

**City of Yucaipa
Energy Independence Program**

**PROGRAM REPORT AND ADMINISTRATIVE
GUIDELINES**

City of Yucaipa Energy Independence Program Program Report and Administrative Guidelines

I. INTRODUCTION

On July 21, 2008, the Governor signed into law Assembly Bill 811 (“AB 811”), allowing cities to establish voluntary contractual assessment programs that finance a wide variety of renewable energy projects and energy improvements. The California Legislature has declared that a public purpose will be served by such programs, which provide cities the authority to finance the installation of distributed generation renewable energy sources – such as solar – and energy efficiency improvements permanently affixed to residential, commercial, industrial, or other real property (collectively known as “Energy and Water Conservation Improvements”).

To make Energy and Water Conservation Improvements more affordable and to promote their installation, AB 811 sets forth procedures for authorizing voluntary assessments to finance the cost of these improvements. The Energy Independence Program (“EIP” or “Program”) works at the request and with the consent of owners of the property on which Energy and Water Conservation Improvements are to be made.

The Program will provide loans (“EIP Loans”) to property owners within the City to finance the installation of Energy and Water Conservation Improvements. Property owners will repay EIP Loans through an assessment levied against their property which is payable in semi-annual installments on property tax bills.

A. Goals

EIP will help owners of improved real property make investments in the long-term health of the local, state, and national economy and global environment by providing a long-term financing mechanism for Energy and Water Conservation Improvements.

EIP provides multiple benefits. It boosts the local economy by providing jobs in the energy field, and boosts the California power grid, and local, state, national and global energy interests, making it possible for the state to fulfill energy conservation and climate protection commitments. It will reduce the community’s carbon footprint and may facilitate economic development by assisting with the mitigation of the impacts of future growth in the City.

The City welcomes innovative solutions that will help meet statewide energy conservation goals and promote the increased use of renewable energy throughout the state.

B. Program Administration

Under the overall supervision of the City Manager, the Director of Administrative Services is designated as the EIP Administrator and is authorized to enter into contractual assessment agreements on the City's behalf. The EIP Administrator will have the authority to enter into assessment contracts up to the amount of \$50,000. The City Manager will have the authority to enter into assessment contracts up to the amount of \$100,000. All contracts above \$100,000 will require approval of the City Council. The Program will be headed by the EIP Administrator and staffed by a combination of City personnel and contract staff (collectively, the "EIP Staff").

EIP Staff responsibilities will include:

- Community outreach
- Responding to property owners' inquiries
- Managing preliminary assessment process
- Processing applications
- Managing and monitoring funds available for EIP
- Monitoring individual and collective energy conservation
- Administration of annual assessment process
- Coordinating and facilitating improvement approval process
- Accounting, record keeping and financial reporting

By creating the Program, the City intends to assist property owners who would otherwise be unable or unwilling to finance renewable energy systems and energy efficiency measures. The participation of property owners is an important component in achieving local and statewide greenhouse gas emission reduction targets and shoring up local, state, and national energy conservation efforts.

II. PROGRAM REQUIREMENTS

A. Program Report

To establish the Program, Section 5898.22 of the California Streets and Highways Code requires the City to prepare a report that sets out how the Program will be administered ("Report"). The Report is the guiding document for EIP and fulfills statutory requirements that this report contain:

- A map showing the boundaries of the territory within which contractual assessments are proposed;

- A draft assessment contract (“EIP Assessment Contract”) between a property owner and the City;
- Program policies regarding contractual assessments, including a list of eligible Energy and Water Conservation Improvements, identification of the City officials authorized to enter into contractual assessments on the City’s behalf, maximum aggregate dollar amount of EIP loans, and a method for setting priority for applications in the event that they exceed the maximum aggregate dollar amount for EIP loans;
- A plan for funding the Program; and
- Information regarding the costs incurred in placing assessments on the tax roll.

B. Geographic Parameters

The Program will be made available to eligible owners of eligible property located within the City. A map showing the City’s boundaries is attached as Appendix A.

C. Eligible Property Owners and Eligible Properties

All owners of improved residential, commercial, and industrial property are eligible for the Program. Property owners may be individuals, associations, business entities, cooperatives, and virtually any owner that pays real property taxes. Financing may be approved if the following criteria are met:

- Property title is vested in the applicant(s), without federal or state income tax liens, judgment liens, or similar involuntary liens on the property;
- All property taxes on the property are current. This means that for a minimum of twelve (12) months prior to the application date, no delinquent payments have been recorded by the County Tax Collector. Delinquent payments are those that result in incurred penalties and/or interest expense as a result of a late payment.;
- Property owner is not in bankruptcy and the property is not an asset in a bankruptcy proceeding. This means that, for a minimum of twelve (12) months prior to the application date, the applicant will not have filed for bankruptcy. In addition, any prior bankruptcy proceedings will have concluded at a minimum of twelve months prior to the application date.;
- Property owner is current on mortgage(s). This means that, for a minimum of six (6) consecutive months prior to the application date, the applicant will have incurred no late fees or penalties. In addition, no notice of default will have been filed relative to that mortgage(s), within the past twelve (12) months.;
- The EIP Administrator, in his discretion, may require the consent of pre-existing secured lenders;
- Costs of the proposed Energy and Water Conservation Improvements are reasonable relative to the value of the property. As a guideline, proposed Energy and Water Conservation Improvements should not exceed 10 percent of the

- Energy and Water Conservation Improvements comply with all applicable covenants, conditions and restrictions;
- Property owner has applied to state and/or federal rebate programs including, but not limited to, the California Solar Initiative, Self-Generation Incentive Program, Emerging Renewables Program and other weatherization programs, as applicable.

EIP Loans are currently not available to owners of properties that are not subject to secured property taxes, such as governmental entities and certain not-for-profit organizations, or for mobile homes that are not affixed to real property and subject to secured property tax.

Property owners may submit an application for EIP funding for more than one property if they own multiple properties within City limits and meet all the requirements listed in this Section.

A copy of the EIP Loan Application is provided in Appendix C.

D. Eligible Energy and Water Conservation Improvements

EIP affords property owners in Yucaipa the opportunity to take advantage of a wide range of energy-saving and water conservation measures, consistent with the following provisions:

- 1) EIP Loans are available for Energy and Water Conservation Improvements that are permanently affixed to residential, commercial, or industrial property.
- 2) EIP Loans are intended principally for:
 - i) Retrofit activities to replace outdated inefficient equipment with equipment that reduces energy consumption or produces renewable energy, or reduces energy use through water conservation.
 - ii) The installation of new equipment that reduces energy consumption or produces renewable energy.
- 3) EIP Loans are available only for Energy and Water Conservation Improvements specified in Appendix B, unless otherwise approved by the EIP Administrator. Broadly, these include:
 - i) Efficiency measures
 - ii) Solar systems (photovoltaic and solar thermal)
 - iii) Water conservation improvements

- iv) Custom measures (upon case by case review and approval by the EIP Administrator)
- 4) EIP Loans are also available for projects that combine eligible Energy and Water Conservation Improvements, such as bundling energy efficiency, water conservation and renewable energy measures. For instance, a property owner may request an EIP Loan for replacing an inefficient air conditioner, installing weather stripping, and installing a solar system, subject to the Program Parameters outlined in Part V of this Report.

E. Eligible Costs

EIP loans are available for eligible costs, subject to the provisions and restrictions outlined in this Report, and include the total cost of acquisition and installation of eligible Energy and Water Conservation Improvements. Installation costs may include, but are not limited to, energy audit consultations, labor, design, drafting, engineering, permit fees, and applicable inspection charges. Eligible costs may also include the cost of a title search/insurance. Acquisition costs may include, but are not limited to, the unit price of eligible equipment and any taxes and shipping costs associated with the acquisition.

The installation of Energy and Water Conservation Improvements can be completed by a qualified contractor of the property owner's choice, provided such contractor holds the appropriate licenses from, and is in good standing with, the Contractors State License Board and the City of Yucaipa. Eligible costs do not include labor costs for property owners that elect to do the work themselves.

Property owners that elect to engage in broader retrofit projects such as home or business remodeling will only be provided EIP Loans for that portion of the costs used to retrofit existing structures with Energy and Water Conservation Improvements. Repairs and/or new construction do not qualify for EIP loans except to the extent that such construction is required for the specific type of approved Energy or Water Conservation Improvement. Repairs to existing infrastructure are not eligible.

EIP Staff will determine whether the estimated eligible costs are reasonable. EIP Staff will evaluate market conditions and may require the property owner to obtain additional bids to determine what costs are reasonable. While the property owner may select the contractor/installer, the EIP Loan may be limited to an amount that EIP Staff determines to be reasonable. Upon request, such amount may be reviewed by the City Manager and the City Council.

The following costs will be the responsibility of the property owner:

(1) Title costs, including title insurance, where required, will be paid by the property owner. The owner may include this cost in his or her EIP Loan Application as an eligible cost for reimbursement.

(2) Assessment collection costs shall be added to the annual assessment on property tax bills. These costs will not exceed \$ 50 at the time the property owner enters into the Assessment contract, and may be adjusted in subsequent years for cost of living increases in accordance with increases in the Consumer Price Index for all urban consumers, all items index for the Los Angeles – Riverside – Orange County areas as published by the Bureau of Labor Statistics, U.S. Department of Labor. This cost was determined after consultation with the County Auditor-Controller/Recorder's Office.

(3) In the event multiple disbursements are approved by the EIP Administrator (only on EIP Loans in excess of \$35,000), interest will accrue on the entire assessment amount at the time of the first disbursement.

III. ENERGY SURVEYS AND SOLAR SITE CHECKS

Onsite energy inspections/surveys can provide the property owner valuable information on how to maximize energy savings for the dollars invested. They also provide valuable data on energy usage, savings and greenhouse gas emissions reduction.

Energy surveys are highly recommended, but not required. For property owners, participation in EIP means investing in the future by making improvements to their property that will lead to reduced energy usage and reductions in greenhouse gas emissions. Such participation also means making financial investment decisions that should be based on both the energy efficiency and cost effectiveness of the Energy and Water Conservation Improvements. For these reasons, it is recommended that property owners complete an energy survey to assess energy efficiency and renewable energy opportunities for the property. The City will fund 50%, up to a maximum amount of \$150, of the cost of energy survey consultation services per property. Such costs may be included in the EIP Loan Application as an eligible cost for reimbursement. The intent of these surveys shall be to inform property owners as to eligible improvements, available financing mechanisms and tax rebate/credit programs available from federal, state, and local agencies. The City will provide property owners with contact information for utility companies and other organizations that provide energy consultation services upon request, as well.

IV. THE FINANCING STRATEGY

The City will initially “seed” the EIP Fund with \$2.5 million from its General Fund. It is anticipated that the Program will incur administrative costs associated with the initial

development of the Program as well as a provision for ongoing legal and financial expenses, including 50% of the costs associated with the initial energy audits. These costs will be funded out of the initial allocation and are not expected to exceed 15% of the initial allocation, or \$375,000, leaving an amount of \$2,125,000 available for EIP Loans. These programmatic costs may be reimbursed to the General Fund from loan repayments and future financing vehicles. If, after a period of one year, it is determined that the Program requires additional funding due to the expenses incurred in administering the Program, EIP staff will prepare a recommendation for City Council approval relative to funding those expenses.

Of the \$2,125,000 available for EIP Loans, \$1,275,000 will be reserved for EIP Loans to owners of residential property and the remaining \$850,000 for EIP Loans to owners of commercial or industrial properties. Loan repayments will be made pursuant to Assessment Contracts between the property owners and the City and will be collected through the property assessment mechanism and in the same manner and timing as the collection of secured property taxes. The standard EIP Assessment Contract is provided in Appendix D.

For long-term and additional financing, the City will explore funding opportunities from a number of potential funding sources and combinations of sources, which may include, but are not limited to, additional funding from the City's General Fund, the issuance of notes or bonds, financing arrangements with utilities, private or public lenders, or other governmental and quasi-governmental entities, or any other financing structure allowed by law.

The City may also establish an EIP Reserve Fund if bonds are issued, to cover EIP Loan payments in the event of assessment delinquencies prior to foreclosure and tax sale of the property upon which Energy and Water Conservation Improvements are constructed or installed, as deemed necessary by the City Council.

Staff will report on the progress of the Program to the City Council on a quarterly basis, including recommendations to adjust allocations, as appropriate, in order to match Program participation.

V. PROGRAM PARAMETERS

A. Minimum EIP Loan Amount

The minimum size for an EIP Loan is \$5,000.

B. Maximum EIP Loan Amount

The maximum EIP Loan amount depends on the type of property upon which Energy and Water Conservation Improvements will be constructed or installed. For residential

properties, the maximum amount is \$35,000. For industrial or commercial properties, the maximum loan amount is \$100,000. EIP Loans in an amount greater than \$50,000 must be approved by the City Manager. EIP loans exceeding the maximum amount permitted by this Section may be considered on a case-by-case basis; any such loans require the approval of the City Council.

C. Maximum Portfolio

The maximum principal amount of EIP Loans under the Program is \$10,000,000.

D. Duration of Assessments

EIP Assessment Contracts shall be subject to a 10-, 15-, or 20-year assessment repayment period. The term of the Assessment Contract will be determined by the EIP Administrator, in consultation with the property owner.

If the property owner wishes to prepay the balance on his or her EIP Loan, he or she may be subject to a prepayment premium and the payment of accrued interest up to the redemption date of any bond or bonds that the City issues in relation to the Program.

E. Interest Rate

EIP Loans for the initial \$2.125 million will be made at an annual interest rate not to exceed 7% for all loans. Thereafter, the City reserves the right to adjust the interest rate on new EIP Loans, up to the maximum amount allowed by law.

F. Schedule of Disbursements

The proceeds of the EIP Loan will typically be disbursed upon completion of the Energy and Water Conservation Improvements. Any EIP Loan in excess of \$ 35,000 may be disbursed in two payments (see Section I of [Appendix E](#)) upon the request of the property owner and the approval of the EIP Administrator.

G. Loan Process

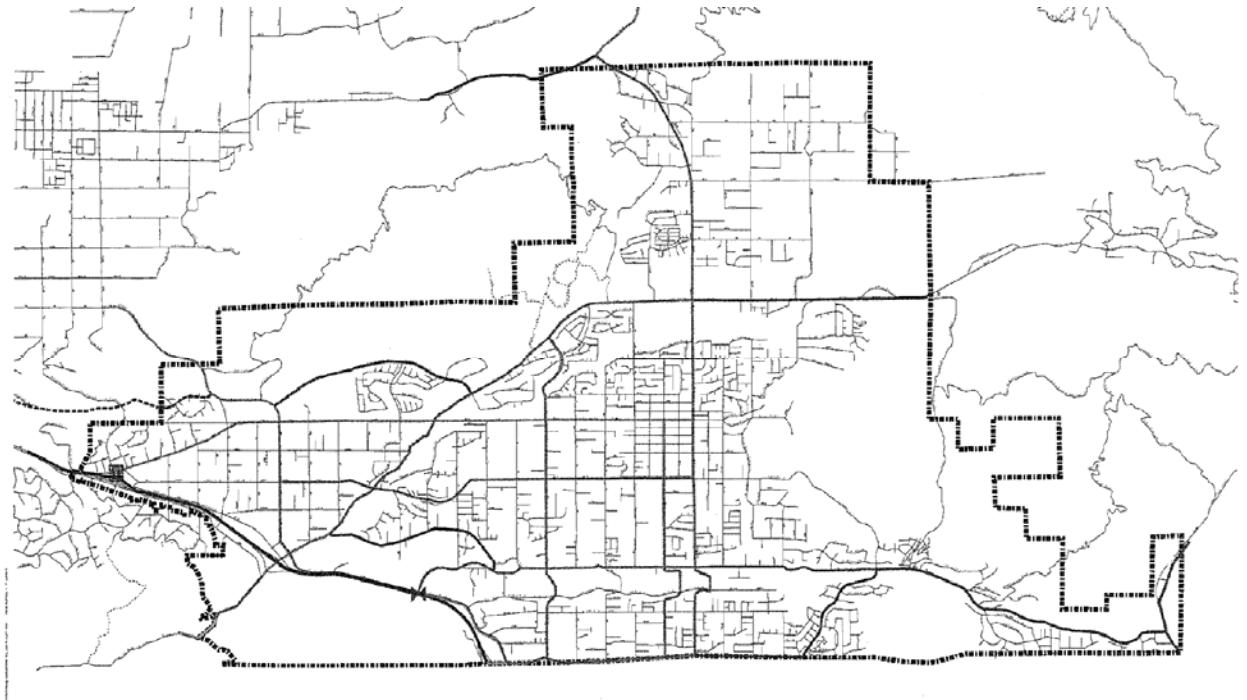
EIP Loan Applications are processed on a first-come, first-served basis. A detailed summary of the EIP Loan Process is provided in [Appendix E](#).

VI. CHANGES TO REPORT

The EIP Administrator and/or the City Manager may make changes to this Report that he or she reasonably determines are necessary to clarify its provisions. Any changes that materially modifies the Program shall be made only after approval by the City Council.

The EIP Administrator and/or the City Manager may modify from time to time the eligible Energy and Water Conservation Improvements list, Assessment Contract, and Loan Application attached hereto as Appendix B, Appendix C, and Appendix D, respectively, as deemed necessary by the EIP Administrator to effectuate the purposes of the Program.

**City of Yucaipa Energy Independence Program
APPENDIX A – MAP OF CITY’S BOUNDARIES**



City of Yucaipa Energy Independence Program
APPENDIX B – ELIGIBLE IMPROVEMENTS

The Yucaipa Energy Independence Program offers EIP Loans to fund a number of distributed generation renewable energy sources and energy efficiency improvements (“Energy Improvements”), including energy efficiency measures, solar systems, and other innovative energy-saving and energy-conservation measures.

I. ENERGY EFFICIENCY IMPROVEMENTS

Energy efficiency measures that are Energy Star rated must meet the minimum efficiency levels required by the U.S. Environmental Protection Agency’s Energy Star Program and must follow Energy Star guidelines. See www.energystar.gov for more details.

For residential properties, the following Energy Star measures – among others – are eligible under the Program:

- Attic and wall insulation
- Light fixtures (no bulb-only retrofits)
- Reflective roofs and coatings
- Reflective insulation or radiant barriers
- Windows, doors, skylights
- Geothermal exchange heat pumps
- HVAC systems, including home energy management control systems, whole house fan systems, duct sealing, and duct installations
- Evaporative coolers
- Natural gas storage water heaters
- Tankless water heaters
- Cool roof systems (which must meet the 2008 Building Energy Efficiency Standards issued by the California Energy Commission. These standards will be effective on August 1, 2009, and can be downloaded from <http://www.energy.ca.gov/2008publications/CEC-400-2008-001/CEC-400-2008-001-CMF.PDF>).
- Attic fans
- Window filming
- Weather stripping
- Home Sealing
- Solar tubes

- Pool equipment, including pool circulating pumps and natural gas pool heaters
- Irrigation sensors

For commercial and industrial properties, the following Energy Improvements are eligible, in addition to energy efficiency measures listed for residential properties:

- High efficiency electric hand dryers
- Building and energy management systems
- Lighting control systems, including occupancy sensors and other energy-saving measures
- HVAC duct zoning control systems
- Irrigation sensors

II. SOLAR SYSTEMS

EIP Loans are available for a wide range of solar equipment, including photovoltaic equipment and solar thermal installations. Solar thermal equipment must be rated by the Solar Rating Certification Council (SRCC). Eligible solar equipment for residential, commercial, and industrial properties include:

- Solar thermal systems (hot water)
- Solar thermal systems for pool heating
- Photovoltaic systems (electricity)
 - Battery back-up systems will be allowed
 - Funding for off-grid systems will be allowed
 - Photovoltaic systems can be sized to accommodate plug-in electric vehicles
- Emerging solar technologies, including nano/thin film photovoltaic systems and high intensity (parabolic) solar panels

III WATER CONSERVATION MEASURES

EIP Loans are also available for water conservation measures

IV. CUSTOM MEASURES

EIP Loans are also available for projects that are not “off the shelf” improvements listed under Sections I or II of this Appendix B. These projects may involve large-scale industrial or commercial energy efficiency improvement projects, as well as more complex and cutting-edge energy management solutions and emerging technologies.

Custom measures will be funded only if sufficient proof of energy savings is provided to EIP Staff. The EIP Administrator reserves the right to defer funding until he or she deems the evidence sufficient to verify the improvement has met specific performance requirements, established in advance, as well as the right to decline funding of a custom measure.

**City of Yucaipa
Energy Independence Program**

LOAN APPLICATION

APPENDIX C

APPLICATION INSTRUCTIONS

Please complete and sign the attached Application Form and include all requested attachments. Please type or print neatly in blue or black ink.

All applications are processed on a first-come, first-served basis, upon receipt, until funds are depleted. Incomplete or incorrect applications cannot be processed. Resubmitted applications are processed on a first-come, first-served basis upon the new receipt date. Application approval and the execution of an Assessment Contract is required before any Energy Independence Program (“EIP”) financing is made available.

If there are insufficient funds available, an approved applicant will be placed on a waiting list.

Keep a copy of your completed Application and all submitted documents for your records. Keep a copy of all receipts, paid invoices, and home improvement contracts.

Mail or deliver your completed Application and attachments to:

EIP Administrator
34272 Yucaipa Blvd.
Yucaipa, CA 92399

For questions regarding the status of your Application, call (909)797-2489 x282, or submit e-mail inquiries to dgray@yucaipa.org.

For information on home improvement contracts or the status of your proposed contractor’s state license, visit www.cslb.gov or call the Contractor’s State License Board at 1-800-321-CSLB. For information regarding energy audits, visit www.yucaipa.org .

CITY OF YUCAIPA

ENERGY INDEPENDENCE PROGRAM

LOAN APPLICATION

The Yucaipa Energy Independence Program (“EIP”) provides financing for the installation of distributed generation renewable energy sources and energy efficiency improvements that are permanently fixed to improved real property (collectively known as “Energy Improvements”). Loans will be made pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10) and the City of Yucaipa’s Energy Independence Program Report and Administrative Guidelines dated July 27, 2009.

SECTION 1. Eligibility Requirements

All owners of improved residential, commercial, and industrial property are eligible for the Program provided the following criteria are met:

- Applicant(s) is/are the legal owner of the property described in the Application (the “Property”)
- Property is developed and located within the City
- All taxes recorded on the Property are current.¹
- Property Owner is current on mortgage(s).²
- Property Owner is not in bankruptcy and the Property is not an asset in a bankruptcy proceeding.³
- There are no federal or state income tax liens, judgment liens, or similar involuntary liens on the Property.
- If deemed necessary by the EIP Administrator, property owner has received the consent of any pre-existing secured lenders, as evidenced by the attached consent agreement(s).
- Property owner has applied with state and/or federal rebate programs such as the California Solar Initiative, Self-Generation Initiative and Emerging Renewables Program, or other weatherization programs, as applicable.

¹ This means that for a minimum of twelve (12) months prior to the application date, no delinquent payments have been recorded by the County Tax Collector. Delinquent payments are those that result in incurred penalties and/or interest expense as a result of a late payment.

² This means that, for a minimum of six (6) consecutive months prior to the application date, the applicant will have incurred no late fees or penalties. In addition, no notice of default will have been filed relative to that mortgage(s), within the past twelve (12) months.

³ This means that, for a minimum of twelve (12) months prior to the application date, the applicant will not have filed for bankruptcy. In addition, any prior bankruptcy proceedings will have concluded at a minimum of twelve months prior to the application date.

For Office Use Only

Assessor's Parcel No. _____

File No. _____

Received by EIP on _____ by _____

Reviewed on _____ by _____

Property owner contacted on _____ by _____

SECTION 2: Applicant Information

Property Owner(s) Legal Name(s) as they appear on property tax records:

Owner #1: _____ SSN: XXX-XX-_____

Owner #2: _____ SSN: XXX-XX-_____

Owner #3: _____ SSN: XXX-XX-_____

Owner #4: _____ SSN: XXX-XX-_____

Property Owner Type (check one):

Individual(s)

Corporation

LLC

Trust

Partnership

Other

If other, please specify: _____

Contact Information:

Name: _____

Email Address: _____

Daytime Phone Number: _____

Physical Property Address (Site of Energy Improvements):

Street Address: _____
 City: _____ State: _____ Zip: _____

Mailing Address (If Different):

Street Address: _____
 City: _____ State: _____ Zip: _____

Are you, or the Property described herein, involved in a bankruptcy proceeding?

- Yes No

SECTION 3: Property Information

Is the Property developed? Yes No

Property Type (check one):

Single Family Residential Multi-family Residential Commercial
 Industrial Mobile Home Other

If other, please specify: _____

SECTION 4: Proposed Energy Improvements

Proposed Energy Improvements (attach separate sheet if necessary):

Energy Efficiency Measures: _____ Estimated Costs:*

1. _____

2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
Solar Measures:		
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

<p>Custom Measures: List the proposed custom measures and their estimated costs below. Approval of custom measures may require technical review of requested engineering plans and other specifications, and may require additional fees. Additional fees will be discussed with the Property Owner prior to review.</p>	

*See Eligible Costs in EIP Report and Administrative Guidelines

Itemized Estimated Cost of Improvement(s) – Documentation required*:

A.	(i) Construction contract(s) (bid price for cost of materials and labor less any applicable rebates): and/or	\$	_____
	(ii) If self-installing, cost of equipment (less applicable rebates; do not include any labor costs):	\$	_____
B.	Contingency allowance [10% of (i) and or (ii) above]:	\$	_____
C.	Energy survey/audit costs (highly recommended but not required to participate):	\$	_____
D.	Drafting, engineering and/or plan preparation costs:	\$	_____
E.	Estimated Permit fees:	\$	_____
F.	Title Fees* (if included in loan amount):	\$	32.00
G.	Other: _____	\$	_____
	<input type="checkbox"/> See Attachment	\$	_____
	Total	\$	_____
	Requested Financing Amount	\$	_____

Minimum financing amount is \$5,000.

* The applicant will be responsible for the title report and title insurance costs. The applicant's title costs may be included in the loan amount or the applicant may pay this cost to the City at the time of the execution of the loan agreement.

Loan Term Requested (10, 15, or 20 years): _____

Multiple Disbursements requested (loans in excess of \$35,000): Yes No

(Note: Interest will accrue on the entire assessment amount at the time of the first disbursement.)

Required Attachments:

- Organizational documents (if Property Owner is not an individual), i.e., Trust Documents showing the ‘powers of the trustee’ to encumber the property.
- Home Improvement Contract(s) or contractor’s bid(s) or contractor’s proposal(s), which include contractor’s name and license number (unless self-installing).
- Statements, purchase orders, or other evidence of cost for items not covered by a Home Improvement contract or a contractor’s bid or proposal.
- Current mortgage statements or other evidence that mortgages or any other loans secured by the Property, home equity loans and home equity lines of credit are current.
- Disclosure Regarding Assessment Financing (please complete and sign).
- State of California Fair Lending Notice (please complete and sign).
- EIP Administrator may require the consent of pre-existing secured lenders.

Additional Documentation:

EIP Staff may require additional information and documentation they believe is necessary to prudently administer the Program. Such information and documentation could include, without limitation, additional comparison bids and information related to the Property’s market value. **Once the Application is approved, Property Owner will be required to submit copies of the permit(s) issued for the Energy Improvements before entering into the Assessment Contract.**

SECTION 5: Declarations

By signing this Application, the undersigned hereby declares under penalty of perjury under the laws of the State of California all of the following:

1. I/we am/are current owner(s) of record of the property described herein (the “Property”).
2. The Property is not currently involved in a bankruptcy proceeding.
3. I/we am/are current on any mortgage or other loan secured by the Property.
4. I/we and the Property meet the eligibility requirements listed in Section 1.

5. That (i) the information provided in this Application is true and correct as of the date set forth opposite my/our signatures on this Application and (ii) that I/we understand that any intentional or negligent misrepresentation(s) of the information contained in this Application may result in civil liability and/or criminal penalties including, but not limited to, fine or imprisonment or both and liability for monetary damages to the City of Yucaipa, its agents, successors and assigns, insurers and any other person who may suffer any loss due to reliance upon any misrepresentation which I/we have made in this Application.
6. I/we am/are applying to participate in the City of Yucaipa Energy Independence Program. I/we understand that I/we must execute an Assessment Contract with the City of Yucaipa in order to receive financing for the Energy Improvements and I/we have the authority, without the consent of any third party which has not been previously obtained, to execute and deliver the Assessment Contract, this Application, and the various documents and instruments referenced herein.
7. I/we understand that the financing provided pursuant to the Assessment Contract will be repayable through an assessment levied against this Property. The Assessment Contract will specify the amount of the assessment and the assessment installments and the interest on the assessment to be collected on the tax bill for the Property each year. The assessment and the interest and any penalties thereon will constitute a lien against the Property until they are paid, even if I/we sell the Property to another person. I/we understand that assessment installments, together with the interest on the assessment, will be collected on my/our property tax bill in the same manner and at the same time as property taxes and will be subject to the same penalties, remedies, and lien priorities as for property taxes in the event of delinquency.
8. I/we have reviewed any existing loan agreements and security instruments applicable to the Property, and verified that executing the Assessment Contract, receiving financing for the Energy Improvements, and consenting to the assessment levied against the Property will not constitute a default under any other agreement or security instrument which affects the Property or to which I/we am/are a party.
9. I/we agree that the selection of any product(s), equipment, and measures referenced in this Application (the "Energy Improvements"), the selection of any manufacturer(s), dealer(s), supplier(s), contractor(s) and installer(s), and the decision regarding the purchase, installation and ownership/maintenance of the Energy Improvements is/are my/our sole responsibility and that I/we have not relied upon any representations or recommendations of the City of Yucaipa, its agents, representatives, assignees, or employees, in making such selection or decision and that my manufacturer, dealer, supplier, contractor or installer of the Energy Improvements is not an agent or representative of the City of Yucaipa.
10. I/we understand that the City of Yucaipa makes no warranty, whether express or implied, with respect to the choice, use or application of the Energy

Improvements, including without limitation, the implied warranties of merchantability and fitness for any particular purpose, use, or application of the Energy Improvements.

11. I/we agree that the City of Yucaipa has no liability whatsoever concerning (i) the quality or safety of any Energy Improvements, including their fitness for any purpose, (ii) the estimated energy savings produced by or performance of the Energy Improvements, (iii) the workmanship of any third parties, (iv) the installation or use of the Energy Improvements, including, but not limited to, any effect on indoor pollutants, or (v) any other matter with respect to the City of Yucaipa Energy Independence Program.

12. I/we understand that I/we am/are responsible for meeting all City of Yucaipa Energy Independence Program requirements and complying with all applicable Federal/State/County/City laws and the requirements of any agreement which affects the Property or the use of the Property (such as homeowner's association requirements, if any).

Signed on this _____ day of _____, 20____, in the City of _____, State of _____.

Property Owner Signature	Printed Name
_____	_____
Property Owner Signature	Printed Name

IF YOUR APPLICATION IS DENIED, YOU HAVE THE RIGHT TO A WRITTEN STATEMENT OF THE SPECIFIC REASONS FOR DENIAL. TO OBTAIN THE WRITTEN STATEMENT, PLEASE CONTACT EIP STAFF AT (909) 797-2489 x 282 WITHIN [60] DAYS FROM THE DATE YOU ARE NOTIFIED OF THE DENIAL. EIP STAFF WILL PROVIDE YOU A WRITTEN STATEMENT OF THE REASONS FOR DENIAL WITHIN 15 DAYS OF RECEIVING YOUR REQUEST FOR THE STATEMENT.

THE FEDERAL EQUITY CREDIT OPPORTUNITY ACT, WHICH MAY APPLY TO THIS TRANSACTION, PROHIBITS CREDITORS FROM DISCRIMINATING AGAINST CREDIT APPLICANTS ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, MARITAL STATUS, AGE (PROVIDED THE APPLICANT HAS THE CAPACITY TO ENTER INTO A BINDING CONTRACT); BECAUSE ALL OR PART OF THE APPLICANT'S INCOME DERIVES FROM ANY PUBLIC ASSISTANCE PROGRAM; OR BECAUSE THE APPLICANT HAS IN GOOD FAITH EXERCISED ANY RIGHT UNDER THE CONSUMER CREDIT PROTECTION ACT. THE FEDERAL AGENCY THAT ADMINISTERS COMPLIANCE WITH THIS LAW CONCERNING THIS CREDITOR IS THE FEDERAL TRADE COMMISSION, EQUAL CREDIT OPPORTUNITY, WASHINGTON, DC 20580.

DISCLOSURE REGARDING ASSESSMENT FINANCING

The City of Yucaipa Energy Independence Program (“EIP”) establishes the manner by which the City of Yucaipa (“City”) may finance, pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (commencing with Section 5898.10), the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to an owner’s real property (“Energy Improvements”). Energy Improvements will be financed pursuant to an assessment contract between the City and the property owner.

The loan will be secured by and repayable through an assessment levied by the City against the owner’s property (the “Property”). Each year until the assessment is paid off, assessment installments (including principal and interest) will be collected on the property tax bill for the Property in the same manner and at the same time as property taxes. Assessment installments will be subject to the same penalties, remedies (including foreclosure and sale of the Property), and lien priorities as for property taxes in the event of delinquency.

The assessment and each installment thereof, and any interest and penalties thereon, will constitute a lien against the Property until paid even though prior to full payment the Property is conveyed to another person. An assessment lien will be recorded against the Property in the office of the County Recorder of the County of San Bernardino. Such lien will be paramount to all existing and future private liens against the Property, including mortgages, deeds of trust and other security instruments.

Before completing an EIP Loan Application, a property owner should carefully review any mortgage agreement(s) or other security instrument(s) which affect the Property or to which the property owner is a party. **ENTERING INTO AN EIP ASSESSMENT CONTRACT, WITHOUT THE CONSENT OF THE OWNER’S EXISTING LENDER(S) COULD CONSTITUTE AN EVENT OF DEFAULT UNDER SUCH AGREEMENTS OR SECURITY INSTRUMENTS. DEFAULTING UNDER AN EXISTING AGREEMENT OR SECURITY INSTRUMENT COULD HAVE SERIOUS CONSEQUENCES TO THE PROPERTY OWNER, WHICH COULD INCLUDE ACCELERATION OF THE REPAYMENT OBLIGATIONS DUE UNDER SUCH AGREEMENT OR SECURITY INSTRUMENT.**

The property owner must declare under penalty of perjury in the EIP Loan Application that (i) the owner has the authority, without the consent of any third party which has not been previously obtained, to execute and deliver the Assessment Contract, the EIP Loan Application, and the various documents and instruments referenced therein; and (ii) that executing the Assessment Contract, receiving the loan proceeds, and consenting to the assessment levied against the Property will not constitute a default under any other agreement or security interest which affects the Property or to which the property owner is a party. **If you have any questions about any such agreements or security interest, or about your authority to execute the EIP Loan Application or enter into an Assessment Contract with the City without the prior consent of your existing lenders, the City strongly encourages you to consult with your own legal counsel and/or your lender(s).** EIP Staff will not provide property owners with advice regarding existing agreements or security instruments.

ACKNOWLEDGMENT OF RECEIPT	
I have received a copy of the Disclosure Regarding Assessment Financing.	
_____	_____
Signature	Date
_____	_____
Signature	Date

THE HOUSING FINANCIAL DISCRIMINATION ACT OF 1977

FAIR LENDING NOTICE

It is illegal to discriminate in the provision of or in the availability of financial assistance because of the consideration of:

1. Trends, characteristics or conditions in the neighborhood or geographic area surrounding a housing accommodation, unless the financial institution can demonstrate in the particular case that such consideration is required to avoid an unsafe and unsound business practice; or
2. Race, color, religion, sex, marital status, domestic partnership, national origin or ancestry.

It is illegal to consider the racial, ethnic, religious or national origin composition of a neighborhood or geographic area surrounding a housing accommodation or whether or not such composition is undergoing change, or is expected to undergo change, in appraising a housing accommodation or in determining whether or not, or under what terms and conditions, to provide financial assistance.

These provisions govern financial assistance for the purpose of the purchase, construction, rehabilitation or refinancing of one to four unit family residences occupied by the owner and for the purpose of the home improvement of any one- to four-unit family residence.

If you have any questions about your rights, or if you wish to file a complaint, contact the management of this financial institution or the Department of Real Estate at one of the following locations:

2550 Mariposa Mall, Suite 3070
Fresno, CA 93721-2273
320 W. 4th Street, Suite 350
Los Angeles, CA 90013-1105
1515 Clay Street, Suite 702
Oakland, CA 94612-1462

2201 Broadway
P.O. Box 187000 (mailing address)
Sacramento, CA 95818-7000
1350 Front Street, Suite 3064
San Diego, CA 92101-3687

ACKNOWLEDGMENT OF RECEIPT

I (we) received a copy of this notice.

Signature of Applicant

Date

Signature of Applicant

Date

DRAFT CONTRACT

**ASSESSMENT CONTRACT
CITY OF YUCAIPA ENERGY INDEPENDENCE PROGRAM**

This Assessment Contract (“Contract”) is made and entered into as of this _____ day of _____, by and between the CITY OF YUCAIPA, a California municipal corporation (“City”), and _____ (“Owner”).

RECITALS

A. City has established the Energy Independence Program (“EIP” or “Program”) pursuant to which City may levy assessments against developed residential, commercial, and industrial properties located in City, with the consent of the owners of such properties, to finance the acquisition, construction, or installation of certain qualifying renewable energy systems and energy efficient improvements. The purpose and method of administering assessments under the Program are described in the City of Yucaipa Energy Independence Program Report and Administrative Guidelines adopted by the City Council on _____, 200__, as it may be amended from time to time (the “Report”).

B. EIP is authorized by Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code (the “Act”).

C. Owner has submitted to City that certain EIP Loan Application dated _____, 200__, a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference (the “Application”). The Application describes, among other things, the renewable energy system(s) and/or energy efficiency improvements which are to be financed under the Program, and to be constructed or installed on the property of Owner described in Exhibit “B” attached hereto and incorporated herein by this reference (the “Property”). City has approved the Application as provided in the Report.

D. Owner wishes to participate in the Program by executing this Contract with City and using monies advanced by City hereunder to finance the acquisition, construction, or installation on the Property of renewable energy systems and/or energy efficiency improvements described in the Application (“Energy Improvements”). The Energy Improvements and their construction and/or installation are collectively referred to herein as the “Work.”

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Contract Documents; Term.

(a) This Contract, together with the Application and the documents and instruments attached to and referenced in this Contract and the Application, are collectively referred to herein as the “Contract Documents.”

(b) The term of this Contract shall be until the Assessment described herein and all accrued interest thereon, together with any applicable penalties, costs, fees, and other charge have been paid in full.

Section 2. Loan Amount; Assessment; Incidental Expenses.

(a) Subject to the conditions set forth herein, City agrees to advance monies to Owner in the amount of the actual cost of the Work (the “Loan Amount”), provided the Loan Amount shall not exceed _____ Dollars (\$ _____) (the “Maximum Loan Amount”). The EIP Administrator shall determine the Loan Amount on the basis of the best available written evidence of the Work’s actual cost and in the exercise of the EIP Administrator’s best judgment. The EIP Administrator shall determine the Loan Amount before advancing monies to Owner hereunder and following the post-completion inspection of the Energy Improvements by EIP Staff, as described in Section 4 below. In the event that the actual cost of the Work exceeds the Maximum Loan Amount, Owner shall be solely responsible for the payments of all costs of the Work which exceed the Maximum Loan Amount, and Owner agrees to in any event to complete the Work and to fund all costs associated with such completion which may exceed the Maximum Loan Amount.

(b) In consideration of the monies advanced by City hereunder, Owner promises to pay, without offset or deduction, an assessment levied against the Property pursuant to this Contract, the Act and applicable law (the “Assessment”) together with the interest thereon as described herein. Upon execution of this Contract, City will execute and cause to be recorded a notice of assessment in the office of the County of San Bernardino Auditor-Controller/Recorder (“County Recorder”) substantially in the form set forth in Exhibit “C” attached hereto and incorporated herein by this reference (the “Notice of Assessment”).

(c) Upon recordation of the Notice of Assessment, the Assessment and each installment thereof and the interest and penalties thereon, shall constitute a lien upon the Property until paid. Initially, as reflected in the Notice of Assessment, upon recordation of the Notice of Assessment, the Assessment shall equal the Maximum Loan Amount.

Following City's advance of monies to Owner hereunder, the Assessment shall equal the Loan Amount.

(d) Interest shall accrue on the unpaid Assessment from the date City disburses the Loan Amount to Owner at the simple interest rate of seven percent (7%) per annum and shall be payable in installments as set forth on Exhibit "D" attached hereto and incorporated herein by this reference. Interest shall be computed on the basis of three hundred sixty (360) days a year. If a court of competent jurisdiction determines the interest or other charges provided for herein in connection with the Assessment or the Annual Administrative Assessment (described in paragraph (f) below) exceed the limits permitted by applicable law, then: (i) any such interest or charge shall be reduced by the amount necessary to reduce the interest or charge to the permitted limit; and (ii) any sums already collected which exceed permitted limits will be refunded by City. The EIP Administrator, in his discretion, may make the refund by making a direct payment to Owner or by crediting the refund amount against the next installment or installments of the Assessment (described in paragraph (e) below).

(e) Annual installments of the Assessment, together with the annual interest of the Assessment, shall be collected on the property tax bill pertaining to the Property. The annual portion of the assessment coming due in any year, together with the annual interest on the Assessment, shall be payable in the same manner and at the same time and in the same installments as the general taxes of the City on real property. The amount of each Assessment installment and the interest on the unpaid Assessment that will be placed on the tax roll each year is set forth in Exhibit "D."

(f) In addition to the Assessment, until the Assessment and the interest thereon is paid in full, Owner promises to pay, without deduction or offset, an annual administrative assessment levied against the Property pursuant to this Contract, the Act and applicable law to pay costs incurred by City resulting from the administration and collection of the Assessment and from the administration or registration of any associated bonds or other financing arrangement, as described in the Report, and from the administration of any reserve fund and other related funds (the "Annual Administrative Assessment"). The Annual Administrative Assessment shall not exceed fifty dollars (\$50) per year. The EIP Administrator shall annually determine the amount of the Annual Administrative Assessment, not to exceed the amount set forth in the preceding sentence. The Annual Administrative Assessment shall be collected in the same manner as the Assessment. The Annual Administrative Assessment shall become a lien upon the Property at the same time as the property tax becomes a lien each year on the Property.

(g) The execution of this Contract by the parties constitutes the confirmation of the Assessment and the Annual Administrative Assessment by the City Council and the levy of the Assessment and the Annual Administrative Assessment against the Property without any further action required by the parties. Owner expressly consents to the levy of the Assessment and Annual Administrative Assessment on the Property and the recordation of the Notice of Assessment, all as described herein, in the Act and in applicable law.

(h) The lien of the Assessment shall be co-equal to and independent of the lien for general taxes, and, except as provided in Government Code section 53935.6, not subject to extinguishment by the sale of the Property on account of the nonpayment of any taxes, and is prior and superior to all liens, claims and encumbrances on or against the Property except (i) the lien for general taxes or ad valorem assessments in the nature of and collected as taxes levied by the State of California or any county, special district or other local agency, (ii) the lien of any special assessment or assessments the lien date of which is prior in time to the lien date of the Assessment, (iii) easements constituting servitudes upon or burdens to the Property, (iv) water rights, the record title to which is held separately from the title to the Property, and (v) restrictions of record.

(i) Owner acknowledges that as cumulative remedy, if any installment of the Assessment, or any interest thereon, together with any penalties, costs, fees, and other charges accruing under applicable taxation provisions are not paid when due, the City Council may order that the same be collected by an action brought in a court of competent jurisdiction to foreclose the lien of the Assessment to the extent permitted, and in the manner provided by, applicable law.

(j) Owner may prepay the Assessment, in whole or in part, at any time upon the payment of the amount, including an amount equal to \$_____ or _____ percent (___%) of the amount of the Assessment to be prepaid, determined by the EIP Administrator in accordance with the Report. Owner shall notify the EIP Administrator in writing of Owner's determination to prepay the Assessment, in whole or in part, at least thirty (30) business days prior to the date Owner intends to prepay the Assessment.

(k) Owner expressly acknowledges that the construction and/or installation of the Energy Improvements on the Property confer a special benefit to the Property in an amount at least equal to the Assessment.

(l) Owner expressly waives the notice, protest and hearing procedures of any applicable law other than the Act with respect to the levy and collection of the Assessment and Annual Administrative Assessment.

Section 3. Use of Proceeds

Owner shall use the Loan Amount for the sole purpose of paying the reasonable costs and expenses of the Work on the Property, and in connection therewith Owner shall comply with all requirements set forth in the Contract Documents.

Section 4. Loan Disbursement Procedures

(a) Notwithstanding anything to the contrary contained herein, City shall have no obligation to disburse the Loan Amount hereunder unless and until each of the following conditions is satisfied, or any such condition is expressly waived by the EIP Administrator:

(i) The receipt by the EIP Administrator of a written certification from Owner, and the contractor(s), if any, that performed the Work, stating the actual cost of the Work and that the Work is complete. Such certification shall be in form and substance acceptable to the EIP Administrator.

(ii) An inspection of the Work by City Staff, and a determination by the EIP Administrator that the Work has been completed in full compliance with the requirements of the Contract Documents.

(iii) The receipt by the EIP Administrator of such other documents and instruments as the EIP Administrator may require, including but not limited to, if applicable, the sworn statements of contractor(s) and releases or waivers of lien, all in compliance with the requirements of applicable law.

(iv) Owner has, as appropriate, executed and delivered to the EIP Administrator the Contract Documents and other such documents or instruments pertaining to the Loan Amount or the Work as the EIP Administrator may require.

(v) As of the date of disbursement of the Loan Amount, the EIP Administrator shall have determined that the representations of the Owner contained in the Contract Documents are true and correct, and no Default (as defined in Section 13 below) shall have occurred or be continuing.

(vi) No stop payment or mechanic's lien notice pertaining to the Work has been served upon City and remains in effect as of the date of disbursement of the Loan Amount.

(vii) City shall have received a title policy with regard to the monies advanced to Owner hereunder.

(viii) Owner will, within fifteen (15) business days of presentation by the EIP Administrator, execute any and all documents or instruments required by the Contract Documents in connection with the disbursement of the Loan Amount.

(b) Upon satisfaction of waiver of the conditions described in paragraph (a) above, City will disburse the Loan Amount to Owner, provided, City shall not be under any obligation to disburse the Loan Amount until the first day of the month immediately following the month in which all of the foregoing conditions were satisfied or waived.

Section 5. Reports.

Owner agrees, upon request of the EIP Administrator, to promptly deliver to the EIP Administrator, or, if appropriate, cause its contractor(s) to promptly deliver to the EIP Administrator, a written status report regarding the Work.

Section 6. Representations and Warranties of Owner.

Owner promises that each representation and warranty set forth below is true, accurate, and complete as of the date of this Contract, and the date of the disbursement of the Loan Amount. The disbursement of the Loan Amount shall be deemed to be a reaffirmation by Owner of each and every representation and warranty made by Owner in this Contract. If Owner is comprised of the trustees of a trust, the following representations shall also pertain to the trustor(s) of the trust.

(a) Formation; Authority. If Owner is anything other than a natural person, it has complied with all laws and regulations concerning its organization, existence and the transaction of its business, and is in good standing in each state in which it conducts its business. Owner is the owner of the Property and is authorized to execute, deliver and perform its obligations under the Contract Documents, and all other documents and instruments delivered by Owner to City in connection therewith. The Contract Documents have been duly executed and delivered by Owner and are valid and binding upon and enforceable against Owner in accordance with their terms, and no consent or approval of any third party, which has not been previously obtained by Owner, is required for Owner's execution thereof or the performance of its obligations contained therein.

(b) Compliance with Law. Neither Owner nor the Property is in violation of, and the terms and provisions of the Contract Documents do not conflict with, any regulation or ordinance, any order of any court or governmental entity, or any building restrictions or governmental requirements affecting Owner or the Property.

(c) No Violation. The terms and provisions of the Contract Documents, the execution and delivery of the Contract Documents by Owner, and the performance by Owner of its obligations contained therein, will not and do not conflict with or result in a breach of or a default under any of the terms or provisions of any other agreement, contract, covenant, or security instrument by which Owner or the Property is bound.

(d) Other Information. All reports, documents, instruments, information and forms of evidence that have been delivered to City concerning the disbursement hereunder and the Loan Amount are accurate, correct, and sufficiently complete to give City true and accurate knowledge of their subject matter.

(e) Lawsuits. There are no lawsuits, tax claims, actions, proceedings, investigations or other disputes pending or threatened against Owner or the Property which may impair Owner's ability to perform its obligations hereunder, or which may impair City's ability to levy and collect the Assessment and the Annual Administrative Assessment.

(f) No Event of Default. There is no event that is, or with notice or lapse of time or both would be, a Default under this Contract.

(g) Accuracy of Declarations. The declarations of Owner contained in the Application are accurate, complete, and true.

Section 7. Owner's Covenants.

Owner promises to keep each of the following covenants:

(a) Completion of Work and Maintenance of Energy Improvements. Owner shall, or shall cause its contractor(s) to, promptly commence construction of the Work, and diligently continue such Work to completion, in good and workmanlike manner and in accordance with sound construction and installation practices. Owner shall maintain the Energy Improvements in good condition and repair.

(b) Compliance with Law and Agreements. In commencing and completing the Work, Owner shall comply with all existing and future laws, regulations, orders, building restrictions and requirements of, and all agreements with and commitments to, all governmental, judicial and legal authorities having jurisdiction over the Property or the Work, and with all recorded instruments, agreements, covenants and restrictions affecting the Property.

(c) Permits, Licenses and Approvals. Owner shall properly obtain, comply with and keep in effect all permits, licenses and approvals which are required to be obtained from any governmental authority in order to commence and complete the Work. Owner, upon the request of the EIP Administrator, shall promptly deliver copies of all such permits, licenses and approvals to the EIP Administrator.

(d) Site Visits. Owner grants City, its agents and representatives the right to enter and visit the Property at any reasonable time, after giving reasonable notice to Owner, for the purposes of observing the Work. City will make reasonable efforts during any site visit to avoid interfering with Owner's use of the Property. Owner shall also allow City to examine and copy records and other documents of Owner which relate to the Work. Any site visit, observation or examination by City shall be solely for the purposes of protecting City's rights under the Contract Documents.

(e) Protection Against Lien Claims. Owner shall promptly pay or otherwise discharge any claims and liens for labor done and materials and services furnished to the Property in connection with the Work. Owner shall have the right to contest in good faith any claim or lien, provided that it does so diligently and without delay in completing the Work.

(f) Insurance. Owner shall provide, maintain and keep in force at all times until the Work is completed, builder's all risk property damage insurance on the Property, with a policy limit equal to the full replacement cost of the Work.

(g) Notices. Owner shall promptly notify City in writing of any Default under this Contract, or any event which, with notice or lapse of time or both, would constitute a Default hereunder.

Section 8. Completion of the Work.

(a) Consent and Authorization. This Contract constitutes consent and authorization, pursuant to Section 5898.21 of the Act, for Owner to purchase directly the related equipment and materials for the Energy Improvements and to contract directly for the construction and/or installation of the Energy Improvements on the Property.

(b) Date of completion of the Work. Subject to Section 13(f) below, Owner agrees to complete the Work on or before _____, 20__.

Section 9. Mechanic's Lien and Stop Notices.

In the event of the filing of a stop notice or the recording of a mechanic's lien pursuant to applicable law of the State of California and relating to the Work, the EIP Administrator may summarily refuse to disburse the Loan Amount, and in the event Owner fails to furnish the EIP Administrator a bond causing such notice or lien to be released within ten (10) days of notice from the EIP Administrator to do so, such failure shall, at the option of the City, constitute a Default under the terms of this Contract. Owner shall promptly deliver to EIP Administrator copies of all such notices or liens.

Section 10. Indemnification.

(a) Owner shall indemnify, defend, protect and hold harmless City and all agents, employees, attorneys and representatives of City (collectively, the "City Parties"), from and against all losses, liabilities, claims, damages (including consequential damages), penalties, fines, forfeitures, costs and expenses (including all reasonable out-of-pocket litigation costs and reasonable attorneys' fees) and any demands of any nature whatsoever related directly or indirectly to, or arising out of or in connection with, (i) the Contract Documents, (ii) the disbursement of the Loan Amount, (iii) the Work, (iv) the Energy Improvements, (v) any breach or Default by Owner under the Contract Documents, (vi) the levy and collection of the Assessment [and the Annual Administrative Assessment], (vii) the imposition of the lien of the Assessment, and (viii) any other fact, circumstance or event related to City's extension and disbursement of the Loan Amount to Owner or Owner's performance of its obligations under the Contract Documents (collectively, the "Liabilities"), regardless of whether such Liabilities shall accrue or are discovered before or after the disbursement of the Loan Amount.

(b) The indemnity obligations described in this Section 10 shall survive the disbursement of the Loan Amount, the payment of the Assessment in full, the transfer or sale of the Property by Owner, and the termination of this Contract.

Section 11. Waiver of Claims.

For and in consideration of City's execution and delivery of this Contract, Owner, for itself and for its successors-in-interest to the Property and for anyone claiming by, through, or under Owner, hereby waives the right to recover from and fully and

irrevocably releases the City Parties from any and all claims, obligations, liabilities, causes of action, or damages, including attorneys' fees and court costs, that Owner may now have or hereafter acquire against any of the City Parties and accruing from or related to (i) the Contract Documents, (ii) the disbursement of the Loan Amount, (iii) the levy and collection of the Assessment and the Annual Administrative Assessment, (iv) the imposition of the lien of the Assessment, (v) the issuance and sale of any bonds or other evidence of indebtedness, or other financial arrangements entered into by City pursuant to the Program, (vi) the performance of the Work, (vii) the Energy Improvements, (viii) any damage to or diminution in value of the Property that may result from the Work, (ix) any personal injury or death that may result from the Work, (x) the selection of manufacturer(s), dealer(s), supplier(s), contractors(s) and/or installer(s), and their action or inaction with respect to the Work or the Energy Improvements, (xi) the merchantability and fitness for any particular purpose, use or application of the improvements, (xiii) the workmanship of any third parties, and (xiv) any other matter with respect to the Program. This release includes claims, obligations, liabilities, causes of action, and damages of which Owner is not presently aware or which Owner does not suspect to exist which, if known by Owner, would materially affect Owner's release of the City Parties.

OWNER HEREBY ACKNOWLEDGES THAT IT HAS READ AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 ("SECTION 1542"), WHICH IS SET FORTH BELOW:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

BY INITIALING BELOW, OWNER HEREBY WAIVES THE PROVISIONS OF SECTION 1542 SOLELY IN CONNECTION WITH THE MATTERS WHICH ARE THE SUBJECT OF THE FOREGOING WAIVERS AND RELEASES.

Owner's Initials

The waivers and releases by Owner contained in this Section 11 shall survive the disbursement of the Loan Amount, the payment of the Assessment in full, the transfer or sale of the Property by Owner, and the termination of this Contract.

Section 12. Further Assurances.

Owner shall execute any further documents or instruments consistent with the terms of this Contract, including documents and instruments in recordable form, as City shall from time to time find necessary or appropriate to effectuate its purposes in entering into this Contract and disbursing the Loan Amount.

Section 13. Events of Default.

(a) Subject to the further provisions of this Section 13, the failure of any representation or warranty of Owner contained herein to be correct in all material respects, or the failure or delay by Owner to perform any of its obligations under the terms or provisions of the Contract Documents, other than with respect to the payment of the Assessment, shall constitute a non-monetary default hereunder (“Default”). Owner must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence, but in any event, within the time set forth in Section 13(b) below.

(b) If a Default occurs, prior to exercising any remedies under the Contract Documents or the Act, City shall give Owner notice of such Default. If the Default is reasonably capable of being cured within thirty (30) days, Owner shall have such period to effect a cure prior to the exercise of remedies by City under the Contract Documents or the Act. If the Default is such that it is reasonably capable of being cured, but not within such thirty (30) day period, and Owner (i) initiates corrective action within such thirty (30) day period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then Owner shall have such additional time as is reasonably necessary to cure the Default prior to exercise of any remedies by City. However, in no event shall City be precluded from exercising its remedies if its security becomes or is about to become materially jeopardized by any failure to cure a Default, or if the Default is not cured within one hundred and twenty (120) days after the first notice of Default is given.

(c) Subject to the provisions of paragraph (b) above, if any Default occurs City may exercise any or all rights and remedies available to it under applicable law, at equity, or as otherwise provided herein. Upon the election of City, if there has been no disbursement of the Loan Amount, this Contract shall terminate and, except as otherwise expressly provided herein, the parties have no further obligations or rights hereunder.

(d) Subject to the provisions of Section 17 hereof, any and all costs and expenses incurred by City in pursuing its remedies hereunder shall be additional indebtedness of Owner to City hereunder.

(e) Except as otherwise expressly stated in this Contract or as otherwise provided by applicable law, the rights and remedies shall not preclude exercise by City, at the same time or different times, of any other rights or remedies for the same Default or any other Default. No failure or delay by City in asserting any of its rights and remedies as to any Default shall operate as a waiver of any Default or of any such rights or remedies, or deprive City of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

(f) Performance of the covenants and conditions imposed upon Owner hereunder with respect to the commencement and completion of the Work shall be excused while and to the extent that, Owner is prevented from complying therewith by war, riots, strikes, lockouts, action of the elements, accidents, or acts of God beyond the reasonable control of Owner; provided, however, that such event is not caused by the fault, negligent or misconduct of Owner; and provided, further, as soon as the cause or event preventing compliance is removed or ceases to exist the obligations shall be restored to full force and effect and Owner shall immediately resume compliance therewith and performance thereof.

(g) Remedies with respect to the nonpayment of the Assessment or other amounts payable by Owner hereunder are governed by the provisions of Section 2 hereof.

Section 14. Compliance with Local, State and Federal Laws.

Owner shall perform the Work, or cause the Work to be performed, in conformity with all applicable laws, including all applicable federal, state and local occupation, safety and health laws, rules, regulations and standards. Owner agrees to indemnify, defend and hold the City Parties harmless from and against any cost, expense, claim, charge or liability relating to or arising directly or indirectly from any breach or failure of Owner or its contractor(s) or agents to comply with such laws, rules or regulations. The indemnification obligations described in this Section 14 shall survive the disbursement of the Loan Amount, the payment of the Assessment in full, the discharge of the lien, and the termination of this Contract.

Section 15. Severability.

Each and every provision of this Contract is, and shall be construed to be, a separate and independent covenant and agreement. If any term or provision of this Contract or the application thereof shall to any extent be held to be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Contract shall be valid and shall be enforced to the extent permitted by law.

Section 16. Notices.

All notices and demands shall be given in writing by certified mail, postage prepaid, and return receipt requested, or by personal delivery (by recognized courier service or otherwise). Notices shall be considered given upon the earlier of (a) personal delivery or (b) two (2) business days following deposit in the United States mail, postage prepaid, certified or registered, return receipt requested. Notices shall be addressed as provided below for the respective party; provided that if any party gives notice in writing

of a change of name or address, notices to such party thereafter be given as demanded in that notice:

To City: City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399
Attention: [EIP Administrator]

To Owner: _____

Attention: _____

Section 17. Attorney's Fees and Costs.

In the event that any action is instituted to enforce payment or performance under this Contract, the parties agree that the non-prevailing party shall be responsible for and shall pay all costs and all attorneys' fees incurred by the prevailing party in enforcing this Contract.

Section 18. No Waiver.

No disbursement of the Loan Amount based upon inadequate or incorrect information shall constitute a waiver of the right of City to receive a refund thereof from Owner.

Section 19. Governing Law.

This Contract shall be governed by the laws of the State of California. Any legal action brought under this Contract must be instituted in the Superior Court of the County of San Bernardino, State of California, or in an appropriate municipal court in that County or in the United States District Court for the Central District of California.

Section 20. Amendment of Contract.

No modification, rescission, waiver, release or amendment of any provision of this Contract shall be made except by a written agreement executed by Owner and City.

Section 21. City May Assign; Role of City.

City, at its option, may (i) assign any or all of its rights and obligations under this Contract, and (ii) pledge and assign its right to receive the Assessment and the Annual Administrative Assessment, and any other payments due to City hereunder, without obtaining consent from Owner.

Section 22. Owner Assignment Prohibited.

In no event shall Owner assign or transfer any portion of this Contract or Owner's rights or obligations under the Contract without the prior express written consent of City, which consent may be granted or withheld in the sole and absolute discretion of the City.

Section 23. Relationship of Owner and City.

The relationship of Owner and City pursuant to this Contract is that of debtor and creditor and shall not be or be construed to be a joint venture, equity venture, partnership, or other relationship.

Section 24. General.

Time is of the essence of this Contract and of each and every provision hereof. This Contract, together with the other Contract Documents, constitutes the entire agreement between the parties hereto, and there shall be no other agreement regarding the subject matter thereof unless signed in writing by the part to be charged. If there is more than one "Owner," the obligations hereunder of all Owners shall be joint and several.

Section 25. Counterparts.

This Contract may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

Section 26. Special Termination.

Notwithstanding anything to the contrary contained herein, this Contract shall terminate and be of no further force or effect if Owner has submitted to the EIP Administrator a notice of its decision to cancel this transaction on or prior to the date and time described in the Notice of Right to Cancel which was delivered to Owner upon its execution of this Contract.

Section 27. No Third Party Beneficiary Rights.

This Contract is entered into for the sole benefit of Owner and City and, subject to the provisions of Sections 10, 11 and 21, no other parties are intended to be direct or incidental beneficiaries of this Contract and no third party shall have any right in, under or to this Contract.

IN WITNESS WHEREOF, Owner and City have entered into this Contract as of the date and year first above written.

OWNER:

CITY:

Date of Execution by Owner:

_____, 200__

CITY OF YUCAIPA, a
municipal corporation

By:

Name:

Title:

ATTEST:

STATE OF CALIFORNIA }ss.

COUNTY OF _____ }

On _____, before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(This area for official notarial seal)

STATE OF CALIFORNIA }ss.

COUNTY OF _____ }

On _____, before me, _____, a notary public, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(This area for official notarial seal)

EXHIBIT "A"

[ATTACH COPY OF EXECUTED AND APPROVED APPLICATION]

EXHIBIT "B"

DESCRIPTION OF THE PROPERTY

EXHIBIT “C”

NOTICE OF ASSESSMENT

See attached copy of the notice of assessment document entitled “Payment of Contractual Assessment Required.”

[to be provided]

EXHIBIT “D”

**SCHEDULE OF ASSESSMENT INSTALLMENTS, INTEREST THEREON,
[AND THE MAXIMUM ADMINISTRATIVE ASSESSMENT]**

[to be provided]

City of Yucaipa Energy Independence Program
APPENDIX E – SUMMARY OF LOAN PROCESS

A. Project Scoping

The first step in the loan process is project scoping. Property owners can work directly with contractors to determine the scope of a project. Property owners can also schedule a meeting with city staff to obtain objective assistance to discuss proposed Energy Improvements. As the project is defined, the property owner obtains a contractor's bid or determines the cost of the equipment if self-installing.

It is highly recommended, but not required, that property owners obtain energy surveys or audits. These energy surveys can provide the property owner valuable information on how to maximize energy savings for the dollars invested. They also provide valuable data on energy usage, savings and greenhouse gas emissions reduction. The City will provide 50% of the costs associated with energy audits, up to the amount of \$150.

B. Program Application

The property owner may visit the City's website at www.yucaipa.org or the EIP office located at 34272 Yucaipa Blvd., Yucaipa, CA 92399, to obtain a loan application form ("Loan Application"). City staff can also provide a Loan Application by mail, e-mail, or fax upon request.

The property owner submits the Application together with its required attachments to the EIP Administrator (see Loan Application for required attachments). The EIP Administrator determines whether each Loan Application is complete within fifteen (15) business days of receipt of the Application. The EIP Administrator will notify the property owner if the Loan Application is complete, incomplete or denied by U.S. Mail, and additionally by e-mail if requested by the property owner.

Applications will be processed on first-come, first-served basis until funds are no longer available.

C. Title Check

City staff will verify property ownership by performing a title check. Applicants are responsible for the costs of the title check, and of title insurance (where required), but may include these costs in the EIP Loan Application as an eligible cost for reimbursement.

D. Application Review

During the application review process, city staff verifies that:

- (i) The application is complete and accurate;
- (ii) The property owner(s) owns the property;
- (iii) The property is developed and located in the City of Yucaipa;
- (iv) The property is not exempt from secured property taxes;
- (v) The property owner(s) is/are current in the payment of property taxes;
- (vi) The property owner(s) has/have declared that the property owner(s) and the property is/are not currently involved in a bankruptcy proceeding;
- (vii) The property owner has executed all declarations required in the Loan Application;
- (viii) The proposed Energy Improvements and costs are eligible to be financed under the Program. If the proposed Energy Improvements are part of a project that includes new construction (e.g., a room addition), the costs of the work have been properly allocated between costs directly related to the Energy Improvements and other costs of new construction;
- (ix) The cost estimate(s) is/are reasonable for the Energy Improvements;
- (x) Energy Improvement costs are reasonable for the value of the property. As a guideline, proposed Energy Improvements should not exceed ten percent (10%) of the assessed value. If more costly Energy Improvements are proposed, the EIP Administrator may require additional information supporting both the reasonable relationship of the Energy Improvements to the property, and information related to the property owner's ability to repay the assessment;
- (xi) All required documents have been submitted;
- (xii) The proposed contractor(s) is/are licensed by the State of California and is/are in good standing with the Contractors State Licensing Board;
- (xiii) The requested loan amount is equal to or greater than \$5,000 and is less than or equal to \$35,000 for residential properties and \$100,000 for industrial and commercial properties, or the City Council has reviewed and approved the requested loan amount if it exceeds these amounts.
- (xiv) EIP funding is available.

Within 15 business days of receipt of an application, the EIP Administrator notifies the property owner if the application is incomplete, approved or denied.

- a. Incomplete. An application shall be deemed incomplete if it is missing any information or attachments the property owner is required to provide. Incomplete applications may be resubmitted. City staff will process resubmitted applications on a first-come, first-served basis based upon the new receipt date.
- b. Approved. An application shall be approved if city staff has verified all of the items in steps (i) through (xiv). The EIP Administrator will send a written approval notice.
- c. Denied. An application shall be denied if city staff cannot verify any of the items in steps (i) through (xiv). The EIP Administrator will send a written denial notice.

Property owners are free to submit a new application, which will be processed on a first-come, first-served basis upon the new receipt date.

If an application is denied on the sole basis that EIP funding is not available, the application does not need to be resubmitted; applicants will be placed on a waiting list based on the date of application receipt.

If an application is denied because the cost estimate(s) is/are not deemed reasonable by city staff, a resubmitted application must be accompanied by additional documentation of cost estimates as determined in the EIP Administrator's discretion, including, but not limited to, cost estimates provided by one or more additional contractors. The property owner will not be required to select the low bid; however, city staff may limit the maximum loan amount to an amount deemed reasonable by the EIP Administrator.

With respect to an application to finance a renewable energy system(s) other than solar (such as wind or geothermal) or a custom energy efficiency measure(s) (such as a combined heat and power system cogeneration system), or to finance an emerging technology, the EIP Administrator reserves the right to require the appropriate energy studies showing the energy savings and/or energy generation capabilities of the proposed project.

E. Permit

After receiving notice that the Loan Application has been approved, the property owner (or contractor) must obtain the necessary permits from the City of Yucaipa. City staff will conduct a final inspection to ensure that Energy Improvements comply with the necessary permits.

A valid permit is required before the EIP Administrator can execute the Assessment Contract and reserve financing for a project.

F. Assessment Contract and Reservation

The EIP Administrator will enter into a contractual assessment agreement ("Assessment Contract") with the property owner within 15 business days from the date the application has been approved. Failure on the part of the property owner to enter into an Assessment Contract within the 15 business days may require the application to be resubmitted. This will assure the property owner that the EIP financing has been approved and that funds are reserved for the property owner's approved project.

All property owners of record must sign the Assessment Contract and have their signature(s) notarized.

G. Assessment Lien

Upon execution of the Assessment Contract, the City records an assessment lien against the property in the office of the EIP Administrator and the County Recorder's Office. The lien will be for the full amount of the assessment on the property securing the assessment.

H. Installation of Energy Improvements

Property owner enters into a contractual arrangement directly with a contractor for Energy Improvements unless the property owner is self-installing the Energy Improvements. All work is subject to the City's Building Department permitting and inspections and all other applicable federal, state and local laws and regulations. All work must be completed within 180 days of execution of the Assessment Contract.

I. Progress Payments/Multiple Disbursements

If the maximum loan amount is \$ 35,000 or greater, the property owner may request in writing that the EIP Administrator make a progress payment prior to the completion of the work. The EIP Administrator may approve the progress payment within 10 business days of receipt of the request if the following conditions have been met:

- At least 75 percent of the required materials have been delivered to the property and have been reasonably secured. The EIP Administrator has the discretion to make his or her own determination with respect to whether this condition has been satisfied; and
- The requested progress payment does not exceed 50 percent of the maximum loan amount.

J. Final Inspections & Disbursement of EIP Financing

The property owner notifies city staff that Energy Improvements are completed and submits all final documentation. City staff reserves the right to inspect completed Energy Improvements within 5 business days of receipt of notification that work is complete.

Once city staff completes its final inspection and deems it satisfactory, the EIP Administrator disburses loan funds to the property owner within 10 business days of the completion of the inspection. The amount disbursed will be the lesser of (i) the maximum loan amount provided in the Assessment Contract or (ii) actual costs. Interest accrues as of the date of disbursement.

K. Property Tax Rolls

The EIP staff sends a database of assessments to the office of the Auditor-Controller/Recorder of the County of San Bernardino for the collection of the assessments on the County property tax rolls.