

**TAX AND FISCAL IMPACT AGREEMENT FOR SOL ORCHARD
ENERGY FACILITY ANNEXATION EC 1-12**

THIS TAX AND FISCAL IMPACT AGREEMENT (“this Agreement”) is made and entered into by and between the COUNTY OF IMPERIAL, a political subdivision of the State of California (“the County”) and the CITY OF EL CENTRO, a municipal corporation and charter city (“the City”) (individually, “Party;” collectively, “Parties”).

WHEREAS, Revenue and Taxation Code §99 provides that in case of a jurisdictional change, the governmental bodies of all agencies whose service areas or responsibilities would be altered by such jurisdictional change must agree, by resolution, to accept the negotiated exchange of property tax revenues; and

WHEREAS, Government Code §56668 requires certain factors be considered in review of any proposal before the Local Agency Formation Commission (“LAFCO”), including “[t]he effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local government structure of the county”; and

WHEREAS, Government Code §56069 defines “proposal” as a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued; and

WHEREAS, Government Code §56021 defines “Change of organization” to mean any of the following:(a) a city incorporation;(b) a district formation; (c) an annexation to, or detachment from, a city or district;(d) a disincorporation of a city; (e) a district dissolution; (f) a consolidation of cities or special districts;(g) a merger or establishment of a subsidiary district; or (h) the exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district; and

WHEREAS, LAFCO requires a written agreement between the affected governmental bodies prior to the approval of any annexation to offset any negative fiscal impacts; and

WHEREAS, ANNEXATION EC 1-12 involves the annexation of approximately 64± acres of vacant ground (APN’s 044-430-012, 044-450-024, 044-450-025 and 044-450-443) to the City for the purposes of developing a 20 MW photovoltaic solar farm and appurtenant equipment for the Imperial Irrigation District; and

WHEREAS, in order to offset the “negative fiscal impacts” to the County and the City for SOL ORCHARD SOLAR ENERGY FACILITY ANNEXATION EC-1-12, the County and the City are entering into this Agreement; and

WHEREAS, through this Agreement, the City agrees to pay the County a designated amount to offset the negative impacts created through an annexation of territory to the City, and;

WHEREAS, the Parties have negotiated this Agreement for the exchange of property tax revenues and to offset negative impacts from SOL ORCHARD ENERGY FACILITY ANNEXATION EC 1-12 to the City.

WHEREAS, the current assessed value for the territory within SOL ORCHARD ENERGY FACILITY ANNEXATION EC 1-12, including improvements, is \$802,631.00.

NOW, THEREFORE, the County and the City agree as follows:

1. DEFINITIONS.

a. “Base year revenues” means property tax revenues accruing to the County and the City in the current fiscal year, being defined as the fiscal year in which the annexation is accepted by the State Board of Equalization.

b. “Tax increment” means that the amount of property tax revenues in excess of base year revenues accruing to each agency (by tax rate area) and resulting from the increase in assessed valuation from one year to the next.

2. APPORTIONMENT.

a. When a special district, including county fire and library districts, gives up its service responsibility in a territory, upon annexation of such territory to a city, the affected special districts shall transfer to the city all of its base year revenues and tax increment attributable to the annexed territory, effective in the fiscal year following the calendar year in which annexation is completed.

b. For jurisdictional changes where the proposed area is agreed to by the County and the City to be substantially developed, no transfer of the base year revenues is required. The aggregate amount of the tax increment that would accrue to the County, as a result of the aforesaid base year revenue apportionment, shall be distributed in the amount of fifty percent (50%) of the increment to the City and fifty percent (50%) of the increment to the County.

c. For all other jurisdictional changes, the County shall transfer to the City forty percent (40%) of the base year revenues. The aggregate amount of the tax increment that would

accrue to the County and the City, as a result of the aforesated base year revenue apportionment, shall be distributed in the amount of fifty percent (50%) of the increment to the City and fifty percent (50%) of the increment to the County.

3. APPLICATION.

The provisions of this Agreement shall apply to the apportionment of all secured and unsecured property tax revenues, due to SOL ORCHARD ENERGY FACILITY ANNEXATION EC 1-12 to the City.

4. FISCAL IMPACT PAYMENT

a. To offset the negative impact to the County as a result of SOL ORCHARD ENERGY FACILITY ANNEXATION EC 1-12, the City, as compensation for the discounted negative impacts for the first twenty (20) years of project development, agrees to pay the County certain impact fees pursuant to the *Schedule of Fiscal Impact Fees Per Unit (residential) and per Square Foot (nonresidential) – Countywide* attached hereto as Exhibit A. Said fee schedule is pursuant to the Impact Fee Study prepared for the County of Imperial, California, by Tischler Bise dated August 17, 2006. A copy of said Impact Fee Study is available upon request.

b. Said payment of impact fees shall be made to the County by the City in a lump sum upon annexation or recordation of the Final Map.

c. As an alternative said payments shall be made to the County based upon the number of building permits issued by the City on a quarterly basis including October 1, January 1, April 1 and July 1 beginning the first quarter following the issuance of any building permit related to SOL ORCHARD ENERGY FACILITY ANNEXATION EC 1-12.

c. All payments shall be sent to the County at the following address:

County of Imperial
County Executive Office
Attn: County Executive Officer
940 West Main Street, Suite 208
El Centro, CA 92243

5. TERM OF AGREEMENT.

a. This Agreement shall be in effect from the date of execution of this Agreement by the County and the City. The terms and conditions for SOL ORCHARD ENERGY

FACILITY ANNEXATION EC 1-12 shall remain in full force and effect until each term or condition is completely and fully satisfied.

6. ADVERSE PROPERTY TAX IMPACTS.

a. Prior to the City including any portion of SOL ORCHARD ENERGY FACILITY ANNEXATION EC 1-12 in the next twenty (20) years covered by this Agreement into any program which adversely fiscally impacts the County, the County and the City shall renegotiate and enter into a new and separate agreement which addresses said negative fiscal impacts.

7. INTENT OF AGREEMENT.

a. By entering into this Agreement, the Parties mutually assume the continuation of a statutory scheme for the distribution of tax revenues that is compatible with the provisions contained herein, and such assumption is a basic intent of this Agreement.

b. If any term or provision of this Agreement is held by a court of competent jurisdiction to be void, invalid or otherwise unenforceable, the remaining terms and provisions shall continue in full force and effect.

c. This Agreement is made and entered into in Imperial County, California. This Agreement shall be construed and enforced in accordance with the laws of the State of California, except that the Parties agree that any action brought by either party regarding this Agreement shall be brought in a court of competent jurisdiction in Imperial County, or if appropriate, in the Federal District Court serving Imperial County.

d. The Parties hereto agree to act in good faith and deal fairly with the other Party in the performance of this Agreement.

e. Notices required hereunder shall be in writing and may be given either personally or by registered or certified mail, postage prepaid, return receipt requested. If given by registered or certified mail, such notice shall be addressed as indicated below and shall be deemed given and received upon the earlier of actual receipt by the Party to whom the notice was sent or return of the requested receipt to the Party giving notice. Notice personally given shall be deemed given when delivered to the Party to whom the notice is addressed. Any Party may upon ten (10) days written notice to the other Party, change the address where notices are to be sent.

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NOTICES TO COUNTY

County of Imperial
County Executive Office
Attention: County Executive Officer
940 West Main Street, Suite 208
El Centro, CA 92243

WITH COPIES TO

Imperial County LAFCO
Attention: Executive Officer
1122 State Street, Suite D
El Centro, CA 92243

NOTICES TO CITY OF EL CENTRO

City of El Centro
Attention: City Manager
1275 West Main Street
El Centro, CA 92243

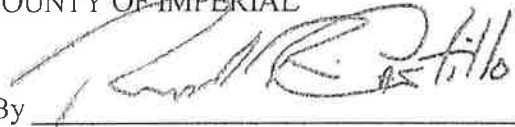
8. **EXECUTION OF AGREEMENT.**

a. The Parties herein agree that this Agreement may be executed in counterparts.


b. The Parties herein each warrant and represent that they are authorized to execute this Agreement and bind the City or the County to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement in El Centro, California, on the 2nd day of April, 2013.

COUNTY OF IMPERIAL


By _____

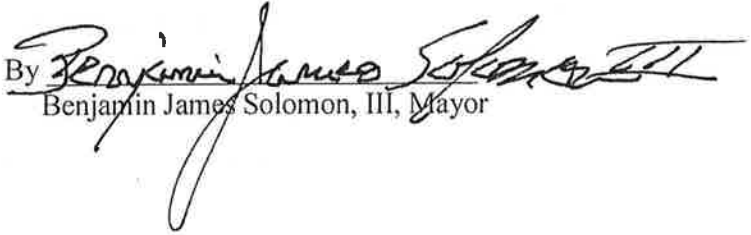
Raymond Castillo, Chairman
Board of Supervisors

ATTEST: 
Blanca Acosta, Clerk of the Board
County of Imperial

APPROVED AS TO FORM:

By 
Michael L. Rood, County Counsel

CITY OF EL CENTRO

By 
Benjamin James Solomon, III, Mayor

ATTEST: 
L. Diane Caldwell, City Clerk

APPROVED AS TO FORM:


By 
Kris M. Becker, City Attorney

Exhibit "A"

COUNTY OF IMPERIAL
FISCAL IMPACT FEES
EFFECTIVE JANUARY 20, 2007

Exhibit A

Units	Total Impact Fee Per Unit	Per Fiscal Impact Studies	Surcharge for Developable Land	Total
	Per Housing Unit			
Residential				
Single Family	\$2,420	\$225	\$72.60	\$2,718
Multi Family	\$1,895	\$276	\$56.85	\$2,228
Mobile Home	\$1,624		\$48.72	\$1,673
Countywide Impact Fee Per 1,000 Square Foot				
Non-Residential				
Com/Shop Ctr (50,000 or less sq ft)	\$671.00	\$80.00	\$20.00	\$771
Com/Shop Ctr (50,001-100,000 sq ft)	\$587.00	\$80.00	\$17.00	\$684
Com/Shop Ctr (100,001-200,000 sq ft)	\$513.00	\$80.00	\$15.00	\$608
Com/Shop Ctr over (200,000 sq ft)	\$449.00	\$80.00	\$13.00	\$542
Office/Inst (25,000 or less sq ft)	\$549.00	\$80.00	\$16.00	\$645
Office/Inst (25,000-50,000 sq ft)	\$502.00	\$80.00	\$15.00	\$597
Office/Inst (50,001-100,000 sq ft)	\$461.00	\$80.00	\$13.00	\$554
Medical-Dental Office	\$700.00	\$80.00	\$21.00	\$801
Hospital	\$470.00	\$80.00	\$14.00	\$564
Business Park	\$407.00	\$80.00	\$12.00	\$499
Light Industrial	\$276.00	\$80.00	\$8.00	\$364
Manufacturing	\$199.00	\$80.00	\$5.00	\$284
Warehousing	\$162.00	\$80.00	\$4.00	\$246
Elementary School	\$216.00	\$80.00	\$6.00	\$302
Other Non-Residential				
Lodging (per room)	\$91.00		\$2.00	\$93
Day Care (per student)	\$55.00		\$2.00	\$57
Nursing Home (per bed)	\$54.00		\$1.00	\$55

Prepared 11/14/2006

Based on TischlerBise Fiscal Impact Fee Study dated August 17, 2006 &
Proposed Fiscal Impact Fee Ordinance

I hereby certify that the foregoing instrument is a correct copy of the original on file with this office.

Date: 4/24/13

Approved by the Board of Supervisors

4/2/13 23

Date Minute Order #

Clerk of the Board of Supervisors
County of Imperial

BY: [Signature]
Deputy

