

File No. 121007

Committee Item No. 11
Board Item No. 10

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee

Date 12/05/2012

Board of Supervisors Meeting

Date December 11, 2012

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
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Completed by: Victor Young Date November 30, 2012
Completed by: Victor Young Date 12-6-12

1 [Electric System and Solar Project Agreement - North Star Solar, LLC]

2
3 **Ordinance authorizing, pursuant to Charter Section 9.118(a), a System Impact**
4 **Mitigation Agreement with North Star Solar, LLC, requiring North Star Solar, LLC, to**
5 **pay the ~~Public Utilities~~ Commission the costs necessary to mitigate the impacts to the**
6 **City's electric system caused by the interconnection of North Star Solar, LLC's solar**
7 **project to the electric grid; and authorizing similar mitigation agreements with other**
8 **projects in the future; and appropriating funds from these agreements to pay the costs**
9 **of mitigation work; and placing various mitigation funds on reserve with the Board of**
10 **Supervisors.**

11 NOTE: Additions are *single-underline italics Times New Roman*;
12 deletions are *~~strike-through italics Times New Roman~~*.
13 Board amendment additions are double-underlined;
14 Board amendment deletions are ~~strikethrough normal~~.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. Background.

16 (1) There are hundreds of proposed electric generating projects that seek to
17 interconnect with the electric transmission system controlled by the California Independent
18 System Operator.

19 (2) An interconnecting project must mitigate any adverse impacts of the project on
20 another transmission system.

21 (3) Some of these proposed projects may impact the City's transmission facilities in
22 the Central Valley and unless mitigated, can affect the City's ability to provide reliable electric
23 service to its customers.

1 (4) SFPUC staff and experts have determined the costs of mitigating the impacts on
2 the City's electric system caused by the proposed projects and allocated responsibility for
3 those costs among the projects.

4 (5) The SFPUC anticipates that it will be required to enter a System Impact Mitigation
5 Agreement (Mitigation Agreement) with 20 or more projects over the next few years.

6 Section 2. Mitigation Agreement.

7 (1) North Star Solar, LLC (NSS) proposes to build a 60 Megawatt solar generating
8 facility that will interconnect with the electric grid at a location near the City's transmission
9 lines in the Central Valley.

10 (2) The cost of the work necessary to mitigate the impacts on the City's electric system
11 caused by NSS' project is currently estimated to be \$2.9 million, but this amount is subject to
12 change based on new study results from the California Independent System Operator.

13 (3) The Mitigation Agreement with NSS is on file with the Clerk of the Board of
14 Supervisors in File No. 121007, and is hereby declared to be a part of this ordinance as if set
15 forth fully herein.

16 (4) There will be no direct or indirect costs to the City or the SFPUC as a result of
17 executing a Mitigation Agreement.

18 (5) No mitigation projects have been approved or are being approved at this time, and
19 any mitigation work that is ultimately undertaken by the SFPUC will be subject to the usual
20 steps for planning, design, review and approval, including environmental review, Commission
21 review, and Board of Supervisors review, to the extent required.

22 (6) The key terms of the Mitigation Agreement include: (i) NSS initially will give SFPUC
23 a nonrefundable payment of 30% of the mitigation cost allocated to NSS; (ii) NSS will pay the
24 remaining 70% prior to construction; (iii) NSS will post security for the 2nd payment (70% of
25

1 total cost) in the form of a letter of credit or cash collateral; and (iv) upon final payment, the
2 City will release the project from any further mitigation obligation to the City.

3 (7) The SFPUC Commission approved the Mitigation Agreement with NSS on August
4 14, 2012, in Resolution No. 12-0143 and authorized the General Manager of the SFPUC to
5 execute similar mitigation agreements with other interconnecting projects that impact the
6 City's electric facilities.

7 (8) The SFPUC Commission also authorized the General Manager to administer any
8 funds received from NSS and any funds received from similar interconnecting projects in the
9 future, and to establish the appropriate special revenue accounts and funds with the City
10 Controller.

11 (9) Section 9.118(a) of the City's Charter requires Board of Supervisors approval of a
12 contract with anticipated revenues in excess of \$1 million.

13 (10) The PUC will use any funds received from the mitigation agreements to mitigate
14 impacts on the City's electric system.

15 Section 3. Authorizations.

16 (1) The Board of Supervisors authorizes the General Manager to execute a System
17 Impact Mitigation Agreement with North Star Solar, LLC, substantially in the form of the
18 agreement on file with the Clerk of the Board of Supervisors, in File No. 121007, with such
19 changes or modifications, including modifications to the exhibits, as may be acceptable to the
20 General Manager and the City Attorney and which do not materially increase the obligations
21 and liabilities of the City.


22 (2) The Board of Supervisors authorizes the General Manager of the SFPUC to
23 execute similar mitigation agreements with other interconnecting projects that impact the
24 City's electric facilities even where those agreements result in revenues in excess of \$1
25 million, so long as the City Attorney and the General Manager determine that those

1 agreements are for the same purpose as and substantially in the form of the agreement with
2 North Star Solar, LLC.

3 (3) The funds received from North Star Solar, LLC, as well as the funds from any
4 future mitigation agreements, are appropriated for use by the SFPUC to mitigate the impacts
5 on the City's transmission system of interconnecting projects. Funds in excess of \$100,000 for
6 a given mitigation agreement shall be placed on the Budget and Finance Committee reserve.

7 ~~Section 4, Effective Date. This ordinance shall become effective 30 days from the~~
8 ~~date of passage.~~

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By: 
13 Theresa L. Mueller
14 Deputy City Attorney

LEGISLATIVE DIGEST

Ordinance authorizing, pursuant to Charter section 9.118(a), a System Impact Mitigation Agreement with North Star Solar, LLC, requiring North Star Solar, LLC, to pay the Public Utilities Commission the costs necessary to mitigate the impacts to the City's electric system caused by the interconnection of North Star Solar, LLC's solar project to the electric grid; and authorizing similar mitigation agreements with other projects in the future; and appropriating funds from these agreements to pay the costs of mitigation work.

Existing Law

Section 9.118(a) of the City's Charter requires Board of Supervisors approval of a contract with anticipated revenues in excess of \$1 million.

Amendment to Current Law

None.

Background Information

There are hundreds of proposed electric generating projects that seek to interconnect with the electric transmission system controlled by the California Independent System Operator (CAISO). The CAISO studies the impacts of the projects on the electric transmission system, including on the systems of neighboring utilities such as the SFPUC. The CAISO studies indicate dozens of proposed projects that may impact the City's transmission facilities. Unless mitigated, these impacts can affect the City's ability to provide reliable electric service to its customers. The CAISO requires an interconnecting generator to mitigate the adverse impacts of its project on another transmission system.

SFPUC staff and experts have determined the costs of mitigating the impacts on the City's electric system caused by the proposed projects and allocated responsibility for those costs among the projects. The SFPUC anticipates that it will be required to enter a System Impact Mitigation Agreement (Mitigation Agreement) with 20 or more projects over the next few years.

North Star Solar, LLC (NSS) proposes to build a 60 Megawatt solar generating facility that will interconnect with the electric grid at a location near the City's transmission lines in the Central Valley. The cost of the work necessary to mitigate the impacts on the City's electric system caused by NSS' project is currently estimated to be \$2.9 million, but this amount is subject to change based on new study results from the CAISO. There will be no direct or indirect costs to the City or the SFPUC as a result of executing a Mitigation Agreement.

No mitigation projects have been approved or are being approved at this time, and any mitigation work that is ultimately undertaken by the SFPUC will be subject to the usual steps

FILE NO.

for planning, design, review and approval, including environmental review, Commission review, and Board of Supervisors review, to the extent required.

The key terms of the Mitigation Agreement include: (i) NSS initially will give SFPUC a nonrefundable payment of 30% of the mitigation cost allocated to NSS; (ii) NSS will pay the remaining 70% prior to construction; (iii) NSS will post security for the 2nd payment (70% of total cost) in the form of a letter of credit or cash collateral; and (iv) upon final payment, the City will release the project from any further mitigation obligation to the City.

The SFPUC Commission approved the Mitigation Agreement with NSS on August 14, 2012, in Resolution No. 12-0143 and authorized the General Manager of the SFPUC to execute similar mitigation agreements with other interconnecting projects that impact the City's electric facilities. The SFPUC Commission also authorized the General Manager to administer any funds received from NSS and any funds received from similar interconnecting projects in the future, and to establish the appropriate special revenue accounts and funds with the City Controller.

The funds received from North Star Solar, LLC, as well as the funds from any future mitigation agreements, will be used to mitigate the impacts on the City's transmission system of interconnecting projects.

The proposed ordinance would authorize the General Manager to execute a System Impact Mitigation Agreement with North Star Solar, LLC. It would also authorize the SFPUC to execute similar mitigation agreements with other interconnecting projects that impact the City's electric facilities even where those agreements result in revenues in excess of \$1 million.

<p>Item 11 File 12-1007</p>	<p>Department: Public Utilities Commission (SFPUC)</p>
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EXECUTIVE SUMMARY

Legislative Objective

The proposed ordinance would (a) authorize a new System Impact Mitigation Agreement between the San Francisco Public Utilities Commission (SFPUC) and North Star Solar, LLC, to require North Star Solar, LLC, to pay the SFPUC the costs necessary to mitigate the impacts to the City’s electric system caused by the interconnection of North Star Solar, LLC’s solar project to the electric grid; (b) authorize similar mitigation agreements with other projects in the future; and (c) appropriate funds from these agreements to pay the costs of mitigation work.

Key Points

- In future years, an estimated 35 interconnection projects may impact the City’s transmission facilities, for which the California Independent System Operator (CAISO) would require mitigation payments of up to \$28,289,192 to be paid from private developers to the SFPUC.
- The first developer, North Star Solar, LLC (NSS), has proposed the construction and operation of a 60 Megawatt solar generating facility in Mendota, Fresno County, California, that will interconnect with the State’s electric grid at a location near the City’s transmission lines. The NSS project will result in costs to the SFPUC estimated by CAISO to total \$2,968,226 to procure a transformer and transmission facilities to avoid the possibility of overloading the City’s electricity transmission facilities.
- Under the proposed mitigation agreement, NSS would pay the SFPUC \$2,900,000 to mitigate impacts on the City’s electrical system. The SFPUC calculated the \$2,900,000 mitigation amount, based on NSS’s prorated impact to the SFPUC system, as a percentage of the 35 interconnection projects noted above, and the size and location of the NSS project.
- In addition to the proposed mitigation agreement with NSS, the proposed ordinance would authorize the SFPUC General Manager to execute similar future mitigation agreements with other interconnecting projects that impact the City’s electric facilities. Such future agreements would not be subject to further Board of Supervisors approval, even if those agreements result in revenues in excess of \$1,000,000, provided that the City Attorney and the SFPUC General Manager determine that those agreements are similar to the proposed agreement with NSS. Under the proposed ordinance, the expenditures of the mitigation payments to the SFPUC under the agreement with NSS or under any similar such future mitigation agreements would not be subject to Board of Supervisors appropriation approval.

Fiscal Impacts

- The CAISO estimate of \$2,968,226 for the cost of mitigation is \$68,226 more than the \$2,900,000 payment from NSS to the SFPUC under the proposed mitigation agreement. However, according to Ms. Margaret Hannaford, SFPUC Hetch Hetchy Division Manager, the SFPUC will not proceed with any phase of a mitigation project until sufficient funds have been collected to complete the project. Because the SFPUC has not

yet developed a mitigation budget, the Budget and Legislative Analyst recommends that appropriation authorization for the \$2,900,000 mitigation revenue be placed on Budget and Finance Committee reserve.

- The SFPUC currently estimates that it could incur costs from 35 potential future mitigation agreements, totaling \$28,289,192. As noted above, approval of such future mitigation agreements would not be subject to Board of Supervisors approval, and the expenditure of any mitigation revenues paid to the SFPUC would not be subject to Board of Supervisors appropriation approval. The Budget and Legislative Analyst recommends that the proposed ordinance be amended to require Board of Supervisors appropriation approval for expenditures of \$100,000 or more payable from future mitigation revenues received by the SFPUC.

Recommendations

1. Amend the proposed ordinance to place the appropriation for the \$2,900,000 mitigation revenue on Budget and Finance Committee reserve, pending submission by the SFPUC to the Budget and Finance Committee of budget details.
2. Amend the proposed ordinance to require Board of Supervisors' appropriation approval for expenditures of \$100,000 or more payable from mitigation revenues received by the SFPUC by changing Page 4, lines 1 and 2 from "as well as the funds from any future mitigation agreements, are appropriated for use by the SFPUC" to "as well as the funds from any future mitigation agreements, under \$100,000, are appropriated for use by the SFPUC."
3. Because the proposed ordinance would authorize the SFPUC to enter into future mitigation agreements without Board of Supervisors approval, the proposed ordinance, as amended, is a policy matter for the Board of Supervisors.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118(a), any agreement that has anticipated revenue of \$1,000,000 or more is subject to Board of Supervisors approval.

Background

North Star Solar, LLC (NSS)¹ has proposed the construction and operation a 60 Megawatt (MW) solar electricity generating facility in Mendota, Fresno County, California, that will interconnect with the State of California's electric grid at a location near the City and County of California's transmission lines. The California Independent System Operator (CAISO)² has determined that construction of the new electricity generating facility could overload the San Francisco Public Utilities Commission's (SFPUC) transmission lines under certain conditions, and is requiring NSS to mitigate the impact of potential transmission overload. According to Ms. Margaret Hannaford, SFPUC Hetch Hetchy Division Manager, without mitigation for the build-out of the 35 projects, "if certain transmission lines are out of service, there may be too

¹ NSS is a wholly owned affiliate of NorthLight Power, LLC, of Seattle, Washington, a developer of utility-scale solar energy projects.

² CAISO is the independent California nonprofit public benefit corporation that has operational control over electric generating projects and transmission in California.

much electricity on the grid for the remaining facilities to handle reliably. This could result in outages of additional facilities or the inability to deliver required energy over the SFPUC system.”

The SFPUC Commission approved the mitigation agreement with NSS on August 14, 2012, and further authorized the SFPUC General Manager to (a) execute future similar agreements with other interconnecting projects that impact the City’s electrical facilities, and (b) administer any funds received from the NSS mitigation agreement and any funds received from similar interconnecting projects, and to establish the appropriate special revenue accounts and funds with the City Controller.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would (a) authorize a new System Impact Mitigation Agreement between the City, on behalf of the San Francisco Public Utilities Commission (SFPUC), and North Star Solar, LLC, to require North Star Solar, LLC, (NSS) to pay the SFPUC \$2,900,000 for the costs necessary for the SFPUC to mitigate the impacts to the City’s electric system caused by the interconnection of North Star Solar, LLC’s solar project to the electric grid; (b) without obtaining Board of Supervisors approval, authorize similar future mitigation agreements, regardless of the mitigation payment amount; and (c) without obtaining Board of Supervisors appropriation approval, expend funds paid to the SFPUC under these agreements, to pay the costs of the needed mitigation work.

The proposed mitigation agreement would become effective at the time of execution by both the SFPUC and NSS. The terms of the mitigation agreement stipulate:

1. Within 30 days of the execution of the agreement, NSS will pay the SFPUC 30% of the mitigation payment, or \$870,000, of the \$2,900,000 total mitigation payment.
2. Prior to commencing construction of the proposed NSS solar generating facility in Mendota, NSS will pay the remaining 70% of the mitigation payment, or \$2,030,000 of the \$2,900,000 total mitigation payment.
3. Within 120 days of the execution of the agreement, NSS will post security, in the form of a letter of credit or cash collateral, for the second (70%) payment. The City would return this security deposit to NSS when the City receives 100% of the mitigation funds owed by NSS or termination of the mitigation agreement prior to commencement of construction.
4. The City, upon receipt of the final payments, will release NSS from any further mitigation obligation to the City.

Under the proposed mitigation agreement, North Star Solar shall submit written status reports at the beginning of each quarter to the SFPUC detailing the progress in developing the proposed solar project, any material changes and the then estimated date for commencement of construction of the project.

Under the proposed mitigation agreement, NSS would fulfill its obligations to the City by paying the fixed amount specified to the SFPUC, and would not be liable to the City for any additional payments, regardless of whether the final total mitigation costs to the SFPUC are

higher or lower than the \$2,900,000 mitigation payment. The City would be responsible for determining the scope, technical specifications, timing and implementation of all mitigation work, including construction of new facilities and modifications of existing systems or facilities. As is noted above, CAISO has estimated that the mitigation work will cost \$2,968,226, or \$68,226 more than the proposed \$2,900,000 mitigation amount payable by NSS to the SFPUC. The SFPUC calculated the \$2,900,000 mitigation amount, based on NSS's prorated impact to the SFPUC system, as a percentage of the 35 interconnection projects noted above, and the size and location of the NSS project.

Under the proposed ordinance, the SFPUC General Manager would be authorized to execute this mitigation agreement with NSS, allowing subsequent changes or modifications which do not materially increase the obligations and liabilities of the City.

The proposed ordinance would also authorize the SFPUC General Manager to execute similar future mitigation agreements with other interconnecting projects that impact the City's electric facilities. Such future agreements would not be subject to further Board of Supervisors approval, if the City Attorney and the SFPUC General Manager determine that those agreements are similar to the proposed subject mitigation agreement with NSS.

In addition, under the proposed ordinance, all mitigation payments received by the SFPUC from future agreements to mitigate the impacts on the City's electric transmission system of interconnecting projects would not be subject to Board of Supervisors appropriation approval.

To date, no mitigation projects or work has been approved and all future mitigation work would be subject to the City's regular planning, design, environmental review, and Commission and Board of Supervisors review, as required.

FISCAL IMPACTS

Under the proposed mitigation agreement between NSS and the City, NSS would pay the SFPUC \$2,900,000 in order to reimburse the SFPUC for its expenditures required to mitigate the impacts of NSS's proposed solar electricity generating facility.

According to documents provided by the SFPUC, the cost of the work necessary to mitigate the impacts on the City's electric system caused by the North Star Solar, LLC proposed project is currently estimated at \$2,968,226, but this amount is subject to change based on new study results from the California Independent System Operator (CAISO). According to Ms. Hannaford, the SFPUC would be responsible for any costs that the SFPUC incurred above the \$2,900,000 mitigation payment from NSS to the SFPUC. However, according to Ms. Hannaford, the SFPUC will not proceed with any phase of a mitigation project until sufficient funds have been collected to complete the project.

The SFPUC has not yet developed a budget for the \$2,900,000 mitigation payment from NSS to the SFPUC. Therefore, the Budget and Legislative Analyst recommends that appropriation authorization for the \$2,900,000 mitigation revenue be placed on Budget and Finance Committee reserve, pending the submission of budget details by the SFPUC to the Budget and Finance Committee.

As noted above, in addition to the subject mitigation agreement between NSS and the City, under the proposed ordinance, the SFPUC General Manager would also be authorized to execute similar future mitigation agreements with other interconnecting projects that impact the

City's electric facilities. Such future agreements would not be subject to Board of Supervisors approval, if the City Attorney and the SFPUC General Manager determine that those agreements are similar to the proposed subject agreement with NSS. The SFPUC has identified 35 such projects, with preliminarily estimated project mitigation costs totaling \$28,289,192.

Under the proposed ordinance, the revenues to be received by the SFPUC from NSS and any future funds to be received under other future mitigation agreements, would be deposited into a special revenue account or fund, to be established by the Controller, for exclusive use by the SFPUC to offset the costs of impacts on the City's electric transmission system of interconnecting projects. Under the proposed ordinance, the expenditure by the SFPUC of such future mitigation revenues would not be subject to appropriation approval by the Board of Supervisors.

POLICY CONSIDERATION

The Proposed Ordinance Would Waive the Board of Supervisors' Authority to Approve Certain Future Project Mitigation Agreements

As noted above, in addition to the proposed mitigation agreement between NSS and the SFPUC, the proposed ordinance would authorize the SFPUC General Manager to execute similar future mitigation agreements with other interconnecting projects that impact the City's electric facilities, such future agreements would not be subject to Board of Supervisors approval, if the City Attorney and the SFPUC General Manager determine that those agreements are similar to the proposed subject agreement with NSS. The SFPUC has identified 35 such projects, with preliminarily estimated project mitigation costs totaling \$28,289,192. Because such future mitigation agreements would not be subject to Board of Supervisors approval, approval of the proposed ordinance is a policy matter for the Board of Supervisors.

Furthermore, the Budget and Legislative Analyst recommends that the proposed ordinance be amended to require Board of Supervisors appropriations approval for expenditures of \$100,000 or more payable from such mitigation revenues received by the SFPUC.

RECOMMENDATIONS

1. Amend the proposed ordinance to place the appropriation for the \$2,900,000 mitigation revenue on Budget and Finance Committee reserve, pending submission by the SFPUC to the Budget and Finance Committee of budget details.
2. Amend the proposed ordinance to require Board of Supervisors' appropriation approval for expenditures of \$100,000 or more payable from mitigation revenues received by the SFPUC by changing Page 4, lines 1 and 2 from "as well as the funds from any future mitigation agreements, are appropriated for use by the SFPUC" to "as well as the funds from any future mitigation agreements, under \$100,000, are appropriated for use by the SFPUC."
3. Because the proposed ordinance would authorize the SFPUC to enter into future mitigation agreements without Board of Supervisors approval, the proposed ordinance, as amended, is a policy matter for the Board of Supervisors.

PUBLIC UTILITIES COMMISSION

City and County of San Francisco

RESOLUTION NO. 12-0143

WHEREAS, There are many proposed electric generating projects that seek to interconnect with the electric transmission system controlled by the California Independent System Operator (CAISO); and

WHEREAS, The CAISO already has identified a number of projects that will impact the transmission facilities owned by the City and will likely identify additional such projects in the future; and

WHEREAS, The CAISO procedures require an electric generating project to mitigate any adverse impacts it has on other utility systems, such as the transmission system owned by the City and operated by SFPUC; and

WHEREAS, North Star Solar, LLC (NSS), proposes to interconnect a solar generating project to the CAISO controlled PG&E electric system in the vicinity of the City's electric transmission lines in the Central Valley; and

WHEREAS, The attached Draft System Impact Mitigation Agreement with NSS provides for NSS to pay SFPUC for the impacts to the City's system caused by that project; and

WHEREAS, The SFPUC will use the funds to pay for work to modify its transmission facilities in order to mitigate the adverse impacts of the new electric generating projects, if such work is approved by this Commission; and

WHEREAS, The Mitigation Agreement with NSS does not require the City to undertake any mitigation work and whether any such work is ultimately performed remains in the sole discretion of the City, subject to its required approval process; and

WHEREAS, No mitigation work related to the interconnection of generating projects has been approved yet and no such work is being approved by this action; and

WHEREAS, Before undertaking any specific mitigation project related to the interconnection of generating projects, SFPUC staff will conduct the usual planning, design, review and approval work, including environmental review required by the California Environmental Quality Act, and will submit the project for Commission review, and Board of Supervisors review, to the extent required; now, therefore, be it

RESOLVED, That this Commission hereby authorizes the General Manager of the San Francisco Public Utilities Commission to execute a System Impact Mitigation Agreement with North Star Solar, LLC, in substantially the form of the Draft System Impact Mitigation Agreement; and be it

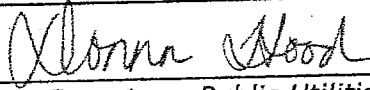
FURTHER RESOLVED, That this Commission authorizes the General Manager to make changes to the attached Draft System Impact Mitigation Agreement without returning to the Commission for approval, so long as the changes do not materially disadvantage the City; and be it

FURTHER RESOLVED, the General Manager is authorized to administer any funds received from NSS and other such interconnecting projects, and to establish the appropriate special revenue accounts and funds with the City Controller.

FURTHER RESOLVED, That this Commission authorizes the General Manager to submit a System Impact Mitigation Agreement to the Board of Supervisors for its consideration, if required; and be it

FURTHER RESOLVED, That this Commission authorizes the General Manager to enter into substantially similar agreements with other interconnecting generating projects that impact the City's electric transmission system and directs the General Manager to update the Commission periodically regarding the status of negotiating mitigation agreements, collecting funds, and planning for mitigation work.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of _____ *August 14, 2012*



Secretary, Public Utilities Commission

SYSTEM IMPACT MITIGATION AGREEMENT

THIS SYSTEM IMPACT MITIGATION AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2012, by and between North Star Solar, LLC, a limited liability company formed under the laws of the State of Delaware, (“Sponsor”) and the City and County of San Francisco acting through its Public Utilities Commission, hereinafter referred to as the “City.” Sponsor and the City are referred to herein sometimes individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Sponsor intends to own, lease and/or control and operate an electric generating facility (the “Project”) and to interconnect the Project with the transmission system over which the California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California (“CAISO”) exercises operational control;

WHEREAS, because the interconnection of the Project, together with interconnection of other generation projects, to the CAISO controlled grid will have an adverse impact on the electric transmission system owned and operated by the City (the “System”), the City is an Affected System within the meaning of the CAISO Tariff, as identified herein;

WHEREAS, Section 12.4 of Appendix Y (Generator Interconnection Procedures) to the CAISO Tariff requires each Interconnection Customer to enter into an agreement with the Affected System, which shall specify, among other things, the terms governing payments to be made by the Interconnection Customer to the owner of the Affected System;

WHEREAS, the City intends to perform certain work or implement certain measures in order to mitigate the adverse impact on the System;

WHEREAS, the Sponsor intends to pay the City for Sponsor’s share of the costs for the work necessary to mitigate the adverse impact on the System; and

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed as follows:

ARTICLE 1 DEFINITIONS

- 1.1 “Affected System” has the meaning as defined in the CAISO Tariff.
- 1.2 “CAISO” has the meaning defined in the Recitals.
- 1.3 “CAISO Tariff” means the CAISO’s tariff, as filed with the Federal Energy Regulatory Commission, and as amended or supplemented from time to time.
- 1.4 “Governmental Authority” means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

1.5 "Project" means the Sponsor's generating facility described in Exhibit A.

1.6 "Requirements of Law" means collectively, any federal or state law, treaty, franchise, rule, regulation, order, writ, judgment, injunction, decree, award or determination of any arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon Sponsor or City or any of their property or to which Sponsor or City or any of their respective properties are subject.

1.7 "Site Preparation" means any activity at the location of the Project that alters any physical characteristic of the property to prepare for construction of the Project, including, but not limited to, the removal of vegetation, fencing, excavation, surface grading, installation of access roads, installation of utilities, or the pouring of concrete.

1.8 "Sponsor's Mitigation Cost" means the total amount of Sponsor's share of costs to mitigate impacts on the City's electric transmission system under this Agreement, as set forth in Exhibit B to this Agreement.

1.9 "System Mitigation Work" means all improvements (including capital improvements), or other measures required to mitigate the impacts on the System caused by the interconnection of the Project, together with additional projects that have proposed to interconnect with the CAISO controlled grid.

ARTICLE 2

EFFECTIVE DATE, TERM AND TERMINATION

2.1 Effective Date. This Agreement shall become effective on the date that the Parties hereto have duly executed and delivered the Agreement.

2.2 Term. This Agreement shall become effective as provided in Section 2.1 and shall continue in full force and effect until the earlier of (i) the date on which the following shall have occurred (a) City receives from Sponsor payment in full of Sponsor's Mitigation Cost in accordance with Article 3 and (b) the City has provided the written notice to Sponsor contemplated in Section 5.2.2, or (ii) the date on which termination becomes effective in accordance with the termination procedures in Section 2.3.

2.3 Termination Procedures

2.3.1 Notice of Cancellation of Project. This Agreement may be terminated by the Sponsor by giving the City a written notice that the Sponsor has canceled the Project and has withdrawn its request for interconnection of the Project to the CAISO controlled transmission grid.

2.3.2 Default. A Party may terminate this Agreement in accordance with Article 6.

ARTICLE 3

SPONSOR'S PAYMENT OF SPONSOR'S MITIGATION COST AND MITIGATION WORK

3.1 Consideration. Sponsor shall pay to the City Sponsor's Mitigation Cost, as specified in Exhibit B to this Agreement. Exhibit B is incorporated in this Agreement as if set forth herein.

As of, and in consideration of Sponsor's payment in full of Sponsor's Mitigation Cost, the City shall provide the notice to Sponsor, as and when contemplated in Section 5.2.2.

The Parties acknowledge and agree that the amount of Sponsor's Mitigation Cost represents an allocated share of the total costs that the City has estimated will be required to mitigate the adverse impacts on the City's transmission system resulting from the Project and from other generation projects that have proposed to interconnect with the CAISO controlled grid. In consideration of the uncertainty over which generation projects will be completed and the associated impact on the City's transmission system for which mitigation will be required, the Parties further agree that by paying the fixed amount of Sponsor's Mitigation Cost, Sponsor shall have fulfilled its obligations associated with the Project regardless of whether the total mitigation costs turn out to be higher or lower than had been estimated by the City.

3.2 Timing of Sponsor Payments.

3.2.1 Sponsor shall pay to the City a non-refundable amount equal to thirty percent (30%) of the Sponsor's Mitigation Cost set forth in Exhibit B within 30 days of the Effective Date of this Agreement.

3.2.2 Sponsor shall pay to the City the remaining non-refundable seventy percent (70%) of the Sponsor's Mitigation Cost on or before the date on which Site Preparation for the Project begins. If Site Preparation does not commence and Sponsor provides to the City written notice of cancellation of the Project and this Agreement pursuant to Section 2.3.1, Sponsor shall not be obligated to pay the remaining seventy percent (70%) of the Sponsor's Mitigation Cost.

3.3 System Mitigation Work.

3.3.1 The City shall determine in its sole discretion the scope, technical specifications, timing and all other elements of the System Mitigation Work that it may elect to implement, *provided* however, that, subject to Section 8.5, in all instances Sponsor shall not be liable to the City for any amounts in excess of Sponsor's Mitigation Cost, irrespective of the total mitigation costs actually incurred by the City.

3.3.2 To the extent the System Mitigation Work requires the construction of new facilities or modification of the System or related facilities, the City shall be responsible for the construction (or contracting of such construction), of such new or modified facilities and Sponsor shall have no responsibility or liability in connection with the execution or performance of such System Mitigation Work.

3.4 Taxes. Each of the City and Sponsor shall bear responsibility for its respective tax liability in connection with its performance of this Agreement, including, but not limited to, liability for any possessory interest taxes and California sales and use taxes, levied upon this Agreement.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations and Warranties of Sponsor. On the Effective Date, Sponsor represents and warrants to the City that:

4.1.1 Sponsor is a duly organized and validly existing corporation in good standing under the laws of the jurisdiction of its formation and has all requisite power and authority to execute, deliver, and perform under this Agreement.

4.1.2 The execution, delivery and performance of this Agreement by Sponsor has been duly authorized and approved by all necessary corporate action and will not conflict with, or result in a violation or breach of, (a) any law regulation, ordinance, judgment, order or other legal authority applicable to Sponsor, or (b) any provision of the charter, bylaws or other organizational documents or standing resolutions of Sponsor or any agreement to which Sponsor or its assets may be bound.

4.1.3 This Agreement is the legal, valid and binding obligation of Sponsor, enforceable against Sponsor in accordance with its terms.

4.1.4 Sponsor is not bankrupt, and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.

4.2 Representations and Warranties of the City. On the Effective Date, the City represents and warrants to Sponsor that:

4.2.1 The City is duly organized, validly existing and in good standing under the laws of California.

4.2.2 The execution, delivery and performance of this Agreement are within the City's powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, or order applicable to it.

4.2.3 This Agreement is the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

ARTICLE 5 COVENANTS

5.1 Covenants of Sponsor.

5.1.1 Project Status Reporting. Until the City has received from Sponsor payment in full of the Sponsor's Mitigation Cost, Sponsor shall submit to the City a written status report at the beginning of each calendar quarter during the term of this Agreement detailing its progress in developing the Project. Each report shall include the Sponsor's then-current estimate of the date for commencement of construction of the Project, any material changes to the project and whether Site Preparation has begun.

5.1.2 Commencement of Construction. Sponsor shall not proceed with Site Preparation of the Project prior to paying to the City a cumulative total in the amount of Sponsor's Mitigation Cost.

5.1.3 Generator Interconnection Agreement. Sponsor shall seek in good faith to include in the terms of its Generator Interconnection Agreement with Pacific Gas and Electric Company and the CAISO the obligation for Sponsor to provide the City's written notice set forth in Section 5.2.2 as a condition precedent to the interconnection of the Project.

5.2 Covenants of the City

5.2.1 Limitation on Claims against Sponsor. Other than payment of the Sponsor's Mitigation Costs and subject to Section 8.5, the City shall seek no remuneration from Sponsor in connection with Sponsor's obligations with regard to the City as an Affected System arising out of the CAISO Tariff Large Generator Interconnection Procedures or Small Generator Interconnection Procedures, as applicable, with respect to the Project.

5.2.2 Notice to Sponsor. Upon payment in full of the Sponsor's Mitigation Costs, within five (5) business days of receipt of such payment the City shall provide Sponsor with a written notice in the form attached hereto as Exhibit C..

ARTICLE 6 DEFAULT

6.1 General. The occurrence of each of the following shall constitute an event of default ("Event of Default") under this Agreement:

6.1.1 Sponsor or the City fails or refuses to perform or observe any material term or condition, or covenant contained in this Agreement, and such failure or refusal continues for a period of ten (10) days after written notice thereof from the non-defaulting party to the defaulting party. The following provisions shall survive any default under the Agreement:

Article 3 – Sponsor's payment of sponsor's mitigation cost and mitigation work,
Section 8.1 -- Proprietary or confidential information,
Section 8.6 – Assignment.

6.1.2 Prior to Sponsor's payment of one hundred percent (100%) of Sponsor's Mitigation Cost to City, a court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Sponsor or with respect to any substantial part of Sponsor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Sponsor.

6.2 Remedies

6.2.1 Upon an Event of Default by the Sponsor, the City shall be entitled:

(1) to foreclose or draw upon, or otherwise employ, any portion of the Acceptable Security (as defined in Section 7.1) provided by the Sponsor to City,

(2) in the event that Sponsor is obligated to indemnify the City pursuant to Section 8.5, the City shall be entitled to recover reasonable attorneys' and experts' fees and costs, court costs, and other reasonable and direct costs of any such action incurred by the City in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment).

6.2.2 Neither the enumeration of Events of Default in Article 6, nor the termination of this Agreement by the Sponsor pursuant to Section 2.3 shall limit any City rights and remedies available at law or in equity. Except as otherwise specifically and expressly provided herein, all remedies provided for in this Agreement may be exercised individually or in combination with

any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

6.2.3 Upon an Event of Default by the City, the Sponsor shall be entitled:

(1) to exercise any rights or remedies available at law or in equity; and
(2) in the event that City is obligated to indemnify Sponsor pursuant to Section 8.5, the Sponsor shall be entitled to recover reasonable attorneys' and experts' fees and costs, court costs, and other reasonable and direct costs of any such action incurred by the City in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment).

ARTICLE 7 SECURITY

7.1 Amount and Timing. On or prior to the date that is one hundred and twenty (120) days following the Effective Date and until City receives cumulative payment of one hundred percent (100%) of Sponsor's Mitigation Cost, Sponsor shall provide to City acceptable security ("Acceptable Security") that meets the requirements of this Article 7 in an amount equal to seventy percent (70%) of the Sponsor's Mitigation Cost to secure Sponsor's obligations pursuant to this Agreement. The City shall return and/or release the Acceptable Security to Sponsor upon receipt in total from Sponsor of one hundred percent (100%) of Sponsor's Mitigation Cost or termination of this Agreement by the Sponsor pursuant to Section 2.3.1 prior to the commencement of Site Preparation. Sponsor shall have the right but not the obligation to convert the Acceptable Security to the payment described in Section 3.2.2.

7.2 Requirements: The Acceptable Security shall be either (a) a letter of credit issued in favor of the City as beneficiary, in a form reasonably acceptable to the City, which letter of credit shall be irrevocable over its term or (b) cash collateral, which shall be subject to an escrow agreement in form and substance mutually acceptable to each of the Sponsor and the City. No later than thirty (30) days before expiration of any such letter of credit, Sponsor shall furnish to the City a new letter of credit or other Acceptable Security in the amount required in Section 7.1. In the event that Sponsor does not timely supply City with such replacement Acceptable Security, such failure shall constitute an Event of Default authorizing the City to immediately draw upon the existing Acceptable Security. In all cases, the costs and expenses of establishing, managing and maintaining the Acceptable Security to satisfy the obligations of this Article 7 shall be borne by the Sponsor.

7.3 Bank Requirements: The bank issuing a letter of credit as Acceptable Security shall: (i) have an office in the State of California; (ii) have a combined capital of at least two hundred and fifty million dollars (\$250,000,000); (iii) be a bank whose long-term debt is rated at least B+ by Standard & Poors; and (iv) be subject to supervision or examination by the applicable federal or state authority. If at any point during the term of a Letter of Credit the bank issuing such Letter of Credit no longer satisfies all of these requirements, Sponsor shall, within forty-five (45) days of knowledge, actual or imputed, of such non-satisfaction, have the obligation to substitute a new Letter of Credit issued by a bank that does satisfy such requirements, at Sponsor's expense.

7.4 Payment Requirements: Any letter of credit constituting Acceptable Security shall provide that payment in immediately available funds shall be made to City upon receipt by the issuing bank of a written certificate of the General Manager of the San Francisco Public Utilities Commission for City, or the functional successor to such officer, demanding payment of a sum identified in the written certificate, certifying that said sum is due and owing in respect of the obligations of Sponsor with respect to this Agreement. Any such letter of credit shall provide that City may make consecutive or successive demands for payment under the Letter of Credit until its entire principal balance has been paid to the City. The City shall only be entitled to draw upon any letter of credit constituting Acceptable Security upon the occurrence of an uncured Event of Default by Sponsor in accordance with Section 6.1.1 and 6.1.2. The City shall not draw on the Letter of Credit to recover any amounts owed by Sponsor that have already been received by the City from Sponsor.

7.5 Commingling: The Letter of Credit shall be maintained distinct from, and shall not be commingled with, any other security Seller is required to keep for energy trading, scheduling or other commercial purposes.

ARTICLE 8

MISCELLANEOUS

8.1 Proprietary or Confidential Information of the Parties. Each of the Parties agrees that all proprietary and confidential information disclosed by one Party to the other Party under this Agreement shall be held in confidence and used only in performance of the Agreement or the CAISO interconnection process.

8.2 Regulatory Compliance. Each Party shall at all times comply with all the Requirements of Law applicable to it.

8.3 Force Majeure. If the performance by the Sponsor or City of any of its obligations or undertakings under this contract is interrupted or delayed by any occurrence not occasioned by the conduct of either Party to this contract, whether that occurrence is an act of God or public enemy, or whether that occurrence is caused by war, riot, storm, earthquake, or other natural forces, or by the acts of anyone not a party to this contract, then the Sponsor or City, as applicable shall only be excused from any further performance for whatever period of time after the occurrence that is reasonably necessary to remedy the effects of that occurrence.

8.4 Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the Parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City: [insert name or title of department contact person, name of department, mailing address, and e-mail address; fax number is optional]

To Sponsor:

North Star Solar, LLC
83 South King Street, Suite #200

Seattle, WA 98104

Attention: Sandy Taylor
206-239-7542
STaylor@SummitPower.com

Any notice of default must be sent by registered mail.

8.5 Indemnification and Release. Sponsor agrees to indemnify and hold harmless the City, its officers, employees and agents, from any and all acts, claims, omissions, liabilities and losses by whomever asserted arising out of acts or omissions of Sponsor in the performance of its obligations under this Agreement except those arising by reason of the sole negligence of the City, its officers, employees and agents.

City agrees to defend, indemnify and hold harmless Sponsor, its officers, employees and agents, from any and all acts, claims, liabilities and losses by whomever asserted arising out of acts or omissions of the City in the performance of its obligations under this Agreement except those arising by reason of the sole negligence of Sponsor, its officers, employees and agents.

In the event of concurrent negligence of the City, its officers, employees and agents, and Sponsor and its officers, employees and agents, the liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified.

8.6 Assignment. The services to be performed by Sponsor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Sponsor unless first approved by City by written instrument executed and approved in the same manner as this Agreement, such approval not to be unreasonably withheld, conditioned, or delayed, *provided* however that Sponsor may assign this agreement for collateral purposes to any entity providing financing for the Project.

8.7 No Third Party Beneficiaries. This Agreement shall not be construed to create rights in, or to grant remedies to, any third party (other than a permitted successor or assignee bound to this Agreement) as a beneficiary of this Agreement or any duty, obligation or undertaking established herein.

8.8 Governed by California law. Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

8.9 Entire Agreement. This contract sets forth the entire agreement between the Parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 8.15, "Modification of Agreement."

8.10 Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the Parties and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable.

8.11 Headings and Interpretation. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

8.12 Waiver. Waivers of any rights hereunder must be in writing and shall not be implied from performance or usage of trade. The failure of either Party to this Agreement to enforce or insist upon compliance with or strict performance of any of the terms or conditions hereof, or to take advantage of any of its rights hereunder, shall not constitute a waiver or relinquishment of any such terms, conditions or rights, but the same shall be and remain at all times in full force and effect.

8.13 Counterparts. This Agreement may be executed in two or more counterparts and by different Parties on separate counterparts, all of which shall be considered one and the same Agreement, and each of which shall be deemed an original.

8.14 Nature of Relationship. The duties, obligations and liabilities of the Parties are intended to be several and not joint or collective. The Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between Sponsor and City or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. A Party shall not have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or act as or be an agent or representative of or otherwise bind the other Party.

8.15. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

North Star Solar, LLC

By:

Sandra Taylor
Corporate Secretary

**City and County of San Francisco
Public Utilities Commission**

By:

Harlan Kelly, Jr.
General Manager

Approved as to Form:

Dennis J. Herrera
City Attorney

By:

Deputy City Attorney

EXHIBIT A (Sponsor's Generating Facility)

Name:	North Star Solar, LLC
Location:	34500 West California Avenue Fresno County, CA
Point of Interconnection:	PG&E's Mendota Substation
Interconnection Capacity:	60 MW-ac

Draft

EXHIBIT B (Sponsor's Mitigation Cost)

Sponsor's Mitigation Cost is Two Million, Nine Hundred Sixty-Eight Thousand, Two Hundred Twenty-Six US Dollars (\$2,968,226).

Draft

EXHIBIT C (City's Notice to Sponsor)

Date

CAISO
250 Outcropping Way
Folsom, CA 95630

Attention: Brij Basho

Subject: North Star Solar, LLC
CAISO Queue #607

Regarding: City and County of San Francisco Affected Systems

Dear Mr. Basho,

Please be advised that North Star Solar, LLC (NSS) has satisfied all of its obligations to the City and County of San Francisco (City):

1. Associated with its proposed electrical interconnection of the North Star Solar, LLC 60 MW-ac solar photovoltaic generating facility to the PG&E Mendota Substation located in Fresno County, CA; and
2. Under the CAISO tariff as set forth in the System Impact Mitigation Agreement between NSS and the City, dated -----2012.

Signed by an authorized representative from the City.