Thousand Dollars (\$5,000). Pursuant to the Program Requirements, the Application Fees will be reimbursed by Idaho Power upon execution and implementation of the energy sales agreement discussed in Section 8 below.
 - 7.2.1. Parties agree that Developer is entitled to all reimbursed Application Fees. Program Participant shall immediately transfer the full amount of any reimbursement of the Application Fees to Developer, even if Program Participant completes the Application Process and execution and implementation of the energy sales agreement without the assistance of Developer as contemplated in this Agreement.
 - 7.2.2. In the event that all or a portion of the Application Fees are not reimbursed because Program Participant, through no fault of Developer, fails to complete the Application Process or fails to execute the energy sales agreement discussed in Section 8 below, Program Participant shall reimburse Developer for un-reimbursed Application Fees in cash within five (5) days of the date established for completion of the Application Process.
 - 7.2.3. In the event that all or a portion of the Application Fees are not reimbursed because Developer fails, through no fault of Program Participant, to assist Program Participant with completion of the Application Process and execution and implementation of the energy sales agreement as contemplated herein, Program Participant shall not be required to reimburse Developer for any un-reimbursed Application Fees.
 - 7.2.4. Notwithstanding any other provision in this Agreement, Parties agree that this Section 7.2 is binding and enforceable on the Parties and shall survive the termination of this Agreement.
8. Execution of Energy Sales Agreement. Upon successful completion of the Application Process, Program Participant agrees to execute Idaho Power's standard 15-year energy sales agreement pursuant to the requirements of the Program. Execution of such energy sales agreement shall be a condition of any lease

agreement, discussed herein, and failure to execute such energy sales agreement shall constitute an event of default in such lease agreement.

9. Lease of Program Participant's Property to Developer. Program Participant agrees to lease a portion of Program Participant's property to Developer to design, finance, procure, install, construct, operate, and maintain the Contracted System on behalf of Program Participant for the purpose of the Program on commercially reasonable terms agreed to by the Parties. Parties agree to negotiate the terms of such lease agreement in good faith and execute such lease agreement prior to completion of the Application Stage.
10. Construction, Operation, and Maintenance of Contracted System. The terms of the lease agreement discussed in Section 9 above shall provide that Developer agrees to design, finance, procure, install, construct, operate, and maintain the Contracted System to ensure the Contracted System complies with the Program requirements and is capable of producing the electricity required by the Program requirements, upon commercially reasonable terms agreed to by the Parties, and that Parties agree to cooperate to ensure compliance with all local, state and federal laws related to the Contracted System.
11. Assignment of Payments. OPUC Order No. 11-280 (July 29, 2011) established the Volumetric Incentive Rate for Eligible Customers with Contracted Systems at \$ 0.317/kWh. The Program allows Eligible Participants to assign the Volumetric Incentive Payments under the Program to a Qualifying Assignee. Parties intend that this Agreement and the Related Agreements will establish a relationship between Developer and Program Participant such that Developer is a Qualifying Assignee. Parties agree to negotiate in good faith and pursuant to commercially reasonable terms agreed to by the Parties the assignment of all or a portion of the Volumetric Incentive Payments to Developer in exchange for Developer's investment and services related to the Contracted System and to execute such assignment agreement prior to the completion of the Application Process.
12. Ownership of the Contracted System. Parties agree that Developer will own the Contracted System until Developer completes its financing obligations related to the Contracted System. Developer intends to complete its financing obligations within a maximum of eight (8) years. Upon completion of such financing obligations, or upon completion of other milestones determined by the Parties in the Related Agreements, Developer shall either donate the Contracted System to Program Participant or convey the Contracted System to Program Participant for the nominal price of One Dollar (\$1.00), subject to the legal restrictions on property donation and conveyance in effect at the time of donation or conveyance.
13. Post-Conveyance Operation and Maintenance. Subsequent to Developer donating or conveying the Contracted System to Program Participant, Parties may, but are not required to, negotiate and execute an operation and maintenance agreement upon commercially reasonable terms agreed to by the Parties whereby Developer continues to operate and maintain the Contracted System for the purposes of the Program or any other lawful purpose.
14. Property Tax. Oregon Revised Statute § 307.175(1) states, "Property equipped with solar . . . energy systems for the purpose of . . . generating electrical energy shall be exempt from ad valorem taxation in an amount that equals any positive amount obtained by subtracting the real market value of the property as if it were not equipped with such systems, from the real market value of the property so equipped." To the extent that this exemption changes or any additional ad valorem taxes are assessed related to the value of the Contracted System, such taxes shall be paid by Program Participant.
15. Federal Tax Benefits and Financial Incentives. Program Participant agrees that all Federal tax benefits and financial incentives available for the Contracted System, including but not limited to the U.S. Treasury Grant, the Investment Tax Credit, and the Production Tax Credit, shall belong to Developer to the extent permitted

by law. Program Participant agrees to execute any and all documentation necessary to assist Developer in taking advantage of such tax benefits and financial incentives.

16. Renewable Energy Certificates. Pursuant to the Program requirements, Idaho Power is entitled to any renewable energy certificates (a.k.a. renewable energy certificates, green tags, green certificates, and RECs) generated by the Contracted System. In the event that this Program requirement changes, Parties agree to negotiate in good faith the ownership of such any renewable energy certificates generated by the Contracted System.
17. Compliance with Program Requirements. Parties intend for this Agreement and the Related Agreements to comply with the Program Requirements and agree to take any further action necessary to remain in compliance with the Program Requirements.
18. Insurance. Parties agree to comply with the Program Requirements for insurance coverage.
19. Defined Terms. All capitalized terms not defined in this Agreement are given the meaning of such terms contained in Idaho Power's Schedule 88.
20. Miscellaneous.
 - 20.1. Oregon law. The provisions of this Agreement shall be governed in all respects by and construed in accordance with the laws of the state of Oregon, without regard to the conflict of law provisions.
 - 20.2. Binding effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, executors, custodians, administrators, successors and permitted assigns.
 - 20.3. Assignment. Developer may transfer or assign some or all of its interests in this Agreement and future agreements contemplated by this Agreement. Developer shall provide Program Participant with prompt, written notification at the time of such transfer or assignment.
 - 20.4. Notices. All notices under this Agreement shall be in writing and shall be effective upon personal delivery, facsimile with receipt, overnight delivery service, or if sent by first class mail, postage prepaid addressed to the address herein of the Party to whom the notice is being given.

If to Developer:

Site Based Energy LLC
21 Comet Lane
Hailey, ID 83333
Fax: 208-928-7584
Attention: Paul Conrad

If to Program Participant:

City of Ontario
444 Southwest Fourth Street
Ontario, Oregon 97914
Fax: 541-889-7121
Attention: Yorick De Tassigny

- 20.5. Severability. In case any one or more of the provisions contained in this Agreement should be invalid, illegal, or unenforceable in any respect in any jurisdiction, the validity, legality, and enforceability of such provision or provisions shall not in any way be affected or impaired thereby in any other jurisdiction and the validity, legality and enforceability of the other provisions contained herein shall not in any way be affected or impaired thereby.
- 20.6. Effect of Waiver. The failure or delay of either Party in exercising any rights granted hereunder shall not constitute a waiver of any such right and any single or partial exercise of any particular right by either Party shall not exhaust the same or constitute a waiver of any other right provided herein.
- 20.7. Modifications and Amendments. This Agreement may be modified or amended only by a written document signed by the Parties.

[signature page follows]

IN WITNESS WHEREOF, this Agreement is executed by Developer and Program Participant as of the date first written above.

Site Based Energy LLC

City of Ontario

By: Paul Conrad- President

By:

State Lic.RCE # 30676

Western Community Insurance General Liability # 8D027604 City Of Hailey Business License # 1419

From: Yorick deTassigny
To: Chuck Mickelson; Henry Lawrence
CC: Tori Barnett
Date: 12/14/2011 11:35 AM
Subject: Fwd: 15 year Cash Flow Model
Attachments: 13. Addendum 2 - Ontario Solar Project Cash Flow - 15 Year Model (Printable).pdf; 14. Addendum 3 - Ontario Solar Project Cash Flow - 15 Year Model (One Sheet).pdf

FYI

>>> "Leif Elgethun" <leif@sitebasedenergy.com> 12/14/2011 10:57 AM >>>

Yorick, I've attached the Ontario Solar Project Cash Flow - 15 year model, in 2 different formats for printing. The information is exactly the same in both of them. The first is a printable version for standard paper and the second is a version for printing on legal sized paper. That reduces the file to one sheet which allows for easier analysis on a computer screen as well.

The main changes to note in this model are:

Lease payments to the city equal to 18% of the energy sales

Additional payment to the Investors for the reduced net income, shown as a lump sum in year 9

An additional investment return to SBE of \$54,302 for leaving our profit of \$49,005 in the project until year 12.

A total return of \$92,775 to the City of Ontario, which is about half our projected return to the City with the 8 year model. However, this model relieves the City from having to manage the system in years 9-15 or handle inverter replacement. It also fixes their annual payments and somewhat shields the city from any unforeseen circumstances that could lower the revenue stream.

Again, these are DRAFT models, but they are very close and include all the main components for what the final 15 year model would look like. Let me know if you have any questions.

Leif Elgethun, PE, LEED AP

C: 208.301.2293

F: 888.330.8602

leif@sitebasedenergy.com

www.sitebasedenergy.com

1770 W. State St. #125

Boise, ID 83702

O: 208.928.7583

Ontario Solar Project Cash Flow - 15 year model



	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Cash Provided From All Activities:																
Investor Cash	\$ 477,130.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Treasury Grant	\$ 204,484.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Energy Sales	\$ -	\$ 36,201.15	\$ 35,929.64	\$ 35,660.17	\$ 35,392.71	\$ 35,127.27	\$ 34,863.81	\$ 34,602.34	\$ 34,342.82	\$ 34,085.25	\$ 33,829.61	\$ 33,575.89	\$ 33,324.07	\$ 33,074.14	\$ 32,826.08	\$ 32,579.88
Cash from Depreciation Benefit	\$ -	\$ 121,668.28	\$ 32,444.87	\$ 19,466.92	\$ 11,680.15	\$ 5,840.08	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Cash Available	\$ 681,615.00	\$ 157,869.42	\$ 68,374.51	\$ 55,127.09	\$ 47,072.87	\$ 46,807.42	\$ 40,703.89	\$ 34,602.34	\$ 34,342.82	\$ 34,085.25	\$ 33,829.61	\$ 33,575.89	\$ 33,324.07	\$ 33,074.14	\$ 32,826.08	\$ 32,579.88
Costs Incurred																
Net Project Cost	\$ 543,510.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TIMO	\$ -	\$ 4,500.00	\$ 4,635.00	\$ 4,774.05	\$ 4,917.27	\$ 5,064.79	\$ 5,216.73	\$ 5,373.24	\$ 5,534.43	\$ 5,700.47	\$ 5,871.48	\$ 6,047.62	\$ 6,229.05	\$ 6,415.92	\$ 6,608.40	\$ 6,806.65
Lease Payments to Ontario	\$ -	\$ 6,516.21	\$ 6,467.33	\$ 6,418.83	\$ 6,370.69	\$ 6,322.91	\$ 6,275.49	\$ 6,228.42	\$ 6,181.71	\$ 6,135.34	\$ 6,089.33	\$ 6,043.66	\$ 5,998.33	\$ 5,953.34	\$ 5,908.69	\$ 5,864.38
Return to Investor	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Restricted Funds Inverter Replacement	\$ -	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00	\$ 2,970.00
Gross Costs	\$ 543,510.00	\$ 13,986.21	\$ 14,072.33	\$ 14,162.88	\$ 14,257.96	\$ 14,357.70	\$ 14,461.51	\$ 14,571.66	\$ 14,686.14	\$ 14,805.15	\$ 14,930.81	\$ 15,061.28	\$ 15,197.38	\$ 15,339.27	\$ 15,487.10	\$ 15,641.03
Cash Generated from All Activities Current Period	\$ 138,105.00	\$ 143,883.22	\$ 54,302.18	\$ 40,964.21	\$ 32,814.91	\$ 32,449.73	\$ 32,084.61	\$ 31,724.61	\$ 31,370.39	\$ 31,021.68	\$ 30,678.13	\$ 30,339.64	\$ 30,006.11	\$ 29,677.52	\$ 29,353.88	\$ 29,035.11
Cumulative Cash Allocated for Distribution	\$ 138,105.00	\$ 281,988.22	\$ 336,290.39	\$ 377,254.60	\$ 410,069.51	\$ 442,519.24	\$ 473,576.63	\$ 503,258.24	\$ 531,568.85	\$ 558,489.46	\$ 584,910.07	\$ 610,831.68	\$ 636,253.29	\$ 661,174.90	\$ 685,596.51	\$ 709,518.12
Cumulative Return of Investor Capital	\$ (339,025.50)	\$ (195,142.28)	\$ (99,875.90)	\$ (67,060.99)	\$ (34,611.26)	\$ (9,753.87)	\$ (19,723.19)	\$ (66.52)	\$ (4,245.42)	\$ (14,653.38)	\$ (29,029.53)	\$ (43,306.68)	\$ (57,484.83)	\$ (71,564.08)	\$ (85,544.44)	\$ (99,425.91)

Definition:

- Investor Cash is Investor's actual cash in the project and is Project Cost minus Treasury Grant
- Treasury Grant is 30% of total Project Cost
- Energy Sales is energy produced times \$0.317
- Depreciation is (Total Project Cost - Treasury Grant)*Investor Tax Rate*Depreciation Schedule
- Gross Income is sum of project income
- Net Project Cost is project cost less the financial analysis fee and SBE profit
- TIMO is taxes, insurance, maintenance, and operation and is \$500 in year one, inflation adjusted
- Lease Payment to Ontario is Lease Payment Rate*Energy Sales
- Investor Return is overall return to Investor, lump sum
- Inverter Replacement Fund is Inverter Replacement Cost*number of projects/15 years
- Gross Expenses is sum of project expenses
- Annual Net Income is Gross Income - Gross Expenses
- Cumulative Net Income is Running total of Annual Net Income
- Cumulative Net Income minus Initial Cash is Cumulative Net Income minus the initial cash

Inputs

Projects	9
Project Size	9.9 kW
Project Cost	\$ 7.65 per watt
Inverter Replacement Cost	\$ 4,950.00 per project
Investor Tax Rate	35%
Project Cost	\$ 681,615.00
Lease Payment Rate	18%
Total Lease Payments	\$ 92,774.67
SBE Investment Return	\$ 54,302.37
SBE Profit Margin	7%

see Project Cost Summary

= \$0.50/watt*project size

= projects*project size*project cost

=sum of Lease Payments

=cumulative return of Investor Capital-SBE profit

= SBE Profit/Project Cost

Tax Depreciation Schedule

Year	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total
60%	16%	16%	9.60%	5.76%	5.76%	2.88%	100%

Project Cost Summary

Construction:	\$ 5.83 per watt	\$ 519,453.00	equipment, labor, SBE profit
Financial Analyst Fee:	\$ 0.82 per watt	\$ 73,062.00	Under contract, deposit paid
Development Fee:	\$ 1.00 per watt	\$ 89,100.00	legal, accounting, development
Total Project Cost:	\$ 7.65 per watt	\$ 681,615.00	

Net Project Cost Calculation

Project Cost:	\$ 7.65 per watt	\$ 681,615.00
-Cash Flow Reserve:	\$ 1.00 per watt	\$ 89,100.00
-SBE Profit:	\$ 0.55 per watt	\$ 49,005.00
Net Project Cost	\$ 6.10 per watt	\$ 543,510.00