

RECORDING REQUESTED BY:

City of Yucaipa

PREPARED BY AND WHEN
RECORDED MAIL TO:

City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, California 92399
Attn.: Gregory Franklin

A.P.N:

File No:

CONSENT AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2009, by and between _____, a _____ (“Owner”) and _____, a _____ (“Beneficiary”), and for the benefit of the CITY OF YUCAIPA, a municipal corporation (“Lender”).

WITNESSETH

WHEREAS, Owner has executed a deed of trust dated _____, to Beneficiary, as trustee and beneficiary thereunder, covering that certain real property described in Exhibit A attached hereto (“Property”), to secure a promissory note in the sum of \$_____, and recorded on _____ as Instrument No. _____ in the Official Records of San Bernardino County (“Deed of Trust”); and

WHEREAS, Owner has executed, or is about to execute, a Assessment Contract with the Lender (“Assessment Contract”) by which the Lender will make a loan to the Owner in a principal amount not to exceed \$_____ (“Loan”) to finance the purchase and installation of a certain renewable energy system on the Property in connection with the Lender’s Energy Independence Program, and such Loan will be payable with interest and upon the terms and conditions described in the Assessment Contract; and

WHEREAS, pursuant to Chapter 29 of Part 3 of Division 7 of the California Streets and Highways Code, the repayment by the Owner of the principal and interest on the Loan will be paid by a statutory assessment levied against the Property (the “Assessment”) notice of which shall be recorded against the Property in the Official Records of San Bernardino County, and which Assessment, together with the interest thereon and any

penalties, shall constitute a lien (the "Lien") on the Property, and which Assessment shall be collected in installments on the property tax bill pertaining to the Property, and shall be subject to the same penalties, remedies and lien priorities as for real property taxes in the event of non-payment by the Owner; and

WHEREAS, Lender is willing to make the Loan provided that the Beneficiary consents to the Loan, the levy of the Assessment against the Property, the imposition of the Lien upon the Property, and the recordation of the notice of Assessment in the Official Records of San Bernardino County and acknowledges that the Lien shall be prior and superior to the lien or charge of the Deed of Trust.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the Loan, it is hereby declared, understood and agreed as follows:

1) That the Lien shall unconditionally be and remain at all times a lien on the Property prior and superior to the lien or charge of the Deed of Trust.

2) That Lender would not make the Loan without this Agreement.

Beneficiary declares, agrees and acknowledges that:

1. Beneficiary consents to and approves (a) all provisions of the Assessment Contract, including but not limited to those pertaining to the disbursement of the proceeds of the Loan, and the Owner's execution of the Assessment Contract, and (b) the levy of the Assessment against the Property, the imposition of the Lien upon the Property and the recordation of the notice of Assessment in the Official Records of San Bernardino County with the effect as to its nature and priority hereinabove described, and Beneficiary hereby confirms that the Owner's execution of the Assessment Contract will not constitute a default under the Deed of Trust.

2. Lender in making disbursements pursuant to the Assessment Contract is under no obligation or duty to Beneficiary, and Lender shall have no responsibility to see to the application of the proceeds of the Loan by the Owner, or to such other person or persons to whom Lender disburses such proceeds.

3. Beneficiary understands that in reliance upon, and in consideration of, this consent, approval and confirmation, the Loan will be made by the Lender to the Owner and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into by the Lender or Owner but for and in reliance upon this consent, approval and confirmation by Beneficiary.

The Beneficiary and Owner agree that:

A. This Agreement shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of the parties hereto.

B. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

C. This Agreement may be signed by different parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument, and all counterparts shall be deemed an original of this Agreement.

D. Each of the parties hereto shall, whenever and as often as they reasonably shall be requested to do so by the other party, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all such further instruments and documents as may be reasonably necessary to carry out the intent and purpose of this Agreement, and to do any and all further acts reasonably necessary to carry out the intent and purpose of this Agreement.

E. In the event any legal action is commenced by any party hereto concerning this Agreement or the rights and duties hereunder of any party hereto, whether such action be an action for damages, or for equitable or declaratory relief, the prevailing party in such litigation shall be entitled to, in addition to all other relief as may be granted by the court, reasonable sums as and for attorneys' fees in an amount to be set by the court.

F. Each person or entity executing this Agreement on behalf of a party hereto represents and warrants that such person or entity is duly and validly authorized to do so on behalf of such party with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder.

BENEFICIARY:

_____,
a, _____

By: _____
Name: _____
Title _____

By: _____
Name: _____
Title _____

OWNER:

_____,
a _____

By: _____
Name: _____
Title _____

By: _____
Name: _____
Title _____

STATE OF _____) 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 _____

My Commission Expires: _____

This area for official notarial seal.

STATE OF _____) 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 _____

My Commission Expires: _____

This area for official notarial seal.

EXHIBIT A

LEGAL DESCRIPTION

REAL PROPERTY IN THE CITY OF YUCAIPA, COUNTY OF SAN BERNARDINO,
STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS: