

AMENDMENT NO. 1

TO THE

AMENDED AND RESTATED
POWER PURCHASE AGREEMENT

EXECUTED BY THE

CITY OF RIVERSIDE, CALIFORNIA

Acting by and through the
CITY OF RIVERSIDE DEPARTMENT
OF PUBLIC UTILITIES

AND

WINTEC-PACIFIC SOLAR, LLC
(Wintec-Pacific Solar Wind Project)

AMENDMENT NO. 1
AMENDED AND RESTATED POWER PURCHASE AGREEMENT BETWEEN
CITY OF RIVERSIDE, CALIFORNIA Acting by and through the
CITY OF RIVERSIDE DEPARTMENT OF PUBLIC UTILITIES
AND
WINTEC-PACIFIC SOLAR, LLC

1. PARTIES: This Amendment No. 1 ("Amendment No. 1") to the Amended and Restated Power Purchase Agreement dated November 15, 2005 ("Agreement") is entered into as of _____, 2019, is made and entered into by and between Wintec Pacific-Solar, LLC, a Delaware limited liability company ("Seller") and the CITY OF RIVERSIDE, CALIFORNIA, a California municipal corporation acting by and through its Department of Public Utilities ("Buyer"). Both Seller and Buyer are sometimes referred to herein individually as "Party" and collectively as "Parties." Unless specifically defined herein, all capitalized terms used in this Amendment No. 1 shall have the meaning established/defined in the Agreement.
2. RECITALS: This Amendment No. 1 to the Power Purchase Agreement is made with reference to the following facts, among others:
 - 2.1. On January 28, 2003, the Parties entered into an agreement ("Original Agreement") under which Seller sell to Buyer all of the Energy Output generated by the Seller's wind powered electric generating units, with the generation capacity of up to five (5) megawatts (MW), to be located at a specific site near the City of Palm Springs, County of Riverside, California.
 - 2.2. On December 30, 2003, the Seller's Project Wind Turbines commenced producing Energy Output and achieved Commercial Operation and is recognized as the Completion Date of the Project Wind Turbines.
 - 2.3. Due to unforeseen circumstances, Seller was only able to construct two (2) Vestas V47 660kW wind turbine generators at the specific Facility location with generating capacity totaling 1.32 MW. These generating units are characterized as Wind Energy Conversion System (WECS) Permit No. 33R1, Site IDs 8001 (Unit 1) and 8002 (Unit 2), respectively, and the Facility is recognized by the California Energy Commission as Buckwind CEC50066 and the California Independent System Operator as Resource ID BUCKWD_7_WINTCV.
 - 2.4. On November 15, 2005, the Parties executed and entered into the Amended and Restated Power Purchase Agreement (the "Amended and Restated Agreement").

- 2.5. On July 31, 2008, the Facility was certified eligible for California's Renewable Portfolio Standard by the California Energy Commission as Wintec Energy #2-A with a CEC-RPS ID Number of 60650A effective January 11, 2008.
- 2.6. On December 11, 2008, Seller assigned its Western Renewable Energy Generation Information System ("WREGIS") registration and account management rights to Buyer.
- 2.7. At midnight on December 30, 2018, the Agreement is scheduled to terminate.
- 2.8. The Parties desire to extend the expiration date as described in Section 2.7 above by five (5) additional years (the "Extension Term") and establish a fixed Energy Payment Rate for the duration of the Extension Term.
- 2.9. The Parties wish to amend the Amended and Restated Agreement to reflect the intentions referenced in this Section 2 and other minor changes. The changes agreed to by this Amendment No. 1 are set forth herein.
3. EFFECTIVE DATE: This Amendment No. 1 shall be effective _____, 2019, after it has been duly executed by the Parties ("Extension Effective Date").
4. AGREEMENT: The Parties agree to amend the contract as follows:
- 4.1. The existing Section 5.1 Effectiveness; Basic Term is amended and revised to become Section 5.1.1 as follows:
- "5.1.1 Effectiveness; Initial Term: The Original Agreement, effective January 28, 2003, shall be amended and restated as provided herein upon the date this agreement is signed by both Parties and the initial term shall terminate at midnight on December 30, 2018 (the "Initial Term"), subject to early termination provisions set forth Section 13 of this Agreement, or as otherwise agreed by the Authorized Representatives."
- 4.2. A new Section 5.1.2 is added to include an Extension term and shall read as follows:
- "5.1.2 Extension Term: The Parties have agreed to extend the Initial Term by an additional five (5) years, commencing on the Extension Effective Date. This Agreement shall terminate at midnight on the fifth (5th) anniversary of the Extension Effective Date, subject to early termination provisions set forth

Section 13 of this Agreement, or as otherwise agreed by the Authorized Representatives.”

- 4.3. Section 10.2 is amended to clarify the Price for Energy Output prior to the end of the Initial Term and shall now read as follows:

“10.2 Price for Energy Output during Initial Term: After the Completion Date of the Project Wind Turbines referred to in Section 2.3 and during the first Contract Year, the Energy Payment Rate for Energy Output produced by Seller and delivered to Buyer at the Point of Delivery shall be forty-four dollars (\$44.00) per megawatt hour (the “Initial Rate”). For each Contract Year after the first Contract Year and during the Initial Term, the Energy Rate shall be the Initial Rate multiplied by the percentage change in the GDPIPD from the quarter during which the Completion Date occurred to the quarter preceding the beginning of such Contract Year, provided, that the Energy Payment Rate during a Contract Year of the Initial Term shall be no less than the prior Contract Year’s Energy Rate.”

- 4.4. Section 10.3 is amended to establish a fixed Energy Payment Rate during the Extension Term and shall now read as follows:

“10.3 Price for Energy Output during the Extension Term: The Energy Payment Rate for Energy Output produced by Seller and delivered to Buyer at the Point of Delivery during the Extension Term shall be fixed at thirty-five and 77/100 dollars (\$35.77) per megawatt hour (the “Extension Term Rate”).”

- 4.5. Section 14.2 is amended to update the Seller’s address and shall now read as follows:

“If to Seller:

Wintec-Pacific Solar, LLC
2045 E. Tahquitz Canyon Way
Palm Springs, CA 92262-7003
Attn: Frederick W. Noble
(760) 323-9490
(760) 323-0688 fax”

5. OTHER AGREEMENT TERMS AND CONDITIONS: Except as expressly amended by this Amendment No. 1, the terms and conditions of the Agreement shall remain in full force and effect.

6. SIGNATURE CLAUSE: Each Party was represented by legal counsel during the negotiation and execution of this Amendment No. 1 and the Parties have executed this Amendment No. 1 as of the dates set forth below.

CITY OF RIVERSIDE

Date: _____

By: _____

Title: _____

CERTIFIED AS TO FUNDS AVAILABILITY:

BY: 
Chief Financial Officer/City Treasurer

Attest: _____

Title: _____

WINTEC-PACIFIC, LLC

Date: Dec 12, 2018

By: FW Wahl

Title: Manager

APPROVED AS TO FORM:

BY: Susan Wilson
ASSISTANT CITY ATTORNEY