

**ACTION MINUTES
BOARD OF PUBLIC UTILITIES COMMISSIONERS
CITY OF TULARE**

November 21, 2019

A regular meeting of the Board of Public Utilities of the City of Tulare was held on Thursday, November 21, 2019 at 4:00 p.m. in the Tulare Public Library & Council Chamber, 491 North "M" Street.

BPU PRESENT: Chris Harrell, Howard Stroman, Ray Fonseca, Rene Soto

BPU ABSENT: Thomas Griesbach

STUDENT PRESENT: Abigail Lopez-Gonzalez

STUDENT ABSENT: Gregory Garcia

STAFF PRESENT: Rob Hunt, Megan Dodd, Michael Miller, Darlene Thompson, Trisha Whitfield, Nick Bartsch, Jim Funk, Andrew Bettencourt, Mario Orosco, Tim Doyle, Melissa Hermann

I. CALL TO ORDER

Board President Harrell called the regular meeting to order at 4:00 p.m.

II. PLEDGE OF ALLEGIANCE AND INVOCATION

Board Member Fonseca led the Pledge of Allegiance and an invocation was given by Board President Harrell.

III. CITIZEN COMMENTS

Board President Harrell requested those who wish to speak on matters not on the agenda within the jurisdiction of the Board, or to address or request a matter be pulled from the Consent Calendar to do so at this time. He further stated comments related to General Business matters would be heard at the time that matter is addressed on the agenda.

There were no citizen comments.

IV. COMMUNICATIONS

There were no items for the section of the agenda.

V. CONSENT CALENDAR

It was moved by Board Member Fonseca, seconded by Vice President Stroman, and carried 4 to 0 (Board Member Griesbach absent) that the items on the Consent Calendar be approved as presented with the exception of item 4.

- (1) **Approve the minutes of the November 7, 2019 regular meeting.**
- (2) **Accept the Financial Status Report.**
- (3) **Approve the cancellation of the January 2, 2020 regular meeting.**
- (4) **Receive the Public Works performance reports for October 2019.** Board Member Fonseca pulled this item for clarification. Public Works Director Trisha Whitfield provided a response thereto. It was moved by Board Member Fonseca, seconded by Vice President Stroman, and carried 4 to 0 (Board Member Griesbach absent) to approve the item as presented.
- (5) **Receive the quarterly Potable Water Pumping and Metered Delivery Report.**
- (6) **Accept as complete the contract with W. M. Lyles Co. of Fresno, CA for construction of the Splitter Boxes Bypass Project (Project No. WW0022); and authorize the City Engineer to sign the Notice of Completion and direct the City Clerk to file the Notice of Completion with the Tulare County Recorder's Office.**
- (7) **Accept as complete the contract with Myers and Sons Construction of Sacramento, CA for work on Project WT0028, WT0029 and WT0031, for the construction of two wells and three water storage tanks; and authorize the City Engineer to sign the Notice of Completion, and direct the City Clerk to file the Notice of Completion with the Tulare County Recorder's Office.**

VI. STUDENT REPORTS

Teens-On-Board representative Abigail Lopez-Gonzalez introduced herself and shared with the Board current school related activities.

VII. GENERAL BUSINESS

- (1) **Authorize the City Manager to sign a contract change order with Agee Construction, Inc. of Clovis, CA in an amount not to exceed \$288,123.15 for additional utility improvements associated with Project EN0076, "O" Street Improvement Project between Bardsley Avenue and Pleasant Avenue; and approve the revised project budget.** Project Manager Jim Funk provided a report for the Board's review and consideration. Questions posed by the Board were responded to by staff. The Board requested more communication when projects require additional work not in the original plan. Following discussion, it was moved by Board Member Rene Soto, seconded by Vice President Stroman, and carried 4 to 0 (Board Member Griesbach absent) to approve the item as presented.

- (2) **Receive the Water System Development Program update.** Project Manager Jim Funk provided a report for the Board's review and consideration as well as requested to dissolve the reoccurrence of this particular monthly report as the report is a duplication of the quarterly project report. Following discussion, it was moved by Vice President Stroman, seconded by Board Member Soto, and carried 4 to 0 (Board Member Griesbach absent) to receive the Water System Development Program update and indicated the report was no longer needed.

VIII. ITEMS OF INTEREST

Items of interest were discussed amongst the Board and staff.

IX. ADJOURNMENT

Board President Harrell adjourned the regular meeting at 4:40 p.m.

President of the Board of Public Utilities
Commissioners of the City of Tulare

ATTEST:

Secretary of the Board of
Public Utilities Commissioners

**ACTION MINUTES
BOARD OF PUBLIC UTILITIES COMMISSIONERS
CITY OF TULARE**

December 19, 2019

A regular meeting of the Board of Public Utilities of the City of Tulare was held on Thursday, December 19, 2019 at 4:00 p.m. in the Tulare Public Library & Council Chamber, 491 North "M" Street.

BPU PRESENT: Chris Harrell, Howard Stroman, Ray Fonseca, Rene Soto, Thomas Griesbach

STUDENT PRESENT: Abigail Lopez-Gonzalez, Gregory Garcia

STAFF PRESENT: Rob Hunt, Megan Dodd, Michael Miller, Darlene Thompson, Trisha Whitfield, Nick Bartsch, Jim Funk, Jason Bowling, Andrew Bettencourt, Mario Orosco, Art Avila, Tim Doyle, David Dodson, Melissa Hermann

I. CALL TO ORDER

Board President Harrell called the regular meeting to order at 4:02 p.m.

II. PLEDGE OF ALLEGIANCE AND INVOCATION

Jason Bender led the Pledge of Allegiance and an invocation was given by Board President Harrell.

III. CITIZEN COMMENTS

Board President Harrell requested those who wish to speak on matters not on the agenda within the jurisdiction of the Board, or to address or request a matter be pulled from the Consent Calendar to do so at this time. He further stated comments related to General Business matters would be heard at the time that matter is addressed on the agenda.

Charles Ritchie addressed the Board regarding city wells.

IV. COMMUNICATIONS

There were no items for the section of the agenda.

V. CONSENT CALENDAR

It was moved by Board Member Soto, seconded by Vice President Stroman, and unanimously carried to approve items on the Consent Calendar as presented with the exception of items 1 and 5.

- (1) **Approve the minutes of the December 5, 2019 regular meeting.** This item was pulled due to a clerical error.
- (2) **Accept the Monthly Investments Reports for October and November 2019.**
- (3) **Accept the Financial Status Report.**
- (4) **Receive the Public Works performance reports for November 2019.**
- (5) **Approve the purchase and installation of Advanced Meter Infrastructure (AMI) equipment and services from Core and Main using existing City of Tulare contract pricing not to exceed \$183,000 and approve the revised project WT0049, accelerating the project to FY 2019/2020 and increasing the total budget to \$183,000.** Board Member Griesbach pulled this item for clarification. IT Manager Jason Bowling provided a response thereto. Following discussion, it was moved by Board Member Griesbach, seconded by Board Member Fonseca, and unanimously carried to approve the item as presented.

VI. STUDENT REPORTS

Teens-On-Board representative Abigail Lopez-Gonzalez and Gregory Garcia updated the Board on school related activities.

VII. GENERAL BUSINESS

- (1) **Award and authorize the City Manager to sign a contract with Telstar Instruments of Concord, CA in an amount not to exceed \$1,988,800 for electrical system upgrades associated with Project WW0048 – WPCF New MCC & Electrical Reconfiguration Project, and authorize the City Manager or designee to approve contract change orders in an amount not to exceed 10% (\$198,880) of the contract award amount; and, approve the revised project budget.** Project Manager Jim Funk provided a report for the Board's review and consideration. Questions posed by the Board were responded to by Mr. Funk and Public Works Director Trisha Whitfield. Following discussion, it was moved by Vice President Stroman, seconded by Board Member Fonseca, and unanimously carried to approve the item as presented.
- (2) **Authorize the City Manager to approve a contract change order for the Sequencing Batch Reactor (SBR) Inspection and Maintenance Services to B. R. Frost Company, Inc. of Huntington Beach in the amount of \$19,415.00 for the additional repairs to SBR basin #5.** Public Works Director Trisha Whitfield provided a report for the Board's review and consideration. Questions posed by the Board were responded to by Ms. Whitfield. It was moved by Board Member Fonseca, seconded by Board Member Soto, and unanimously carried to approve the item as presented.
- (3) **Award the purchase of 3,180 automated refuse cans to Cascade Cart Solutions, using NJPA Contract No. 041219-CEI in the amount of \$162,570.72, which includes tax and shipping.** Solid Waste Manager Art Avila provided a

report for the Board's review and consideration. Following discussion, it was moved by Board Member Griesbach, seconded by Vice President Stroman, and unanimously carried to approve the item as presented.

VIII. ITEMS OF INTEREST

Items of interest were discussed amongst the Board and staff.

IX. ADJOURNMENT

Board President Harrell adjourned the regular meeting at 4:56 p.m.

President of the Board of Public Utilities
Commissioners of the City of Tulare

ATTEST:

Secretary of the Board of
Public Utilities Commissioners

AGENDA ITEM: Consent 2

**CITY OF TULARE, CALIFORNIA
BOARD OF PUBLIC UTILITIES COMMISSIONERS
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Finance

For Board Meeting of: January 16, 2020

Documents Attached: Ordinance Resolution Other None

AGENDA ITEM:

Accept the Financial Status Report.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

There is not a lot of information to report. The funds are following the budget and nothing unusual to report.

Solid Waste Fund 012

Service revenues are up 8% averaged over all service types. The rate increase that went into effect July, 2019 is the reason for this increase. Expenditures are tracking 2% higher than last year so Solid Waste continues to be in good condition. All amounts are within the budgeted parameters.

Water Fund 010

Overall, water revenues are 7.5% higher than the same six months in 2018, which is approximately \$460,000 more. M&O expenses are 7% higher. Capital projects have slowed slightly and are \$606,000 lower than last fiscal year at this time. All amounts are within the budgeted parameters.

WW Fund 015

There is a 3% increase in the WW service revenue for the same six month period of fiscal year 2019. M&O expenses are 1.5% higher. Capital projects are active consequently, they are \$895,000 higher than last year.

STAFF RECOMMENDATION:

Accept the Financial Status Report.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

Submitted by: Darlene Thompson

Title: Finance Director

Date: January 8, 2020

City Manager Approval: RH

City of Tulare
Water Utility Funds
Summary of Revenue/Expenditures -Budget to Actual
For the Six Months
July 1, 2019 -December 31, 2019

	Fund 010 Water Operations										Fund 610 Capital		Fund 680 Reserves		Water Funds			
	Admin		Distribution		Extraction		Treatment		Groundwater		Total Water Operations		CIP		Reserves		Total Water Funds	
	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual
Revenues:																		
Service Revenue - Operating Funds											\$ 8,513,000	\$ 4,495,506	\$ 2,865,000	\$ 1,524,123	\$ 1,330,000	\$ 711,273	\$ 12,708,000	\$ 6,730,902
Water Recharge Component											263,300	133,531					263,300	133,531
State Revolving Fund																	-	-
Water Waste Fees											40,000	19,815					40,000	19,815
Miscellaneous Revenue											749,300	343,065	537,600				1,286,900	343,065
Interfund Loan Repayment																		
Interfund Transfer - Groundwater													3,000,000				3,000,000	-
Water Bond Proceeds																	-	-
Total Revenues	-	-	-	-	-	-	-	-	-	-	9,565,600	4,991,917	6,402,600	1,524,123	1,330,000	711,273	17,298,200	7,227,313
Expenditures:																		
Operations																		
Salaries & Benefits	572,370	301,675	955,330	506,786	243,300	104,923	184,800	74,281	69,640	34,417	2,025,440	1,022,082					2,025,440	1,022,082
Maintenance & Operations	447,444	326,327	238,150	85,275	1,694,021	882,875	392,420	107,052	1,232,880	8,275	4,004,915	1,409,804	10,000				4,014,915	1,409,804
Annual Admin, Franchise & IT Fees	93,470	63,740	472,270	472,270	8,120	7,420	(100)	(100)	3,290	3,290	577,050	546,620					577,050	546,620
Depreciation	6,270	3,132	1,013,480	506,741	259,610	129,804	1,820	908			1,281,180	640,586					1,281,180	640,586
Transfers to Surface Water									703,800	703,800	703,800	703,800					703,800	703,800
Transfers to Technology CIP	7,350	7,350	-	-							7,350	7,350					7,350	7,350
Total Operations	1,126,904	702,224	2,679,230	1,571,072	2,205,051	1,125,022	578,940	182,141	2,009,610	749,782	8,599,735	4,330,242	10,000	-	-	-	8,609,735	4,330,242
Net Revenue from Operations											965,865	661,675	6,392,600	1,524,123	1,330,000	711,273	8,688,465	2,897,071
Other Expenditures																		
Capital Outlay																		
Special M & O												20						20
CIP Expenditures			61,000	15,109							61,000	15,109	12,936,721	4,460,869			12,997,721	4,475,978
Total Capital Expenditures	-	-	61,000	15,109	-	20	-	-	-	-	61,000	15,129	12,936,721	4,460,869	-	-	12,997,721	4,475,998
Debt Service																		
Debt Service	982,490	438,340	552,150	-	552,150	-	-	-	-	-	2,086,790	438,340					2,086,790	438,340
Total Debt Service	982,490	438,340	552,150	-	552,150	-	-	-	-	-	2,086,790	438,340					2,086,790	438,340
Total Other Expenditures	982,490	438,340	613,150	15,109	552,150	20	-	-	-	-	2,147,790	453,469	12,936,721	4,460,869	-	-	15,084,511	4,914,339
Operating Transfers In/(Out)																		
Net Revenue/(Expenditures)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (1,181,925)	\$ 208,206	\$ (6,544,121)	\$ (2,936,746)	\$ 1,330,000	\$ 711,273	\$ (6,396,046)	\$ (2,017,268)
Unadjusted Cash Balance at December 31, 2019																	\$ 5,366,700	

Expenses paid in July and August for June activities are included in the previous fiscal year's expense as the City uses a Modified Accrual Basis of accounting.

City of Tulare
Solid Waste Funds
Summary of Revenue/Expenditures -Budget to Actual
For The Six Months
July 1, 2019 - December 31, 2019

	Funds 012 - Solid Waste Operations										Fund 612 Capital		Solid Waste			
	Residential		Commercial		Street Sweeping		Roll-Offs		Other Revenue		Total		CIP		Total Solid Waste	
	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual Total	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual
Revenues:																
Service Revenue - Operating Funds	\$ 5,400,000	\$ 2,584,778	\$ 2,430,000	\$ 1,326,416	\$ 1,100,610	\$ 571,190	\$ 1,142,000	\$ 598,334			\$ 10,072,610	\$ 5,080,717		\$ 10,072,610	\$ 5,080,717	
Recycle Sales		6,596		683	-	-			\$ -	-	7,278			-	7,278	
Miscellaneous Revenue									289,500	92,957	289,500	92,957		289,500	92,957	
Interfund Loan Repayment											-	-		-	-	
Total Revenues	5,400,000	2,591,374	2,430,000	1,327,098	1,100,610	571,190	1,142,000	598,334	289,500	92,957	10,362,110	5,180,953	-	-	10,362,110	5,180,953
Expenditures:																
Operations																
Salaries & Benefits	1,917,630	974,997	998,200	466,698	358,640	175,217	299,940	175,654			3,574,410	1,792,566		3,574,410	1,792,566	
Maintenance & Operations	2,515,860	1,062,071	1,223,850	490,026	389,430	183,080	608,250	198,494			4,737,390	1,933,671		4,737,390	1,933,671	
Annual Admin, Franchise & IT Fees	299,990	299,990	174,350	174,350	22,060	21,810	46,630	46,630			543,030	542,780		543,030	542,780	
Depreciation	7,010	1,620									7,010	1,620		7,010	1,620	
Transfers to Technology CIP	6,150	6,150									6,150	6,150		6,150	6,150	
Total Operations	4,746,640	2,344,828	2,396,400	1,131,074	770,130	380,107	954,820	420,779	-	-	8,867,990	4,276,787	-	-	8,867,990	4,276,787
Net Revenue from Operations	653,360	246,545	33,600	196,025	330,480	191,083	187,180	177,555	289,500	92,957	1,494,120	904,165	-	-	1,494,120	904,165
Other Expenditures																
Capital Outlay																
Special M & O																
CIP Expenditures	160,000	-	66,000	41,095			41,500	1,327			267,500	42,422	118,000	46,932	385,500	89,354
Total Capital Expenditures	160,000	-	66,000	41,095	-	-	41,500	1,327	-	-	267,500	42,422	118,000	46,932	385,500	89,354
Operating Transfers In(Out)	(300,000)	(300,000)	(100,000)	(100,000)	(50,000)	(50,000)	(50,000)	(50,000)			(500,000)	(500,000)		500,000	(500,000)	-
Net Revenue/(Expenditures)	\$ 193,360	\$ (53,455)	\$ (132,400)	\$ 54,929	\$ 280,480	\$ 141,083	\$ 95,680	\$ 126,228	\$ 289,500	\$ 92,957	\$ 726,620	\$ 361,743	\$ (118,000)	\$ 453,068	\$ 608,620	\$ 814,811
Unadjusted Cash Balance at December 31, 2019																\$ 7,621,278

Expenses paid in July and August for June activities are included in the previous fiscal year's expense as the City uses a Modified Accrual Basis of accounting.

City of Tulare
Sewer/Wastewater Utility Funds
Summary of Revenue/Expenditures -Budget to Actual
For the Six Months
July 1, 2019 - December 31, 2019

	Funds 015 Sewer - Wastewater Operations										Fund 615 Capital		Fund 685 Reserves		Sewer Wastewater			
	Sewer Collection		Domestic Wastewater		Industrial Wastewater		Pretreatment		Energy		Total Sewer Wastewater Operations		CIP		Reserves		Total Funds	
	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual	Annual Budget FY 2020	Actual
Revenues:																		
Service Revenue - Operating Funds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 25,025,000	\$ 10,947,913	\$ 8,723,000	\$ 4,364,093	\$ 1,680,000	\$ 840,000	\$ 35,428,000	\$ 16,152,006	
Miscellaneous Revenue										2,115,050	1,254,687					2,115,050	1,254,687	
Total Revenues	-	-	-	-	-	-	-	-	-	27,140,050	12,202,601	8,723,000	4,364,093	1,680,000	840,000	37,543,050	17,406,693	
Expenditures:																		
Operations																		
Salaries & Benefits	808,320	357,653	1,357,680	612,891	1,440,130	745,306	104,540	53,407	37,300	7,923	3,747,970	1,777,180				3,747,970	1,777,180	
Maintenance & Operations	1,187,947	638,030	2,813,669	1,215,751	3,057,489	1,926,873	49,610	25,334	700,500	266,799	7,809,215	4,072,787	10,000			7,819,215	4,072,787	
Annual Admin, Franchise & IT Fees	77,710	77,710	66,190	103,740	47,200	47,190	1,040	1,040	2,990	2,990	195,130	232,670				195,130	232,670	
Depreciation	1,358,310	679,158	980,260	490,128	2,852,520	950,840			510,810	255,402	5,701,900	2,375,528				5,701,900	2,375,528	
Transfers to Surface Water			450,000	450,000							450,000	450,000				450,000	450,000	
Transfers to Technology CIP	-	-	12,290	12,290							12,290	12,290				12,290	12,290	
Total Operations	3,432,287	1,752,551	5,680,089	2,884,801	7,397,339	3,670,209	155,190	79,780	1,251,600	533,114	17,916,505	8,920,455	10,000	-	-	17,926,505	8,920,455	
Net Revenue from Operations											9,223,545	3,282,146	8,713,000	4,364,093	1,680,000	840,000	19,616,545	8,486,239
Other Expenditures																		
Capital Outlay																		
Special M & O		-	20,000	34,477	722,000	305,748					742,000	340,225				742,000	340,225	
CIP Expenditures					75,000						75,000	-	11,917,030	1,020,356		11,992,030	1,020,356	
Total Capital Expenditures	-	-	20,000	34,477	797,000	305,748	-	-	-	-	817,000	340,225	11,917,030	1,020,356	-	-	12,734,030	1,360,581
Debt Service																		
Debt Service	822,780	-	3,307,630	29,822	8,609,350	4,029			691,940	137,768	13,431,700	171,619				13,431,700	171,619	
Total Debt Service	822,780	-	3,307,630	29,822	8,609,350	4,029	-	-	691,940	137,768	13,431,700	171,619	-	-	-	13,431,700	171,619	
Total Other Expenditures	822,780	-	3,327,630	64,299	9,406,350	309,777	-	-	691,940	137,768	14,248,700	511,844	11,917,030	1,020,356	-	-	26,165,730	1,532,200
Operating Transfers In(Out)																		
Net Revenue/(Expenditures)											\$ (5,025,155)	\$ 2,770,302	\$ (3,204,030)	\$ 3,343,737	\$ 1,680,000	\$ 840,000	\$ (6,549,185)	\$ 6,954,039
Unadjusted Cash Balance at December 31, 2019																		\$ 29,735,492

Expenses paid in July and August for June activities are included in the previous fiscal year's expense as the City uses a Modified Accrual Basis of accounting.

City of Tulare
Utility Operation Funds
Comparative Balance Sheet Unaudited
December 31, 2019 and 2018

	WATER FUND		SOLID WASTE		WASTEWATER	
	12/31/2019	12/31/2018	12/31/2019	12/31/2018	12/31/2019	12/31/2018
Assets:						
Cash	\$ 5,366,700	\$ 2,632,705	\$ 7,621,278	\$ 5,921,192	\$ 29,735,492	\$ 23,382,695
Cash on Deposit with Fiscal Agent	721,608	12,824,690			76,074,065	78,107,427
Receivables:						
Public Works	26,721	31,399			29,984	40,233
Accounts	6,514	1,882	621	956	8,004	11,896
Utility	1,133,407	1,172,696	993,515	905,784	2,961,600	3,819,720
Advance to Water Fund			1,033,333	1,240,000		
Change in Investment Value					(225,012)	(1,079,098)
Deferred Bond Charges	76,111	78,782			2,880,533	2,998,178
Fixed Assets, net of Depreciation	63,329,708	45,684,856	53,990	12,935	207,015,409	205,635,534
Total Assets	\$ 70,660,770	\$ 62,427,010	\$ 9,702,737	\$ 8,080,867	\$ 318,480,075	\$ 312,916,585
Liabilities:						
Compensated Absences	\$ 248,821	\$ 227,066	\$ 370,178	\$ 350,337	\$ 223,184	\$ 245,261
Capital Lease - Citicapital	2,811,613	3,537,333			179,694	226,118
Bonds	17,825,000	18,155,000			224,171,616	227,627,825
Unapplied Cash	125,425	101,887	22,262	26,543		
Accounts Payable	116,994	6,424		6,424	1,463,335	6,424
Oversize Liability	(16,355)	185,423			1,330,637	1,176,276
Deposits - In Lieu	144,602	144,602			167,709	167,709
Bond Premium	2,088,674	2,161,961			13,589,700	14,163,255
Interfund Loans	1,033,333	1,136,667				
Total Liabilities	24,378,107	25,656,363	392,440	383,305	241,125,876	243,612,867
Net Assets:						
Fund Balance	38,222,659	29,456,750	8,495,486	7,426,803	61,258,510	50,665,528
Equipment Reserve	3,572,997	3,572,997			5,000,000	5,000,000
Contributed Capital	6,504,275	6,504,275			4,141,650	4,141,650
Net Income/Loss	(2,017,267)	(2,763,374)	814,811	270,759	6,954,038	9,496,540
Total Net Assets	\$ 46,282,664	\$ 36,770,648	\$ 9,310,297	\$ 7,697,562	\$ 77,354,198	\$ 69,303,718

City of Tulare
Utility Operation Funds
Comparative Summary of Revenue/Expenditures
Budget to Actual
For the Six Months Ended
December 31, 2019 and 2018

	WATER FUND			SOLID WASTE			WASTEWATER		
	BUDGET FY 2020	ACTUAL 12/31/2019	ACTUAL 12/31/2018	BUDGET FY 2020	ACTUAL 12/31/2019	ACTUAL 12/31/2018	BUDGET FY 2020	ACTUAL 12/31/2019	ACTUAL 12/31/2018
Revenue:									
Service Fees	\$ 12,708,000	\$ 6,730,902	\$ 6,270,002	\$ 10,072,610	\$ 5,080,717	\$ 4,683,533	\$ 35,428,000	\$ 16,152,006	\$ 16,100,343
Water Recharge Revenue	263,300	133,531	143,057	-			-		
Penalties, Connection and Misc Fees	630,300	325,695	339,535	185,000	92,957	106,004	623,000	227,596	990,391
Interest Income	96,000			80,000			450,000		
Energy Rebate				-			867,050	800,453	-
Rents	38,000	18,064	17,538	-			175,000	226,638	154,676
Recycling Revenue	-			16,000	7,278	17,258	-		
Developer Impact Fees	537,600	-		-			-		
Miscellaneous	25,000	19,121		8,500			-		
Transfer from Other Funds	3,000,000	-					-		
Loan Repayment				128,910	-	-	-		
Total Revenue	17,298,200	7,227,313	6,770,132	\$ 10,491,020	5,180,952	4,806,795	37,543,050	17,406,693	17,245,410
Expenditures:									
Salaries & Benefits	2,025,440	1,022,082	870,702	3,574,410	1,792,566	1,640,142	3,747,970	1,777,180	1,612,964
Maintenance & Operations	4,591,965	1,956,424	1,876,601	5,280,420	2,476,451	2,442,951	8,014,345	4,305,457	3,865,802
Depreciation - Estimated	1,281,180	640,586	640,589	7,010	1,620	4,442	5,701,900	2,375,528	2,858,078
Transfer to Surface Water	703,800	703,800	683,300	-			450,000	450,000	437,520
Transfers to CIP	7,350	7,350	7,350	6,150	6,150	6,150	12,290	12,290	12,290
Special M & O	-	20	-	-			722,000	340,225	132,178
Capital Outlay	12,997,721	4,475,978	5,082,050	385,500	89,354	262,918	11,992,030	1,020,356	125,478
Debt Service	2,086,790	438,340	372,914	-			13,431,700	171,619	(1,295,440)
Total Expenditures	23,694,246	9,244,580	9,533,506	9,253,490	4,366,141	4,356,603	44,072,235	10,452,655	7,748,870
Net Revenue/(Expenditures)	\$ (6,396,046)	\$ (2,017,267)	\$ (2,763,374)	\$ 1,237,530	\$ 814,811	\$ 450,192	\$ (6,529,185)	\$ 6,954,038	\$ 9,496,540

**CITY OF TULARE, CALIFORNIA
BOARD OF PUBLIC UTILITIES COMMISSIONERS
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Public Works

For Board Meeting of: January 16, 2020

Documents Attached: Ordinance Resolution Other None

AGENDA ITEM:
Receive the Public Works performance reports for December 2019.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:
Public Works first reported performance dashboards for each of its divisions to the Board of Public Utilities in August 2015 with the intention of inviting additional transparency into the maintenance and operations activities of each of the divisions.

Solid Waste
December’s overall tonnage numbers were slightly up compared to December 2018. The residential tonnage total of 2,689.0 tons was 8.2 percent higher than in 2018 (2,484.4). Roll-off tonnage accounted for 1,063.4 tons in December, up 16.3 percent from 2018 (914.7 tons). Commercial tonnage accounted for 1,341.6 tons in December, down 7.8 percent from 2018 (1,454.9).

Overall, the Solid Waste division’s recycling rate for December slightly improved compared to December 2018. The diversion rate for December was 35 percent (20% green waste, 12% recyclables, 2% food waste/compost). The diversion rate for December 2018 was 33 percent (22% green waste, 9% recyclables, 2% food waste/compost).

The City had a total of 3,326.7 tons of trash (to the landfill), resulting in a rate of 3.25 pounds per person per day, a decrease of 9.7 percent compared to November (3.60), and a decrease of 12.9 percent compared to October (3.73). The target disposal rate for the City set by the State is 6.0 pounds per person per day.

The process of obtaining a vendor for a fleet management and work order system is entering its final stages. The selection committee chose to hear two final presentations – FleetMind and RouteWare, the nation’s two leaders in this type of software – and is expected to select a vendor by the end of January and bring a recommendation to the Board in February.

Water
Water delivery volumes are delayed by one month due to the availability of billing data. In November 2019, water delivery, or water “sold,” increased by 10.9 million gallons (+3.4%) as compared to November 2018. Potable water production decreased by 42.2 million gallons

(-9.8%) in November as compared to November 2018. There was a difference of 56.3 million gallons between pumped water (386.6 million gallons) versus delivered (330.3), which represents a system loss of 14.6%.

The explanation for why the system loss is more pronounced in November than any other month of the year is because of the major change in residential consumer behavior starting on Dec. 1. The November numbers for potable water production are from well numbers on a strict calendar (Nov. 1 through Nov. 30). The November numbers for “sold” water vary depending on when a customer’s meter is read. A typical customer’s November usage is from Nov. 9 through Dec. 8 (the majority of the City’s meters are read during the first 10 days of the month). On Dec. 1, watering for residential landscapes is prohibited, leading to significant drops in residential use. A typical residential customer’s usage from Nov. 1 through Nov. 8 – when residential landscape watering is still permitted – goes to their October meter reading.

In November, the Water Division had 24 of its 31 wells in operation.

Conservation

There were significant decreases for overall and residential water use in November compared to November 2018. The overall gross gallons per capita was 195 gallons per person per day in November, 12.4% lower than it was in November 2018 (223).

Residential water usage increased in November compared to November 2018. Residential gallons per capita was 86 gallons per person per day in November, 15.9% higher than it was in November 2018 (74). The residential gallons per capita looks specifically at residential water use only.

There were 69 total water-waste tickets in December, a decrease of 14 tickets (-16.9%) from December 2018 (83). There were 17 water-waste tickets that resulted in fines (non-first offenders), a decrease of 6 (-26.1%) from December 2018 (23). There were 4 water-waste tickets issued for residents who already had at least two water-waste tickets over the previous year. In December 2018, there were 3 water-waste tickets for that same group.

Sewer Collections

New standards continue to be set by this crew. The vast majority of the work was done in maintenance (preventative and corrective). Nearly 70 percent of the 1,031 total man hours of the month were dedicated to maintenance (43 percent preventative and 26 percent corrective). Last year, 54 percent of all man hours were dedicated to maintenance (49 percent preventative, 5 percent corrective).

A major reason for the uptick in corrective maintenance was to meet the need for cleaning lines. In December 2018, there were 17,120 feet of lines cleaned. In December 2019, there were 41,020 feet of lines cleaned, an increase of 139.6 percent compared to a year ago.

The improvement in televised sewer lines was even more pronounced. In December 2018, 1,300 feet of sewer lines were televised. In December 2019, 8,650 feet of sewer lines were televised, an increase of 565.4 percent compared to a year ago.

Approximately 17% of staff's time was spent engaged in administrative tasks related to operating the division. In December 2018, 20% of staff's time was spent in administrative tasks.

Waste Water Treatment Plant

In December, the domestic plant's daily influent average was the lowest it has been all year. The domestic plant's daily influent average in December was 4.03 million gallons, a decrease of 4.7 percent compared to November (4.23). The domestic plant's capacity is 5.5 million gallons, and when the daily influent average is within 80 percent (4.4 million gallons) of capacity, improvements to the plant's capacity should be a priority.

The industrial plant's daily influent average was 7.24 in December, an increase of 0.8 percent compared to November (7.18). The industrial plant's capacity is 12 million gallons, and no daily influent average has been close to the 80-percent mark (9.6 million gallons).

The plant's efficiency against BOD and TSS struggled in December. Efficiency against BOD was 97.1% in December, the lowest rate of the year. That led to a combined BOD effluent of 56 mg/l, which is not within state compliance (less than 40 mg/l). Efficiency against TSS was 91.0% in December, also the lowest rate of the year. That led to a combined TSS effluent of 86.9 mg/l, which is not within state compliance (less than 40 mg/l).

According to the Domestic WWTP Supervisor, poor preparation for seasonal changes was the primary reason for the loss of efficiency. Rain and temperature drop were the main culprits.

The Nitrogen effluent average was at 13.0 mg/l in December. State compliance is 13.0 mg/l. Our efficiency rating against Nitrogen was 86.0%. Anything above 90% is considered good.

Operationally, the WWTP completed 13 corrective work orders and 328 preventative maintenance work orders in December. Overall, 126 of the work orders were completed for the Domestic side of the facility and 214 for the Industrial side, 37% and 63%, respectively.

STAFF RECOMMENDATION:

Receive the Public Works performance reports for December 2019.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

FUNDING SOURCE/ACCOUNT NUMBER:

Signed: Andrew Bettencourt

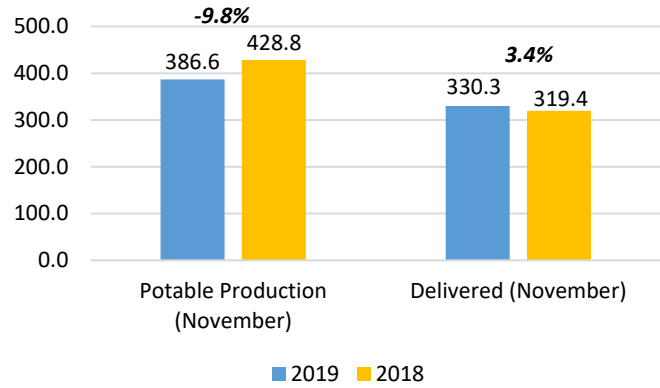
Title: Management Analyst

Date: January 7, 2020

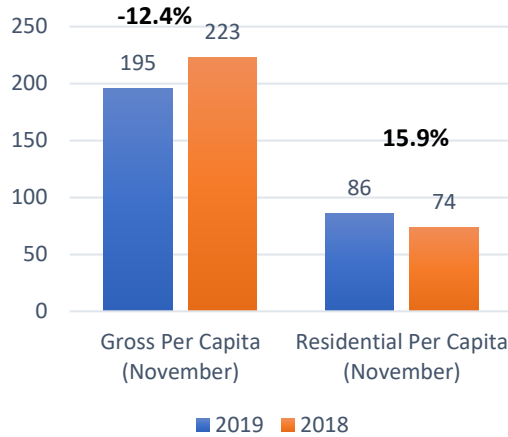
City Manager Approval: RH

**City of Tulare Water Division
December 2019 Dashboard**

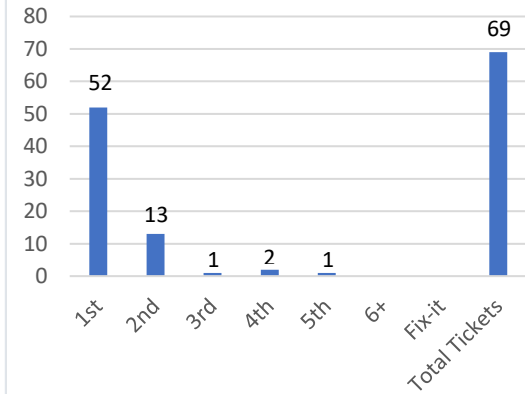
Production & Delivery Volumes (MG)



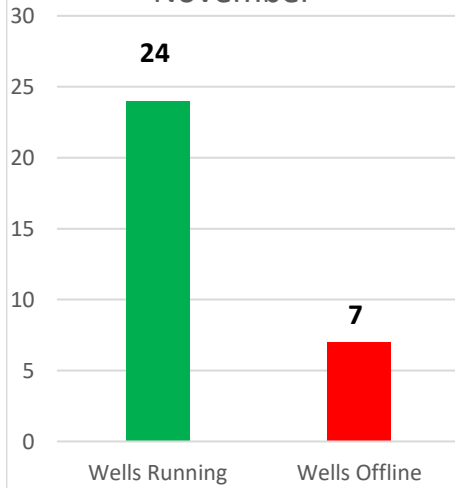
GPCD & Residential GPCD



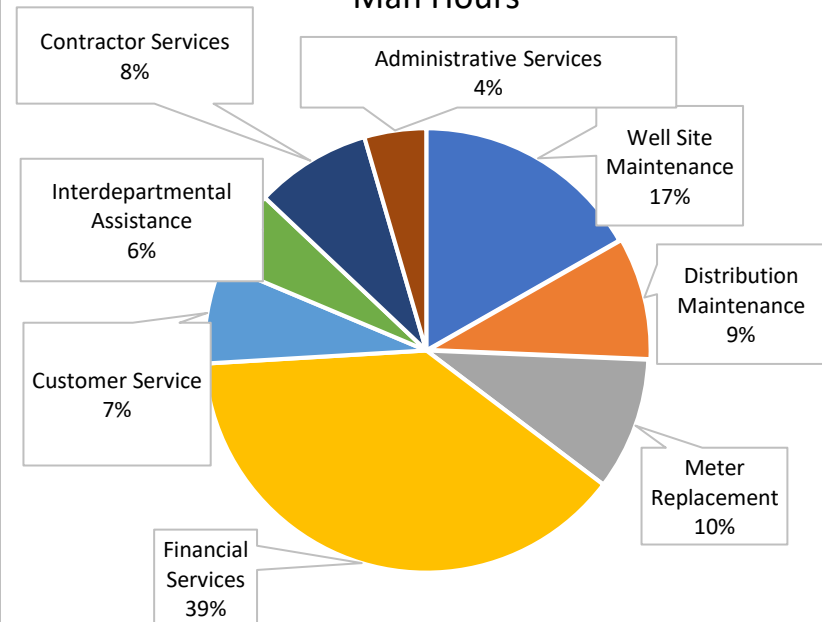
December Water Waste Tickets



Well Status Report - November

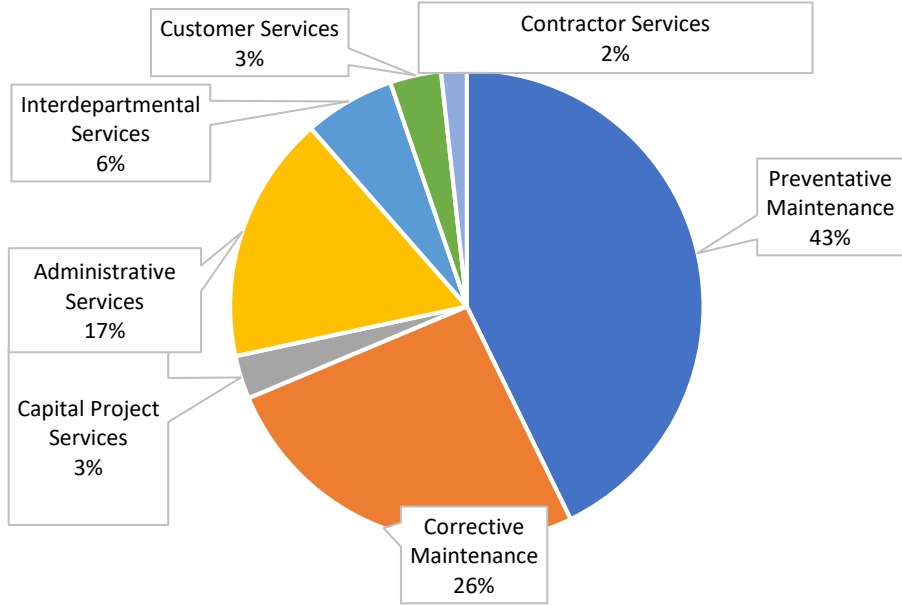


December 2019 Water Maintenance Man Hours

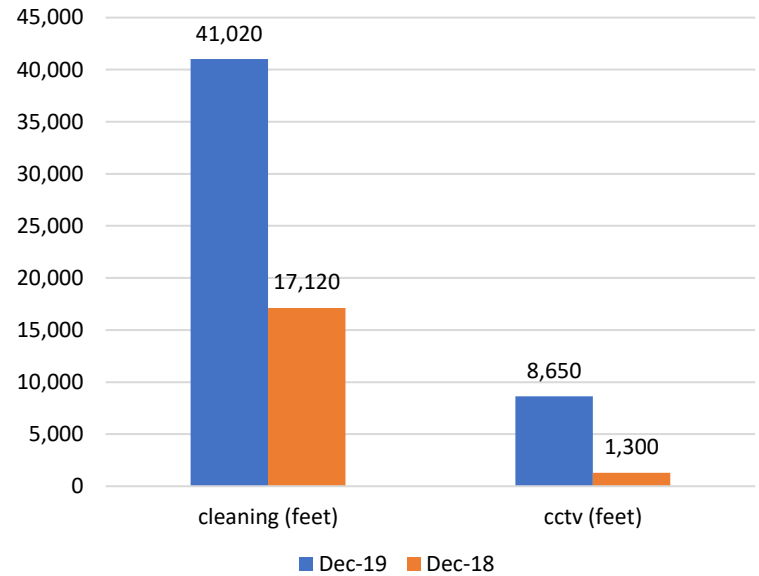


City of Tulare Sewer Collections/Solid Waste –December 2019 Dashboard

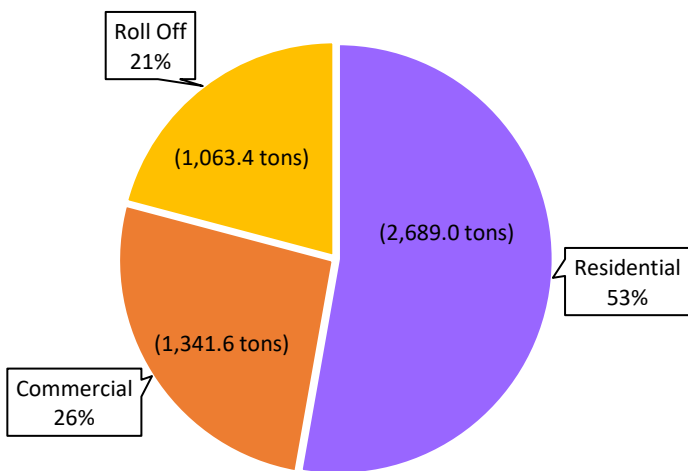
Man Hour Distribution



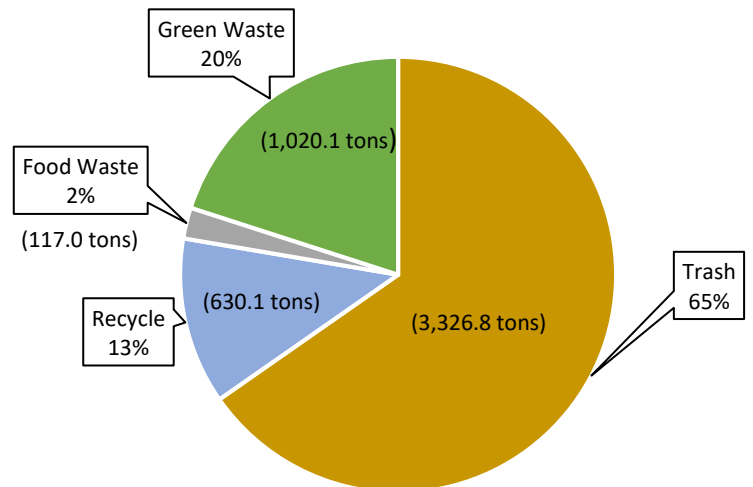
Linear Maintenance Footage



Tonnage by Division

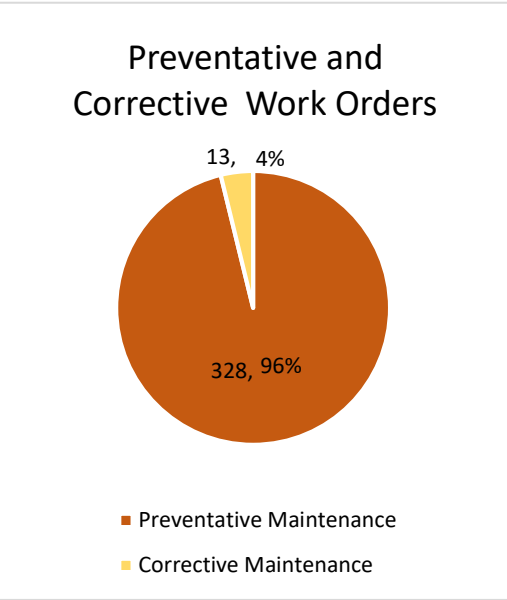
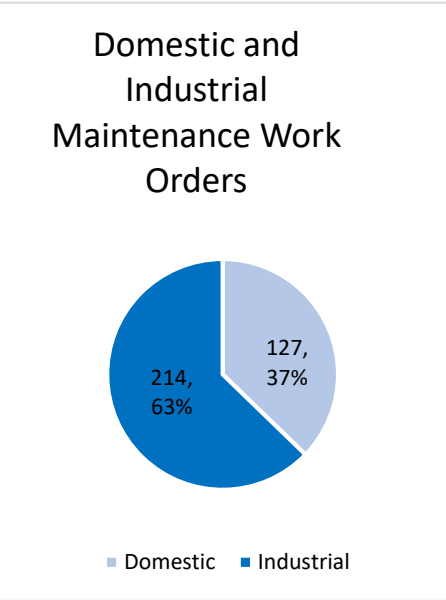


Tonnage by Type

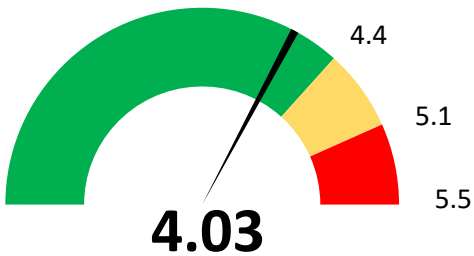


**City of Tulare WWTP Division
December 2019 Dashboard**

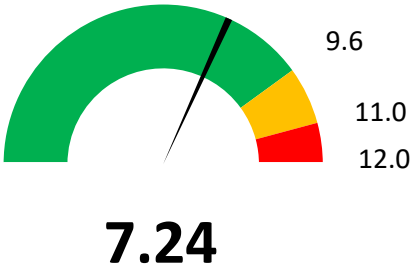
Compliance			
	BOD	TSS	Nitrogen
	<40mg/l	<40mg/l	<13mg/l
Efficiency	97.1%	91.0%	86.0%
Sample Avg (mg/l)	56.00	86.90	13.00



Domestic Influent Daily Average (MG)



Industrial Influent Daily Average (MG)



**CITY OF TULARE, CALIFORNIA
BOARD OF PUBLIC UTILITIES COMMISSIONERS
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Public Works – Wastewater Division

For Board Meeting of: January 16, 2020

Documents Attached: Ordinance Resolution Other None

AGENDA ITEM:

Approve and authorize the City Manager to execute an updated lease estoppel between the City and 1875 West St Solar, LLC, referred to as Borrego Solar Systems, subject to minor conforming changes by the City Attorney’s Office.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

On August 16, 2018, the Board approved a Power Purchase Agreement (PPA) with Borrego Solar Systems, and on September 4, 2018, the City Council approved the same PPA. As the project continued to move forward, on October 16, 2018, the City Council approved a 25-year lease agreement with Borrego for the lease of the property at the Wastewater Treatment Plant for the additional 2 MW system.

On December 20, 2018, the BPU approved the first amendment to the PPA with Borrego which primarily made changes to the lease which incorporated various terms from the PPA by reference. Other changes to the PPA were made to conform to the ownership provision, to clarify the definition of “system” and where it begins and ends, and other technical changes.

Through the same December 18, 2018 item for the PPA amendment, the BPU also approved an amendment to the Lease and Easement Agreement which clarified ownership of parts of the system. Minor revisions were made to correlate with the PPA and other associated documents.

In addition to the PPA amendment and Lease and Easement agreement, the long-term asset owner (ie – the investor), their lender and the title insurance provider required various documents be executed before moneys could be released to fund construction. Those documents were a Consent & Assignment – for both the PPA and lease agreement. These documents were required by the investor’s lender to confirm the City’s consent to the assignment of the PPA and Lease as collateral to the lender, and to clearly identify the lender’s rights. This reinforced the consents to assignments already made by the City under the PPA and lease agreement. The other documents were estoppels for both the PPA and lease agreement. These were also required by the investor prior to taking ownership of the solar project/system to verify the current state of the project (e.g. no legal claims by the City against the project, no force majeure exists, etc.) and restated certain representations made by the City under the PPA and lease agreement.

The system was completed and received "Permission to Operate" (PTO) on November 19, 2019. Borrego and their financing partners are now asking the City to sign an updated estoppel for the Lease and Assignment agreement as part of an upcoming portion of funding they are seeking. They are not seeking any additional amendments or consents. A copy of the lease agreement dated October 18, 2018 is attached. The City Attorney has reviewed and approved the proposed estoppel.

STAFF RECOMMENDATION:

Approve and authorize the City Manager to execute an updated lease estoppel between the City and 1875 West St Solar, LLC, referred to as Borrego Solar Systems, subject to minor conforming changes by the City Attorney's Office.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

FUNDING SOURCE/ACCOUNT NUMBER:

Submitted by: Trisha Whitfield

Title: Public Works Director

Date: January 7, 2020

City Manager Approval: *RT*

LANDLORD ESTOPPEL CERTIFICATE

1875 West St Solar, LLC
c/o Tortoise Capital Advisors
5100 W. 115th Place
Leawood, KS 66211

RF Pitchfork Solar, LLC (“Investor”)
c/o Rockwood Collateral Services, LLC
190 Carondelet Plaza, Suite 1250
St. Louis, MO 63105

Re: Lease and Easement Agreement dated October 18, 2018, by and between the City of Tulare (“Landlord”), and 1875 West St Solar, LLC, a Delaware limited liability company (“Tenant”), as amended by that First Amendment to Lease and Easement Agreement dated as of December 18, 2018 (the “Lease”), for the premises, which is part of that certain parcel of real property owned by Landlord known as 1875 South West Street, Tulare, CA 93274 and more particularly described in the Lease (the “Leased Premises”)

Ladies and Gentlemen:

The undersigned Landlord acknowledges that all membership interests in Tenant are currently held by Renewable Holdco II, LLC, a Delaware limited liability company (“Holdco”), which is owned by TEAF Solar, LLC, a Delaware limited liability company, and Investor. The undersigned Landlord does hereby certify to Tenant, Holdco, Lender and Investor, and their successors and assigns, their potential lenders and their member, managers and other participants, and their respective successors and assigns, as follows:

1. All capitalized terms not defined herein shall have the meaning set forth in the Lease.
2. Landlord represents, warrants and certifies to Lender that Landlord is the fee owner of the Premises, and (1) a true and correct copy of the Lease, including all amendments, modifications, supplements and waivers with respect thereto as of the date hereof, is attached hereto as Exhibit A; (2) the Lease is in full force and effect; (3) the Lease represents the entire agreement between Landlord and Tenant regarding the subject matter thereof; (4) Landlord has not modified, amended or changed the Lease in any respect except as set forth in Exhibit A; (5) the Lease constitutes the entire agreement between Landlord and Tenant with respect to the Premises; (6) Landlord has not transferred, assigned or hypothecated any of its rights or interests under the Lease to any other person or entity; (7) there are no existing defaults by Landlord under the Lease; (8) to the actual knowledge of the Landlord, there are no existing defaults by Tenant under the Lease, (9) all amounts due under the Lease from Tenant to Landlord as of the date hereof have been paid; and (10) there are no leases in effect to which the Landlord’s use of the Premises are subject or subordinate.
3. Landlord has not given Tenant written notice of any dispute between Landlord and Tenant. Tenant is not in default under the Lease.

4. Landlord confirms all of Landlord's representations and warranties contained in the Lease are true and correct in all material respects as of the date made.
5. No default has occurred and is continuing under the Lease nor to the best of Landlord's knowledge has any event or condition occurred that, with the giving of notice or the passage of time, would constitute a default under the Lease or would otherwise permit either party to terminate or suspend its obligations under the Lease.
6. Landlord is not the subject of any bankruptcy, insolvency or similar proceeding in any federal, state or other court or jurisdiction.
7. The Term of the Lease commenced on October 18, 2018, and runs for twenty five (25) years, and may be extended for one additional term of ten (10) years.
8. The consideration for the lease has been paid in full. Landlord does not claim any owed fees, reimbursements or other payments payable under the Lease. Except as outlined in this section, there are no provisions for, and Landlord has no rights with respect to, terminating the Lease or increasing the fees payable thereunder, except as provided in the Lease.
9. All obligations of Tenant under the Lease have been completed as of the date hereof.
10. Tenant has not paid a security, letter of credit or other deposit with respect to the Lease.
11. Landlord is in compliance with all representations, warranties and covenants which are binding upon Landlord under the terms of the Lease.
12. The person(s) executing this Landlord Estoppel Certificate on behalf of the Landlord are duly authorized to do so.
13. No third party has any option or preferential right to purchase all or any part of the Premises.
14. Landlord has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against Landlord's interest in the Premises.
15. Landlord has not received written notice that it is in violation of any governmental law or regulation applicable to its interest in the Premises and its operation thereon, including, without limitation, any environmental laws and has no reason to believe that there are grounds for any claim of any such violation.
16. Landlord has no unsatisfied claims against Tenant for indemnity with respect to Tenant's actions on or about the Premises.
17. Landlord confirms that there are no other leases including no oil and gas leases, timber deeds, crop leases or any other agreements, whether oral or written in effect with respect to the Premises.

18. This Landlord Estoppel Certificate shall be governed by, and construed under, the laws of the State of California without regard to conflicts of law principles.
19. This Landlord Estoppel Certificate shall have the effect of estopping the undersigned from making any assertions contrary to the contents hereof; and shall serve as a waiver of any claim by the undersigned to the extent that such claim is asserted against any person permitted to rely upon, and who has acted in reliance upon this Landlord Estoppel Certificate.

Landlord acknowledges that Tenant, Holdco, Lender and Investor and their successors and assigns, and their potential lenders and their member, managers and other participants, and their respective successors and assigns, shall be entitled to rely upon this certification by Landlord.

LANDLORD:

Date: _____

CITY OF TULARE

By: _____

Name: _____

Its: _____

EXHIBIT A

The Lease

<See attached>

Schedule 5

Lease and Easement Agreement

This Lease and Easement Agreement (this "*Agreement*"), dated as of October 18, 2018 (the "*Effective Date*"), is by and between 1875 West St Solar, LLC, a Delaware limited liability company ("*Lessee*"), and the City of Tulare, a Municipal Corporation ("*Lessor*"). Capitalized terms not otherwise defined herein shall have the definitions attributed to them in that certain Solar Power Services Agreement, dated August 16, 2018, between Lessee and Lessor (the "*SPSA*"). Lessor and Lessee are sometimes referred to individually as a "Party" and collectively as the "Parties".

WITNESSETH

WHEREAS, Lessor owns or leases the real property as identified in Exhibit A attached hereto (the "*Property*");

WHEREAS, Lessor wishes to lease to Lessee a portion of the Property more particularly described in Exhibit B (the "*Land*") for the purpose of constructing, installing, owning, operating and maintaining a solar photovoltaic system (the "*System*") as more particularly described in the SPSA and grant to Lessee easements for the purpose of accessing the Land and transmitting the electricity; and

WHEREAS, Lessee desires that Lessor lease the Land to Lessee and grant the easements as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Lessee and Lessor hereby agree as follows:

1. Lease. Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, in accordance with the terms and conditions hereinafter set forth, the Land for the purpose of Lessee constructing, installing, owning, operating, and maintaining the System (the "*Lease*").

2. Easement. Lessor hereby grants to Lessee an access easement across or through the Property and any surrounding or nearby property owned or leased by Lessor, passage through which is necessary or convenient to gain access to the System (the "*Access Easement*") and a utility easement to construct, use and maintain the System, including electric lines and poles and all necessary appurtenances thereto on, over, under and through the Property (the "*Utility Easement*" and together with the Access Easement, the "*Easement*"), all in the locations identified in Exhibit C (the "*Easement Area*"). Lessee shall have the right to grant a sub-easement to any utility provider as reasonably necessary for Lessee to interconnect the System to the grid, without obtaining consent from Lessor. Lessee shall have the right to use the Easement as reasonably necessary to perform the installation work and operate and maintain the System. The parties agree that the Easement and other rights conferred by this Agreement run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, successors and assigns. The Land and the Easement Area are collectively referred to herein as the "*Premises*." In the event that a utility provider requires an easement in connection with Lessee's use of the Premises, Lessor shall grant such necessary easement to the utility provider, provided that such easement is in a commercially reasonable and recordable form.

3. Benefits. Lessee shall pay Lessor one U.S. dollar (\$1.00) on the Effective Date as consideration for this Agreement.

4. System Construction, Installation, Operation, and Ownership.

(a) Lessor hereby consents to the design, construction, installation, operation, maintenance, repair, and periodic alteration, replacement, and removal of the System on the Premises, including, without limitation, solar panels, mounting substrates or supports, wiring and connections, power inverters, service equipment, metering equipment and utility interconnections.

(b) Lessor acknowledges and agrees that Lessee is the exclusive owner and operator of the System and that all equipment comprising the System shall remain the personal property of the Lessee and shall not become fixtures, notwithstanding the manner in which the System is or may be affixed to any real property of Lessor. Lessor shall have no right, title or interest in the System or any component thereof, notwithstanding that the System may be physically mounted or adhered to the Premises. If Lessor is the fee owner of the Property, Lessor consents to the filing by Lessee, on behalf of Lessor, of a disclaimer of the System as a fixture of the Property in the office where real estate records are customarily filed in the jurisdiction of the Property. If Lessor is not the fee owner, Lessor will, at Lessee's request, use commercially reasonable efforts to obtain such consent from such owner.

5. Representations and Warranties, Covenants of Lessor.

(a) Lessor represents and warrants that Lessor has lawful title to (or a valid leasehold interest in) the Premises and, subject to the approval of the fee owner, if any, full right to enter into this Agreement.

(b) Lessor represents and warrants that Lessor (i) has been duly authorized to enter into this Agreement by all necessary action, and (ii) subject to the approval of the fee owner, if any, will not be in default under any agreement to which it is a party as a result of entering into this Agreement.

(c) Lessor represents, warrants and covenants that it shall not permit any lien, claim, right or other encumbrance to attach to the System and agrees to discharge any lien, claim, encumbrance or interest that attaches to the System (other than liens, claims, encumbrances or interest placed on the System by Lessee or Lessee's creditors).

6. Term. The term of this Agreement shall commence on the Effective Date and terminate on the date that is twenty-five (25) years after the Commercial Operation Date, as defined in the SPSA (the "**Term**"); provided that any renewal of the SPSA pursuant to Section 6.1 of the SPSA shall extend the Term until the Expiration Date, as defined in Section 6.1 of the SPSA. Upon extension of the Agreement pursuant to this Section 6, the Agreement shall terminate upon the earlier of the Expiration Date of the SPSA and the date that is thirty-five (35) years after the Effective Date of this Agreement. After termination of this Agreement, Lessor grants Lessee a license to enter the Premises for sixty (60) days to remove the System. Notwithstanding the foregoing, if the SPSA has terminated for any reason, this Agreement shall terminate on the date on which the SPSA terminates. Under no circumstances shall the Term exceed an aggregate of 35 years.

7. Cooperation. Lessor shall cooperate with Lessee's requests to assist Lessee in obtaining any necessary agreements, permits, approvals, including any zoning, land use, environmental, building and other permits required to construct, install, operate and maintain the System and any leases and approvals from the utility necessary in order to interconnect the System to the electrical system and/or the utility's electric distribution system. Lessor shall obtain a non-disturbance agreement ("**NDA**") in favor of Lessee from any third party who now has or may in the future obtain an interest in the Property or Premises, including, without limitation, lenders to Lessor, in a form reasonably acceptable to Lessee.

8. **Maintenance.** Lessor shall, at all times at Lessor's sole cost and expense, maintain the Encasements. In the case of rooftop and canopy Systems, Lessor shall, at all times at Lessor's sole cost and expense, maintain the Premises in a manner sufficient to structurally support the System. All maintenance and repairs shall be carried out in a manner that minimizes the impact on the System. In the case of ground mount Systems, Lessee shall, at all times at Lessee's sole cost and expense, maintain the Land in a manner sufficient to operate the System. All maintenance and repairs shall be carried out in a manner that minimizes the impact on the System.

9. **Events of Default, Remedies.**

(a) The following events shall be defaults with respect to Lessor (each, a "**Lessor Event of Default**"):

(i) Lessor breaches any material term of this Agreement if (A) such breach can be cured within thirty (30) days after Lessee's written notice of such breach and Lessor fails to so cure, or (B) Lessor otherwise fails to commence within such thirty (30) day period and diligently pursue and complete within ninety (90) days said cure, if a longer cure period is needed; and

(ii) Lessor fails to pay Lessee any undisputed amount due Lessee under this Agreement within thirty (30) days from receipt of written notice from Lessee of such past due amount; and

(iii) A condemning authority takes all, or a portion, of the Premises which in Lessee's opinion is sufficient to render the Premises unsuitable for Lessee's use.

If a Lessor Event of Default has occurred and is continuing, in addition to other remedies that may be expressly provided herein, Lessee may terminate this Agreement, and pursue any and all remedies provided to Lessor under the SPSA.

(b) The following events shall be defaults with respect to Lessee (each, a "**Lessee Event of Default**"):

(i) Lessee breaches any material term of this Agreement if (A) such breach can be cured within thirty (30) days after Lessee's written notice of such breach and Lessor fails to so cure, or (B) Lessor otherwise fails to commence within such thirty (30) day period and diligently pursue and complete within ninety (90) days said cure, if a longer cure period is needed; and

(ii) Lessee fails to pay Lessor any undisputed amount due Lessor under this Agreement within thirty (30) days from receipt of written notice from Lessor of such past due amount.

If a Lessee Event of Default has occurred and is continuing, in addition to other remedies that may be expressly provided herein, Lessor may terminate this Agreement.

10. **Assignment.** Neither party shall have the right to assign any of its rights, duties or obligations under this Agreement without the prior written consent of the other party, which consent may not be unreasonably withheld, conditioned or delayed; provided, however, that Lessee may in its sole discretion and without the consent of Lessor assign any of its rights, duties or obligations under this Agreement to (i) one or more of its Affiliates, (ii) to a Financing Party, (iii) collaterally assign or pledge its interest hereunder in connection with any financing of the System, or (iv) any person succeeding to all or substantially all of the assets of Lessee, (any of the foregoing being a "**Permitted Transfer**"). An assignment by either Party in accordance with this Section 10 shall, provided that assignee assumes the assignor's obligations under this Agreement, relieve the assignor of its obligations hereunder, except with respect to undisputed payments due by the assignor as of the effective date of the assignment, which

obligations shall be performed by assignor or assignee as a condition precedent to such assignment. This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns.

11. **Incorporation of SPSA Terms.** Lessor acknowledges the terms of the SPSA Sections 4.7 (Hazardous Materials), 5.1 (Title to the System), 5.2 (Ownership of Attributes), 5.3 (Ownership of Rebates), 5.8 (Taxes), 5.9 (Quiet Enjoyment), 5.10 (Insulation), 8.4 (Limitation on Liability), 10.1 and 10.2 (Insurance), 10.4 (Casualty), 10.5 (Condemnation), 11.4 (Financing Accommodations), Article 12 (Indemnity), 13.1 (Additional Documents), and 13.2 (Confidentiality) are hereby incorporated by reference and are made a part hereof as if set forth herein at length, Lessor being substituted for "Customer" under the SPSA and Lessee being substituted for "Provider" under the SPSA and with respect to Section 11.4, this Agreement being substituted for "this Agreement".

12. **Amendments.** This Agreement may be amended only in writing signed by Lessee and Lessor or their respective successors in interest or permitted assigns.

13. **Notices.** All notices and communications concerning this Agreement shall be in writing and shall be delivered as provided in the SPPA Section 13.19.

14. **Waiver.** The waiver by either party of any breach of any term, condition, or provision herein contained shall not be deemed to be a waiver of such term, condition, or provision, or any subsequent breach of the same, or any other term, condition, or provision contained herein.

15. **Headings.** The headings in this Agreement are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Agreement.

16. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without reference to any choice of law principles.

17. **Binding Effect.** This Agreement and its rights, privileges, duties and obligations shall inure to the benefit of and be binding upon each of the parties hereto, together with their respective successors and permitted assigns.

18. **Counterparts.** This Agreement may be executed in counterparts, which shall together constitute one and the same agreement. Facsimile or .pdf signatures shall have the same effect as original signatures and each party consents to the admission in evidence of a facsimile or photocopy of this Agreement in any court or arbitration proceedings between the parties.

19. **Further Assurances.** Upon the receipt of a written request from the other party, each party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof. Neither party shall unreasonably withhold, condition or delay its compliance with any reasonable request made pursuant to this Agreement.

20. **Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY LAW, EACH PARTY HEREBY IRREVOCABLY WAIVES ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION IN ANY COURT IN ANY JURISDICTION BASED UPON OR ARISING OUT OF OR RELATING TO THIS AGREEMENT.

21. **Compliance With Laws.** Lessee shall not use the Premises or any part thereof or suffer or permit Lessee's agents or contractors to do anything in or about the Premises in conflict with any applicable law, statute, zoning restriction, ordinance, or governmental law, code, rule or regulation affecting (a) the condition, use or occupancy of the Premises or (b) the construction, installation, ownership, operation or

maintenance of the System, Lessee shall not commit any public or private nuisance or any other act or practice which would materially disturb the quiet enjoyment of any occupant of nearby properties.

22. Conflicts. To the extent any conflicts exist between this Agreement and the SPSA, the terms of the SPSA shall control.

23. Recording. Lessor hereby consents to the recording of a Memorandum of Lease, at Lessee's sole cost, in substantially the form of Exhibit D attached hereto.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF intending to be legally bound hereby, the parties have executed this Agreement as of the Effective Date.

LESSOR:

CITY OF TULARE, a Municipal Corporation

By: David Macedo 10/16/18
Name: David Macedo
Title: Mayor

CITY OF TULARE BOARD OF PUBLIC UTILITIES

By: James Pennington 10/18/18
Name: James Pennington
Title: Board President

LESSEE:

1875 West St Solar, LLC, a Delaware limited liability company

By: 1115 Solar Development, LLC,
its sole member and manager

By: Brendan Neale
Name: Brendan Neale
Title: VP Project Finance

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

All that land situated in the County of Tulare, State of California and described as follows:

That portion of the southwest quarter and the southeast quarter of Section 16 Township 20 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, described as follows:

Those certain parcels designated "Remainder" parcel and "Parcel 2" of Parcel Map No. 4964, according to the map thereof recorded in Book 50 Page 69 of Parcel Maps, Official Records of Tulare County and the southeast quarter of Section 16 Township 20 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California

EXHIBIT B
LAND LEGAL DESCRIPTION

Solar Lease Legal Description
for
Borrego Solar Incorporated

LEASE AREA "A"

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

Commencing at the Center of Section 16;

Thence, South $73^{\circ}25'54''$ West, a distance of 1354.36' feet, to the Southeasterly corner of Solar Lease Area "A" and the **True Point of Beginning** for the herein described parcel of land;

- 1) Thence, from said **True Point of Beginning** North $89^{\circ}32'06''$ West, a distance of 45.08' feet;
- 2) Thence, South $00^{\circ}27'54''$ West, a distance of 41.64' feet;
- 3) Thence, North $89^{\circ}32'06''$ West, a distance of 357.08' feet;
- 4) Thence, North $00^{\circ}27'54''$ East, a distance of 315.04' feet, to a point that is South $25^{\circ}15'34''$ East, a distance of 84.66' feet from the most Northeasterly corner of Parcel 1;
- 5) Thence, South $89^{\circ}32'06''$ East, a distance of 402.89' feet;
- 6) Thence, South $00^{\circ}27'54''$ West, a distance of 273.40' feet, to the **True Point of Beginning** for the herein described parcel of land;

The above described parcel of land contains an area of 125,021.63 square feet or 2.87 acres more or Less

Basis of Bearing for the above described parcel is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

LEASE AREA "B"

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

Commencing at the Center of Section 16;

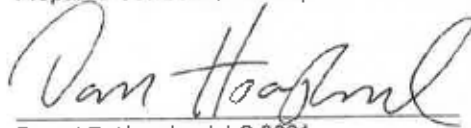
Thence, South 68°21'32" West, a distance of 1336.88' feet, to the Northwest corner of Solar Lease Area "B" and the True Point of Beginning for the herein described parcel of land,

- 1) Thence, from said True Point of Beginning South 89°32'06" East, a distance of 767.76' feet;
- 2) Thence, South 00°27'54" West, a distance of 285.55' feet;
- 3) Thence, North 89°32'06" West, a distance of 613.37' feet;
- 4) Thence, South 00°27'54" West, a distance of 300.04' feet, to a point that is North 57°58'45" West, a distance of 491.11' feet from the Northeast corner of Parcel 2;
- 5) Thence, North 89°32'06" West, a distance of 174.43' feet;
- 6) Thence, North 00°27'54" East, a distance of 585.60' feet, to the True Point of Beginning for the herein described parcel of land;

The above described parcel of land contains an area of 277,287.09 square feet or 6.36 acres more or Less

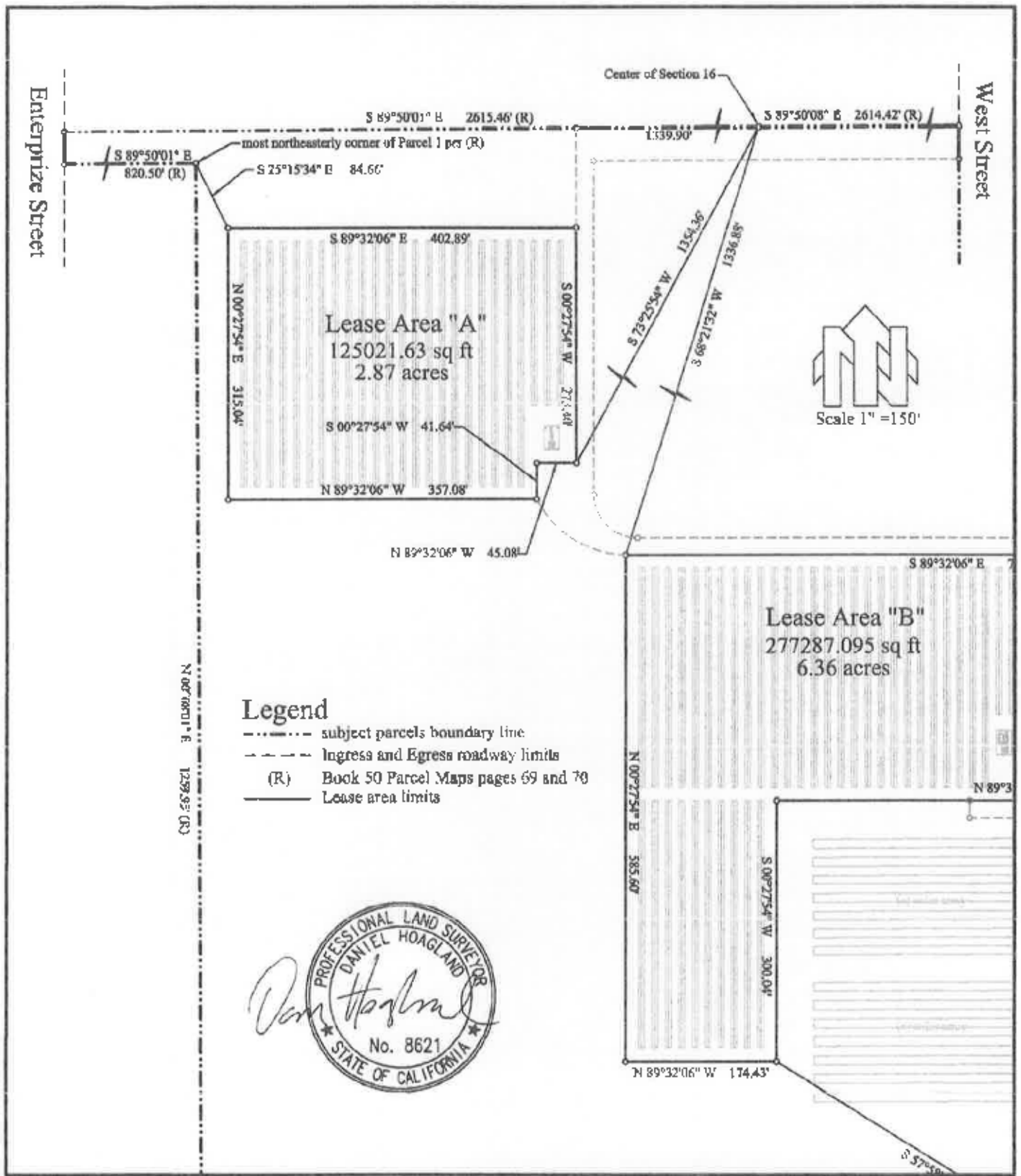
Basis of Bearing for the above described parcel is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

Prepared October 5, 2018 by:



Daniel E. Hoagland, LS 8621





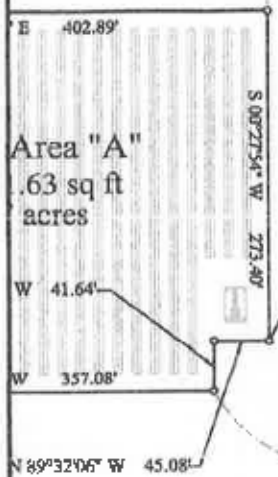
Solar Lease Exhibit
 Sheet 1 of 2

Solar Lease Area Exhibit
 for
Borrego Solar
 at
City of Tulare Sewer Treatment Facility

Prepared By:
Compass Consulting Incorporated
 14743 Stinson Drive
 Grass Valley, California 95949
 Phone (530) 210-6398

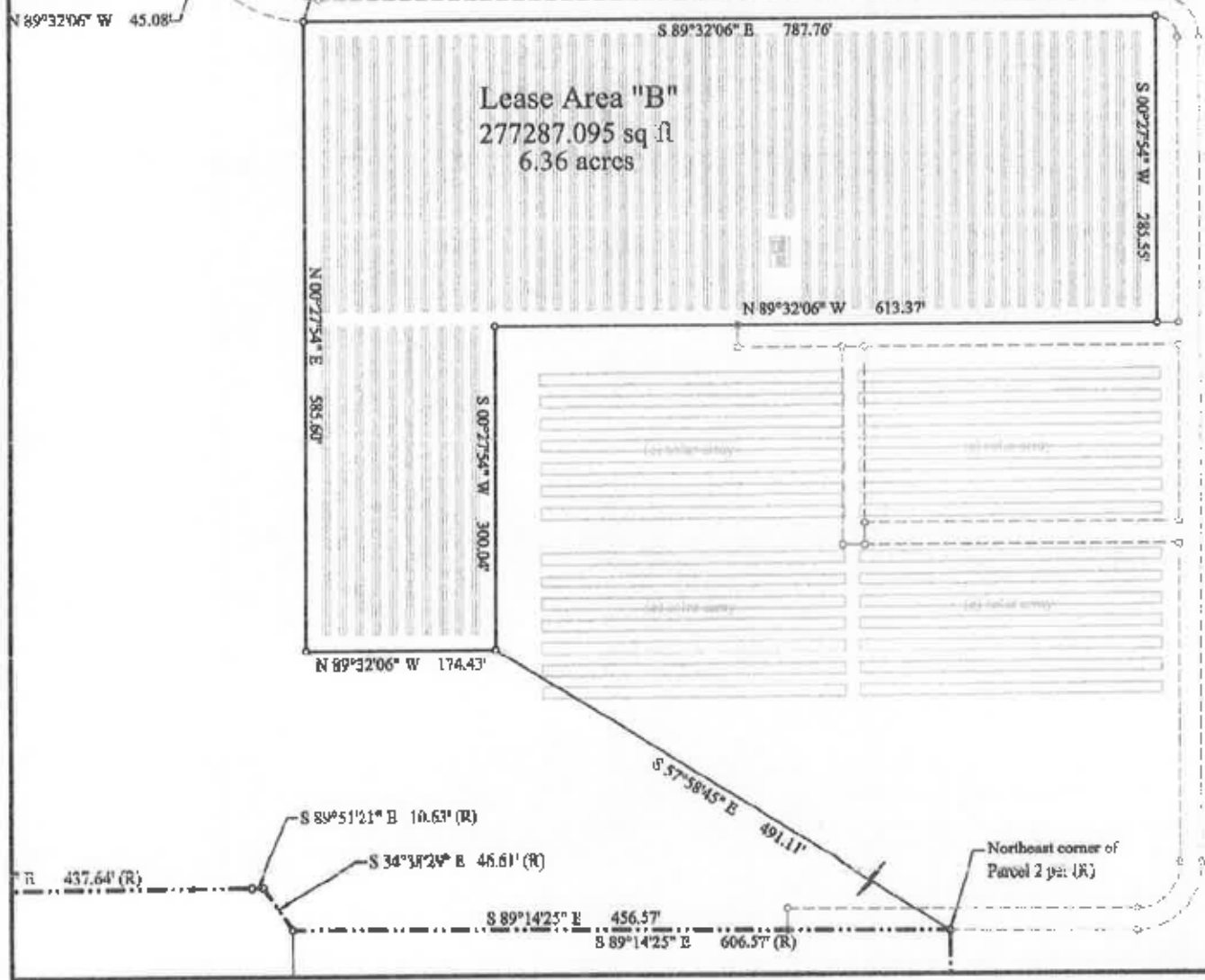


Scale 1" = 150'



Legend

- - - - - subject parcel's boundary line
- - - - - ingress and egress roadway limits
- (R) Book 50 Parcel Maps pages 69 and 70
- Lease area limits



Sheet 2 of 2 Solar Lease Exhibit Project No. 18-162	Solar Lease Area Exhibit for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398
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EXHIBIT C
EASEMENT AREA LEGAL DESCRIPTION

Solar Lease Ingress and Egress Easement Legal Description
for
Borrego Solar Incorporated

EASEMENT NUMBER 1 – Ingress and Egress on existing roadways

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

Beginning at the Center of Section 16;

Thence, from said **True Point of Beginning**, the following 30 courses

- 1) Thence, South 89°50'08" East, a distance of 2614.42' feet, along the North line of the Southeast One Quarter of Section 16 to a point in the West right of way line of West Street.
- 2) Thence, along said West right of way line of West Street, South 00°19'31" West, a distance of 38.00' feet;
- 3) Thence, leaving said West right of way line of West Street, North 89°50'05" West, a distance of 3889.48' feet;
- 4) Thence, South 00°27'54" West, a distance of 388.47' feet to the beginning of a tangent curve to the left;
- 5) Thence, along said tangent curve to the left, through a central angle of 90°00'00", said curve having a Radius of 50.00' and an Arc Length of 78.54' feet;
- 6) Thence, South 89°32'06" East, a distance of 774.11' feet, to the beginning of a non-tangent curve to the right;
- 7) Thence, South 44°53'30" East, a distance of 56.52' feet, along a chord of a non-tangent curve to the right with a central angle of 89°55'09" said curve having a Radius of 40.00' and an Arc Length of 62.83' feet;
- 8) Thence, South 00°27'54" West, a distance of 763.47' feet, to the beginning of a non-tangent curve to the right;
- 9) Thence, South 45°08'50" West, a distance of 85.07' feet, along a chord of a non-tangent curve with a central angle of 90°17'24" said curve having a Radius of 60.00' and an Arc Length of 94.56' feet;

- 10) Thence, North 89°14'25" West, a distance of 324.43' feet;
- 11) Thence, North 00°45'35" East, a distance of 20.00' feet;
- 12) Thence, South 89°14'25" East, a distance of 324.43' feet, to the beginning of a non-tangent curve to the left;
- 13) Thence, North 45°08'50" East, a distance of 56.71' feet, along a chord of a non-tangent curve to the left, with a central angle of 90°17'24" said curve having a Radius of 40.00' and an Arc Length of 63.00' feet;
- 14) Thence, North 00°27'54" East, a distance of 294.46' feet;
- 15) Thence, North 89°32'06" West, a distance of 291.92' feet, to a point called Station "A";
- 16) Thence, leaving said Station "A", North 00°27'54" East, a distance of 20.00' feet,
- 17) Thence, South 89°32'06" East, a distance of 291.92' feet;
- 18) Thence, North 00°27'54" East, a distance of 163.50' feet;
- 19) Thence, North 89°32'06" West, a distance of 409.33' feet, to a point called Station "B";
- 20) Thence, leaving said Station "B", North 00°27'54" East, a distance of 20.00' feet;
- 21) Thence, South 89°32'06" East, a distance of 409.33' feet;
- 22) Thence, North 00°27'54" East, a distance of 265.58' feet, to the beginning of a non-tangent curve to the left;
- 23) Thence, North 44°53'30" West, a distance of 28.19' feet, along a chord of a non-tangent curve to the left, with a central angle of 89°37'15" said curve having a Radius of 20.00' and an Arc Length of 31.29' feet;
- 24) Thence, North 89°32'06" West, a distance of 807.76' feet;
- 25) Thence, North 60°58'02" West, a distance of 93.54' feet, to a point called Station "C";
- 26) Thence, leaving said Station "C", North 00°27'54" East, a distance of 61.64' feet;
- 27) Thence, South 89°32'06" East, a distance of 45.06' feet;
- 28) Thence, North 00°27'54" East, a distance of 273.40' feet;
- 29) Thence, North 00°27'54" East, a distance of 116.69' feet, to the North line of the Southwest Quarter of said Section 16;

30) Thence, South 89°50'01" East, a distance of 1294.97' feet, to the **TRUE POINT OF BEGINNING of the herein described parcel of land.**

The above described parcel of land denoted as Easement No. 1 contains an area of 216,051.00 or 4.95 acres +/-

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

EASEMENT NUMBER 2 Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at a point denoted as Station " A", Thence, North 89°32'06" West, a distance of 20.00' feet;
- 2) Thence, North 00°27'54" East, a distance of 183.50' feet;
- 3) Thence, South 89°32'06" East, a distance of 20.00' feet;
- 4) Thence, South 00°27'54" West, a distance of 183.50' feet, to the **TRUE POINT OF BEGINNING of the herein described parcel of land**

The above described parcel of land denoted as Easement No. 2 contains an area of 36,698.00 square feet or 0.084 acres +/-

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

EASEMENT NUMBER 3 – Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in within Parcel 2 in of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at the Northeast corner of said Parcel 2; Thence, along the north line of said Parcel 2, North 89°14'25" West, a distance of 150.00' feet,
- 2) Thence, leaving said North line and running parallel with the East line of said Parcel 2, South 00°09'43" West, a distance of 289.64' feet,
- 3) Thence, South 89°50'17" East, a distance of 100.00' feet,
- 4) Thence, running parallel with the East line of said Parcel 2, South 00°09'43" West, a distance of 1001.47' feet to a point in the North right of way of Paige Avenue,
- 5) Thence, running along the North right of way of Paige Avenue, South 89°47'25" East, a distance of 50.00' feet to a point on the East line of said Parcel 2;
- 6) Thence, along said East line of said Parcel 2, North 00°09'43" East, a distance of 1289.60' feet to the Northeast corner of said Parcel 2 and the True point of beginning of the herein described parcel of land.

The above described parcel of land denoted as Easement No. 3 contains an area of 93,402.19 square feet or 2.14 acres +/- more or less.

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office

EASEMENT NUMBER 4 Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at a point denoted as Station "B", Thence, leaving said Station "B", North 89°32'06" West, a distance of 203.90' feet;
- 2) Thence, South 00°27'54" West, a distance of 362.60' feet;
- 3) Thence, South 89°32'06" East, a distance of 613.23' feet;
- 4) Thence, South 00°27'54" West, a distance of 20.00' feet;
- 5) Thence, North 89°32'06" West, a distance of 827.66' feet;
- 6) Thence, North 00°27'54" East, a distance of 688.16' feet;
- 7) Thence, South 89°32'06" East, a distance of 20.00' feet;
- 8) Thence, South 00°27'54" West, a distance of 668.16' feet;
- 9) Thence, South 89°32'06" East, a distance of 174.43' feet;
- 10) Thence, North 00°27'54" East, a distance of 302.60' feet;
- 11) Thence, South 89°32'06" East, a distance of 223.90' feet;
- 12) Thence, South 00°27'54" West, a distance of 20.00' feet. to the **TRUE POINT OF BEGINNING of the herein described parcel of land**

The above described parcel of land denoted as Easement No. 4 contains an area of 41,646.69 square feet or 0.956 acres +/-

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

EASEMENT NUMBER 5 – Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at a point denoted as Station "C", Thence, leaving said Station "C", North 89°32'06" West, a distance of 341.28' feet to the beginning of a non-tangent curve to the left;
- 2) Thence, South 45°17'58" West, a distance of 42.54' feet, along a chord of a non-tangent curve to the left with a central angle of 89°40'07" said curve having a Radius of 30.17' and an Arc Length of 47.22' feet;
- 3) Thence, South 00°08'01" West, a distance of 23.18' feet;
- 4) Thence, North 89°51'59" West, a distance of 20.00' feet;
- 5) Thence, North 00°08'01" East, a distance of 461.27' feet;
- 6) Thence, South 89°51'59" East, a distance of 20.00' feet;
- 7) Thence, South 00°08'01" West, a distance of 23.03' feet to the beginning of a non-tangent curve to the left;
- 8) Thence, South 44°42'02" East, a distance of 42.30' feet, along a chord of a non-tangent curve to the left with a central angle of 89°40'07" said curve having a Radius of 30.00' and an Arc Length of 46.95' feet;
- 9) Thence, South 89°32'06" East, a distance of 389.49' feet;
- 10) Thence, South 00°27'54" West, a distance of 20.00' feet;
- 11) Thence, North 89°32'06" West, a distance of 402.89' feet;
- 12) Thence, South 00°27'54" West, a distance of 315.04' feet;
- 13) Thence, South 89°32'06" East, a distance of 357.08' feet;

14) Thence, South 00°27'54" West, a distance of 20.00' feet, to the TRUE POINT OF BEGINNING of the herein described parcel of land

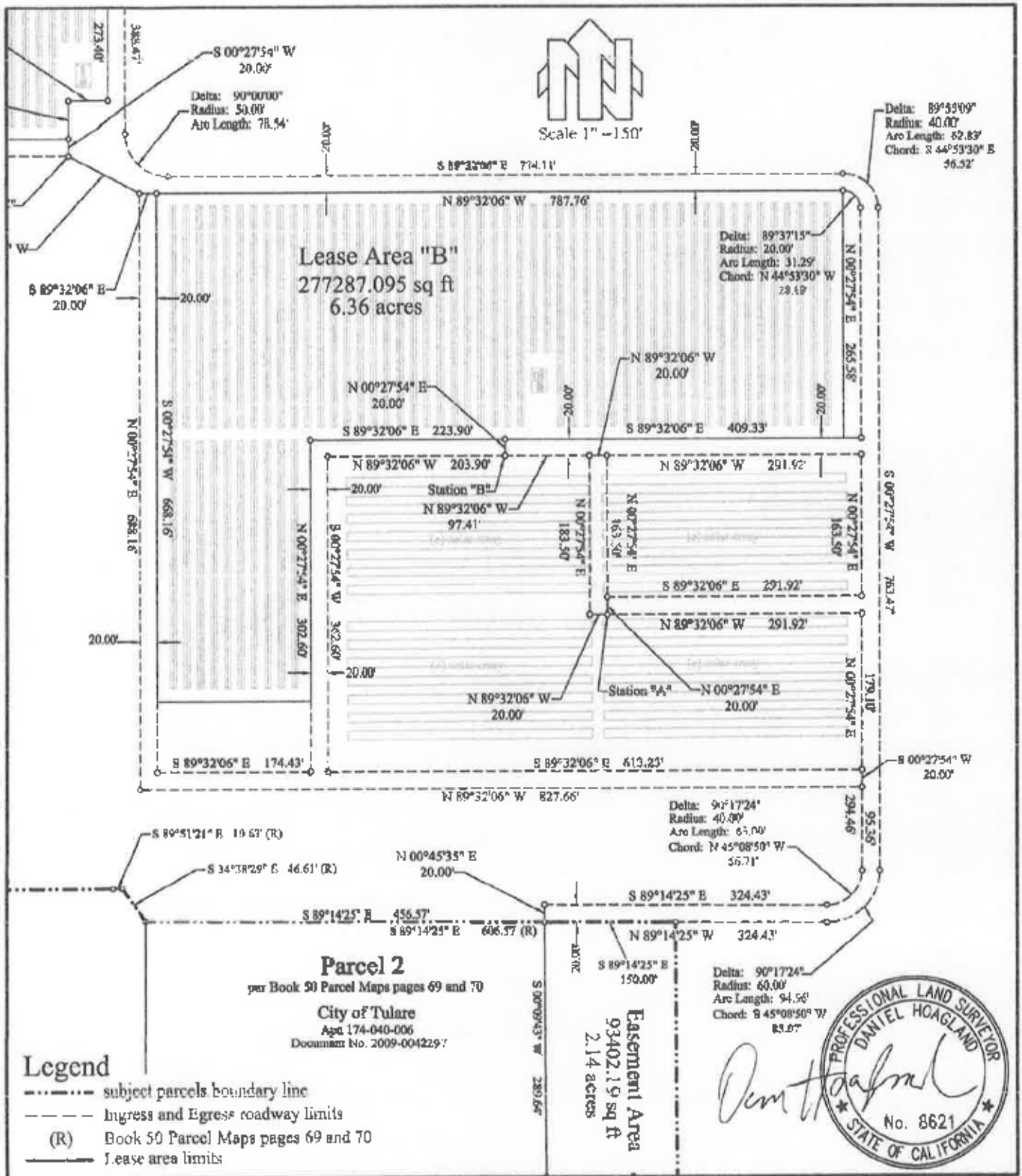
The above described parcel of land denoted as Easement No. 5 contains an area of 30,280.52 square feet or 0.695 acres +/- more or less.

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 18 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office

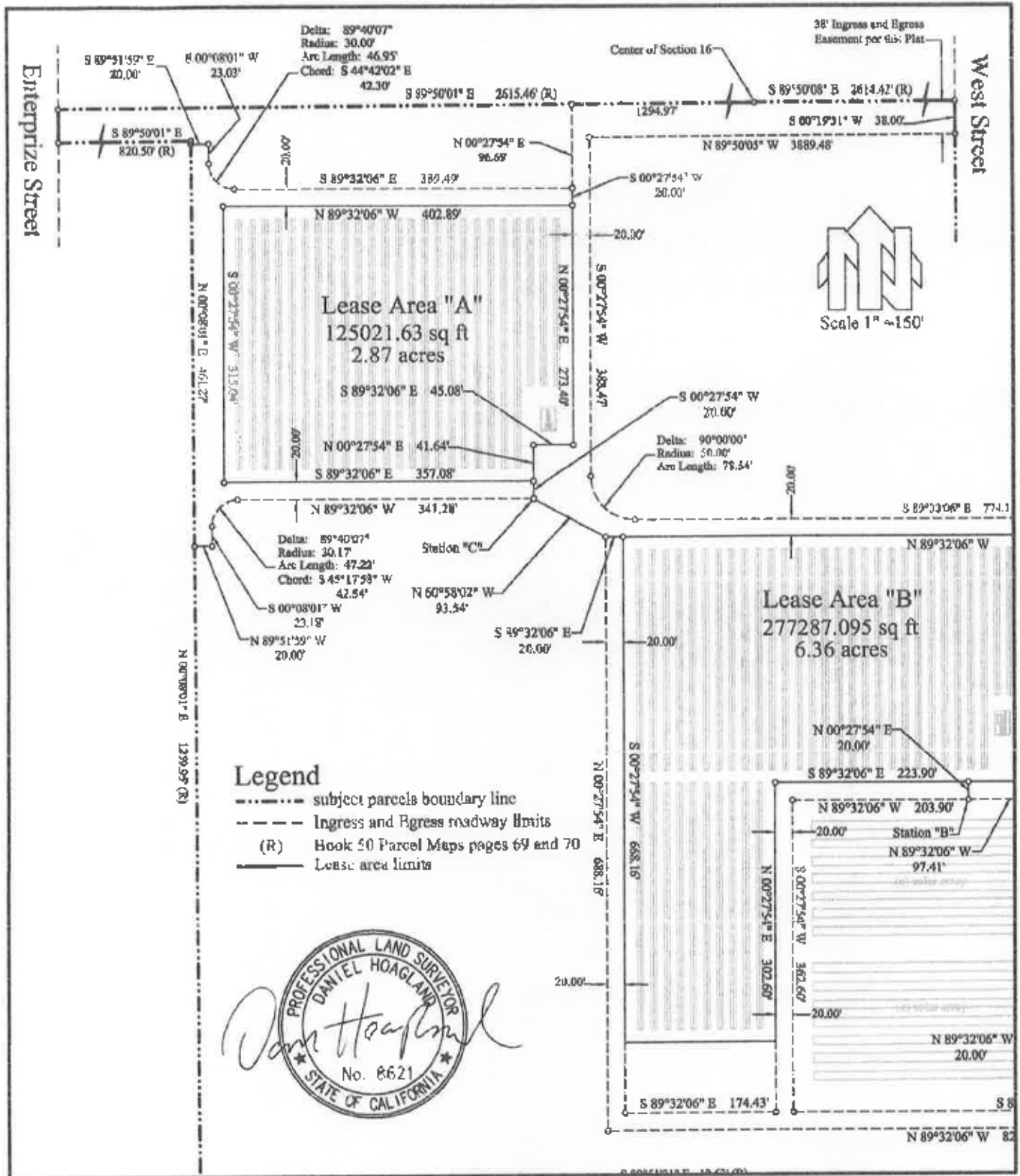
Prepared October 5, 2018 by:


Daniel E. Hoagland, L.S. #8621





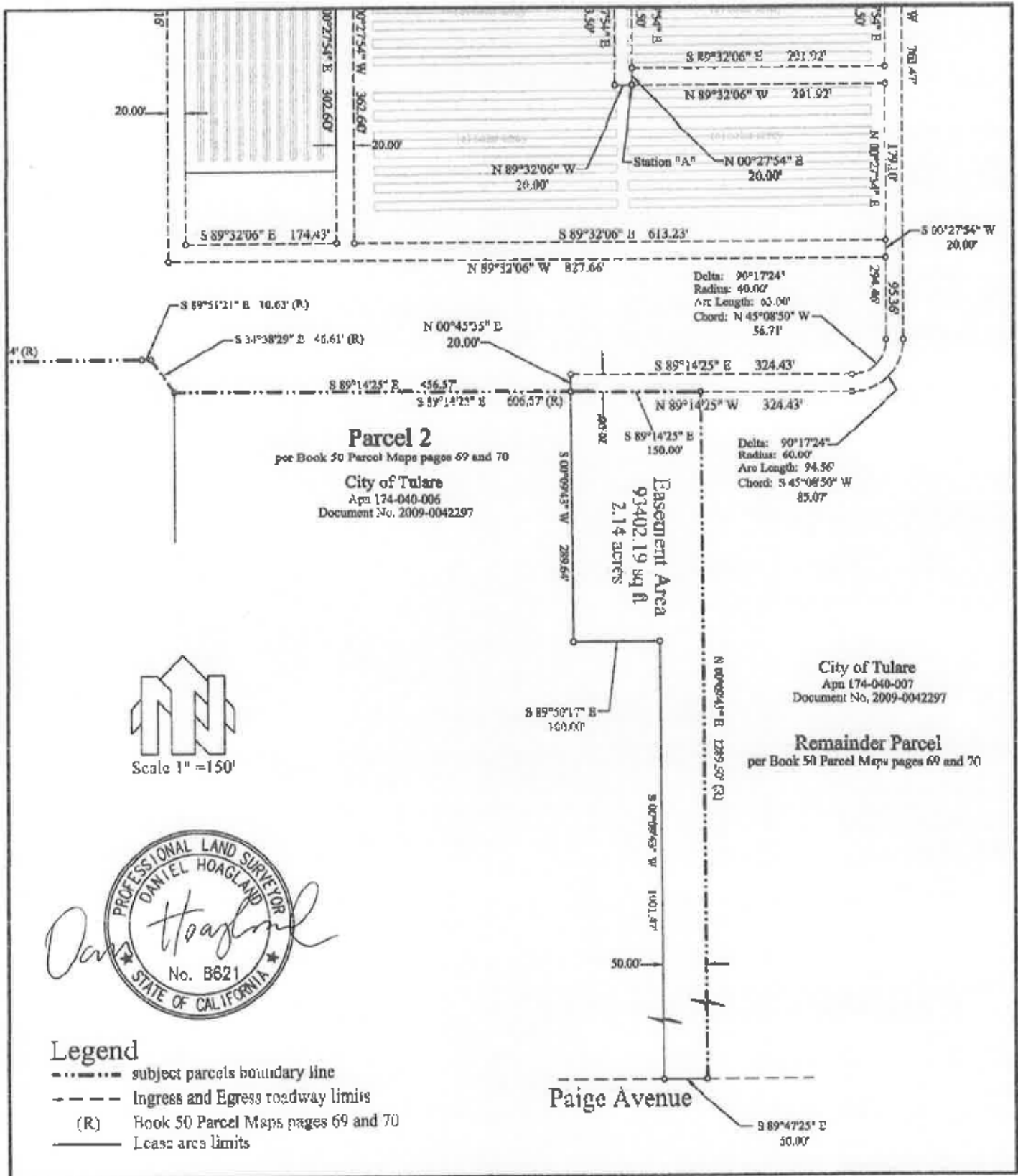
Sheet 1 of 3	Easement Plat	Project No. 18-162	Ingress and Egress Easement Plat for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398



PROFESSIONAL LAND SURVEYOR
DANIEL HOAGLAND
No. 8621
STATE OF CALIFORNIA

Dan Hoagland

Sheet 2 of 3 Easement Plat	Project No. 18-162	Ingress and Egress Easement Plat for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398
	Ingress and Egress Easement Plat for Borrego Solar at City of Tulare Sewer Treatment Facility		



Sheet 3 of 3	Easement Plat	Project No. 18-162	Ingress and Egress Easement Plat for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398

EXHIBIT D
FORM OF MEMORANDUM OF LEASE
[See attached]

**Recording Requested by and
after recording return to:**

1875 West St Solar, LLC
c/o Borrego Solar Systems, Inc.
1814 Franklin Street, Suite 700
Oakland, CA 94612
Attn: Legal Department

No transfer tax due. Term of Lease is less than 35 years.

MEMORANDUM OF LEASE AND EASEMENT AGREEMENT

THIS MEMORANDUM OF LEASE AND EASEMENT AGREEMENT (the "*Memorandum*"), is made as of _____, 2018, by and between City of Tulare, a Municipal Corporation ("*Lessor*") and 1875 West St Solar, LLC, a Delaware limited liability company with its principal place of business located at 1814 Franklin Street, Suite 700, Oakland, California 94612 ("*Lessee*").

RECITALS

A. Lessor is the owner of the real property located in Tulare County, California, more particularly described in **Schedule A** attached hereto (the "*Property*").

B. Lessor and Lessee are parties to that certain Lease and Easement Agreement (the "*Lease*") dated as of _____, 2018 (the "*Effective Date*"). Pursuant to the Lease, Lessor has leased a portion of the Property (the "*Land*") and granted easements over a portion of the Property (the "*Easement Area*") and together with the Land, the "*Premises*") to Lessee as more particularly described in **Schedule B** attached hereto.

AGREEMENT

1. Lessor leases to Lessee and Lessee leases from Lessor, for the Term (as defined below), the Land in accordance with the terms and provisions of the Lease.

2. Lessor grants to Lessee for the Term, the Easements on, over, under and through the Property for access to the System (as defined in the Lease) and to construct, use and maintain the System, including electric lines and poles and all necessary appurtenances thereto in accordance with the terms and provisions of the Lease.

3. The term of the Lease (the "*Term*") commenced on the Effective Date and terminates on the date that is twenty-five years after the Commercial Operation Date. The Term can be extended for up to two (2) successive terms of five (5) years each, but in no event shall the Term exceed thirty-five (35) years.

4. All of the terms, covenants and conditions of the Lease are incorporated herein and made a part hereof. The purpose of this Memorandum is to give notice of the existence of the tenancy and Easements created by the Lease; and shall not be construed to vary or otherwise affect the rights or obligations of the parties under the Lease as it may be amended.

5. As set forth more fully in the Lease, (a) Lessor shall not interfere with the insolation of solar energy over the System, and (b) the System shall remain the personal property of Lessee and shall not attach to, or be deemed a part of, or fixture to, the Property.

6. This Memorandum shall be governed by the laws of the State of California.

7. The parties agree that this Memorandum may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have duly executed this Memorandum as of the date first above written.

LESSOR:

CITY OF TULARE, a Municipal Corporation

By: _____

Name:

Title:

LESSEE:

1875 West St Solar, LLC, a Delaware limited liability company

By: 1115 Solar Development, LLC,
its sole member and manager

By: _____

Name:

Title:

SCHEDULE A
to
MEMORANDUM OF LEASE AND EASEMENT AGREEMENT

PROPERTY LEGAL DESCRIPTION

All that land situated in the County of Tulare, State of California and described as follows:

That portion of the southwest quarter and the southeast quarter of Section 16 Township 20 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, described as follows:

Those certain parcels designated "Remainder" parcel and "Parcel 2" of Parcel Map No. 4964, according to the map thereof recorded in Book 50 Page 69 of Parcel Maps, Official Records of Tulare County and the southeast quarter of Section 16 Township 20 South, Range 24 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California

SCHEDULE B
to
MEMORANDUM OF LEASE AND EASEMENT AGREEMENT

PREMISES LEGAL DESCRIPTION
(Land and Easement Area)

Solar Lease Legal Description
for
Borrego Solar Incorporated

LEASE AREA "A"

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

Commencing at the Center of Section 16:

Thence, South 73°25'54" West, a distance of 1354.36' feet, to the Southeasterly corner of Solar Lease Area "A" and the **True Point of Beginning** for the herein described parcel of land;

- 1) Thence, from said **True Point of Beginning** North 89°32'06" West, a distance of 45.08' feet;
- 2) Thence, South 00°27'54" West, a distance of 41.64' feet;
- 3) Thence, North 89°32'06" West, a distance of 357.08' feet;
- 4) Thence, North 00°27'54" East, a distance of 315.04' feet, to a point that is South 25°15'34" East, a distance of 84.66' feet from the most Northeasterly corner of Parcel 1;
- 5) Thence, South 89°32'06" East, a distance of 402.89' feet;
- 6) Thence, South 00°27'54" West, a distance of 273.40' feet, to the **True Point of Beginning** for the herein described parcel of land;

The above described parcel of land contains an area of 125,021.63 square feet or 2.87 acres more or Less

Basis of Bearing for the above described parcel is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

LEASE AREA "B"

All that contain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

Commencing at the Center of Section 16;

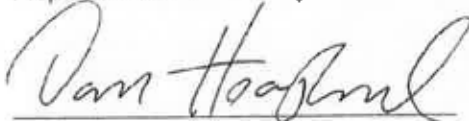
Thence, South 68°21'32" West, a distance of 1336.88' feet, to the Northwest corner of Solar Lease Area "B" and the **True Point of Beginning** for the herein described parcel of land;

- 1) Thence, from said **True Point of Beginning** South 89°32'06" East, a distance of 787.76' feet;
- 2) Thence, South 00°27'54" West, a distance of 285.55' feet;
- 3) Thence, North 89°32'06" West, a distance of 613.37' feet;
- 4) Thence, South 00°27'54" West, a distance of 300.04' feet, to a point that is North 57°58'45" West, a distance of 491.11' feet from the Northeast corner of Parcel 2;
- 5) Thence, North 89°32'06" West, a distance of 174.43' feet;
- 6) Thence, North 00°27'54" East, a distance of 585.60' feet, to the **True Point of Beginning** for the herein described parcel of land; .

The above described parcel of land contains an area of 277,287.09 square feet or 6.36 acres more or Less

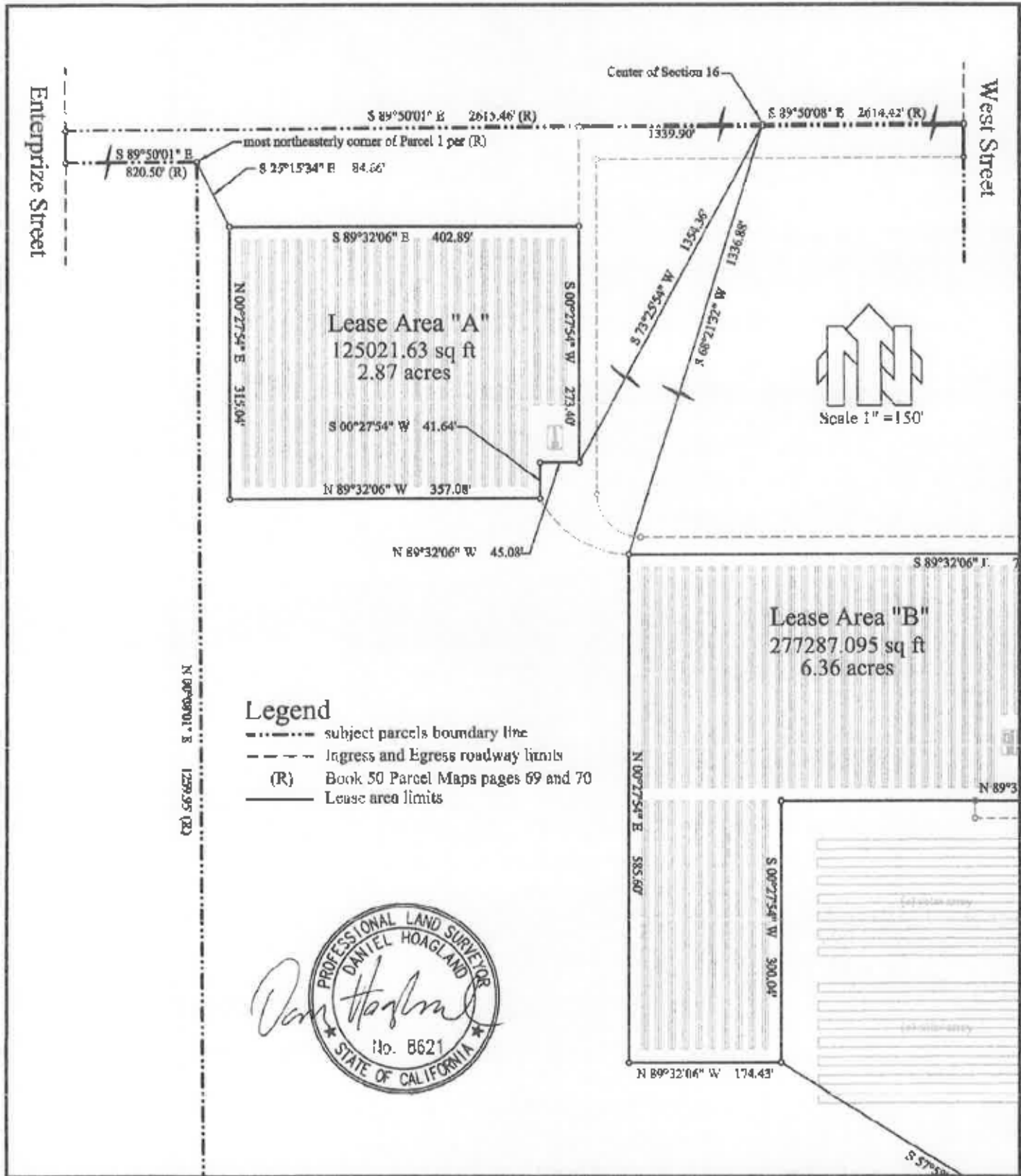
Basis of Bearing for the above described parcel is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

Prepared October 5, 2018 by:

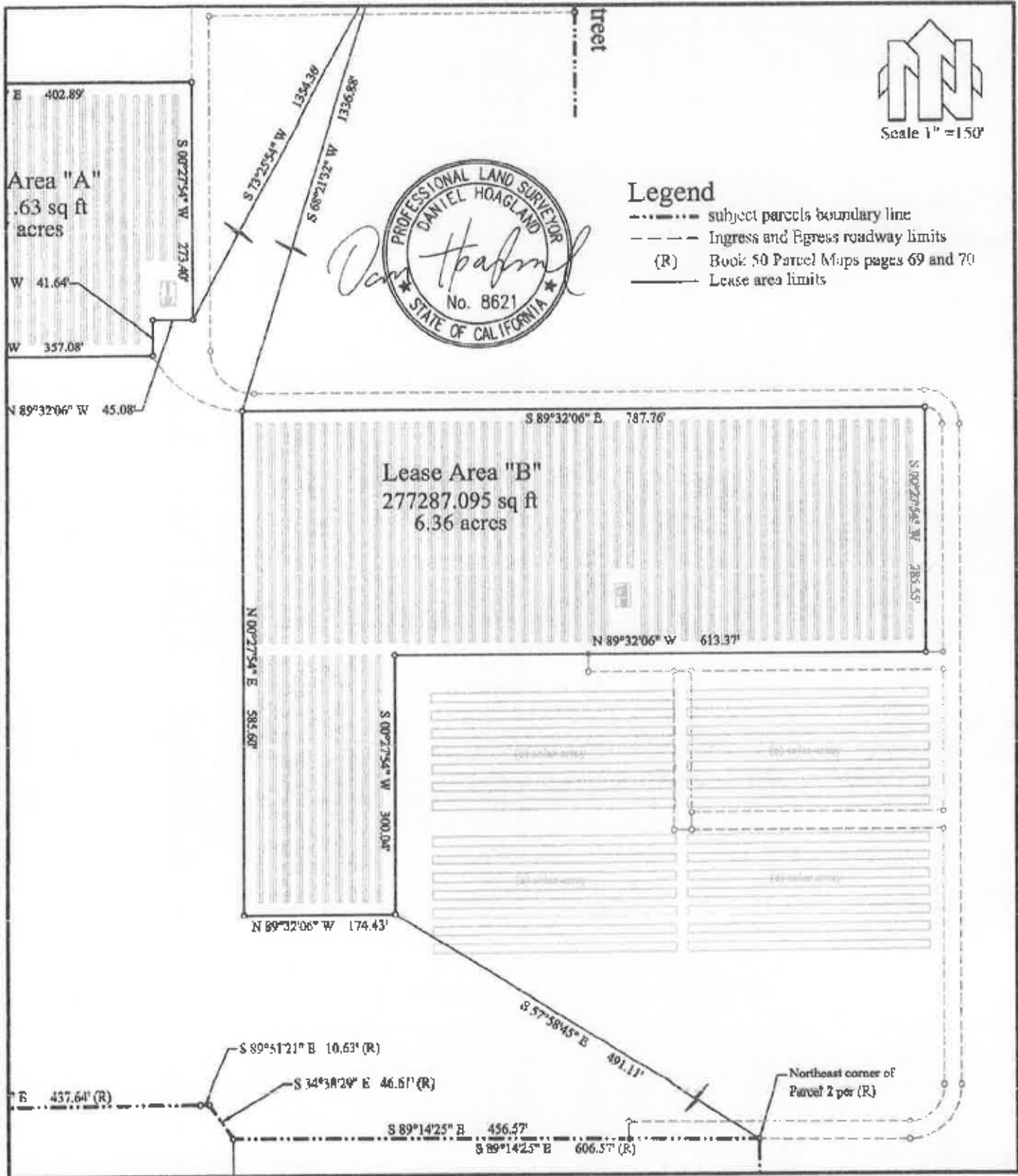
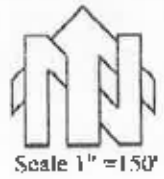


Daniel E. Hoagland, LS 8621





Solar Lease Exhibit Sheet 1 of 2	Project No. 18-162	Solar Lease Area Exhibit for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398
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Solar Lease Exhibit Sheet 2 of 2	Project No. 18-162	Solar Lease Area Exhibit for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398
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Solar Lease Ingress and Egress Easement Legal Description
for
Borrego Solar Incorporated

EASEMENT NUMBER 1 – Ingress and Egress on existing roadways

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

Beginning at the Center of Section 16;

Thence, from said **True Point of Beginning**, the following 30 courses

- 1) Thence, South 89°50'08" East, a distance of 2614.42' feet, along the North line of the Southeast One Quarter of Section 16 to a point in the West right of way line of West Street.
- 2) Thence, along said West right of way line of West Street, South 00°19'31" West, a distance of 38.00' feet;
- 3) Thence, leaving said West right of way line of West Street, North 89°50'06" West, a distance of 3889.48' feet;
- 4) Thence, South 00°27'54" West, a distance of 388.47' feet to the beginning of a tangent curve to the left;
- 5) Thence, along said tangent curve to the left, through a central angle of 90°00'00", said curve having a Radius of 50.00' and an Arc Length of 78.54' feet;
- 6) Thence, South 89°32'06" East, a distance of 774.11' feet, to the beginning of a non-tangent curve to the right;
- 7) Thence, South 44°53'30" East, a distance of 56.52" feet, along a chord of a non-tangent curve to the right with a central angle of 89°55'09" said curve having a Radius of 40.00' and an Arc Length of 62.83' feet;
- 8) Thence, South 00°27'54" West, a distance of 763.47' feet, to the beginning of a non-tangent curve to the right;
- 9) Thence, South 45°08'50" West, a distance of 85.07" feet, along a chord of a non-tangent curve with a central angle of 90°17'24" said curve having a Radius of 60.00' and an Arc Length of 94.56' feet;

- 10) Thence, North $89^{\circ}14'25''$ West, a distance of 324.43' feet;
- 11) Thence, North $00^{\circ}45'35''$ East, a distance of 20.00' feet;
- 12) Thence, South $89^{\circ}14'25''$ East, a distance of 324.43' feet, to the beginning of a non-tangent curve to the left;
- 13) Thence, North $45^{\circ}08'50''$ East, a distance of 56.71' feet, along a chord of a non-tangent curve to the left, with a central angle of $90^{\circ}17'24''$ said curve having a Radius of 40.00' and an Arc Length of 63.00' feet;
- 14) Thence, North $00^{\circ}27'54''$ East, a distance of 294.46' feet;
- 15) Thence, North $89^{\circ}32'06''$ West, a distance of 291.92' feet, to a point called Station "A";
- 16) Thence, leaving said Station "A", North $00^{\circ}27'54''$ East, a distance of 20.00' feet,
- 17) Thence, South $89^{\circ}32'06''$ East, a distance of 291.92' feet;
- 18) Thence, North $00^{\circ}27'54''$ East, a distance of 163.50' feet;
- 19) Thence, North $89^{\circ}32'06''$ West, a distance of 409.33' feet, to a point called Station "B";
- 20) Thence, leaving said Station "B", North $00^{\circ}27'54''$ East, a distance of 20.00' feet;
- 21) Thence, South $89^{\circ}32'06''$ East, a distance of 409.33' feet;
- 22) Thence, North $00^{\circ}27'54''$ East, a distance of 265.58' feet, to the beginning of a non-tangent curve to the left;
- 23) Thence, North $44^{\circ}53'30''$ West, a distance of 28.19' feet, along a chord of a non-tangent curve to the left, with a central angle of $89^{\circ}37'15''$ said curve having a Radius of 20.00' and an Arc Length of 31.29' feet;
- 24) Thence, North $89^{\circ}32'06''$ West, a distance of 807.76' feet;
- 25) Thence, North $60^{\circ}58'02''$ West, a distance of 93.54' feet, to a point called Station "C";
- 26) Thence, leaving said Station "C", North $00^{\circ}27'54''$ East, a distance of 61.64' feet;
- 27) Thence, South $89^{\circ}32'06''$ East, a distance of 45.08' feet;
- 28) Thence, North $00^{\circ}27'54''$ East, a distance of 273.40' feet;
- 29) Thence, North $00^{\circ}27'54''$ East, a distance of 116.69' feet, to the North line of the Southwest Quarter of said Section 16;

30) Thence, South 89°50'01" East, a distance of 1294.97' feet, to the **TRUE POINT OF BEGINNING of the herein described parcel of land.**

The above described parcel of land denoted as Easement No. 1 contains an area of 216,051.00 or 4.95 acres +/-

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed In the Tulare County Recorder's office.

EASEMENT NUMBER 2 Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at a point denoted as Station " A", Thence, North 89°32'06" West, a distance of 20.00' feet;
- 2) Thence, North 00°27'54" East, a distance of 183.50' feet;
- 3) Thence, South 89°32'06" East, a distance of 20.00' feet;
- 4) Thence, South 00°27'54' West, a distance of 183.50' feet, to the **TRUE POINT OF BEGINNING of the herein described parcel of land**

The above described parcel of land denoted as Easement No. 2 contains an area of 36,698.00 square feet or 0.084 acres +/-

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

EASEMENT NUMBER 3 – Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in within Parcel 2 in of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at the Northeast corner of said Parcel 2; Thence, along the north line of said Parcel 2, North 89°14'25" West, a distance of 150.00' feet,
- 2) Thence, leaving said North line and running parallel with the East line of said Parcel 2, South 00°09'43" West, a distance of 289.64' feet,
- 3) Thence, South 89°50'17" East, a distance of 100.00' feet,
- 4) Thence, running parallel with the East line of said Parcel 2, South 00°09'43" West, a distance of 1001.47' feet to a point in the North right of way of Paige Avenue,
- 5) Thence, running along the North right of way of Paige Avenue, South 89°47'25" East, a distance of 50.00' feet to a point on the East line of said Parcel 2;
- 6) Thence, along said East line of said Parcel 2, North 00°09'43" East, a distance of 1289.60' feet to the Northeast corner of said Parcel 2 and the True point of beginning of the herein described parcel of land.

The above described parcel of land denoted as Easement No. 3 contains an area of 93,402.19 square feet or 2.14 acres +/- more or less.

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office

EASEMENT NUMBER 4 Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at a point denoted as Station "B", Thence, leaving said Station "B", North 89°32'06" West, a distance of 203.90' feet;
- 2) Thence, South 00°27'54" West, a distance of 362.60' feet;
- 3) Thence, South 89°32'06" East, a distance of 613.23' feet;
- 4) Thence, South 00°27'54" West, a distance of 20.00' feet;
- 5) Thence, North 89°32'06" West, a distance of 827.66' feet;
- 6) Thence, North 00°27'54" East, a distance of 688.16' feet;
- 7) Thence, South 89°32'06" East, a distance of 20.00' feet;
- 8) Thence, South 00°27'54" West, a distance of 668.16' feet;
- 9) Thence, South 89°32'06" East, a distance of 174.43' feet;
- 10) Thence, North 00°27'54" East, a distance of 302.60' feet;
- 11) Thence, South 89°32'06" East, a distance of 223.90' feet;
- 12) Thence, South 00°27'54" West, a distance of 20.00' feet. to the **TRUE POINT OF BEGINNING of the herein described parcel of land**

The above described parcel of land denoted as Easement No. 4 contains an area of 41,646.69 square feet or 0.956 acres +/-

Basis of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 69 and 70 filed in the Tulare County Recorder's office.

EASEMENT NUMBER 5 – Ingress and Egress easement for existing roadways and for electrical transmission connections

THE SIDELINES OF SAID EASEMENT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

All that certain real property situated in the South half of Section 16, Township 20 South, Range 24 East M.D.M. and M. within the County of Tulare, State of California, as shown on that certain Parcel Map filed in the Office of the Tulare County Recorder in Book 50 of Parcel Maps at page 69 and 70 and described as follows:

- 1) **Beginning** at a point denoted as Station "C", Thence, leaving said Station "C", North 89°32'06" West, a distance of 341.28' feet to the beginning of a non-tangent curve to the left;
- 2) Thence, South 45°17'58" West, a distance of 42.54" feet, along a chord of a non-tangent curve to the left with a central angle of 89°40'07" said curve having a Radius of 30.17' and an Arc Length of 47.22' feet;
- 3) Thence, South 00°08'01" West, a distance of 23.18' feet;
- 4) Thence, North 89°51'59" West, a distance of 20.00' feet;
- 5) Thence, North 00°08'01" East, a distance of 461.27' feet;
- 6) Thence, South 89°51'59" East, a distance of 20.00' feet;
- 7) Thence, South 00°08'01" West, a distance of 23.03' feet to the beginning of a non-tangent curve to the left;
- 8) Thence, South 44°42'02" East, a distance of 42.30" feet, along a chord of a non-tangent curve to the left with a central angle of 89°40'07" said curve having a Radius of 30.00' and an Arc Length of 46.95' feet;
- 9) Thence, South 89°32'06" East, a distance of 389.49' feet;
- 10) Thence, South 00°27'54" West, a distance of 20.00' feet;
- 11) Thence, North 89°32'06" West, a distance of 402.89' feet;
- 12) Thence, South 00°27'54" West, a distance of 315.04' feet;
- 13) Thence, South 89°32'06" East, a distance of 357.08' feet;

14) Thence, South 00°27'54" West, a distance of 20.00' feet, to the **TRUE POINT OF BEGINNING** of the herein described parcel of land

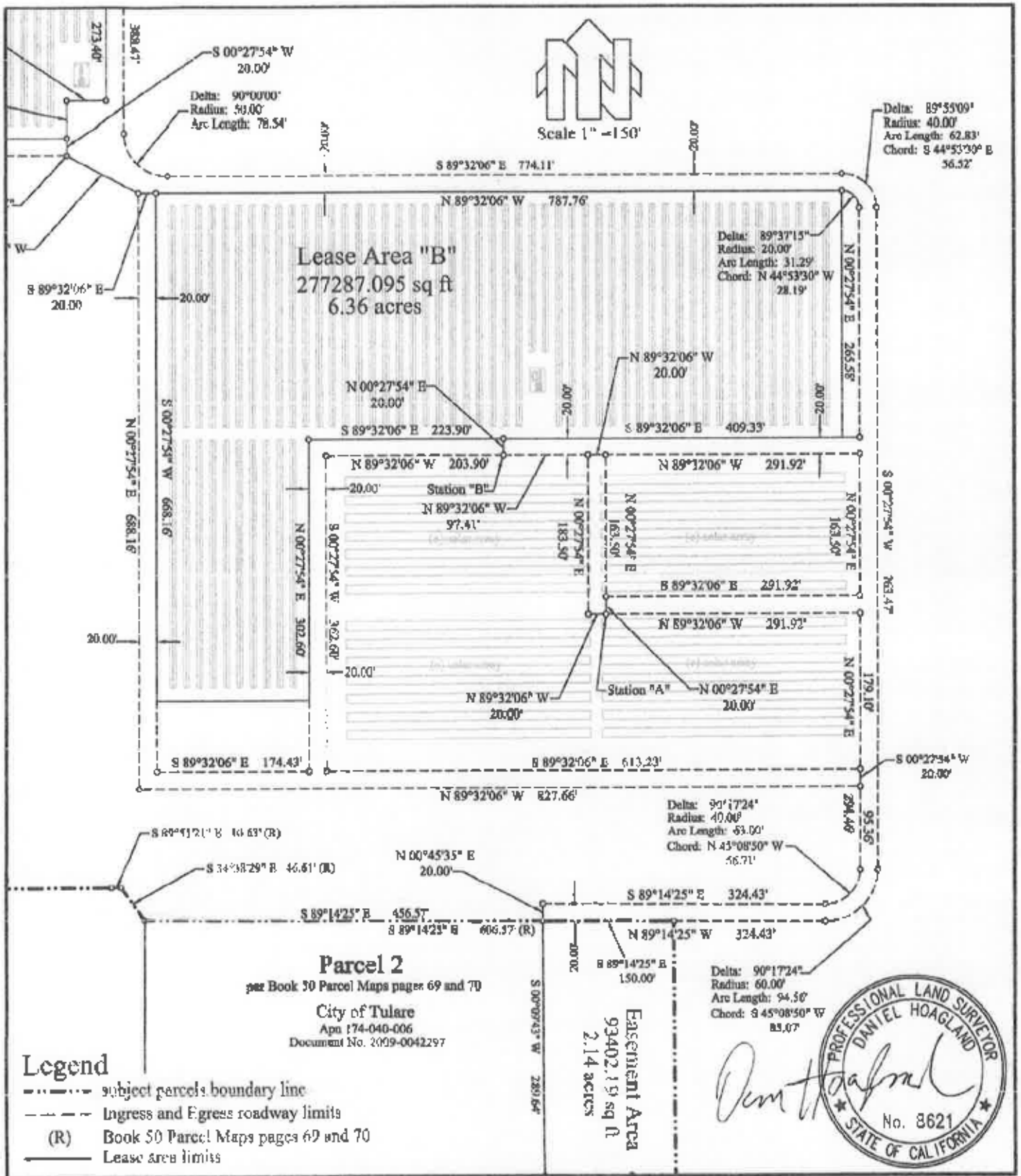
The above described parcel of land denoted as Easement No. 5 contains an area of 30,280.52 square feet or 0.695 acres +/- more or less.

Base of Bearing for the above described parcels is the North line of the Southwest One Quarter of Section 16 per Book 50 of Parcel Maps at Pages 63 and 70 filed in the Tulare County Recorder's office

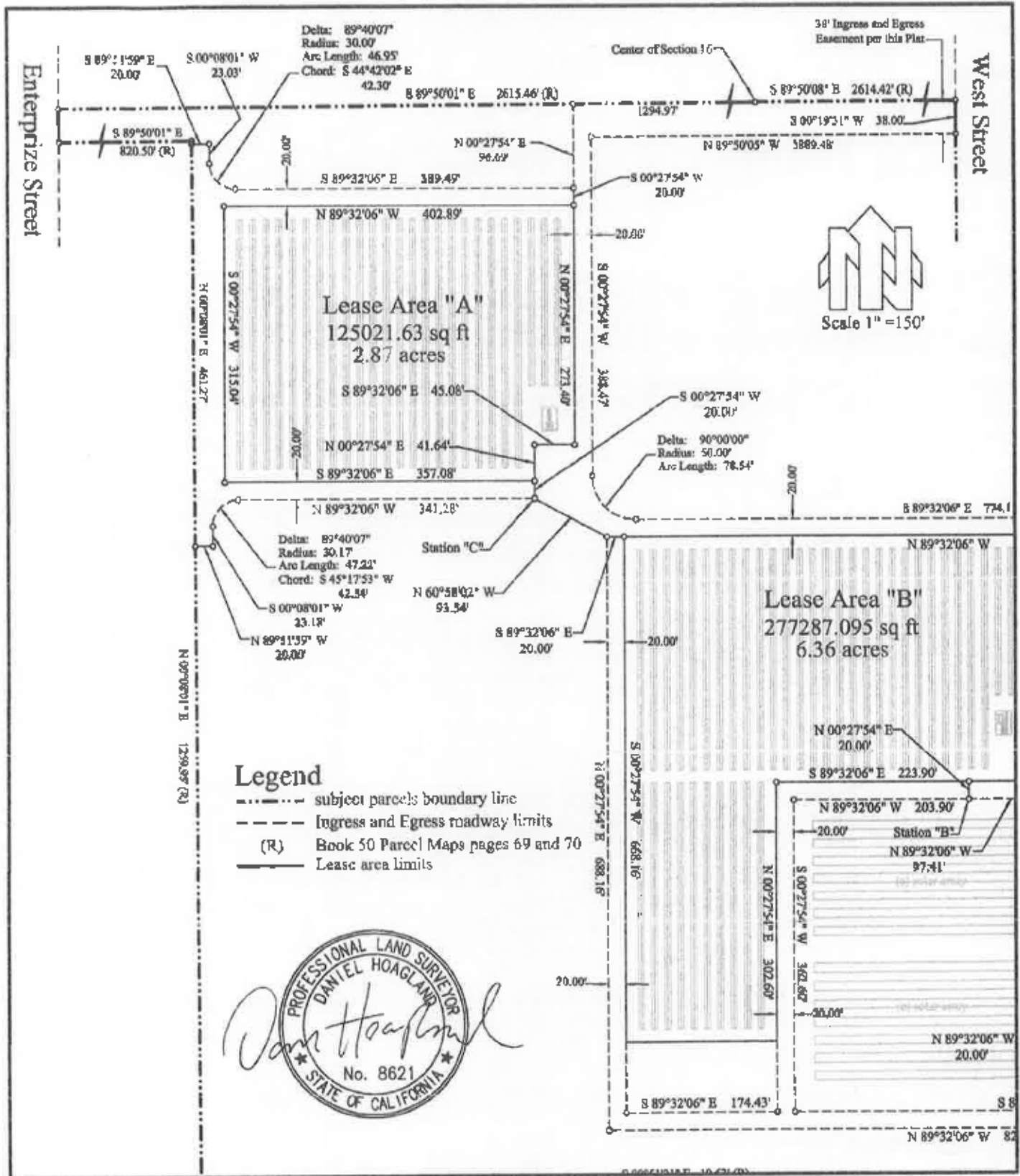
Prepared October 5, 2018 by:


Daniel E. Hoagland, LS 8621





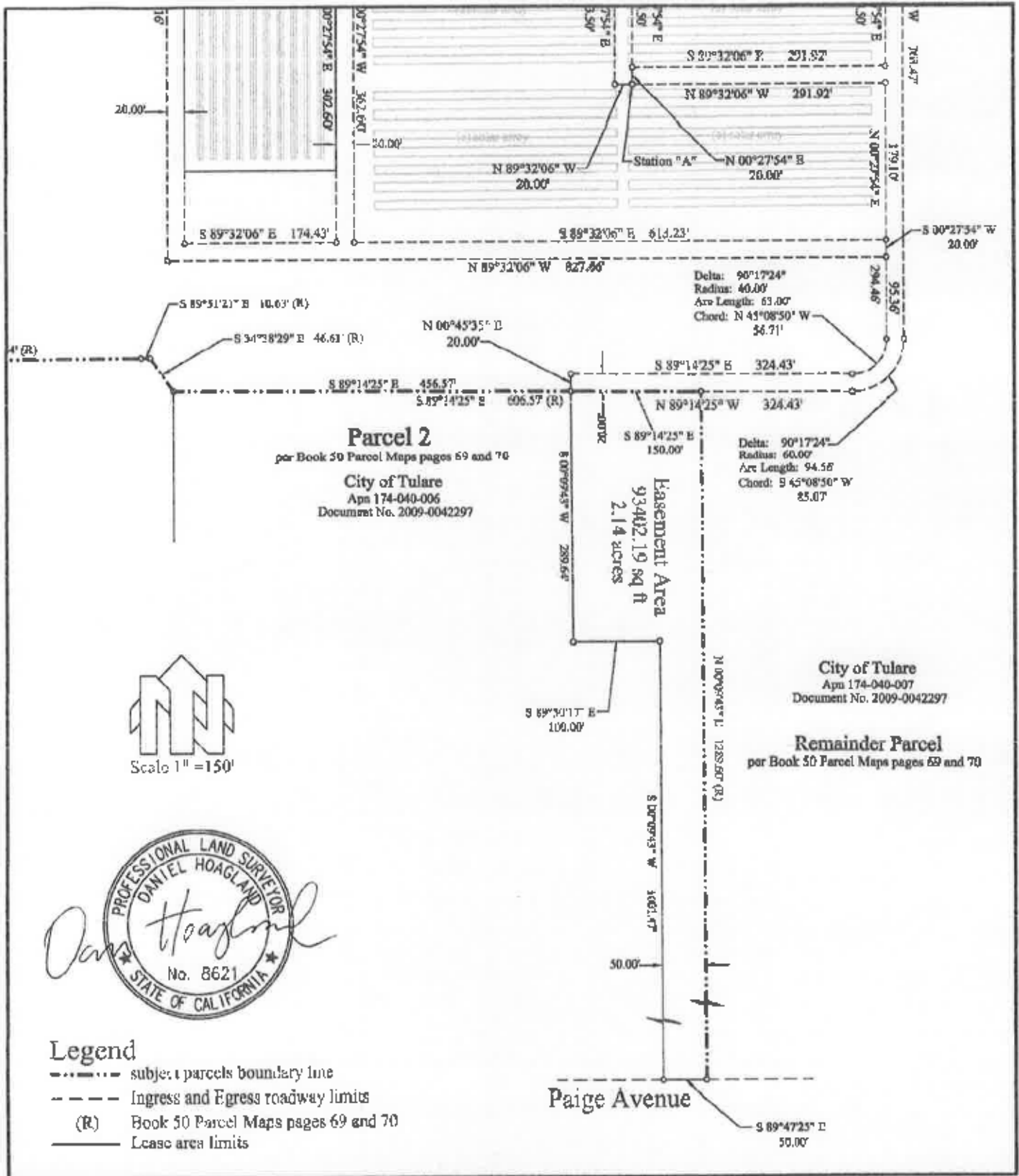
Sheet 1 of 3 Easement Plat	Project No. 18-162	Ingress and Egress Easement Plat for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398



Sheet 2 of 3
Easement Plat
Project No. 18-162

Ingress and Egress Easement Plat
for
Borrego Solar
at
City of Tulare Sewer Treatment Facility

Prepared By:
Compass Consulting Incorporated
14743 Stinson Drive
Grass Valley, California 95949
Phone (530) 210-6398



Sheet 3 of 3	Easement Plat	Project No. 18-162	Ingress and Egress Easement Plat for Borrego Solar at City of Tulare Sewer Treatment Facility	Prepared By: Compass Consulting Incorporated 14743 Stinson Drive Grass Valley, California 95949 Phone (530) 210-6398

**CITY OF TULARE, CALIFORNIA
BOARD OF PUBLIC UTILITIES COMMISSIONERS
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Public Works

For Board Meeting of: January 16, 2020

Documents Attached: Ordinance Resolution Other None

AGENDA ITEM:
Receive an update on the Biogas Fuel Cell.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:
In June 2017, the Board of Public Utilities approved a Digester Gas Purchase Agreement (DGPA) with Fuel Cell Energy for the construction of a 2.8 MW biogas fuel cell at the City’s Wastewater Treatment Plant (WWTP). Per the agreement, it was the responsibility of Fuel Cell Energy to design, build, own, operate and maintain the fuel cell. It is the City’s responsibility to provide the fuel cell with the biogas that is produced through the operations at the WWTP.

Construction of the fuel cell began in May 2018. The project experienced some delays and began conditioning on November 19, 2019. The fuel cell received “Notice of Commercial Operation” (COD) by Southern California Edison on December 27, 2019. The COD started the clock on the 20-year agreement and per the agreement, the City sells the biogas to Fuel Cell Energy at a rate of \$5.00 per MMBtu (annual revenue estimate of \$900,000 per year).

STAFF RECOMMENDATION:
Receive an update on the Biogas Fuel Cell.

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

FUNDING SOURCE/ACCOUNT NUMBER:

Submitted by: Trisha Whitfield

Title: Public Works Director

Date: January 9, 2020

City Manager Approval: RH