

Replacing a Williamson Act Contract with a Solar-Use Easement

In an effort to balance the protection of California's agricultural economy and the nation's food security with the need for renewable-energy production—specifically, solar photovoltaic (PV) electrical energy—the Legislature approved [Senate Bill 618](#) by Senator Lois Wolk (Chapter 596, Statutes of 2011). This law, which took effect on January 1, 2012, was approved overwhelmingly in the Assembly 77 to 0 and 35 to 1 in the Senate after being approved in four policy committees and two fiscal committees without a single no vote.

Introduction

The California Land Conservation Act of 1965, popularly known as the Williamson Act, provides for long-term conservation of agricultural land, open space, and wildlife habitat through the implementation of a contract that restricts land uses on encumbered properties to agricultural, open space, or compatible uses. In return for the enforceable restriction, the land's property tax valuation is based on its agricultural income instead of its speculative value. The Williamson Act has served as the state's most important farmland protection law for nearly half a century.

Farm Bureau watched with dismay as a growing number of electrical power generation projects were proposed on prime farmland in exclusive agricultural zones, including agricultural preserves, and on land restricted by Williamson Act contracts. Thankfully, both the Legislature in its enactment and the courts in their interpretation of the Williamson Act have established the importance of California agriculture to the state and the nation, as well as the fact that its preservation is essential due to the growing worldwide population and its ever-increasing demand for food. The adoption in 1994 of the principles of compatibility in Government Code (GC) [section 51238.1](#) and a landmark 1981 California Supreme Court decision (*Sierra Club v. City of Hayward*) on contract cancellations advanced California's public policy to assure compliance with the enforceable restriction requirement in Article XIII Section 8 of the California Constitution.

SB 618 provides new protection to the integrity of the Williamson Act while providing incentives to renewable-energy developers to focus on the state's least productive lands. The new law allows a landowner to petition a county for a rescission of the landowner's Williamson Act contract **if the affected land is predominately marginally productive or physically impaired** for agricultural production, as long as the land is simultaneously enrolled in a Solar-Use Easement agreement for at least 20 years, unless the landowner requests a shorter period of at least 10 years. (GC § 51191.2.) Upon rescission of the Williamson Act contract, the affected land exits the land conservation program, and no further tax relief under the Williamson Act is granted. However, the significant benefit of the rescission process is that the landowner avoids the otherwise applicable nine- or 19-year nonrenewal period.

Requirements for a Williamson Act Contract Rescission

The application for contract rescission is not subject to the California Environmental Quality Act (CEQA), although a solar PV project would require environmental review. To verify that the land is truly marginally productive or physically impaired, the applicant must provide to the county the following information that must then also be provided to the Department of Conservation:

- A written narrative demonstrating that even under the best currently available management practices, continued agricultural practices would be substantially limited due to the soil's reduced agricultural productivity from chemical or physical limitations.
- A recent soil test demonstrating that the characteristics of the soil significantly reduce its agricultural productivity.
- An analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production.
- An analysis of water quality demonstrating that continued agricultural production would, under the best currently available management practices, be significantly reduced.
- Crop and yield information for the past six years.

The landowner must also provide the Department of Conservation with a proposed management plan describing how the soil will be managed during the life of the easement, how impacts to adjacent agricultural operations will be minimized, and how the land will be restored to its previous general condition, as it existed at the time of project approval, upon the termination of the easement. Also, if the Department of Conservation determines that the land is indeed predominantly marginal or physically impaired, the county must implement the management plan and include in its project approval any recommendations provided by the Department of Conservation.

A Solar-Use Easement agreement is effective upon its acceptance or approval by a resolution of the county's Board of Supervisors. The landowner must pay to the county a rescission fee based on the land's current market value of either 6.25 percent for a standard Williamson Act contract or 12.5 percent for land covered by a Farmland Security Zone contract. The county must forward the fee to the State Controller in the manner similar to a Williamson Act contract cancellation penalty fee. (GC [§ 51255.1, subd. \(c\).](#))

Terms of a Solar-Use Easement

Even though SB 618 uses the term "Solar-Use Easement," these enforceable restrictions are not conservation easements as defined in Civil Code [section 815.1](#), in that there is no loss or transfer of any of the existing property rights in perpetuity. Since no party or governmental entity receives any of the proverbial sticks in the bundle of property-right sticks associated with the land, this land-use restriction is more like a solar land-use contract than an easement.

Furthermore, as there is little or no property tax relief associated with these solar land-use agreements, and since the 10- or 20-year minimum-term agreement can be converted to a self-renewing agreement on the anniversary date of its acceptance (or any other annual date specified in the agreement), there is absolutely no incentive to sign or agree to a perpetual deed restriction. (GC [§ 51191.2.](#))

A Solar-Use Easement agreement may also include restrictions, conditions, or covenants that the county deems necessary or desirable to restrict the land's use to solar PV facilities. For example, a local government may require mitigation measures on the land used for the solar development, or on land around the facility. The latter mitigation requirements may be in addition to a required management plan imposed by the Department of Conservation.

Restoration and Surety Bond Requirements

For term and self-renewing easements, a county must include a requirement that the landowner post a performance bond or other securities to fund the restoration of the land to the conditions that existed before the approval or acceptance of the easement by the time the easement is extinguished. (GC [§ 51191.3, subd. \(c\)](#).) The county should consult with the Department of Conservation for its advice on the appropriate financial instruments to ensure restoration.

Extinguishing a Solar-Use Easement

A Solar-Use Easement may be extinguished on all or a portion of the land by immediate termination, nonrenewal, or petitioning the county to return the land to its previous Williamson Act contract.

Immediate termination of all or a portion of the land subject to a Solar-Use Easement requires a petition by the landowner to the county. While no specific findings must be made, a 12.5 percent termination fee is required. The method for determining the specific dollar amount of the fee, the timing of the payment and its deposit in the State General Fund is identical to that required for a Williamson Act cancellation. There is, however, much greater flexibility for waiving all or a portion of the fee both by the county and the Secretary of the California Natural Resources Agency. No fee is required if the land is condemned and taken for a public improvement. (GC [§ 51292.2](#).)

Nonrenewal of a Solar-Use Easement is also similar to that of a Williamson Act contract, although the length of the nonrenewal period can be as short as one year. For example, an easement with a 20-year term could be nonrenewed in year 19 of the agreement. A 20-year-term easement could also be converted to a self-renewing agreement in year 19 and allowed to run several more years before later nonrenewal. In both of these examples, the nonrenewal period would be for only one year.

Nonrenewal may be initiated by either party to the easement agreement. Written notice of the nonrenewal request must be provided at least 90 days before the anniversary of a term easement or the annual renewal date of a self-renewing easement. A landowner may protest a nonrenewal notice given by the county, and the county may withdraw the notice of nonrenewal before the renewal date. In all likelihood this issue is moot since there is no significant property tax advantage due to the presence of the easement, nor is there any requirement to abandon the solar facility and restore the land when a Solar-Use Easement is nonrenewed by the county. Thus, the landowner may continue to operate the solar PV facility without the Solar-Use Easement. (GC [§ 51192, subds. \(b\) and \(c\)](#).)

If, however, the landowner initiates the nonrenewal process or seeks immediate termination of the Solar-Use Easement, then the landowner must, before the easement is extinguished, restore the land to the condition that existed before the easement was approved. (GC [§ 51192.1](#).)

Conclusion

The proper implementation of SB 618's provisions will take significant pressure off prime farmland that is subject to Williamson Act contracts, thus protecting the integrity of the farmland conservation program and helping to ensure our nation's food security. An owner of land that qualifies as marginally productive or physically impaired may apply for the immediate rescission of a Williamson Act contract if the landowner agrees to simultaneously enter into a Solar-Use Easement agreement. The benefits to the landowner are the elimination of the nonrenewal period of nine or 19 years, no need to mitigate for the principles of compatibility if the land is considered nonprime and meets other eligibility requirements, and a significant reduction in the risk of litigation for violation of Williamson Act cancellation provisions. The cost of a contract rescission under this program is one-half the amount of a cancellation, if the county can make judicially sustainable findings under GC section 51282.

Check List for the Creation of a Solar-Use Easement

Eligibility

- *Eligibility Determination* – In order to be eligible for a Solar-Use Easement, the Department of Conservation (DOC) must determine that following two requirements are met showing that the land is marginally productive or physically impaired.
 - *Eligibility Requirements:*
 - *Requirement 1* – The land must meet either of the following:
 - The land consists predominately of soils with significantly reduced agricultural productivity for agricultural activities due to chemical or physical limitations, topography, drainage, flooding, adverse soil conditions, or other physical reasons. OR
 - The land has severely adverse soil conditions that are detrimental to continued agricultural activities and production. Severely adverse soil conditions may include, but are not limited to, contamination by salts or selenium, or other naturally occurring contaminants.
 - *Requirement 2* – The parcel(s) are not located on lands designated as prime farmland, unique farmland, or farmland of statewide importance, on Farmland Mapping and Monitoring Program maps.
 - HOWEVER, even if land is designated as prime farmland, unique farmland, or farmland of statewide importance, it may still qualify for a solar-use easement if DOC determines that eligibility factors exist that limit the use of the parcel or parcels for agricultural activities.
 - For purpose of Solar-Use Easement eligibility, important farmland designations shall not be changed solely due to irrigation status.
 - *Eligibility Factors* – In making its determination, DOC will consider the following information that landowners must provide to the extent applicable:

- A written narrative demonstrating that even under the best currently available management practices, continued agricultural practices would be substantially limited due to the soil's reduced agricultural productivity from chemical or physical limitations,
- A recent soil test demonstrating that the characteristics of the soil significantly reduce its agricultural productivity.
- An analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production.
- An analysis of water quality demonstrating that continued agricultural production would, under the best currently available management practices, be significantly reduced.
- Crop and yield information for the past six years.

Nature of Easement/Contract

- *Term:* (GC § 51191.2)
 - Perpetuity
 - Term of Years – not less than 20 years unless a shorter term is requested by landowner
 - Only the landowner can request a term of less than 20 years with a minimum of 10 years.
 - At end of the term, the easement is extinguished,
 - The easement may provide that at the end of the term, or on any another date, the agreement may be converted to a self-renewing easement whereby a year is added each year on a date specified unless a notice of nonrenewal has been served.
 - Self-Renewing – not less than 20 years unless a shorter term is requested by landowner
 - Only the landowner can request a term of less than 20 years with a minimum of 10 years
 - Each year on the anniversary date of the easement, or another date acceptable to the parties, another year is added to term of the agreement unless a notice of nonrenewal has been served.
- *Conditions:* (GC § 51191.3)
 - Mandatory:
 - Restrictions, conditions, or covenants necessary to restrict use of land to PV solar facilities (GC § 51191.3(a).)
 - Surety Bond (Required for term and self-renewing easements) (GC § 51191.3(c).)
 - Soil and Restoration Management Plan: (GC § 51191(c).)
 - How the soil will be managed during the life of the easement,
 - How impacts to adjacent agricultural operations will be minimized,
 - How the land will be restored to its previous general condition, as it existed at the time of project approval, upon the termination of the easement.
 - Optional: (GC § 51191.3(b).)
 - Onsite Mitigation
 - Offsite Mitigation

- Surety Bond (County can determine whether to require surety bond for perpetual easements. Surety Bonds required for term and self-renewing easements – see above.)
 - Provision for necessary amendments (Note: This is optional but highly recommended.)
 - Practical Considerations
 - Once a Solar-Use Easement is formed, the landowner is obligated to use the land for “collection and distribution of solar energy for the generation of electricity.” Because a project proponent must have site control in order to obtain a power purchase agreement (PPA), but entering into a Solar Use Easement (to demonstrate site control) would mandate use of the land for a solar facility regardless of whether a PPA was obtained, a dilemma is created. To resolve this issue, a term may be added to the easement agreement so the rescission of the Williamson Act contract and creation of the Solar Use Easement only occurs upon the project proponent receiving an acceptable PPA. If no acceptable PPA is obtained, then the conversion is never triggered and the Williamson Act remains in place.
- *Extinguishment: (Article 3 commencing with GC § 51192)*
 - A perpetual and term Solar-Use Easement may only be extinguished on all or a portion of the parcel(s) by immediate termination or by returning the land to its previous Williamson Act contract.
 - Termination – Prior to any action by the county to tentatively approve the termination of any Solar-Use Easement, the county assessor must determine the current fair market value of the parcel or parcels to be terminated as though the parcel or parcels were free of the easement restriction.
 - This appraisal shall be used to determine and certify to the county auditor the amount of the termination fee that the landowner must pay the county treasurer upon termination. That fee shall be an amount equal to 12.5 percent of the termination valuation of the property.
 - The county may waive all or a portion of the termination fee if it finds that it is in the public interest to do so and it may extend the time for making the payment or a portion of the payment for a period of time not to exceed the unexpired period of the easement, had it not been terminated, if both of the following occur:
 - (1) The termination is caused by an involuntary transfer or change in the use of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.
 - (2) The waiver or extension of time is approved by the Secretary of the Natural Resources Agency. The secretary’s approval of a waiver or extension of time must be based on its consistency with the policies of this chapter and that the county complied with this article.
 - Termination fees must be transmitted to the State Controller similar to Williamson Act cancellation penalty fees.
 - A self-renewing Solar-Use Easement may be extinguished on all or a portion of the parcel(s) by nonrenewal, immediate termination, or by returning the land to its previous Williamson Act contract.

- Nonrenewal – either the landowner or the county may serve a written notice of nonrenewal on all or a portion of the parcel or parcels subject to the easement.
 - The notice must be given at least 90-days prior to the annual renewal date.
 - A notice of nonrenewal by a county may be protested by the landowner and the county may withdraw the notice any time prior to the renewal date. It is important to note that the landowner is only required to reclaim to land subject to the easement, i.e., remove the solar panels and restore the land to its previous condition when the landowner requests nonrenewal or immediate termination. If the county requests the nonrenewal of the easement, the landowner may continue to operate the facility after the solar-use easement is extinguished.

Process

Step 1: Submit Application to county requesting a Solar-Use Easement Conversion Agreement (GC § 51191.1). The application should include:

- Request for the county to request an Eligibility Determination from DOC (GC § 51191.)
- A request for the County Assessor to conduct a fair market value (FMV) determination (GC § 51255.1(c)(1).)
- Information for Submission to DOC:
 - Eligibility Criteria (GC § 51191(b).)
 - Soil and Restoration Management Plan (GC § 51191(c).)
 - Any applicable fee to DOC (GC § 51191(e).)
- Information regarding Surety Bond if required. (Plan for amount and where it will be held etc.) (GC § 51191.3(c).)

Step 2: County or city requests determination from DOC. (GC § 51191(a).)

Step 3: DOC consults with CDFA and makes Eligibility Determination. (GC § 51191.)

Step 4: If necessary, amend instrument to include recommendations regarding the Soil and Restoration Management Plan provided by DOC in Step 3. (GC § 51191(c).)

Step 5: County Assessor's Certification of FMV – The Assessor will certify to the Board of Supervisors the FMV of the land and shall send notice of such certification to the landowner and DOC. (GC § 51255.1(c)(1).)

Step 6: Board or Council determine and certify to the County Auditor the amount of the rescission fee (6.25% of FMV if Williamson Act Contract and 12.5% of FMV if FSZ contract) (GC § 51255.1(c)(2).)

Step 7: County or city adopts a resolution accepting or approving the instrument (GC § 51191.4.)

Step 8: Applicant provides County with notice that an enforceable power purchase agreement has been obtained, pays rescission fee to the County Treasurer (GC § 51255.1(c)(2)), and provides County with any necessary financial assurances (GC § 51191.3(c) and § 51191.3(b)(3)).

Step 9: Rescission fee is transmitted to the State Controller. (GC § 51192.2(e).)

Step 10: Recordation of Instrument by Clerk of county or city. (GC § 51191.6.)

Sample Solar-Use Agreement/Easement

AGREEMENT TO CONVERT Agricultural Land Conservation Contract No. ____ [or Farmland Security Zone Contract No. ____] TO A SOLAR-USE EASEMENT

THIS AGREEMENT (“**Agreement**”) is dated the ____ day of _____, 20 ____, by and between _____ (“**Owner**”), and the COUNTY OF _____ (“**County**”), a political subdivision of the State of California (collectively “**Parties**”).

Recitals

WHEREAS, Owner possesses certain real property located within the County of _____, State of California, as further described in “Exhibit A” and attached hereto and incorporated herein by reference (the “**Property**”); and

WHEREAS, the Property is currently subject to Agricultural Land Conservation Contract No. ____ [or Farmland Security Zone Contract No. ____, Resolution No. ____] restricting the use of the property to agricultural production and compatible uses under the provisions of the California Land Conservation Act of 1965, as amended, (the Williamson Act) at Chapter 7 (commencing with Section 51200), Part 1, Division 1, Title 5 of the Government Code [or in accordance with the requirements of Government Code Section 51296.1]; and

WHEREAS, this Contract was entered into on _____ and at the expiration of each year of its term an additional year is automatically added to its term so that there is always a period of ten (10) [or twenty (20)] years remaining on the contract term until a notice of non-renewal is served on the other party and recorded by the non-renewing party; and

WHEREAS, Owner desires to convert the Property from agricultural production to photovoltaic solar facilities for the purpose of providing for the collection and distribution of solar energy for the generation of electricity; and

WHEREAS, pursuant to Government Code section 51255.1(c)(1), the County Assessor determined the current fair market value of the land as though it were free of the contractual restriction for purposes of calculating the cancellation fee required; and

WHEREAS, pursuant to Government Code section 51255.1(c)(2), the County Board of Supervisors determined and certified to the County Auditor that the amount of the rescission fee that the landowner shall pay the county treasurer upon rescission is \$ _____; and

WHEREAS, at the request of the County, the Department of Conservation, in consultation with the California Department of Food and Agriculture, determined the Property is eligible for a Solar-Use Easement Conversion pursuant to Government Code section 51191; and

WHEREAS, Owner and County wish to agree to simultaneously rescind Agricultural Land Conservation Contract No. _____ [or Farmland Security Zone Contract No. _____] and enter into a Solar-Use Easement pursuant to Chapter 6.9 (commencing with Government Code Section 51190), Part 1, Division 1, Title 5 of the Government Code;

THEREFORE, Owner and County agree as follows:

1. Rescission of current contract for the purposes of entering into a solar-use easement

Owner and County mutually agree that subject to the terms of this Agreement and the conditions set forth below, Agricultural Land Conservation Contract No. ___ [*or* Farmland Security Zone Contract No. _____] (“Contract”) will be rescinded in order to simultaneously enter into a Solar-Use Easement (“Easement”) pursuant to Chapter 6.9 (commencing with Government Code Section 51190), Part 1, Division 1, Title 5 of the Government Code. Rescission of the Contract and formation of the Easement will automatically occur upon fulfillment of the following conditions:

- Owner’s receipt of an acceptable power purchase agreement from a public or investment owned utility; and
- Payment by Owner of rescission fees to the county treasurer as set forth below in paragraph 8; and
- Provision by Owner of the financial assurances set forth below in paragraph 12.

As set forth in paragraph 2, if these conditions are not satisfied within twenty-four (24) months of the date of this Agreement, this agreement shall expire and the Property will remain subject to the original Agricultural Land Conservation [*or* Farmland Security Zone] Contract.

2. Term of this agreement

This Agreement shall remain in effect for twenty-four (24) months, during which time if the conditions set forth in paragraph 1 are fulfilled, a Solar-Use Easement will automatically be formed. If the conditions set forth in paragraph 1 are not met within twenty-four (24) months, this Agreement shall expire and the Property will remain subject to the original Agricultural Land Conservation [*or* Farmland Security Zone] Contract.

3. Effect of agreement to create solar-use easement

It is intended by the Parties that upon fulfillment of the conditions contained herein, this Agreement will serve as a Solar-Use Easement as defined in Government Code section 51190. This Easement will provide County with a right or interest, acquired pursuant to Chapter 6.9 (commencing with Government Code Section 51190), Part 1, Division 1, Title 5 of the Government Code, restricting the use of the Property as provided in this Agreement.

4. Restriction on use of property

During the term of this Agreement, and any and all renewals thereof, the Property shall not be used by Owner, or Owner’s successors in interest, for any purpose other than providing for the collection and distribution of solar energy for the generation of electricity, and any other incidental or subordinate agricultural, open-space uses, or other

alternative renewable energy facilities. Owner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in this Agreement provided that those reservations would not be inconsistent with the purposes of this Chapter and which would not be incompatible with the sole use of the Property for solar photovoltaic facilities.

5. Recordation of solar-use easement

Within thirty (30) days of formation of a Solar-Use Easement pursuant to the terms of this Agreement, County shall cause a copy of this Agreement to be recorded with the County Recorder and a copy to be filed with the County Assessor.

6. Term of Solar-Use Easement formed pursuant to this agreement

Any Solar-Use Easement formed pursuant to this Agreement shall remain in full force and effect for an initial term of [*at least ten (10) or twenty (20)*] years from the date the Solar-Use Easement is recorded by County as set forth in paragraph 5. At the end of the term and upon completion of the requirements contained in this agreement, including decommissioning requirements set forth in paragraph 9, the Property shall be free of any restrictions pursuant to this agreement and upon request by the owner and with the concurrence of the Board of Supervisors, the parcel(s) may return to its previous contract status pursuant to the California Land Conservation Act of 1965.

[Optional – For self-renewing easement]

On the anniversary date of the acceptance of the Solar-Use Easement [*any other annual date can also be specified*], one (1) year shall automatically be added to the initial term unless a notice of nonrenewal is given as provided in paragraph 7.

[Optional – For self-renewing easement]

7. Notice of nonrenewal

- If either Party desires in any year not to renew the Solar-Use Easement on all or a portion of the Property, that Party shall serve written notice of nonrenewal of the Easement upon the other Party at least 90 days in advance of the annual renewal date of the Solar-Use Easement. Unless written notice is served at least 90 days in advance of the renewal date, the Solar-Use Easement shall be considered renewed as provided in Paragraph 5.
- Upon receipt by the Owner of a notice from the County of nonrenewal, Owner may make a written protest of the notice of nonrenewal. The County may, at any time prior to the renewal date, withdraw the notice of nonrenewal.
- If either Party serves notice of intent in any year not to renew the Solar-Use Easement, the existing Solar-Use Easement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the Solar-Use Easement, as the case may be.

8. Rescission fees

If an enforceable power purchase agreement is obtained, Owner agrees to pay \$_____ in rescission fees to the County Treasurer.

9. Termination

This agreement may be terminated pursuant to provisions of Government Code section 51192.2.

10. Extinguishment

A Solar-Use Easement may be extinguished on all or a portion of the Property only upon completion of the term set forth in paragraph 6, or by nonrenewal, termination, or by returning the land to its previous Agricultural Land Conservation [*or* Farmland Security Zone] Contract.

11. Decommissioning requirements

By the time the Easement is extinguished, the Owner shall restore the Property to the conditions that existed before the approval of the Easement. This includes, but is not limited to, removal of all solar facilities, re-grading the land, and returning the soil to similar physical characteristics as existed at the time this Agreement was signed.

In the case of a Solar-Use Easement that is extinguished because of a notice of nonrenewal by Owner or due to termination, Owner shall restore the land that is subject to the Easement to the conditions that existed before the approval of the Easement by the time the Easement is extinguished.

In the case of a Solar-Use Easement that is extinguished because of a notice of nonrenewal by County, Owner will not be obligated to the decommissioning requirements of this paragraph but shall be required to maintain any financial assurances described in paragraph 12.

12. Financial assurances

In order to ensure that the decommissioning requirements set forth in paragraph 11 are met, Owner provides [*performance bonds, letters of credit, a corporate guarantee, or other securities*] as financial assurance that upon the cessation of the solar photovoltaic use, and by the time that the Easement is extinguished, or decommissioned if extinguished by a County notice of nonrenewal, the Property will be restored to the conditions that existed before the approval or acceptance of that Easement.

13. No compensation

Owner shall not receive any payment from County in consideration of the obligations imposed under this Contract, it being recognized and agreed that the consideration for the execution of this Contract is the substantial benefit to be derived therefrom, and the

advantage that may accrue to Owner as a result of the elimination of the terms of the Contract previously burdening the land.

14. Successors in interest

This Agreement and any Solar-Use Easement formed pursuant to this Agreement and the restrictions imposed hereunder shall run with the Property and shall be binding upon the heirs, executors, administrators, trustees, successors, and assign of Owner.

Notwithstanding the foregoing, each new Owner who succeeds to ownership of the aforesaid property shall be obliged to execute a new Agreement or Solar-Use Easement identical to or more restrictive than this agreement or Easement. This Agreement and any Solar-Use Easement formed pursuant to this Agreement shall be transferred from County to any succeeding city or county acquiring jurisdiction over the Property. On the completion of annexation proceedings by a city, that city shall succeed to all rights, duties and powers of the County under this Agreement and any Solar-Use Easement formed pursuant to this Agreement for that portion of the Property which may be annexed to the city.

15. Condemnation

When any action in eminent domain for the condemnation of the fee title of the Property is filed for a public improvement by a public agency or person, or whenever there is any such action or acquisition by the federal government, or any person, instrumentality or agency acting under authority or power of the federal government, this Agreement or any Solar-Use Easement formed pursuant to this Agreement becomes null and void as to the land actually condemned or so acquired as of the date the action is filed.

16. Notices

All notices required or permitted by this Contract shall be given in writing and may be mailed or delivered in person. If mailed, the address of Owner shall be the last known address on the assessment record of County, and County's address shall be In Care of Board of Supervisors, Courthouse _____, California _____, and deposit in the mail, postage prepaid, shall be deemed receipt thereof.

17. Enforcement

During the term of this Agreement and any Solar-Use Easement formed pursuant to this Agreement, County shall not approve any land use on the Property that is inconsistent with the Easement, and no building permit may be issued for any structure that would violate the Easement. County will seek, by appropriate proceedings, an injunction against any threatened construction or other development or activity on the Property that would violate the Easement and shall seek a mandatory injunction requiring the removal of any structure erected in violation of the Easement.

18. Amendments

Amendments to this Agreement or any Solar-Use Easement formed pursuant to this Agreement must be in writing and signed by both Parties and be consistent with the terms of Chapter 6.9.

IN WITNESS WHEREOF the Parties have caused this Contract to be executed by Owner on the date affixed next to the signature of each, and by County on the date affixed next to the signature of the chairperson of the Board of Supervisors.

Dated: _____ COUNTY OF _____

By: _____
Board of Supervisors

ACKNOWLEDGMENT

State of California)

County of _____)): ss.
)

On _____ (date), before me _____, Clerk of the Board of Supervisors, in and for said County and State, personally appeared _____, known to me to be the person who executed the within instrument on behalf of said political subdivision, and acknowledge to me that such County of _____ executed the same.

Clerk of the Board of Supervisors of
_____ County, State of California

By: _____
Deputy

Dated: _____
Owner

Dated: _____
Owner

USE NEW NOTARY LANGUAGE

STATE OF CALIFORNIA
COUNTY OF _____

On _____ (date), before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the

basis of satisfactory evidence) to be the person(s) whose name(s) is/are subject to the within instrument and acknowledged to me that he/she/they executed the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Notary Public

Resolution of Acceptance of a Solar-Use Easement

RESOLUTION OF COUNTY OF _____ TO ENTER INTO AN AGREEMENT TO CONVERT Agricultural Land Conservation Contract No. ____ [or Farmland Security Zone Contract No. ____] TO A SOLAR-USE EASEMENT

WHEREAS, pursuant to Chapter 6.9 (commencing with Government Code Section 51190), Part 1, Division 1, Title 5 of the Government Code and Government Code section 51255, the County of _____ and an Owner may mutually agree to simultaneously rescind an Agricultural Land Conservation Contract [or Farmland Security Zone Contract] and enter into a Solar-Use Easement as defined in that Chapter; and

WHEREAS, the Owner of certain parcels currently subject to Agricultural Land Conservation Contract No. ____ [or Farmland Security Zone Contract No. ____] restricting the use of the property to agricultural production and compatible uses has properly applied to the County requesting the County of _____ to agree to simultaneously rescind Agricultural Land Conservation Contract No. ____ [or Farmland Security Zone Contract No. ____] and enter into a Solar-Use Easement; and

WHEREAS, pursuant to Government Code section 51255.1(c)(1), the County Assessor determined the current fair market value of the land as though it were free of the contractual restriction for purposes of calculating the cancellation fee required; and

WHEREAS, pursuant to Government Code section 51255.1(c)(2), on _____, 20__ the County Board of Supervisors determined and certified to the County Auditor that the amount of the rescission fee that the Landowner shall pay the County Treasurer upon rescission is \$_____; and

WHEREAS, at the request of the County, the Department of Conservation, in consultation with the California Department of Food and Agriculture, determined the Property is eligible for a Solar-Use Easement Conversion pursuant to Government Code section 51191; and

WHEREAS, Owner and County wish to agree to simultaneously rescind Agricultural Land Conservation Contract No. _____ [or Farmland Security Zone Contract No. _____] and enter into a Solar-Use Easement pursuant to Chapter 6.9 (commencing with Government Code Section 51190), Part 1, Division 1, Title 5 of the Government Code;

NOW, THEREFORE, BE IT RESOLVED:

- The County accepts and approves the Solar-Use Easement Conversion Agreement, attached to this resolution as Exhibit A and fully incorporated herein, which upon fulfillment of the conditions contained in that Agreement will serve as a Solar-Use Easement providing the County with a right or interest, acquired pursuant to Chapter 6.9, Part 1, Division 1, Title 5 of the Government Code, restricting the use of the parcels to the collection and distribution of solar energy for the generation of electricity, and any other incidental or subordinate agricultural, open-space uses, or other alternative renewable energy facilities consistent with the Williamson Act and local implementing procedures, and prohibiting any construction of improvements except those for which the right is expressly reserved in the Agreement and provided that those reservations would not be inconsistent with the purposes of Chapter 6.9, Part 1, Division 1, Title 5 of the Government Code and which would not be incompatible with the sole use of the Property for solar photovoltaic facilities.
- Upon fulfillment of the conditions of the Agreement, the County shall:
 - Cause a copy of this agreement to be recorded with the County Recorder and a copy to be filed with the County Assessor; and
 - Cause rescission fees collected pursuant to the agreement to be forwarded to the State Controller.

ON THE MOTION OF Supervisor _____, seconded by Supervisor _____, the foregoing resolution was duly passed and adopted by the Board of Supervisors of the County of _____, State of California, this ____ day of _____, 20__, by the following vote:

Ayes:
Noes:
Absent:

Chairman, Board of Supervisors
ATTEST

Clerk, _____ County
Board of Supervisors