

A G E N D A
CITY OF AZTEC
CITY COMMISSION WORKSHOP
February 11, 2020
201 W. Chaco, City Hall
5:15 p.m.

5:15 P.M.

A. Revised Purchase Power Agreement with Guzman Energy

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

AG E N D A
CITY OF AZTEC
CITY COMMISSION MEETING
February 11, 2020
201 W. Chaco, City Hall
6:00 p.m.

I. CALL TO ORDER

II. INVOCATION AND PLEDGE OF ALLEGIANCE

United States Pledge of Allegiance

New Mexico Pledge of Allegiance

I Salute the Flag of the State of New Mexico and the Zia Symbol of Perfect Friendship among United Cultures

III. ROLL CALL

IV. APPROVAL OF AGENDA ITEMS

V. CONSENT AGENDA

- A. Commission Meeting Minutes January 28, 2020
- B. Commission Special Workshop Meeting Minutes January 29, 2020
- C. Commission Special Meeting Minutes January 29, 2020
- D. 2019 Volunteer Firefighters Annual Report
- E. Resolution 2020-1173 Authorizing Opening and Closing of Time Certificate of Deposit for City
- F. Approval of Revised Purchase Power Agreement with Guzman Energy
- G. Letter of Support for San Juan County Senior Programs to Governor Lujan Grisham

Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners, a Commissioner may request that the item be heard under "items from Consent Agenda"

VI. ITEMS REMOVED FROM CONSENT AGENDA

VII. PRESENTATIONS

Employee Recognition

VIII. CITIZENS INPUT (3 Minutes Maximum)

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

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IX. BUSINESS ITEMS

- A. Aztec Motocross Presentation and Funding Request
- B. Intent to Adopt Ordinance 2020-500 Amending Chapter 16, Section 16-211
Solid Waste
- C. Intent to Adopt Ordinance 2020-501 Amending Chapter 2-Administration,
Division 6 Municipal Judge

X. QUASI JUDICIAL HEARINGS (LAND USE)

None

XI. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS

XII. ADJOURNMENT

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

1
2 CITY OF AZTEC
3 COMMISSION MEETING MINUTES
4 January 28, 2020
5

6 **I. CALL TO ORDER**
7

8 Mayor Pro-Tem Fry called the Meeting to order at 6:01 pm at the Aztec City
9 Commission Room, City Hall, 201 W. Chaco, Aztec, NM.
10

11 **II. INVOCATION AND PLEDGE OF ALLEGIANCE**
12

- 13 A. Invocation (led by Commissioner Sipe)
14 B. United States Pledge of Allegiance (led by Commissioner Lewis)
15 C. New Mexico pledge of Allegiance (led by Commissioner Lewis)
16

17 **III. ROLL CALL**

18 Members Present: Mayor Victor Snover; Mayor Pro-Tem Fry;
19 Commissioner Sipe; Commissioner Austin Randall;
20 Commissioner Mark Lewis
21

22 Members Absent: None
23

24 Others Present: City Manager Steve Mueller; City Attorney Tyson Gobble;
25 Project Manager Ed Kotyk; City Clerk Karla Sayler (see
26 attendance sheet)
27

28 **IV. APPROVAL OF AGENDA ITEMS**
29

30 MOVED by Commissioner Lewis to approve the agenda as given;
31 SECONDED by Commissioner Sipe
32

33 All voted Aye: Motion passed five to zero
34

35 **V. CONSENT AGENDA**
36

- 37 A. Commission Workshop Meeting Minutes January 14, 2020
38 B. Commission Meeting Minutes January 14, 2020
39 C. Resolution 2020-1170 Governing Body Meetings and Public Notice
40 D. Resolution 2020-1171 Authorizing Opening and Closing of Time Certificate of
41 Deposit for City of Aztec
42 E. Economic Development Board Member Appointment
43 F. Consideration of Letter of Support for SB57 (Pet Food Fee for Neutering and
44 Sheltering)
45
46

47 MOVED by Commissioner Randall to Approve the Consent Agenda as given
48 SECONDED by Commissioner Lewis

49
50 All voted Aye: Motion passed five to zero

51
52 **VI. ITEMS REMOVED FROM CONSENT AGENDA**

53
54 NONE

55
56 **VII. PRESENTATIONS**

57
58
59 **VIII. CITIZENS INPUT (3 Minutes Maximum)**

60
61 NONE

62
63 **IX. BUSINESS ITEMS**

64
65 A. Final Adoption of Ordinance 2020-499 An Ordinance Authorizing the Sale of
66 Certain Municipal Owned Property Commonly Known as 119 E. Chuska Street/119 S.
67 Church Avenue

68
69
70
71 MOVED by Commissioner Sipe to Approve Final Adoption of Ordinance 2020-
72 499 An Ordinance Authorizing the Sale of Certain Municipal Owned Property Commonly
73 known as 119 E. Chuska Street/119 S. Church Avenue SECONDED by Commissioner
74 Randall

75
76 A Roll Call was taken; All voted Aye: Motion passed five to zero

77
78 B. Resolution 2020-1172 FY20 Mid-Year Budget Adjustments

79
80 Finance Director Kathy Lamb explained that the only differences from the
81 workshop were to the Hold Harmless tax and the change to the Municipal Judge salary.

82
83 MOVED by Commissioner Randall to Approve Resolution 2020-FY20 Mid-Year
84 Budget Adjustments SECONDED by Commissioner Lewis

85
86 A Roll Call was taken; All voted Aye: Motion passed five to zero

87
88 **X. QUASI JUDICIAL HEARINGS (Land Use)**

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90 NONE

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XI. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS

Commissioner Lewis mentioned he attended the Martin Luther King Day of service and it was great.

Commissioner Sipe mentioned that the MPO Policy Committee Meeting has changed meeting time from 1:00 in the afternoon to 10:30 am. She will be attending Municipal Day in Santa Fe. She attended the EDAB meeting but left early because of the land use item up for discussion. She is drafting a letter in hopes of getting some relief from the State concerning the food at the Senior Center.

Mayor Pro-Tem Fry attended EDAB and there were very interesting discussions. The Election is March 3rd, she attended a meet and greet at SJC Partnership. The Candidate Forum will be February 18th at 6:00 pm at the Senior Center.

Steven Saavedra mentioned that Friday will be the 1st meeting for the Community Development Block Grant at 5:30 in the Aztec Library. The 2nd meeting will be February 1st at 12:00pm at the HUB, and the 3rd meeting is February 4th at 6:00 pm in City Hall.

XII. ADJOURNMENT

Commissioner Lewis moved to adjourn the meeting at 6:15 pm SECONDED by Commissioner Sipe

Mayor, Victor Snover

ATTEST:

Karla Saylor, City Clerk

MINUTES PREPARED BY:

Sherlynn Morgan, Administrative Assistant

1 CITY OF AZTEC
2 SPECIAL WORKSHOP MEETING MINUTES
3 January 29, 2020
4

5 **I. CALL TO ORDER**

6 Mayor Snover called the Workshop to order at 5:30 pm at the Aztec City
7 Commission Room, City Hall, 201 W. Chaco, Aztec, NM.
8

9 MEMBERS PRESENT: Mayor Victor Snover; Mayor Pro-Tem Fry;
10 Commissioner Sherri Sipe; Commissioner,
11 Mark Lewis; Commissioner Randall
12

13 MEMBERS ABSENT: NONE
14

15 OTHERS PRESENT: City Manager Steve Mueller; Finance Director
16 Kathy Lamb; Project Manager Ed Kotyk; City
17 Clerk Karla Saylor
18

19 **A. Solid Waste Services**
20

21 City Manager Steve Mueller explained that we will be looking at the CPI
22 adjustments that Waste Management submitted. Finance Director Kathy Lamb
23 put together figures on how much everything will cost. The request is based on
24 the CPI and the additional request because San Juan County has also raised
25 their fees, this is a normal request under the contract. Part of the calculation
26 includes the CPI and the rate schedule of the fees that would be charged to the
27 City for various services (trash, curb side recycling, and debris roll off, recycling
28 bin at convenience center and sludge hauling). The CPI increase is standard
29 and will be effective March 1st. Staff mentioned that they will be seeking
30 Commission direction on the recycling center. Staff mentioned that annually we
31 pay \$25,000 for the debris roll-off and \$23,000 for the recycle bin. At one of the
32 last workshops Commission mentioned that with getting curb side recycling there
33 might not be a need for the recycle center to stay open. Jeff Blackburn
34 mentioned that they have had signage in place at the center for 6 months just to
35 start making people aware of the potential closure. Delain has also sent out flyers
36 to all customers.
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II. ADJOURMENT

Moved by Mayor Snover to adjourn the meeting at 6:14 p.m.

Mayor, Victor C. Snover

ATTEST:

Karla Sayler, City Clerk

MINUTES PREPARED BY:

Sherlynn Morgan, Administrative Assistant

1
2 CITY OF AZTEC
3 SPECIAL COMMISSION MEETING MINUTES
4 January 29, 2020
5

6 **I. CALL TO ORDER**
7

8 Mayor Victor Snover called the Meeting to order at 6:01 pm at the Aztec City
9 Commission Room, City Hall, 201 W. Chaco, Aztec, NM.
10

11 **II. INVOCATION AND PLEDGE OF ALLEGIANCE**
12

- 13 A. Invocation (led by Commissioner Sipe)
14 B. United States Pledge of Allegiance (led by Commissioner
15 Randall)
16 C. New Mexico pledge of Allegiance (led by Commissioner Randall)
17

18 **III. ROLL CALL**

19 Members Present: Mayor Victor Snover; Mayor Pro-Tem Fry
20 Commissioner Sipe; Commissioner Mark
21 Lewis; Commissioner Austin Randall
22

23 Members Absent: NONE
24

25 Others Present: City Manager Steve Mueller; City Attorney Nicci Unsicker;
26 Project Manager Ed Kotyk; City Clerk Karla Sayler (see
27 attendance sheet)
28
29

30 **IV. APPROVAL OF AGENDA ITEMS**
31

32 MOVED by Commissioner Lewis to approve the agenda as given;
33 SECONDED by Mayor Pro-Tem Fry
34

35 All voted Aye: Motion passed five to zero
36

37 **V. BUSINESS ITEMS**
38

39 A. 2020 Capital Request Outdoor Recreation Manufacturing and Retail Facility
40 Development
41

42 City Manager Steve Mueller mentioned that the NM Legislature has just gone
43 into a 30 day session and there have been recent discussions with the City and the
44 Governor's office and the possibility of additional funding has come to our
45 attention. The item that is being proposed is for an outdoor recreational
46 manufacturing or retail facility in Riverside Park. The location in Riverside that has

47 been identified for this project is large dirt parking area on the North side. Staff has
48 done some preliminary investigation, a local company has performed some GEO
49 testing. It is suitable for a project like this, the conditions done there would require
50 some engineer fill but it is possible. This is just one idea that has been discussed
51 recently.

52
53 Mayor Snover mentioned that we are looking to diversify our economy and this is
54 a long range opportunity to diversify in the outdoor recreational space and the
55 other local communities are looking to do this as well.

56
57 Community Development Director Steven Saavedra explained that to the best of
58 his knowledge SJC does not have a facility devoted to outdoor recreation and the
59 construction of this facility would be the first of its kind in SJC. It is an ambitious
60 project but if we are going to be looking at diversifying the economy this is a way to
61 combine the 2. Steven mentioned that at Riverside, the spot next to O'Reileys and
62 the 20 acres across Aztec Blvd. have all been considered.

63
64 Commissioner Sipe mentioned that she had several problems with this, a project
65 of this magnitude there should have been previous discussions or workshops on
66 this. It involves one of our premiere parks and we've spent a lot of money to get
67 the park in the shape that it is in now. It is on our Park's Plan which involved the
68 public who helped develop the plan. She is all for helping business and the
69 economy but if you put manufacturing and retail in the park it will no longer be a
70 public park. She does not want to be locked into Riverside with the submittal of this
71 and she worries about the flood plain.

72
73 Steven explained that idea is not to compete with the park but to compliment the
74 park. He mentioned that it would change the look of the park. The building would
75 need to be positioned away from the gas well and the power lines. He mentioned
76 that North Main is another viable option.

77
78 Mayor Pro-Tem Fry felt that we didn't have enough research to be locked into
79 Riverside.

80
81 MOVED by Commissioner Sipe to approve the submittal of the 2020Capital
82 Outlay request to the New Mexico Legislature for the development of an outdoor
83 recreational manufacturing and/or retail facility on City owned or property to be acquired
84 in Aztec NM in the amount of \$6 million dollars SECONDED by Mayor Pro-Tem Fry

85
86 A Roll Call was taken: All voted Aye: Motion passed five to zero

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91 **VI. ADJOURNMENT**

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Mayor Snover moved to adjourn the meeting at 7:05 pm SECONDED by
Commissioner Lewis

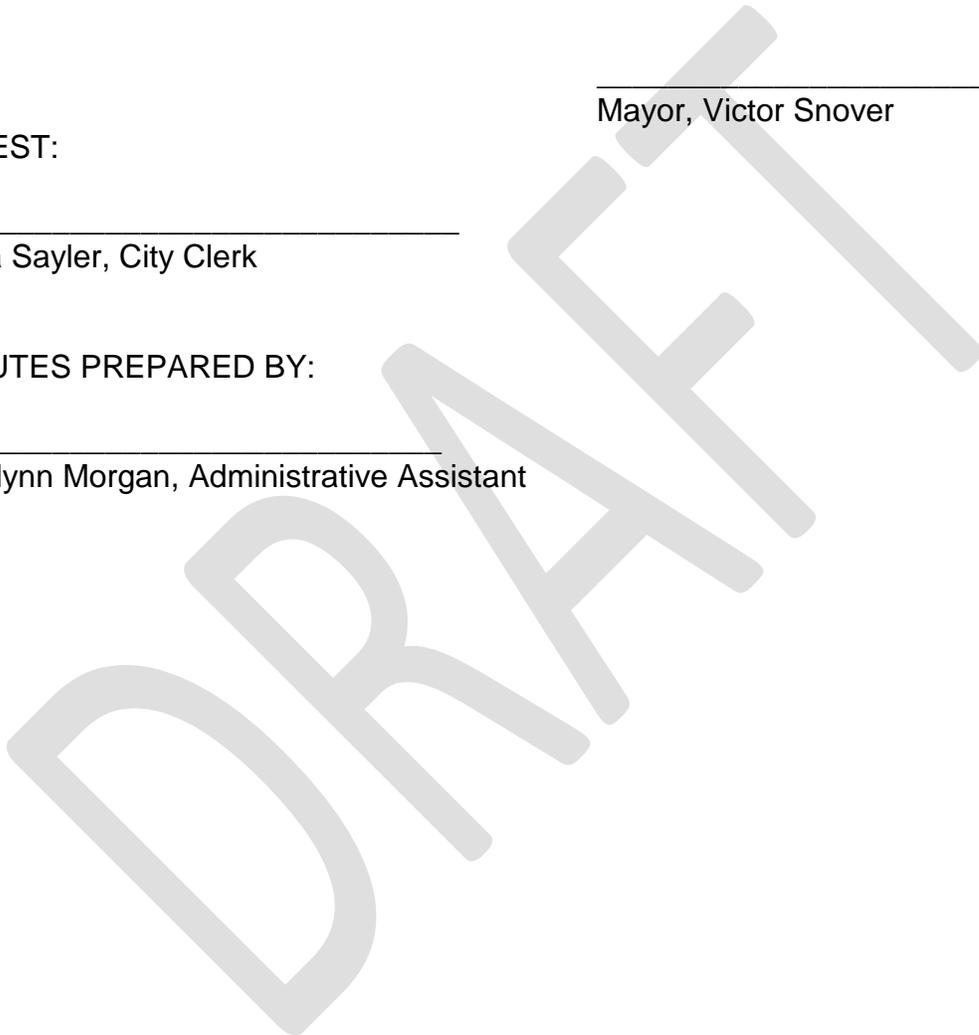
Mayor, Victor Snover

ATTEST:

Karla Sayler, City Clerk

MINUTES PREPARED BY:

Sherlynn Morgan, Administrative Assistant



Staff Summary Report

MEETING DATE: February 11, 2020

AGENDA ITEM: V. CONSENT AGENDA (D)

AGENDA TITLE: Volunteer Firefighters Annual PERA Report

ACTION REQUESTED BY: Kevin Simpson, Fire Chief

ACTION REQUESTED: Approve the Mayor's Signature on the Volunteer Firefighters Annual PERA Report

SUMMARY BY: Karla Sayler

PROJECT DESCRIPTION / FACTS

- All affiliated Certified Volunteer Firefighter Departments must submit all required reports to the Public Employees Retirement Association by March 31, 2020 (deadline set by State Statute)
- The attached report shows the number of members with prior service reported for the year =15; New Member Enrollments=0; totaling 15 member volunteer firefighters reported for the year.

SUPPORT DOCUMENTS: 1) Reporting Guidelines
2) Volunteer Firefighters Annual Report Form

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve the Mayor's Signature on the Volunteer Firefighters Annual Report



PERA

Public Employees
Retirement Association
of New Mexico

33 Plaza La Prensa
Santa Fe, New Mexico 87507
(505) 476-9300 voice
(800) 342-3422 toll-free
www.nmpera.org

2019 Volunteer Firefighters Annual Reporting Form

SECTION A – VOLUNTEER FIRE DEPARTMENT – GENERAL INFORMATION

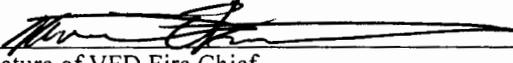
1. Volunteer Fire Department (VFD) Name: Aztec Fire Department
2. VFD Mailing Address: 201 W Chaco,
City, State: Aztec, NM Zip Code: 87410
3. PERA VFD Number (5 digit number): 09813 4. County Fire Marshal: _____
5. VFD Fire Chief: Kevin Simpson 6. Email Address: ksimpson@aztecnm.gov
7. Phone (work): (_____) _____ (home/cell): (505) 320-4687

SECTION B – DEPARTMENT TOTALS

1.	New VFD Members reported in 2019	0
2.	Current Active (Non-Retired) VFD Members reported in 2019	9
3.	Retired VFD Members reported in 2019	6
4.	Total number of Volunteer Firefighters reported in 2019:	15

SECTION C - CERTIFICATION

I, Kevin Simpson, Fire Chief of the Aztec
Volunteer Fire Department, affirm that the records submitted to PERA are true and correct and reflect 100% of my VFDs 2019 roster.


Signature of VFD Fire Chief

Date

State of _____

County of _____

On this _____ day of _____, 20____, known to me to be the person described in and who executed the above and foregoing instrument and acknowledged to me that they executed the same as their free act and deed.

(Notary Public)

My commission expires: _____

Municipal Mayor or Chair of County Commission

Date

Return this form along with the appropriate Qualification Record Form(s) by March 31, 2020 to PERA. Strikethroughs and white-out edits are not permitted. Keep copies for your VFDs records.



PERA

Public Employees
Retirement Association
of New Mexico

33 Plaza La Prensa
Santa Fe, New Mexico 87507
(505) 476-9300 voice
(800) 342-3422 Toll-Free
www.nmpera.org

2019 Volunteer Fire Department (VFD) Fire Chief, Reporter and County Fire Marshal Contact Information

SECTION A – CONTACT INFORMATION (COMPLETE ALL SECTIONS)

1. VFD Name: Aztec Fire Department
2. PERA VFD Number (5 digit number): 09813
3. Fire Chief Name: Kevin Simpson Telephone Number: 505-320-4687
4. Reporter Name: Kevin Simpson Telephone Number: 505-320-4687
5. County Fire Marshal Name: _____ Telephone Number: _____
6. VFD Email Address/es: ksimpson@aztecnm.gov
7. VFD Telephone Number(s): 505-334-7635
8. VFD Mailing Address: 201 W. Chaco
City, State: Aztec, NM Zip Code: 87410

SECTION B – AUTHORIZATION

Name of VFD Fire Chief (print): Kevin Simpson

Signature of VFD Fire Chief: 

Please return this form on or before March 31 of each calendar year or as the VFDs administration changes. The form must be completed in its entirety and returned to PERA for processing. Please keep a copy for your VFDs records.

Staff Summary Report

MEETING DATE: February 11, 2020

AGENDA ITEM: **V. CONSENT AGENDA (E)**

AGENDA TITLE: Resolution 2020-1173 Authorizing Opening and Closing of Time Certificate of Deposit for City

ACTION REQUESTED BY: Finance Department

ACTION REQUESTED: Approve Resolution 2020-1173 Authorizing Opening and Closing of Time Certificate of Deposit for City

SUMMARY BY: Kris Farmer

PROJECT DESCRIPTION / FACTS

- The banks and independent auditors have asked that formal action be taken to open and close investments.
- The Finance Department solicited all approved depositories (Resolution 2018-1095) for interest rates on Tuesday, February 4, 2019, for 12 month certificate of deposit in the amount of \$500,000.00.
- Rate quotes received

Financial Institution	Term	Rate	Earnings Projection
Citizens Bank	12 months	1.67%	\$8,350.00
Vectra Bank	12 months	1.25%	\$6,250.00
Four Corners Community Bank	12 months	1.80%	\$9,000.00
Bank of Southwest	Declined		
Wells Fargo	No Response		
High Desert Credit Union	No Response		
LGIP	30 day net yield	1.617%	\$8,085.00

** State Local Government Investment Pool (LGIP) 30 day net yield is based on today's (2/6/2020) earnings.

** High Desert Credit Union does not have the ability to meet pledging requirements beyond NCUA insurance which is \$250,000.

- The Finance Department recommends retaining the funds locally for a 12 month period at Four Corners Community Bank. Funds are collateralized at 50% of the certificate (LGIP is not collateralized).

PROCUREMENT

- None

FISCAL IMPACTS

- Estimated interest earned at 1.80% for 12 months on \$500,000.00 is \$9,000.

SUPPORT DOCUMENTS: Resolution 2020-1173

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve Resolution 2020-1173
Authorizing Opening and Closing of Time Certificates of Deposit for City

**CITY OF AZTEC
RESOLUTION 2020-1173**

**AUTHORIZING OPENING AND CLOSING OF TIME CERTIFICATES OF DEPOSIT
FOR CITY**

WHEREAS, the City Commission of the City of Aztec, New Mexico, is the authorized Board of Finance of said City of Aztec, and as such has control of the manner and method that monies belonging to the City shall be handled; and

WHEREAS, the City Commission of the City of Aztec, New Mexico, passed, approved and adopted Resolution 2018-1095 Authorizing signatures for city accounts on August 14, 2018 and identified approved depositories for city funds; and

WHEREAS, City of Aztec, New Mexico, Finance department solicited all banks authorized as designated depositories of said City per Resolution 2018-1095, for the term of 12 months; Four Corners Community Bank, Aztec, New Mexico offered an interest rate of 1.80% for 12 months.

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY of the City of Aztec, New Mexico, to open time certificate of deposit 3007155 at Four Corners Community Bank, Aztec, New Mexico, in the amount of \$500,000 interest rate of 1.80% for a 12 month period, beginning February 12, 2020, and to close this time certificate of deposit on its maturity date, February 12, 2021, at Citizens Bank, Aztec, New Mexico.

PASSED, APPROVED, SIGNED AND ADOPTED this 11th day of February 2020, by the Aztec City Commission, City of Aztec, New Mexico

Mayor Victor C. Snover

ATTEST:

Karla Sayler, City Clerk CMC

Staff Summary Report

MEETING DATE:	February 11, 2020
AGENDA ITEM:	V. CONSENT AGENDA (F)
AGENDA TITLE:	Revised Purchase Power Agreement between City of Aztec and Guzman Energy

ACTION REQUESTED BY:	Ken George, Electric Director
ACTION REQUESTED:	Approval of Revised and Restated Purchase Power Agreement between the City of Aztec and Guzman Energy
SUMMARY BY:	Ken George, Electric Director

PROJECT DESCRIPTION / FACTS

- The City of Aztec entered into a long term Purchase Power Agreement with Guzman Energy on Dec 21st 2015. The original term of the agreement was for seven (7) years beginning July 1 2016 and scheduled to end June 30 2023. The original agreement spelled out the cost for purchase power would be \$.0495 per Kilowatt hour and Guzman would build a 1 megawatt solar facility on City property with the City having the right to purchase the Solar Facility for ten dollars (\$10) at the end of the agreement.
The City amended the original agreement in May of 2017 paying a upfront fee of two million dollars (\$2,000,000.00) in order to reduce the purchase power rate to \$.04442 per Kilowatt hour. This amendment stated the City would then be able to purchase Western Area replacement power if desired and Guzman was to pay off the loan they had acquired to build the 1 megawatt solar facility.(KBG)
- Currently The City of Aztec and Guzman Energy would like to enter into a revised and restated agreement. This agreement would lower the price for purchase power from \$.04442/KWH to \$.04250/KWH with a term of 10 years, starting March 1 2020 and ending February 28 2030. The City, as with the original agreement, will have the right to purchase the Solar Facility for \$10 in July of 2023.(KBG)

PROCUREMENT

-

FISCAL IMPACTS

- I project the City will save approximately \$47,000.00 per year or \$470,000.00 over the 10 years of the proposed agreement. (KBG)
-
-
-

SUPPORT DOCUMENTS:

See attached: Second Amended and Restated Power Sales Agreement

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve ; Second Amended and Restated Power Sales Agreement by and among Guzman Energy LLC, Guzman Aztec Sun LLC and City of Aztec.

**SECOND AMENDED AND RESTATED
POWER SALES AGREEMENT**

BY AND AMONG

GUZMAN ENERGY LLC,

GUZMAN AZTEC SUN LLC,

AND

CITY OF AZTEC

DATED AS OF MARCH 1, 2020

TABLE OF CONTENTS

	<u>Page</u>
1. DEFINITIONS; INTERPRETATION.....	1
1.1 Definitions.....	1
1.2 Interpretation.....	8
2. TERM.	8
2.1 Term of the Agreement.....	8
2.2 Expiration and Termination	9
3. PURCHASE AND SALE.....	9
3.1 Purchase and Sale	9
3.2 Portfolio of Resources.....	10
3.3 Requests for Forecast Information.....	10
3.4 WAPA Allocation.....	10
3.5 Point of Delivery.....	10
3.6 Delivered Rate	10
3.7 Excess Energy Needs.....	10
3.8 Costs of Transmission and Scheduling.....	11
3.9 Metering Equipment	11
3.10 Performance Security; Further Assurances.....	12
3.11 Creation of RTO	13
3.12 Regulatory Change.....	13
4. SOLAR PROJECT; ADDITIONAL GENERATION.....	13
4.2 Project Construction, Operation and Maintenance	14
4.3 Access to Premises.....	14
4.4 Recordation of Rights	15
4.5 Interconnection of Project.....	15
4.6 Ownership of Project; Attributes	15
4.7 Liens.....	16
4.8 Guaranteed Output	16
4.9 Transfer of Project	16
4.10 Insurance	16
4.11 No Interference with Project.....	17
5. FORCE MAJEURE.	17
6. BILLING AND PAYMENT.....	17
6.1 Invoices.....	17

6.2	Adjustments for Aztec Imbalance Charges; Spinning Reserve Service and Supplemental Reserve Service	18
6.3	Payment Disputes.....	18
6.4	Records	18
6.5	Audits.....	18
7.	AZTEC ADDITIONAL GENERATION.....	19
7.1	Aztec Additional Generation	19
7.2	Scheduling Procedures.....	19
7.3	Pre-Scheduling.....	19
8.	SERVICE INTERRUPTIONS.....	20
9.	OWNERSHIP OF PROJECT.....	20
10.	INDEMNITY; LIMITATIONS OF LIABILITY.....	20
10.1	Indemnity	20
10.2	Damage to Project.....	21
10.3	NO WARRANTIES.....	21
10.4	NO CONSEQUENTIAL DAMAGES.....	21
10.5	SOVEREIGN IMMUNITY OF AZTEC.....	21
11.	REPRESENTATIONS AND WARRANTIES; COVENANTS.....	22
11.1	Representations and Warranties.....	22
11.2	Guzman Representations and Warranties; Covenants	23
12.	EVENTS OF DEFAULT; REMEDIES.....	23
12.1	Events of Default	23
12.2	Remedies.....	24
13.	NOTICES.....	24
13.1	Means of Notice.....	24
13.2	Notice Addresses	24
13.3	Changes to Notice Addresses.....	25
14.	MISCELLANEOUS.....	25
14.1	Entirety.....	25
14.2	Choice of Law.....	25
14.3	Dispute Resolution.....	25
14.4	Headings; Exhibits	26
14.5	Amendments	26
14.6	Further Assurances.....	26
14.7	Relationship of the Parties	26

14.8	Forward Contract	27
14.9	Confidentiality	27
14.10	Non-Waiver.....	27
14.11	Assignment; No Third Party Beneficiaries.....	27
14.12	Joint Preparation	27
14.13	Severability	28
14.14	Counterparts.....	28

EXHIBITS

EXHIBIT A LOAD FORECAST

EXHIBIT B WAPA ALLOCATION

EXHIBIT C PROJECT DESIGN CAPACITY; PROJECT ATTRIBUTES

EXHIBIT D PREMISES

EXHIBIT E FORM OF PROJECT PURCHASE AGREEMENT

EXHIBIT F INSURANCE REQUIREMENTS

EXHIBIT G GUARANTEED OUTPUT

SECOND AMENDED AND RESTATED POWER SALES AGREEMENT

THIS SECOND AMENDED AND RESTATED POWER SALES AGREEMENT, dated as of the Effective Date, is entered into by and between Guzman and Aztec.

RECITALS

WHEREAS, Aztec owns and operates a municipal electric system that supplies electric power and energy at retail rates to the inhabitants of Aztec and to users located in service areas adjacent to its municipal corporate boundaries.

WHEREAS, Guzman is an energy market participant that provides energy services to its clients.

WHEREAS, Aztec issued a 2015 Request for Proposals for Wholesale Power Supply (RFP #2015-0502), to which Guzman submitted a response.

WHEREAS, Guzman and Aztec entered into the Original Power Sales Agreement dated December 21, 2015 (the "Original Agreement") pursuant to which Aztec purchased and took from Guzman, and Guzman sold and provided to Aztec, the full requirements of its electric power needs to serve its residents on the terms and conditions contained in this Agreement.

WHEREAS, Guzman and Aztec amended and restated the Original Agreement by entering into that certain Amended and Restated Power Sales Agreement, dated May 25, 2017 (the "Existing Agreement"), pursuant to which Aztec made a pre-payment in exchange for certain benefits associated with the Delivered Rate, the Aztec WRP allocations and repayment of the Loan.

WHEREAS, Aztec has the right to assume ownership of the project from Guzman, on the terms and conditions contained in this Agreement.

WHEREAS, pursuant to Section 14.5 of the Existing Agreement, the Parties wish to amend and restate, in its entirety, the Existing Agreement by entering into this Agreement.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, and the recitals which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS; INTERPRETATION.

1.1 Definitions.

- a. "Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

- b. “Agreement” means this Second Amended and Restated Power Sales Agreement, including all exhibits attached hereto.
- c. “AHP” means Available Hydro Power as defined in the WAPA Agreement.
- d. “Ancillary Services” means Ancillary Services as defined in WAPA’s OATT, specifically Schedule 1-Scheduling System Control and Dispatch Service; Schedule 2-Reactive Supply and Voltage Control from Generation or Other Source Service; Schedule 3-Regulation and Frequency Response Service; Schedule 4-Energy Imbalance Service; Schedule 5-Operating Reserve-Spinning Reserve Service; and Schedule 6-Operating Reserve-Supplemental Reserve Service.
- e. “Applicable Solar Program” means any federal or state program which may give financial incentives or benefits for solar developments like the Project.
- f. “Aztec” means the City of Aztec, a municipality located in the State of New Mexico.
- g. “Aztec Additional Generation” means the additional renewable generation owned or acquired by Aztec, or from which Aztec has the right to purchase energy, of approximately one (1) MW.
- h. “Aztec’s Full Requirements” means the totality of the firm electricity and capacity requirements required by Aztec, net of any WAPA Allocation as set forth in Exhibit B, including delivery and balance of hourly capacity and energy and including Ancillary Services.
- i. “Aztec’s Imbalance Charges” means any and all energy imbalance penalties and other charges or costs that may be charged to Aztec by a transmission provider or balancing authority pursuant to the NITS Agreement as a result of any discrepancy or difference between the Purchased Energy delivered to Aztec and Aztec’s Full Requirements.
- j. “Bankrupt” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it which is not dismissed within ninety (90) days, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.
- k. “Business Day” means a day other than Saturday, Sunday, or any day on which banks located in the State of New Mexico are authorized or obligated to close.

- l. “CDP” means Customer Displacement Power as defined in the WAPA Agreement.
- m. “Commercial Operation Date” means the date upon which the Project achieved commercial operation, which the Parties agree occurred as of July 1, 2016.
- n. “Contract Year” means a period of 365 days (or 366 days in the case of a leap year) following the Commercial Operation Date, and each anniversary thereof.
- o. “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities or in its capacity as sole or managing member, by contract or otherwise. The term “Control” when used as a verb in the referenced clauses shall have a correlative meaning.
- p. “CROD” means Contract Rate of Delivery, as defined in the WAPA Agreement.
- q. “Default Rate” means the lower of (i) 200 basis points over the then-current U.S. prime rate, as listed in the Money Rates Section of *The Wall Street Journal* on the first day of the month in which such interest was calculated, and (ii) the maximum lawful rate. Except as otherwise expressly provided in this Agreement, interest shall be calculated on a monthly basis.
- r. “Defaulting Party” means a Party that is in default under this Agreement.
- s. “Delivered Rate” means \$0.04250 per kilowatt-hour of Purchased Energy, as may be adjusted pursuant to Section 3.7, based on the Purchased Energy measured at the applicable metering point for such energy.
- t. “Design Capacity” means 1.272.24kW (DC) / 972 kW(AC).
- u. “Designated Scheduling Agent” means each of (i) the Person designated by Guzman to handle operational issues related to the delivery of the Purchased Energy under this Agreement, such as scheduling, (ii) the Person designated by Guzman to serve as Aztec’s WAPA scheduling agent, and (iii) the Person designated by Guzman to schedule transmission under the NITS Agreement and the FEUS Transmission Agreement. Guzman may change either Designated Scheduling Agent at any time upon thirty (30) days prior written notice to Aztec, which notice shall include all relevant contact information for the new Designated Scheduling Agent and the effective date of such change.
- v. “Effective Date” means March 1, 2020, following the execution and delivery by both Parties of this Agreement.
- w. “Environmental Attributes” means renewable energy certificates, carbon trading credits, emissions reductions credits, emissions allowances, green tags, Green-e certifications, or other entitlements, certificates, products, or valuations attributed to the Purchased Energy or the Project, as applicable, and its displacement of conventional energy generation, or any other entitlement pursuant to any federal,

state, or local program applicable to renewable energy sources, whether legislative or regulatory in origin, as amended from time to time, and excluding, for the avoidance of doubt, any Tax Attributes and the Applicable Solar Program.

- x. “Event of Default” means an uncured default as set forth in Section 12.1.
 - y. “Existing Agreement” has the meaning set forth in the Recitals.
 - z. “Expiration Date” means the last day of the Term, as it may be extended in accordance with this Agreement.
 - aa. “FEUS Transmission Agreement” means the transmission service agreement entered into by and between Aztec and Farmington Electric Utility System, including any replacement agreement thereto.
 - bb. “Force Majeure Event” means any cause, activity, event, condition or circumstance (1) beyond the reasonable control of the Party affected, (2) not the result of acts or omissions by the Party affected, which (3) prevents the performance by such Party hereunder, including:
 - i. natural phenomena, including flood, earthquake, storm, drought, fire, lightning strikes, pestilence, epidemic, or catastrophe; and
 - ii. act of God, war, riot, civil disturbance or disobedience, strike, labor dispute, labor disturbance, shortage of labor or material, sabotage, restraint by court order or public authority.
- Notwithstanding the foregoing, a Force Majeure Event will not include any cause, activity, event, condition or circumstance resulting from a failure to exercise due care on the part of the Party asserting the existence of Force Majeure Event, provided that such Party shall in no case be obligated to settle strikes or other labor disturbances.
- cc. “Governmental Authority” means any federal, provincial, state, county, municipal or local government and any political subdivision thereof, or any other governmental, quasi-governmental, executive, legislative, administrative, regulatory, judicial, public or statutory department, body, instrumentality, agency, ministry, court, commission, bureau, board, or other governmental authority having jurisdiction over the Project or any of the Parties.
 - dd. “Guzman” means Guzman Energy and/or Guzman Sun, as applicable.
 - ee. “Guzman Energy” means Guzman Energy LLC, a Florida limited liability company.
 - ff. “Guzman Sun” means Guzman Aztec Sun LLC, a Delaware limited liability company, which is a subsidiary of Guzman Energy.

- gg. “Guaranteed Output” means the amount of electric energy guaranteed to be generated by the Project during the Term as set forth in Exhibit G.
- hh. “Indemnitees” means, with respect to Aztec, Aztec’s commissioners, officers, agents, employees, advisors, and authorized representatives, and with respect to Guzman, its officers, directors, agents, employees, advisors, and authorized representatives.
- ii. “Installer” means Conergy, or such other person designated by Guzman and reasonably accepted by Aztec to install the Project on the Premises.
- jj. “Interest Rate” means the lower of (i) 200 basis points over the then-current U.S. prime rate, as listed in the Money Rates Section of *The Wall Street Journal* on the first day of the month in which such interest was calculated, and (ii) the maximum lawful rate. Except as otherwise expressly provided in this Agreement, interest shall be calculated on a monthly basis.
- kk. “kW” means kilo-watt.
- ll. “Land Registry” means the office where real estate records for the Premises are customarily filed.
- mm. “Lender” means Open Energy Group 1 LLC, a Delaware limited liability company.
- nn. “Liens” has the meaning set forth in Section 4.7.
- oo. “Loan” means the Construction Loan Agreement by and among Guzman Sun, Guzman Energy and Lender, to provide financing to the Project, and the Term Loan Agreement entered into by and among Guzman Energy, Guzman Sun and Lender, including the related financing documents.
- pp. “Metering Equipment” means metering equipment that is either the property of Aztec, or that Aztec has a contractual right to use or rely on, in either case in accordance with the NITS Agreement.
- qq. “NITS Agreement” means the service agreement for Network Integration Transmission Service between Aztec and WAPA, including any replacement agreement.
- rr. “Non-Defaulting Party” means the Party that is not the Defaulting Party under this Agreement.
- ss. “Operations Period” means the period commencing on the date after the Commercial Operation Date and continuing until the earlier to occur of (i) the transfer of ownership of the Project to Aztec, and (ii) the expiration or termination of this Agreement.
- tt. “Original Agreement” has the meaning set forth in the recitals hereto.

- uu. “Party” means each of Guzman and Aztec, and “Parties” means Guzman and Aztec.
- vv. “Person” shall mean any natural person, corporation, general partnership, limited partnership, limited liability company, proprietorship, joint venture, unincorporated organization, other business organization, trust, union, or association.
- ww. “Point of Delivery” means (i) with respect to the Purchased Energy, the Shiprock substation, the San Juan substation, the Four Corners substation, in each case so long as delivery to such substation is permitted under the NITS Agreement, and (ii) with respect to the Solar Energy, the metering point at the Project.
- xx. “Project” means the 1,272.24 kW (DC) ground-mounted solar photovoltaic energy system, consisting of the photovoltaic panels and all associated equipment, installed on the Premises at the Design Capacity.
- yy. “Project Purchase Agreement” means the Project Purchase Agreement, substantially in the form set forth in Exhibit E hereto.
- zz. “Premises” means the real property described on Exhibit D attached hereto.
- aaa. “Purchased Energy” means all of the electric power and energy associated with Aztec’s Full Requirements, as measured at the Metering Equipment, that are in excess of (i) the power and energy that Aztec purchases from WAPA pursuant to the WAPA Agreement, as evidenced by the historical allocation set forth in Exhibit B, (ii) the power and energy generated and delivered to Aztec by the Project, and (iii) the power and energy generated and delivered to Aztec by the Aztec Additional Generation.
- bbb. “Service Interruption” means any partial or total interruption or outage:
 - i. in the delivery of Purchased Energy or Solar Energy by Guzman to the applicable Point of Delivery; or
 - ii. in the transmission and distribution of Purchased Energy or Solar Energy by Aztec from the applicable Point of Delivery to the customers of Aztec.
- ccc. “SHP” means Sustainable Hydro Power as defined in the WAPA Agreement.
- ddd. “Solar Energy” means the energy generated by the Project (including any associated Environmental Attributes and capacity rights) following the achievement of Commercial Operation Date thereof until Aztec takes control of the Project in accordance with the provisions of the Project Purchase Agreement, which is intended to occur as of the Transfer Date.
- eee. “Tax” or “Taxes” means each federal, state, county, local and other (i) net income, gross income, gross receipts, sales, use, ad valorem, business or occupation, transfer, franchise, profits, withholding, payroll, employment, excise,

property or leasehold tax and (ii) customs, duty or other fee, assessment or charge of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amount with respect thereto.

- fff. “Tax Attributes” means the investment tax credits (including any grants or payments in lieu thereof) and any tax deductions or other benefits under the Internal Revenue Code or applicable federal, state, or local law available as a result of the ownership and operation of the Project or the output generated by the Project (including, without limitation, tax credits (including any grants or payments in lieu thereof) and accelerated and/or bonus depreciation).
- ggg. “Term” means a period of ten (10) years, subject to Section 2.1, commencing on the Effective Date at 12:00:00 a.m.
- hhh. “Termination Notice” means a notice to terminate this Agreement delivered by a Non-Defaulting Party following an Event of Default by the other Party.
- iii. “Transfer Date” means June 30, 2023, the date upon which Aztec may elect, in its sole discretion, to take ownership of the Project.
- jjj. “WAPA” means the Western Area Power Administration.
- kkk. “Western RMR” means the Western Area Power Administration – Rocky Mountain Region.
- lll. “WAPA’s OATT” means WAPA’s Open-Access Transmission Tariff, available at: <http://www.oasis.oati.com/WAPA/WAPAdocs/WAPA-Tariff-Docs.htm>.
- mmm. “WAPA Agreement” means that certain Contract No. 87-SLC0015 between Aztec and the United States Department of the Interior, WAPA Salt Lake City Area Integrated Projects for Firm Electric Service, dated March 13, 1969.
- nnn. “WAPA Allocation” means the amount of power and energy to be supplied by WAPA to Aztec pursuant to the WAPA Agreement, as set forth in Exhibit B.
- ooo. “WECC” means the Western Electricity Coordinating Council.
- ppp. “WREGIS” means the Western Renewable Energy Generation Information System.
- qqq. “WRP” means Western Replacement Power as defined in the WAPA Agreement.

1.2 Interpretation. In this Agreement, unless a clear contrary intention appears:

- a. time is of the essence;
- b. the singular number includes the plural number and vice versa;

- c. reference to any Person includes such Person's successors and assigns (regardless of whether such Person's successors and assigns are expressly referenced in the provision) but, in case of a Party hereto, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- d. reference to any agreement (including this Agreement), document, act, statute, law, instrument, or tariff means such agreement, document, act, statute, law, instrument, or tariff as amended, modified, replaced or superseded and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof, regardless of whether the reference to the agreement, document, act, statute, law, instrument, or tariff, expressly refers to amendments, modifications, replacements, or successors;
- e. reference to any Section, or Exhibit means such Section of this Agreement, or such Exhibit to this Agreement, as the case may be;
- f. "including" (and with correlative meaning "include") means including without limiting the generality of any description succeeding such term, regardless of whether words such as "without limitation" are expressly included in the applicable provision;
- g. relative to the determination of any period of time, "from" means "from and including," "to" means "to but excluding" and "through" means "through and including"; and
- h. the term "or" is not exclusive, regardless of whether "and/or" is used in the applicable provision.

2. TERM.

2.1 Term of the Agreement. This Agreement shall be binding and effective as of the Effective Date. The Term shall continue until the Expiration Date, unless terminated earlier in accordance with the terms of Section 12 of this Agreement, or extended under this Section 2.1. The Parties shall have the right, but neither Party shall have the obligation, to mutually agree to extend the Term for up to five (5) additional years at a revised Delivered Rate to be mutually agreed upon by the Parties.

2.2 Expiration and Termination. Upon termination of this Agreement for any reason prior to the Expiration Date, or upon the expiration of this Agreement as of the Expiration Date, this Agreement will no longer be effective, subject, however, to the following provisions:

- a. Any payment obligation incurred by Aztec prior to such termination or expiration shall survive until payment is received by Guzman in full, with interest as provided herein; provided that Guzman provides to Aztec a final invoice in accordance with Section 6.1 no later than six (6) months after the last full month Guzman delivered Purchased Energy to Aztec.

- b. Any other fixed or accrued obligation incurred by either Party prior to such termination or expiration, and all obligations hereunder with respect to indemnification and confidentiality, shall survive until the obligation is fully discharged.
- c. Termination by either Party shall not constitute a waiver of, and shall not otherwise prejudice, the terminating Party's right to claim and recover damages for any default of the other Party under this Agreement, including a default that gave rise to such termination.

3. PURCHASE AND SALE.

3.1 Purchase and Sale. Subject to the terms and conditions of this Agreement, throughout the Term, Aztec will purchase, and Guzman will sell, the Purchased Energy, and Aztec will receive from the Project the Solar Energy.

- a. Guzman shall pay or cause to be paid all Taxes on or with respect to the Purchased Energy and the Solar Energy or the transaction arising before or at the applicable Point of Delivery. Aztec shall pay or cause to be paid all Taxes on or with respect to such Purchased Energy and Solar Energy or the transaction from (but excluding) the applicable Point of Delivery. If Guzman is required by law to remit or pay Taxes that are the responsibility of Aztec hereunder, Aztec shall promptly reimburse Guzman for such Taxes. If Aztec is required by law to remit or pay Taxes that are Guzman's responsibility hereunder, Aztec may deduct such amounts from payments to Guzman hereunder; if Aztec elects not to deduct such amounts from Guzman's payments, Guzman shall promptly reimburse Aztec for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any Taxes for which it is exempt under law. A Party that is exempt at any time and for any reason from one or more Taxes shall bear the risk that such exemption shall be lost or the benefit of such execution be reduced.
- b. Guzman shall be responsible for ensuring that the Purchased Energy is designated as a Network Resource under the NITS Agreement.
- c. Subject to Section 3.12, Aztec shall be responsible for any costs associated with regulatory compliance, as applicable.

3.2 Portfolio of Resources. Guzman shall be solely responsible for the selection and management of the portfolio of resources utilized by it to deliver the Purchased Energy; provided that, upon Aztec's request, Guzman shall periodically meet with members of Aztec in order to present a summary of such information as may reasonably be requested with respect to Guzman's then-current resource mix used to deliver the Purchased Energy.

3.3 Requests for Forecast Information. Aztec shall deliver to Guzman such information as may be reasonably requested by Guzman from time to time to permit a reasonably accurate forecast of Aztec's demand for power and energy. Aztec will give Guzman as much notice as reasonably practical of Aztec's seasonal changes to SHP, AHP or WRP,

as provided under the WAPA Agreement. Aztec shall provide Guzman with not less than one hundred eighty (180) days' prior written notice if Aztec's Full Requirements will exceed one hundred and fifty percent (150%) of Aztec's projected load forecast as set forth in Exhibit A.

- 3.4 WAPA Allocation. Aztec shall have the right, but not the obligation, to purchase the maximum CROD permitted pursuant to the WAPA Agreement. Aztec shall notify Guzman of changes in the WAPA Allocation, including any changes provided by WAPA to the AHP and SHP and any changes to the WRP elected by Aztec by no later than the twentieth (20th) day (or if the 20th day is not a Business Day, the first Business Day following the 20th day) of the month preceding the month during which Aztec changes its WRP election. If Aztec elects not to purchase the maximum CROD permitted pursuant to the WAPA Agreement, Guzman shall supply such energy as Purchased Energy as may be required to satisfy the Aztec Full Requirements at the Delivered Rate. Aztec shall not elect to purchase any CDP without the prior approval of Guzman.
- 3.5 Point of Delivery. Guzman will deliver and sell to Aztec, and Aztec will receive and purchase from Guzman, the Purchased Energy, and Guzman will deliver to Aztec, and Aztec will receive from Guzman, the Solar Energy, in each case at the applicable Point of Delivery. As between the Parties, Guzman shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of all Purchased Energy and Solar Energy prior to the applicable Point of Delivery, and Aztec shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby), of the Purchased Energy and the Solar Energy at and from the Point of Delivery. Guzman represents and warrants that it will deliver all Purchased Energy and Solar Energy to Aztec free and clear of all liens, claims or encumbrances created by any Person. Title to and risk of loss as to all Purchased Energy and Solar Energy shall pass from Guzman to Aztec at the applicable Point of Delivery. All references to Solar Energy in the preceding sentences of this Section 3.5 shall no longer apply after the Transfer Date.
- 3.6 Delivered Rate. Aztec shall pay to Guzman the Delivered Rate for the Purchased Energy, which Delivered Rate shall be without escalation throughout the Term.
- 3.7 Excess Energy Needs. In the event that Aztec's Full Requirements exceed one hundred and fifty percent (150%) of Aztec's projected load forecast as set forth in Exhibit A, the Parties may elect to mutually agree upon a reprice of the Delivered Rate. Guzman shall provide advanced written notice, and in no event less than one hundred eighty (180) days' prior written notice, that Aztec is approaching such an amount of excess. Aztec shall have the right to meet excess needs from the Aztec Additional Generation as provided hereunder.
- 3.8 Costs of Transmission and Scheduling.
- a. Guzman will arrange and pay the costs of, and will otherwise be responsible for, the transmission and delivery of the Purchased Energy to and at the applicable Point of Delivery. Guzman will schedule or arrange for scheduling services with appropriate transmission providers to deliver the Purchased Energy to the Point of Delivery, in accordance with WECC scheduling conventions.

- b. Guzman will be responsible for Aztec's Imbalance Charges; provided however in the event that Aztec fails to timely notify Guzman of the operation of any battery storage technologies, which use results in imbalances, then Aztec shall be responsible for the costs associated with such imbalances, and shall hold Guzman harmless from the same.
- c. Aztec will arrange and pay the costs of, and will otherwise be responsible for, the transmission and distribution of the Purchased Energy from the applicable Point of Delivery to its customers. Aztec will be responsible for the distribution of the Solar Energy from the applicable Point of Delivery to its customers.
- d. Aztec will be responsible for all transmission and ancillary service agreements, including the NITS Agreement and the FEUS Transmission Agreement, and shall be responsible for costs required to receive the Purchased Energy from the applicable Point of Delivery and to deliver such Purchased Energy to its own facilities.
- e. Aztec will be responsible for the costs incurred under the NITS Agreement and the FEUS Transmission Agreement in connection with the real-time provision of losses associated with the Purchased Energy.
- f. Guzman shall be responsible for obtaining "Operating Reserve — Spinning" and "Operating Reserve – Supplement" services (each as defined in WAPA's OATT) pursuant to a Confirmation Agreement between Western RMR in accordance with the Western States Power Pool Agreement by and between Western RMR and Guzman, the costs of which shall be borne by Aztec as set forth in Section 6.2.

3.9 Metering Equipment.

- a. Purchased Energy will be measured and determined by means of Metering Equipment installed by WAPA in accordance with the NITS Agreement.
- b. At any time during the Term, Guzman may, as permitted pursuant to the NITS Agreement, at its sole expense, inspect the Metering Equipment using a mutually acceptable independent inspection contractor. If the Metering Equipment is found to be outside a ± 1 percent margin of error, Aztec will, at its sole cost and expense, cause WAPA to bring the Metering Equipment within such margin of error. Thereafter, proper correction shall be made of readings made since the previous date upon which such Metering Equipment was tested, or from the time that it can be ascertained the meter was in error, but in no case shall readings be adjusted for a period of more than twelve months immediately preceding the discovery of the error. If any Metering Equipment shall fail to register for any period, the electric power and energy delivered during such period for all purposes hereunder shall be as reasonably estimated by the Parties, in good faith, based upon the best available information in accordance with prudent utility practice.
- c. Aztec will be responsible for all facilities and equipment from and after the Point of Delivery for the Purchased Energy and the Solar Energy, and any facilities

required for the proper reception of such Purchased Energy and Solar Energy, and the transformation of such capacity and energy from the voltage at which it is delivered to the applicable Point of Delivery.

- d. Solar Energy will be measured and determined by means of metering equipment to be constructed on the Premises. At any time during the Term, Aztec may at its sole expense, inspect such metering equipment using a mutually acceptable independent inspection contractor. If such metering equipment is found to be outside a ± 1 percent margin of error, Guzman will, at its cost and expense, bring such metering equipment within such margin of error. Thereafter, proper correction shall be made of readings made since the previous date upon which such metering equipment was tested, or from the time that it can be ascertained the meter was in error, but in no case shall readings be adjusted for a period of more than twelve months immediately preceding the discovery of the error. If any metering equipment shall fail to register for any period, the electric power and energy delivered during such period for all purposes hereunder shall be as reasonably estimated by the Parties, in good faith, based upon the best available information in accordance with prudent utility practice.

3.10 Performance Security; Further Assurances.

- a. Guzman has delivered to Aztec (i) one or more letters of credit issued by qualified issuers reasonably acceptable to, and in a form reasonably acceptable to, Aztec, or (ii) cash (to be held in an escrow account pursuant to an escrow agreement with an issuer reasonably acceptable to Aztec in form and substance reasonably satisfactory to Aztec, or a combination of the two, in the aggregate amount of Seventy-five Thousand Dollars (\$75,000), which guarantee Guzman's delivery obligations under this Agreement. Seller shall maintain such security throughout the Term and such security shall be replenished within thirty (30) days of any draw made by Aztec hereunder.
- b. In addition to the performance security set forth in Section 3.10(a), each Party shall have the right, subject to applicable laws, to review the relevant financial records of the other Party, including the balance sheets of Guzman, on a bi-annual basis. If, at any time during the Term following such a review, a Party reasonably believes that there is a potential risk of non-performance or insolvency by the other Party, such reviewing Party shall have the right, in addition to any other rights or remedies hereunder to request financial assurance from the other Party in the form of a letter of credit or cash to be held in escrow.

- 3.11 Creation of RTO. If, at any time during the Term, a regional transmission organization (or similar organization) is established, the Parties will negotiate in good faith to address changes in the allocation of responsibility for, and the costs and expenses associated with the provision of Ancillary Services for the Purchased Energy in a manner that (a) preserves to the extent possible the original intent of the Parties, (b) allows for sharing of any mutual benefits arising from such change, and (c) where reasonably practicable to do so, maintains the original allocation of benefits and burdens to each Party.

3.12 Regulatory Change. If, at any time during the Term, Aztec is required to comply with greenhouse gas standards, carbon taxes or renewable portfolio standards applicable to the Purchased Energy, the Parties will negotiate in good faith to address allocation of responsibility for, and the costs and expenses associated with, the requirements to meet these regulatory requirements (only insofar as the same pertain to the Purchased Energy), through mutually-agreed solution(s) (for example, adjustment to the Delivered Rate, provision of Environmental Attributes, and/or adjustment to the portfolio of resources used to supply the Purchased Energy hereunder) that (a) preserve(s) to the extent possible the original intent of the Parties, (b) allow(s) for sharing of any mutual benefits arising from such change, and (c) where reasonably practicable to do so, maintain(s) the original allocation of benefits and burdens to each Party.

3.13 Battery Storage.

a. Guzman shall have the right to incorporate the use of battery storage technologies in connection with its performance under this Agreement, provided that the incorporation of such battery storage technologies (i) does not affect the allocation of any attributes provided for under this Agreement, (ii) if applicable, is in compliance with the requirements of any energy imbalance market, (iii) does not (A) diminish Aztec's rights or benefits hereunder or (B) increase Aztec's obligations or liabilities hereunder, and provided further that Guzman (iv) is otherwise able to continue to comply with all other obligations of Guzman under this Agreement, including the continuous provision of Purchased Energy by Guzman, and (v) increases the types and amounts of insurance coverage reasonably acceptable to Aztec to cover such battery storage technologies. Guzman shall own any and all attributes associated with such battery storage technologies.

b. Aztec shall have the right to incorporate the use of battery storage technologies in connection with its performance under this Agreement, provided that the incorporation of such battery storage technologies does not (i) diminish Guzman's rights or benefits hereunder or (ii) increase Guzman's obligations or liabilities hereunder, and provided further that Aztec (A) is otherwise able to continue to comply with all other obligations of Aztec under this Agreement, including the continuous receipt of Purchased Energy or (B) increases the types and amounts of insurance coverage reasonably acceptable to Guzman to cover such battery storage technologies. Aztec shall coordinate with Guzman on the implementation, use, services and operation of any such battery storage technology. Aztec shall own any and all attributes associated with such battery storage technologies.

4. SOLAR PROJECT; ADDITIONAL GENERATION

4.1 Construction of the Project. Guzman is responsible for the design, engineering, development, construction, operation and management of the Project until such time as Aztec exercises its right to purchase the Project hereunder.

4.2 Project Construction, Operation and Maintenance.

- a. Guzman shall operate and maintain the Project so as to keep it in good condition and repair, in compliance with all applicable laws and in accordance with the prudent industry practices of the electric industry, in general, and the solar generation industry, in particular. Such work shall be at Guzman's sole expense. Except for emergency situations or unplanned outages, Guzman shall cause the work to be performed between the hours of 7:00 am and 7:00 pm, Monday through Saturday, in a manner that minimizes interference with Aztec and any of its facilities. Notwithstanding the foregoing, the Parties may agree that Aztec will perform routine repair and maintenance of the Project, and shall clean the modules for the Project in order to maximize the generation of Solar Energy. For any month during which Aztec performs such services, Guzman shall pay Aztec an amount equal to Five Hundred Dollars (\$500), which amount shall be applied to reduce the amount payable by Aztec to Guzman under Section 6.1. Subject to Guzman's prior written consent, Aztec may replace and install major pieces of failed equipment comprising the Project (including power inverters, solar panels, circuit breakers or cabling), and Guzman shall pay Aztec the actual material and labor costs associated therewith upon receiving an invoice therefore, which amount shall be applied to reduce the amount payable by Aztec to Guzman under Section 6.1. For the avoidance of doubt, the provision by Aztec of any such services in accordance with this Section 4.2(a) shall not in any way modify or reduce the obligations or liabilities on the part of Guzman hereunder, and shall not modify or create any additional liabilities or obligations on the part of Aztec.
- b. Aztec will provide security for the Project to the extent of its normal security procedures, practices, and policies that apply to all Aztec premises. Aztec will advise Guzman as soon as possible following observing any damage to the Project. Upon request by Guzman, such as Guzman receiving data indicating irregularities or interruptions in the operation of the Project, Aztec shall, as quickly as reasonably practicable, send a person to observe the condition of the Project and report back to Guzman on such observations.
- c. Guzman may shut down the Project at any time in order to perform emergency repairs required to prevent damage to property or injury to people. At other times, Guzman shall give Aztec as much notice of the shutdown as may be reasonable in the circumstances. Notwithstanding the foregoing, Guzman shall remain responsible for delivery of any shortfall up to the amount of the Guaranteed Output following any such shutdown of the Project.
- d. Aztec may shut down the Project at any time in order to take emergency action as Aztec determines in its sole discretion may be required to prevent damage to property or injury to people. Aztec shall give Guzman as much notice of the shutdown as may be reasonable in the circumstances.

4.3 Access to Premises. Aztec hereby grants Guzman and its designees (including Installer, and persons responsible for implementing the Applicable Solar Program) access to the Premises, for the Term, at reasonable times and upon reasonable notice, for the purposes of designing, installing, inspecting, operating, maintaining, repairing and (if there is a termination of this Agreement following an Event of Default by Aztec) removing the

Project, and any other purpose set forth in this Agreement, and otherwise in accordance with the provisions of this Agreement.

- 4.4 Recordation of Rights. The Parties have executed and recorded with the appropriate Land Registry an easement as of the Commercial Operation Date documenting the Access Rights granted by Aztec to Guzman in this Agreement. If the Term is extended as permitted under Section 2.1, the Parties shall record an amended easement with the appropriate Land Registry at Guzman's cost and expense.
- 4.5 Interconnection of Project. Aztec shall be responsible for arranging the interconnection of the Project with Aztec's municipal utility system.
- 4.6 Ownership of Project; Attributes.
- a. Guzman shall receive all payments available under any Applicable Solar Program. Aztec shall provide reasonable assistance to Guzman in providing information for such applications and other documents necessary for Guzman to receive such payments.
 - b. Until such time as Aztec takes ownership of the Project pursuant to Section 4.9, Guzman shall be the owner of any Tax Attributes that may arise as a result of its ownership of the Project and shall be entitled to transfer such Tax Attributes to any person. Aztec shall provide reasonable assistance to Guzman in preparing all documents necessary for Guzman to receive such Tax Attributes, and if Aztec is deemed to be the owner of any such Tax Attributes, Aztec shall assign the same (or the proceeds thereof) to Guzman. Guzman shall be entitled to enter into any agreements necessary in order to transfer the Tax Attributes of the Project, so long as such agreements terminate upon the Closing as defined in the Project Purchase Agreement.
 - c. Aztec shall at all times be the owner of any Environmental Attributes which may arise as a result of the generation by the Project of energy and capacity. Guzman shall establish an account with WREGIS for the deposit of any Environmental Attributes produced by the Project. Guzman shall deposit such attributes quarterly and will provide Aztec with a summary of the WREGIS account which shall include the total attributes generated that quarter, deposited attributes as of such summary, and the mark-to-market valuation of such attributes at the time the summary is generated. Guzman shall provide reasonable assistance to Aztec in preparing all documents necessary for Aztec to receive such Environmental Attributes, and if Guzman is deemed to be the owner of any such Environmental Attributes, Guzman shall assign the same (or the proceeds thereof) to Aztec.
 - d. Until such time as Aztec takes ownership of the Project pursuant to Section 4.9, Guzman shall be the legal and beneficial owner of the Project. While owned by Guzman, the Project shall be personal property and shall not attach to or be deemed a part of, or fixture to, the Premises. The Project shall at all times while owned by Guzman retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Aztec shall place all persons having

an interest in or lien upon the real property comprising the Premises on notice of the ownership of the Project and the legal status or classification of the Project as personal property. Aztec shall make any necessary filings to disclaim the Project as a fixture of its respective Premises in the appropriate Land Registry to place all interested parties on notice of the ownership of the Project by Guzman.

- 4.7 Liens. Except to the extent permitted by applicable law, neither Party shall directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien, (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim of any nature, including claims by Governmental Authorities for taxes on or with respect to the interests of the other in the Premises, or the Project, and in the rights of access to the Premises granted hereunder (collectively, "Liens").
- 4.8 Guaranteed Output. The Project shall generate not less than the amount of MWh set forth in Exhibit G. In the event that, in any Contract Year during the Term the Project generates less than the Guaranteed Output amount, Aztec may require, in its sole discretion, that (a) Guzman make-up any shortfall of delivery of Solar Energy by increasing the amount of Purchased Energy it provides and (b) cause the Installer to perform its warranty obligations as outlined in Exhibit C to enable the Project to generate the Guaranteed Output.
- 4.9 Transfer of Project. As of the Transfer Date, if Aztec elects, in its sole discretion, to take ownership of the Project for the price of ten dollars (\$10.00), (a) Guzman shall prepare and deliver to Aztec a set of records on the operation and maintenance history of the Project, including a summary of any known defects, (b) the Closing shall occur as set defined in, and set forth under, the Project Purchase Agreement, and (c) the Parties shall exchange an assignment and assumption agreement and a bill of sale conveying the Project assets, including each of the components thereof, associated warranties, spare parts and any relevant contracts and permits, to Aztec. Following the transfer of the Project to Aztec pursuant to the Project Purchase Agreement, Guzman shall be under no further obligation to operate or maintain the Project. Notwithstanding the foregoing, if Guzman fails to perform its obligations hereunder and an Event of Default by Guzman occurs, Aztec shall have the right, in addition to any other rights or remedies available to it and at no additional cost to Aztec, to step in and take ownership of the Project from Guzman prior to the Transfer Date. If Aztec steps in to take title to and ownership of the Project prior to the Transfer Date, Guzman shall cooperate to comply with the provisions of Section 4.9(a) and to convey, transfer and assign the Project assets to Aztec pursuant to the Project Purchase Agreement.
- 4.10 Insurance. Guzman shall maintain the insurance coverage set forth in Exhibit F in full force and effect throughout the Term. Such insurance policy shall be written on an occurrence basis and Guzman shall be the only insured interest. All insurance maintained hereunder shall be maintained with companies rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide.
- 4.11 No Interference with Project. Aztec, or any lessee, grantee or licensee of Aztec, shall not erect any structures on, or make other modifications to, or plantings on, the Premises that will interfere with the construction, operation or maintenance of, or solar access of, the

Project. If applicable laws and existing easements do not ensure that structures or plantings on adjoining property will not interfere with the solar access for the Project, then Aztec and Guzman shall work together to obtain from owners of adjoining properties any easements reasonably necessary to protect the solar access of the Project. Such easements shall run for the benefit of Aztec.

- 4.12 Obligations Upon Transfer. Except for the obligations, liabilities, and duties of Guzman set forth in the Project Purchase Agreement or the obligations, liabilities, and duties arising under this Agreement prior to the Transfer Date, (a) Guzman's obligations and duties pursuant to Section 4.1 through Section 4.11 shall be extinguished in their entirety upon and after the Transfer Date, (b) to the extent that this Agreement imposes obligations or duties on Guzman relating to the Project and/or Solar Energy, such obligations of Guzman shall be extinguished in their entirety upon and after the Transfer Date, and (c) it is the Parties' intention that Guzman shall have no obligation, liability, or responsibility with respect to the Project and/or Solar Energy upon and after the date that Aztec acquires ownership of the Project.

5. FORCE MAJEURE.

Neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a Force Majeure Event; provided that the Party claiming relief as a result of the Force Majeure Event shall promptly (i) notify the other Party in writing of the existence and details of the Force Majeure Event; (ii) exercise all reasonable efforts to minimize delay caused by such Force Majeure Event; (iii) notify the other Party in writing of the cessation of such Force Majeure Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter.

6. BILLING AND PAYMENT.

- 6.1 Invoices. Guzman shall invoice Aztec for the amount of Purchased Energy that is purchased and sold during each calendar month on or about the tenth (10th) day of the following calendar month. Each invoice shall include for the month most recently ended: (a) the amount of Purchased Energy, (b) the WAPA Allocation, (c) the amount of Solar Energy generated and accepted by Aztec (for informational purposes only), and (d) the amount of Aztec Additional Generation received by Aztec (for information purposes only). The invoice shall state the amount of the payment due for the Purchased Energy, and the amount to be credited or debited to Aztec for the most recent Aztec Imbalance Charge in accordance with Section 6.2, and other information related to the calculation of the payment due to Guzman during such billing period as may be requested in writing. All invoices will be sent to Aztec, addressed as follows (electronic invoices are preferred):

c/o City of Aztec
Attn: Accounts Payable
201 West Chaco Street
Aztec, NM 87410

or

acctspayable@aztecnm.gov,
kgeorge@aztecnm.gov, and
electric.dept@aztecnm.gov

All payments under this Agreement shall be due and payable in full by check or wire transfer of immediately available funds, as designated by Guzman, within thirty (30) days after receipt by Aztec of such invoice.

- 6.2 Adjustments for Aztec Imbalance Charges; Spinning Reserve Service and Supplemental Reserve Service. Guzman shall be responsible, in accordance with Section 3.8(b), for Aztec's Imbalance Charges, as reported under the NITS Agreement and as defined as "Energy Imbalance" under WAPA's OATT. Aztec shall provide the latest invoice for Ancillary Services from WAPA under the NITS Agreement, including Energy Imbalance charges, to Guzman. Guzman shall reimburse Aztec an amount equal to (a) the amount charged for such Energy Imbalance services, minus (b) the costs incurred by Guzman for "Operating Reserve — Spinning" and "Operating Reserve – Supplement" services under the Confirmation Agreement.
- 6.3 Payment Disputes. Undisputed amounts not paid when due shall accrue interest from (and including) the due date to (but excluding) the date of payment at the Interest Rate. If Aztec, in good faith, disputes any amount due pursuant to an invoice or statement rendered to it by Guzman pursuant to this Agreement, Aztec will notify Guzman in writing of the specific basis for the dispute, and Aztec shall pay the undisputed portion on or before the date such payment is due. If any amount disputed by Aztec is determined to be due to Guzman, or to be refunded to Aztec, or if the Parties otherwise resolve the dispute, the amount due shall be paid within ten (10) Business Days after such determination or resolution, along with interest accrued at the Interest Rate from (and including) the original date such payment was due to (but excluding) the date paid.
- 6.4 Records. Each Party shall keep and maintain all records as may be necessary or useful in performing or verifying any calculations made pursuant to this Agreement, or in verifying such Party's performance hereunder in accordance with the New Mexico Public Records Act, NMSA 1978, Section 14-2-1 et seq.
- 6.5 Audits. Each Party, through its employees, authorized agents and/or professional advisors, shall have the right, at its sole expense and upon reasonable advance notice to the other Party, during normal business hours of the other Party, to examine and copy the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made hereunder or to verify the other Party's performance of its obligations hereunder. Upon request, each Party shall provide to the other Party statements evidencing the quantities of energy delivered at the Delivery Point.

If any statement is found to be inaccurate, a corrected statement shall be issued and any amount due hereunder will be promptly paid and shall bear interest calculated at the Interest Rate from (and including) the date of the overpayment or underpayment to (but excluding) the date of receipt of the reconciling payment. Notwithstanding the above, no adjustment shall be made with respect to any statement or payment hereunder unless a Party asserts its challenge to the accuracy of such payment or statement within one year after the date of such statement or payment.

7. AZTEC ADDITIONAL GENERATION.

7.1 Aztec Additional Generation. Aztec has the right to develop, construct, own, or contract for the use of, the Aztec Additional Generation, which shall not exceed one (1) MW (ac), which shall be operated as follows:

a. Aztec shall use reasonable efforts to coordinate the dispatch of the Aztec Additional Generation in a manner that provides maximum cost efficiency to both Parties; or

b. During Service Interruptions, in accordance with Section 8.

7.2 Scheduling Procedures. The Parties, in conjunction with the appropriate dispatchers, schedulers, or scheduling agents, including the applicable Designated Scheduling Agent, have established a scheduling committee that shall, within thirty (30) days thereafter, develop specific written procedures for the scheduling of the Purchased Energy, the Project and the Aztec Additional Generation, if any.

7.3 Pre-Scheduling. Aztec shall pre-schedule all of its generation capacity with the applicable Designated Scheduling Agent not later than 2:00 p.m. MPT (Mountain Prevailing Time) two (2) days prior to the day on which Aztec has (a) been directed by Guzman or the applicable Designated Scheduling Agent to generate, or (b) scheduled routine testing or maintenance that will require running either or both generation units. Each scheduling of generation capacity shall include the specific time or times at which Aztec plans to start and stop its generation and the capacity (in megawatts) that Guzman (or the applicable Designated Scheduling Agent) has directed Aztec to generate during each hour of generation, or with respect to testing and maintenance, the capacity (in megawatts) anticipated to be generated. By way of example, if Guzman (or the applicable Designated Scheduling Agent) has directed Aztec to generate before 10:00 a.m. MPT on a Friday, Aztec must notify the applicable Designated Scheduling Agent by 2:00 p.m. MPT on the immediately preceding Wednesday.

8. SERVICE INTERRUPTIONS.

If a Service Interruption occurs, regardless of its origin or cause and regardless of fault, the Parties will notify each other and confer as soon as reasonably practicable after such occurrence. The Parties will share all material, pertinent information they may have or may acquire with respect to the Service Interruption and all related matters. The Parties will provide reasonable cooperation to one another. The Party whose performance is interrupted by such Service Interruption shall use commercially reasonable efforts to

restore, or cause the restoration of, service. During any Service Interruption, Aztec may operate the Aztec Additional Generation units as needed.

9. OWNERSHIP OF PROJECT.

As of the Effective Date and until such time as Aztec exercises its option to purchase the Project in accordance with the Agreement and the Project Purchase Agreement, Guzman Sun (and its successors and permitted assigns) shall be the owner of the Project and any references to Guzman as Seller in connection with the Project shall be deemed references to the Guzman Sun. In no event will Seller take any action, or fail to take any action, that could result in an adverse impact on Aztec's ability to purchase the Project in accordance with the Agreement the Project Purchase Agreement.

10. INDEMNITY; LIMITATIONS OF LIABILITY.

10.1 Indemnity.

- a. Guzman undertakes and agrees to indemnify and hold harmless Aztec, and its Indemnitees and, at the option of that indemnified Party, to defend such Indemnitees from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, claims by any Governmental Authority, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including that Party's employees and agents, or third persons, or damage or destruction to any property of a Party or third persons, in any manner arising by reason of any breach of this Agreement, any failure of any representation, warranty or guarantee to be true in all material respects, any losses or claims in connection with the Lender or the Loan, or the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of that Party, or any of that Party's officers, agents, employees, or subcontractors of any tier.
- b. Aztec undertakes and agrees to indemnify and hold harmless Guzman, and its Indemnitees and, at the option of that indemnified Party, to defend such Indemnitees from and against any and all suits and causes of action, claims, charges, damages, demands, judgments, civil fines and penalties, or losses of any kind or nature whatsoever, for death, bodily injury or personal injury to any person, including that Party's employees and agents, or third persons, or damage or destruction to any property of a Party or third persons, in any manner arising by reason of any breach of this Agreement, any failure of any representation, warranty or guarantee to be true in all material respects, or the negligent acts, errors, omissions or willful misconduct incident to the performance of this Agreement on the part of that Party, or any of that Party's officers, agents, employees, or subcontractors. The described indemnification by Aztec of Guzman shall be effective only to the extent governed and permitted by Federal and New Mexico law, specifically including but not limited to the New Mexico Tort Claims Act (Sections 41-4-1 through 41-4-27, NMSA 1978, 2013 Ed.), and to the extent and limits of Aztec's municipal insurance coverage with and through the

New Mexico Risk Management Division (NMRMD). The above limitations are pursuant to and incorporated in Section 10.5 of this Agreement as set out below.

- c. Guzman undertakes and agrees to indemnify and hold harmless Aztec, and its Indemnitees and, at the option of Aztec, to defend Aztec and such Indemnitees from and against any and all Losses arising in connection with any Liens or other claims against Aztec, all or any component of the Project or the underlying real property owned by Aztec.
- 10.2 Damage to Project. So long as Guzman owns the Project, in the event of any damage or destruction of the Project or any part thereof, the Project or such part thereof shall be diligently repaired, replaced or reconstructed by Guzman so that the Project or such part thereof shall be restored to substantially the same general condition and use as existed prior to such damage or destruction, unless a different condition or use is approved by Aztec. Proceeds of Insurance with respect to such damage or destruction maintained as provided in this Agreement shall be applied to the payment for such repair, replacement or reconstruction of the damage or destruction.
 - 10.3 NO WARRANTIES. NEITHER PARTY MAKES ANY WARRANTY EXCEPT AS SET FORTH HEREIN. WITHOUT LIMITING THE FOREGOING, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED.
 - 10.4 NO CONSEQUENTIAL DAMAGES. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.
 - 10.5 SOVEREIGN IMMUNITY OF AZTEC. NO PROVISION OF THIS AGREEMENT SHALL BE CONSTRUED OR APPLIED, WHETHER DIRECTLY OR BY IMPLICATION, TO WAIVE, REDUCE OR LIMIT AZTEC'S RIGHTS, PRIVILEGES OR IMMUNITIES AS A POLITICAL SUBDIVISION OF THE STATE OF NEW MEXICO OR OTHER FORM OF PUBLIC OR GOVERNMENT ENTITY, INCLUDING WITHOUT LIMITATION ANY RIGHT, PRIVILEGE OR IMMUNITY ARISING UNDER THE NEW MEXICO TORT CLAIMS ACT. THIS SECTION SHALL TAKE PRECEDENCE OVER ANY INCONSISTENT OR CONTRADICTORY PROVISION IN THIS AGREEMENT. HOWEVER, AZTEC IS NOT IMMUNE FROM LIABILITY FOR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE REPRESENTATIONS AND WARRANTIES CONTAINED HEREIN IN THIS AGREEMENT.
- 11. REPRESENTATIONS AND WARRANTIES; COVENANTS.**
- 11.1 Representations and Warranties. As of the Effective Date, each Party hereby represents and warrants to the other Party as follows:

- a. it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation or establishment;
- b. it has all regulatory authorizations necessary for it legally to perform its obligations under this Agreement, including obtaining the approval of any governmental agency, such as (if necessary) the New Mexico Department of Finance and Administration; the representative or representatives executing this Agreement on behalf of such Party are duly authorized by such Party to execute and deliver this Agreement; and the signature or signatures made on behalf of such Party at the end of this Agreement are sufficient legally to bind such Party to all the terms and conditions of this Agreement;
- c. the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- d. this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any equitable defenses;
- e. it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- f. there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;
- g. no Event of Default, or occurrence that with the passing of time or giving of notice or both would become an Event of Default, with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement; and
- h. it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement.

11.2 Guzman Representations and Warranties; Covenants.

- a. Guzman represents and warrants that it constructed the Project in accordance with the construction schedule and other requirements set forth in Exhibit C, applicable laws and applicable permits.

- b. Guzman covenants as follows:
 - i. it shall own, operate and maintain the Project in accordance with applicable laws and permits, and consistent with prudent industry practices;
 - ii. the Project shall generate the Guaranteed Output.

12. EVENTS OF DEFAULT; REMEDIES.

12.1 Events of Default. The following occurrences shall constitute Events of Default:

- a. Failure by a Party to make any payment required hereunder when due if such failure is not remedied within ten (10) Business Days after receipt by the Defaulting Party of written notice of such failure; provided, that the payment in question is not the subject of a good faith dispute pursuant to Section 6.3.
- b. Unexcused failure by a Party to perform any other material obligation hereunder, and such failure is not remedied within thirty (30) days after receipt by the Defaulting Party of written notice of such failure; provided, that so long as a Defaulting Party has initiated and is diligently attempting to effect a cure, the Defaulting Party's cure period shall extend for an additional thirty (30) days or such longer period as is reasonably necessary to effect such cure.
- c. Any representation or warranty made by a Party pursuant to Section 11 shall have been false in any material respect when made that, if capable of being remedied, is not remedied within ten (10) days after receipt by the Defaulting Party of written notice of such falsity; provided, that so long as a Party has initiated and is diligently attempting to effect a cure, the Party's cure period shall extend for an additional thirty (30) days.
- d. A Party is or becomes Bankrupt.
- e. A Party assigns this Agreement in violation of Section 14.11.

12.2 Remedies. If an Event of Default occurs with respect to a Defaulting Party, then in addition to any other remedies available to the Non-Defaulting Party under this Agreement, at law or in equity, the Non-Defaulting Party may give the Defaulting Party a Termination Notice, which shall designate the date upon which this Agreement shall be terminated by the Defaulting Party. Interest on any overdue, unpaid amounts as of such date shall accrue at the Default Rate from (and including) the date of the Termination Notice to (but excluding) the date actually paid.

13. NOTICES.

13.1 Means of Notice. Other than as set forth in Section 6.1, a written notice or other communication concerning this Agreement shall be effective upon receipt or refusal of

delivery if given in writing and delivered by hand, overnight courier, registered or certified mail (with return receipt requested or proof of delivery) or facsimile (with receipt confirmed), properly addressed or directed as set forth in the next subsection.

13.2 Notice Addresses. A notice or communication is properly directed for purposes of this Section 13 when it is directed or addressed to the following addresses:

Guzman:

Guzman Energy LLC
Guzman Aztec Sun LLC
Attn: Jeffrey Heit
1125 17th Street Suite 740
Denver, Colorado 80202
Telephone 720.778.2001
Facsimile 720.778.2035
Email: jheit@guzmanenergy.com

With a copy to:

Guzman Energy LLC
Guzman Aztec Sun LLC
Attn: Legal Department
1125 17th Street Suite 740
Denver, Colorado 80202
Email: legal@guzmanenergy.com

Aztec:

City of Aztec
Attn: Electric Director
Electric Operations Center
402 S. Light Plant Rd.
Aztec, NM 87410
Telephone 505.334.7667
Facsimile 505.334.7684
Email: electric.dept@aztecnm.gov

City of Aztec
Attn: City Manager
201 W. Chaco St.
Aztec, NM 87410
Telephone 505.334.7606
Facsimile 505.334.7609
Email: smueller@aztecnm.gov

13.3 Changes to Notice Addresses. Either Party may change any portion of its contact information above by giving written notice of such change to the other Party.

14. MISCELLANEOUS.

- 14.1 Entirety. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof. Any representation, inducement, promise or agreement that is not expressly set forth or incorporated by reference in this Agreement shall be of no force or effect.
- 14.2 Choice of Law. This Agreement shall be governed, construed and interpreted in accordance with the laws of the state of New Mexico, without regard to principles of conflicts of law.
- 14.3 Dispute Resolution.
- a. In the event of a dispute, within ten (10) days following the delivered date of a written request by either Party, (i) each Party shall appoint a representative, and (ii) the Parties' representatives shall meet, negotiate and attempt in good faith to resolve the dispute quickly, informally and inexpensively. If the Parties' representatives cannot resolve the dispute within thirty (30) days after commencement of negotiations, within ten (10) days following any request by either Party at any time thereafter, each Party's representative (a) shall independently prepare a written summary of the dispute describing the issues and claims, (b) shall exchange its summary with the summary of the dispute prepared by the other Party's representative, and (c) shall submit a copy of both summaries to a senior officer of each Party with authority to irrevocably bind the Party to a resolution of the dispute. Within ten (10) Business Days after receipt of the dispute summaries, the senior officers for both Parties shall negotiate in good faith to resolve the dispute. If the senior offices Parties are unable to resolve the dispute within fourteen (14) days following receipt of the dispute summaries, the Parties shall submit their dispute to binding arbitration and shall otherwise conform to the requirements set forth below.
 - b. Arbitration as set forth herein shall be effected by a panel of three (3) arbitrators in accordance with the provisions of this Section 14.3(b) and in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect at the time of the arbitration; provided, however, that notwithstanding any provisions of such rules, the Parties shall have the right to take depositions and obtain discovery regarding the subject matter of the arbitration in accordance with the Federal Rules of Evidence. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. The arbitrators shall determine all questions of fact and law relating to any controversy, claim or dispute hereunder, including whether or not any such controversy, claim or dispute is subject to the arbitration provisions contained herein.
 - c. Any Party desiring arbitration shall serve on the other Party and the Denver, Colorado Office of the American Arbitration Association, in accordance with the Commercial Arbitration Rules, its Notice of Intent to Arbitrate, which shall be filed in writing concurrently with the American Arbitration Association, and shall be accompanied by the name of an arbitrator suggested by the Party serving the

notice. The Party served with the notice shall advise the other Party in writing of the name of its suggested arbitrator within ten (10) days after receipt of such notice. Within twenty (20) days after the notice has been made, the two arbitrators shall choose a third arbitrator who shall act as chairperson of the arbitral proceedings. If the two arbitrators chosen by the Parties do not agree upon a third arbitrator within twenty (20) days after the filing of the notice, then, upon the application of either Party, the third arbitrator shall be selected in accordance with the Commercial Arbitration Rules. The arbitration proceedings provided hereunder are hereby declared to be self-executing, and it shall not be necessary to petition a court to compel arbitration. All arbitration proceedings shall be held in San Juan County, New Mexico. The Parties shall bear their own costs associated with any required travel to and from such location. The arbitrator shall make a determination within three (3) months after the dispute is submitted for arbitration.

- d. Notwithstanding the existence of a dispute, and until the expert or arbitrator, as applicable, renders a decision, each Party shall be obligated to fulfill its obligations and continue its performance in accordance with the terms hereof. Any payment due or payable by either Party to the other Party shall not be withheld on account of the occurrence or continuance of any expert resolution or arbitration proceedings. Neither Party shall make any public statements with respect to any disputes hereunder without the prior consent of the other Party unless compelled to do so in connection with the arbitration, or by a governmental or regulatory authority having jurisdiction over such Party or such dispute.
- 14.4 Headings; Exhibits. The headings used for the Sections and articles herein are for convenience and reference purposes only, and shall in no way affect the meaning or interpretation of the provisions of this Agreement. Any and all exhibits referred to in this Agreement are, by such reference, incorporated in and made a part of this Agreement for all purposes.
- 14.5 Amendments. This Agreement shall not be altered or amended except by an instrument in writing executed by authorized officers of the Parties.
- 14.6 Further Assurances. The Parties acknowledge that the performance of each Party's obligations under this Agreement will frequently require the assistance and cooperation of the other Party. Each Party therefore agrees, in addition to those provisions in this Agreement specifically providing for assistance from one Party to the other, that it will at all times during the Term cooperate with the other Party and provide all reasonable assistance to the other Party to help the other Party perform its obligations hereunder.
- 14.7 Relationship of the Parties. This Agreement shall not be interpreted or construed to (a) create an association, joint venture or partnership between the Parties or impose any partnership obligation or liability on either Party, (b) create any agency relationship between the Parties or impose any fiduciary duty of any kind on either Party, (c) create a trust or impose any trust obligations of any kind on either Party, or (d) constitute a lease of property of any kind. Other than as expressly set forth herein, neither Party shall have

any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or act as or be an agent or representative of, or otherwise bind, the other Party.

- 14.8 Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a “forward contract” within the meaning of the United States Bankruptcy Code.
- 14.9 Confidentiality. Neither Party shall disclose (other than to such Party’s employees, lenders, investors, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except (a) in order to comply with any applicable law, regulation or any exchange, control area or independent system operator rule, including the New Mexico Inspection of Public Records Act, NMSA 1978, Section 14-2-1 et seq., or (b) in connection with any court or regulatory proceeding; provided, however, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation, without the need to post bond.
- 14.10 Non-Waiver. Any waiver at any time by any Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not waive any subsequent default or any other matter. Any delay, short of the statutory period of limitation, in asserting or enforcing any right hereunder shall not waive such right. The assertion or enforcement of any right hereunder at any time shall be without prejudice to the subsequent assertion or enforcement of the same right or any other right.
- 14.11 Assignment; No Third Party Beneficiaries.
- a. Neither Party shall assign this Agreement, in whole or in part, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective permitted successors and assigns.
 - b. The obligations of Guzman or Aztec hereunder, as applicable, will be binding upon any future purchaser, lessee, owner or operator of the facilities, assets or business comprising such Party’s electric system.
 - c. No provision hereof is intended to confer or shall confer a legal right or other benefit upon any person who is not a Party. No provision hereof is intended to create or shall create a legal duty or obligation to any person who is not a Party.
- 14.12 Joint Preparation. This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and shall not be construed against one Party or the other as a result of the manner in which this Agreement was prepared, negotiated or executed.

- 14.13 Severability. If any of the terms, covenants or conditions of this Agreement shall be held invalid or unenforceable in whole or in part, the effectiveness and enforceability of the remainder of this Agreement shall not be affected thereby.
- 14.14 Counterparts. This Agreement may be executed in counterparts, all of which, taken together, shall have the same effect as though all signers had executed one and the same document.
- 14.15 Additional Aztec Customer Above 1.4 MW of Load. The Parties may negotiate an addendum to this Agreement pursuant to which Aztec may agree to serve any new individual customer adding more than an additional 1.4 MW of load with electric service pursuant to a specific rate to be negotiated with Guzman. Except as set forth in such addendum, any such arrangement shall not impact the terms and conditions of this Agreement. For the avoidance of doubt, the addition of such a customer will not be deemed Aztec Additional Generation hereunder.
- 14.16 Reservation. This Agreement is subject to the limitations now or hereafter provided by any applicable federal, state, or local law, ordinance, code, or regulation. Accordingly, Aztec reserves the right to alter and amend the Aztec Municipal Code in any manner necessary for the safety and welfare of the public or to protect public interests.

Signature Page Follows

IN WITNESS WHEREOF, the Parties have caused this Second Amended and Restated Power Sales Agreement to be executed, effective as of the Effective Date.

GUZMAN ENERGY LLC

By: _____

Name: _____

Title: _____

GUZMAN AZTEC SUN LLC

By: _____

Name: _____

Title: _____

CITY OF AZTEC

By: _____

Name: _____

Title: _____

Attested by: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A LOAD FORECAST

City of Aztec Peak Load Requirements (kW)										
Net of WAPA Seasonal HydroPower Allocation (CROD)										
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
July	6,080	6,374	6,267	6,160	6,054	6,014	5,975	5,935	5,896	5,857
August	5,751	6,044	5,937	5,831	5,724	5,686	5,648	5,610	5,573	5,535
September	5,291	5,584	5,478	5,371	5,335	5,299	5,263	5,227	5,191	5,156
October	3,311	3,204	3,097	2,991	2,963	2,935	2,908	2,880	2,853	2,826
November	3,361	3,254	3,147	3,072	3,044	3,016	2,988	2,960	2,932	2,904
December	4,009	3,902	3,797	3,727	3,695	3,664	3,633	3,602	3,571	3,540
January	4,081	4,011	3,942	3,872	3,840	3,808	3,776	3,744	3,712	3,681
February	3,593	3,486	3,380	3,273	3,244	3,215	3,186	3,157	3,128	3,099
March	3,567	3,460	3,354	3,247	3,218	3,189	3,160	3,131	3,103	3,074
April	3,804	3,734	3,664	3,595	3,568	3,540	3,513	3,486	3,459	3,432
May	4,192	4,086	3,979	3,872	3,843	3,814	3,786	3,758	3,729	3,701
June	5,927	5,820	5,714	5,607	5,569	5,532	5,495	5,458	5,421	5,385
Peak	6,080	6,374	6,267	6,160	6,054	6,014	5,975	5,935	5,896	5,857

City of Aztec Energy Requirements (kWh)										
Net of Solar Energy Production and WAPA AHP + WRP (CROD @ 100% LF)										
	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
July	2,161,085	2,265,445	2,168,848	2,068,175	1,971,071	2,151,635	2,330,787	2,509,720	2,687,477	2,864,308
August	1,735,643	1,840,674	1,740,217	1,641,893	1,544,510	1,726,722	1,908,599	2,089,627	2,269,518	2,448,644
September	1,694,107	1,790,808	1,689,837	1,592,499	1,769,178	1,944,119	2,118,931	2,292,656	2,465,406	2,637,435
October	1,090,028	996,391	905,506	800,890	986,727	1,170,729	1,351,679	1,533,448	1,713,870	1,893,107
November	1,266,191	1,164,727	1,064,515	968,727	1,144,961	1,321,080	1,496,925	1,671,232	1,844,904	2,017,769
December	1,707,936	1,602,568	1,502,927	1,408,058	1,587,382	1,767,603	1,947,418	2,125,406	2,302,958	2,479,629
January	1,900,807	1,793,360	1,703,071	1,602,660	1,781,721	1,962,569	2,140,385	2,317,836	2,494,760	2,670,385
February	1,607,575	1,510,287	1,417,513	1,315,372	1,479,556	1,642,885	1,803,847	1,965,049	2,125,265	2,284,452
March	1,293,494	1,197,863	1,102,765	1,001,622	1,185,494	1,367,898	1,548,476	1,728,943	1,908,284	2,086,614
April	1,569,879	1,471,146	1,376,020	1,275,930	1,454,041	1,631,511	1,807,228	1,982,560	2,156,976	2,330,381
May	1,612,034	1,515,828	1,421,779	1,320,129	1,504,831	1,688,248	1,869,544	2,050,857	2,231,049	2,410,175
June	2,139,383	2,043,831	1,946,049	1,846,670	2,022,259	2,196,300	2,369,316	2,541,794	2,713,243	2,883,838
Total	19,778,161	19,192,929	18,039,045	16,842,626	18,431,730	20,571,297	22,693,136	24,809,130	26,913,711	29,006,736

EXHIBIT B WAPA ALLOCATION

Summer Season Attachment to Exhibit A - Monthly Capacity and Energy Table

Aztec, NM (City of)
Contract No. 87-SLC-0015

Year: 2019

CAPACITY (KW)

	CROD	SHP	AHP	Minimum*	CDP**
April	1,896	922	922	396	
May	1,896	905	905	501	
June	1,896	937	937	523	
July	1,896	1,078	1,078	528	
August	1,896	1,039	1,039	551	
September	1,896	900	900	426	

ENERGY (KWH)

	SHP	AHP	WRP On Peak (kWh)	WRP Off Peak (kWh)	WRP Total (Not to Exceed)
April	557,814	557,814			(807,306)
May	530,996	530,996			(879,628)
June	545,554	545,554			(819,566)
July	652,060	652,060			(758,564)
August	606,853	606,853			(803,771)
September	550,651	550,651			(814,469)

*Minimum Capacity is the minimum to be scheduled in any hour. The minimum is calculated monthly, based on anticipated generation and water release patterns.

**Minimum Capacity allocations for April, May, June, July, August and September are estimates and may be subject to change.

WRP Spot Market Yes No

**CDP customers shall provide the transmission path that they are requesting capacity on: _____

**CDP Capacity available is the difference between SHP/AHP Capacity and the CROD in any hour.

Customer and Western agree to the SHP/AHP Capacity and SHP/AHP Energy, and WRP/CDP, as shown above.

Customer Concurrence: _____

Western Concurrence: _____

Winter Season Attachment to Exhibit A - Monthly Capacity and Energy Table

Aztec, NM (City of)
Contract No. 87-SLC-0015

Year: 2018-2019

CAPACITY (KW)

	CROD	SHP	AHP	Minimum*	CDP**
October	2,584	1,375	1,375	501	
November	2,584	1,443	1,443	488	
December	2,584	1,618	1,618	519	
January	2,584	1,608	1,608	591	
February	2,584	1,585	1,585	604	
March	2,584	1,418	1,418	580	

ENERGY (KWH)

	SHP	AHP	WRP On Peak (kWh)	WRP Off Peak (kWh)	WRP Total (Not to Exceed)
October	745,540	745,540			(1,176,956)
November	744,007	744,007			(1,116,473)
December	884,993	884,993			(1,037,503)
January	780,020	780,020			(1,142,476)
February	776,955	776,955			(959,493)
March	728,803	728,803			(1,193,693)

***Minimum Capacity** is the minimum to be scheduled in any hour. The minimum is calculated monthly, based on anticipated generation and water release patterns.

*Minimum Capacity allocations for October, November, December, January, February, and March are estimates and may be subject to change.

WRP Spot Market Yes No

****CDP** customers shall provide the transmission path that they are requesting capacity on: _____

****CDP Capacity** available is the difference between **SHP/AHP** Capacity and the **CROD** in any hour.

Customer and Western agree to the SHP/AHP Capacity and SHP/AHP Energy, and WRP/CDP, as shown above.

Customer Concurrence: _____

Western Concurrence: _____

EXHIBIT C
PROJECT DESIGN CAPACITY; PROJECT ATTRIBUTES

1. City of Aztec Solar Proposal from Conergy dated November 30, 2015 – see attached.
2. Astronergy Limited Warranty for Crystalline PV Modules, effective from January 1, 2015 – see attached.
3. SunGrow Standard Warranty Contract (rev. JUNE 2015) – see attached.

**EXHIBIT D
PREMISES**

A portion of the lands described in the Correction Warranty Deed to Glen W. Swire and Mamie Swire, under Trust Agreement dated June 29, 1977, recorded December 5, 1977 in Book 802, page 454 in the office of the County Clerk, San Juan County, New Mexico, lying in Sections Eight (8) and Seventeen (17), Township Thirty (30) North, Range Eleven (11) West, N.M.P.M., San Juan County, New Mexico, further described as follows:

BEGINNING at the West Sixteenth Corner common to said Sections 8 and 17, from which the Miller Engineers aluminum capped monument set in 1994 for the section corner common to Sections 7, 8, 17 and 18, Township 30 North, Range 11 West, N.M.P.M., bears North 89°55'11" West, 1045.40 feet;

THENCE along the West aliquot line of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) of said Section 8, North 00°40'18" East, 169.01 feet to the South property corner of the Quitclaim Deed to Lewis C. Townsend and Bobbie D. Townsend, UTA dated July 28, 1997 in book 1246, page 836 recorded September 30, 1997 in the office of said county clerk, monumented by a 5/8" rebar with cap marked 7922;

THENCE along the South line of the lands described in said Book 1246, page 836, North 60°06'08" East, 453.43 feet to the Southerst corner of the lands described in the Warranty Deed to Kevin N. Townsend and Margie Townsend recorded April 15, 1986 in Book 1042, page 320;

THENCE along the boundary lines of the lands described in said Book 1042, page 320 the following courses:

- 1) North 55°59'37" East, 67.82 feet;
- 2) North 20°25'08" East 98.08 feet;
- 3) North 07°01'08" East, 116.14 feet;

THENCE along the boundary line of the lands described in said Book 1246, page 836, North 00°28'09" West, 30.41 feet a point on the boundary line of River West Subdivision No. 1 recorded May 26, 1978 in Map File R-27 in the office of said county clerk;

THENCE along the boundary line of said River West Subdivision No. 1, North 72°05'48" East, 486.44 feet to a point on the boundary line of Harris Brown Subdivision recorded July 12, 1957 in Map File H-5 in the office of said County Clerk;

THENCE along the boundary of said Harris Brown Subdivision the following courses:

- 1) South 00°21'07" West, 47.85 feet;
- 2) North 41°53'31" East, 386.50 feet;

THENCE along the boundary line of the lands described in the Quitclaim Deed to Clara Lawson and or Artresia Lawson recorded February 9, 2005 in Book 1403, page 929 in the office of said county clerk, South 00°27'05" West, 435.01 feet to a point on the centerline of the San Juan River and the land described in the Warranty Deed to Frank R. Martinez and Darla Martinez recorded October 12, 1988 in Book 1094, page 99;

THENCE along the centerline of said river and the boundary lines of the lands described in said Book 1094, page 99 the following courses:

- 1) South 42°20'28" West, 8.83 feet;
- 2) South 34°14'38" West, 225.29 feet;

3) South 28°01'22" West, 311.21 feet;
4) South 33°20'43" West, 189.89 feet to a point on the section line common to said Sections 8 and 17;

THENCE along said common section line North 89°55'11" West 89.80 feet to a point on the Northerly bank of said San Juan River;

THENCE along the Northerly bank of said San Juan River the following courses:

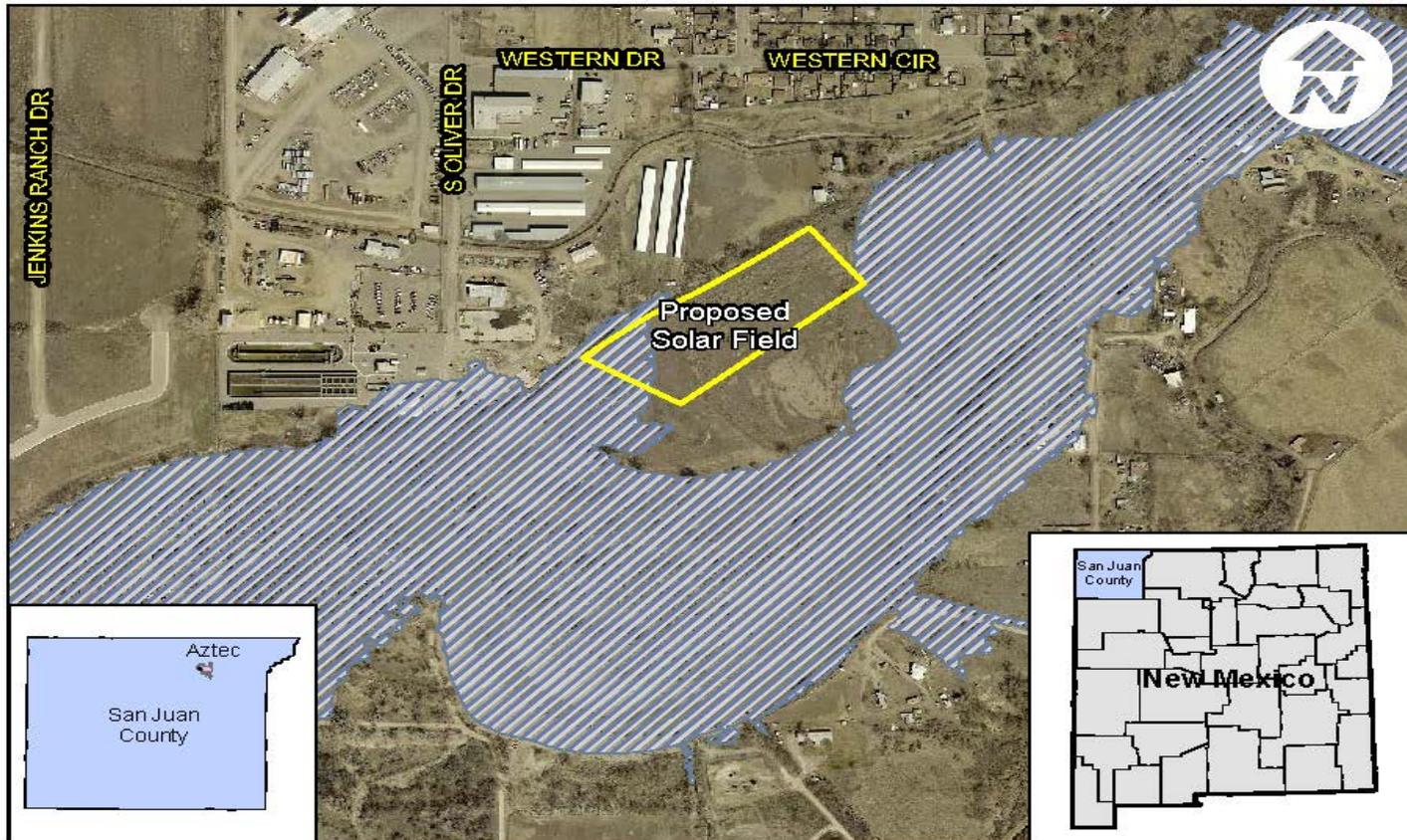
1) South 22°01'47" West 971.64 feet;
2) South 40°07'16" West, 230.76 feet;
3) South 45°54'46" West 157.20 feet;
4) South 82°40'00" West 148.44 feet to the beginning of a curve;
5) Along said curve to the right having a radius of 325.00 feet through a central angle of 48°01'00" for an arc length of 272.37 feet and having a chord that bears North 73°19'30" West 264.46 feet;

6) North 49°19'00" West 292.61 feet;
7) North 26°49'24" West 212.01 feet to the beginning of a curve;
8) Along said curve to the left having a radius of 650.00 feet through a central angle of 57°31'09" for an arc length of 652.53 feet and having a chord that bears North 55°34'59" West 625.48 feet to a point on the South boundary line of the lands described in the Warranty Deed to Town of Aztec recorded June 29, 1972 in Book 706, page 438 in the office of said county clerk;

THENCE along the boundary line of the lands described in said Book 706, page 438 the following courses:

1) North 73°44'38" East 287.99 feet;
2) North 80°46'20" East 220.31 feet;
3) North 70°43'43" East 195.96 feet;
4) North 41°38'46" East 262.93 feet;
5) North 00°01'53" East 20.44 feet to a point on the common section line to said Sections 8 and 17, from which the Miller Engineers, Inc. aluminum capped monument set in 1994 for the section corner common to said Sections 7, 8, 17 and 18 bears North 89°55'11" West, 1045.40 feet;

THENCE along said common section line South 89°55'11" East, 262.96 feet to the point of beginning.





Location of Proposed Solar Field.

EXHIBIT E
FORM OF PROJECT PURCHASE AGREEMENT

PROJECT PURCHASE AGREEMENT

This Project Purchase Agreement (“Agreement”) dated as of [____] (“Effective Date”) is by and between Guzman Aztec Sun LLC, a Delaware limited liability company, and its successors and assigns (“Guzman”), and City of Aztec, a municipality located in New Mexico (“Aztec”). Guzman and Aztec are sometimes referred to in this Agreement individually as a “Party” and, collectively, as the “Parties,” in each case as the context may require.

RECITALS

WHEREAS, Aztec issued a 2015 Request for Proposals for Wholesale Power Supply (RFP #2015-0502), to which Guzman submitted a response.

WHEREAS, the Parties entered into an Amended and Restated Power Sales Agreement dated as of May 25, 2017, as further amended by that certain Second Amended and Restated Power Sales Agreement dated as of March 1, 2020 (the “Solar Power Purchase Agreement”), pursuant to which the Parties agreed to Aztec’s option to accept transfer of the Assets in accordance with the terms and conditions set forth herein.

WHEREAS, Guzman desires to transfer to Aztec, and Aztec desires to accept from Guzman, all of Guzman’s right, title, and interest in certain Assets (defined below) associated with a one (1) MW solar powered electric energy generating facility (the “Project”), upon the terms and subject to the conditions set forth in this Agreement.

TERMS OF AGREEMENT

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE 1.
DEFINITIONS; RULES OF INTERPRETATION

1.1 Definitions.

- (a) “Action” means any action, suit, investigation, proceeding, condemnation, or audit by or before any court or other Governmental Authority or any arbitration proceeding.
- (b) “Affiliate” means, as applied to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with, such Person. For the purposes of this definition, “control” (including with correlative meanings, the terms “controlling,” “controlled by” and “under common control with”), as applied to any Person, means the possession, directly or indirectly through one or

more intermediaries, of the power to either (i) elect a majority of the directors (or Persons with equivalent management power) of such Person, or (ii) direct or cause the direction of the management or policies of such Person, whether through the ownership of securities or partnership, membership, or other ownership interests, by contract, by operation of law or otherwise.

- (c) “Agreement” has the meaning set forth in the Preamble, as same may be amended, supplemented, or modified from time to time in accordance with the terms hereof.
- (d) “Applicable Law” means all: (i) constitutions, statutes, laws, by-laws, rules, judgments, orders, decrees, regulations, or governmental restrictions in effect from time to time and made or issued by any Governmental Authority; (ii) any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing set forth in clause (i) by, any Governmental Authority, in each such case having the effect or force of law, and (iii) the requirements of all permits, licenses or codes, in the case of each of clauses (i), (ii), and (iii), binding on the Parties or any of the Assets.
- (e) “Assets” has the meaning set for in Section 2.1.
- (f) “Assignment and Assumption Agreement” has the meaning set forth in Section 10.2.2.
- (g) “Assumed Liabilities” has the meaning set forth in Section 2.2.
- (h) “Audit” has the meaning set forth in Section 4.17.1.
- (i) “Aztec” has the meaning set forth in the Preamble.
- (j) “Bill of Sale” has the meaning set forth in Section 10.2.1.
- (k) “Business Day” means a day other than Saturday, Sunday, or any day on which banks located in the State of New Mexico are authorized or obligated to close.
- (l) “CERCLA” has the meaning set forth in the definition of “Environmental Law.”
- (m) “Closing” means the consummation of the transactions contemplated by Article 10.
- (n) “Closing Date” has the meaning set forth in Section 10.1.
- (o) “Code” means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.
- (p) “Consent” means any consent, approval or authorization of, notice to, or designation, registration, declaration or filing with, any Person other than a Governmental Authority.

- (q) “Contracts” has the meaning set forth in Section 2.1.2.
- (r) “Dollars” or “\$” means or denotes United States dollars.
- (s) “Effective Date” has the meaning set forth in the Preamble.
- (t) “Environmental Law” means all Applicable Laws relating to (i) environmental matters, (ii) the control of any pollutant, or protection of the air, water, or land, (iii) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation, (iv) exposure to hazardous, toxic or other harmful substances, and (v) the protection and enhancement of the environment. Environmental Laws shall include the Clean Air Act, 42 U.S.C. § 7401 et seq. (CAA), the Clean Water Act, 33 U.S.C. § 1251 et seq. (CWA), the National Environmental Policy Act, 42 U.S.C. § 4321 et seq., the Endangered Species Act, 16 U.S.C. § 1531 et seq., the Resource Conservation Recovery Act, 42 U.S.C. § 6901 et seq. (RCRA), the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Comprehensive Environmental Response, Compensation, and Liability Act as amended by the Superfund Amendments and Reauthorization Act, 32 U.S.C. § 9601 et seq. (CERCLA), the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. § 136 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. (TSCA), and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq., and any state or local laws implementing or substantially equivalent to the foregoing federal requirements.
- (u) “Excluded Liabilities” has the meaning set forth in Section 2.3.
- (v) “Governmental Approval” means any consent or approval required by any Governmental Authority.
- (w) “Governmental Authority” means any federal, provincial, state, county, municipal or local government and any political subdivision thereof, or any other governmental, quasi-governmental, executive, legislative, administrative, regulatory, judicial, public or statutory department, body, instrumentality, agency, ministry, court, commission, bureau, board, or other governmental authority having jurisdiction over the Project or any of the Parties.
- (x) “Guzman” has the meaning set forth in the Preamble.
- (y) “Hazardous Materials” means any chemicals, materials, substances, or items in any form, whether solid, liquid, gaseous, semisolid, or any combination thereof, whether waste materials, raw materials, chemicals, finished products, by-products, or any other materials or articles, which are listed or regulated as hazardous, toxic or dangerous or as waste or a contaminant, or are otherwise listed or regulated, or for which liability or standards of care are imposed, under any Environmental Law, including petroleum products, asbestos, PCBs, coal combustion by-products, urea formaldehyde foam insulation, lead-containing paints or coatings, and any substances included in the definition of “hazardous debris,” “hazardous substances,” “hazardous materials,” “hazardous wastes,”

“toxic substances,” “pollutants,” “contaminants” or words of similar import, under any Environmental Laws.

- (z) “Knowledge of Aztec” or words of similar import, means the actual knowledge of Aztec’s Electric Director.
- (aa) “Knowledge of Guzman” or words of similar import, means, with respect to Guzman, the actual knowledge of Guzman’s Chief Operating Officer.
- (bb) “Liabilities” or “Liability” means all indebtedness, obligations and other liabilities of a Person, whether direct or indirect, known or unknown, absolute or contingent, accrued, fixed or otherwise, or whether due or to become due.
- (cc) “Lien” means any lien, security interest, charge, claim, mortgage, deed of trust, option, warrant, purchase right, or other encumbrance.
- (dd) “Loss” or “Losses” means any and all claims, Liabilities, losses, causes of action, fines, penalties, litigation, lawsuits, administrative proceedings, administrative investigations, costs, and expenses, including reasonable attorneys’ fees, court costs, and other costs of suit.
- (ee) “Other Documents” has the meaning set forth in Section 2.1.3.
- (ff) “Party” or “Parties” has the meaning set forth in the Preamble.
- (gg) “Permits” means, collectively, all currently-effective registrations, licenses, permits, authorizations, consents, approvals, grants, franchises, rulings, certifications, variances, orders, judgments, decrees and similar rights and privileges granted by any Governmental Authority under any provision of Applicable Law.
- (hh) “Permitted Liens” means with respect to the Project Site (a) liens for current Taxes not yet due, (b) minor imperfections of title, if any, none of which is substantial in amount, materially detracts from the value or impairs the use of the property subject thereto in connection with the Project, (c) zoning laws, building codes and other like unrecorded land use restrictions imposed by any Governmental Authority and applicable to the Project Site under Applicable Law, and (d) any encumbrances existing by virtue of the lease agreement set forth in Schedule 2.1.2.
- (ii) “Person” means any natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, limited liability company, trust, bank, trust company, land trust, business trust or other organization, whether or not a legal entity, and any Governmental Authority.
- (jj) “Personal Property” has the meaning set forth in Section 2.1.1.
- (kk) “Pre-Closing Tax Period” means any tax period (or portion thereof) ending before the Closing Date.

- (ll) “Project” has the meaning set forth in the Recitals.
- (mm) “Project Permits” has the meaning set forth in Section 2.1.4.
- (nn) “Project Site” means the real property described on Schedule 2.1.1.
- (oo) “Purchase Price” has the meaning set forth in Article 3.
- (pp) “Release” means any release, spill, emission, leaking, pumping, emptying, dumping, injection, abandonment, deposit, disposal, discharge, dispersal, leaching, or migration of Hazardous Materials (including the abandonment or discarding of Hazardous Materials in barrels, drums, or other containers) into or within the environment, including the migration of Hazardous Materials into, under, on, or through soil, subsurface strata, surface water, groundwater, drinking water supply, any sediments associated with any water bodies, or any other environmental medium, regardless of where such migration originates.
- (qq) “Remediation” means any or all of the following activities to the extent they relate to or arise from the presence of Hazardous Materials in the soil or groundwater or both, or in above-ground or underground structures, equipment, fixtures or personal property, at the Project: (i) performing any activities that are remedial or removal actions under CERCLA, or result in response costs as defined under CERCLA, including monitoring, investigation, cleanup, containment, remediation, removal, mitigation, response or restoration work; (ii) obtaining any Permits or Consents necessary to conduct any such work; (iii) preparing and implementing any plans or studies for such work; (iv) obtaining a written notice from all Governmental Authorities with jurisdiction over the Project Site under Environmental Laws that no material additional work is required by such Governmental Authority; and (v) any other activities required by a Governmental Authority under Applicable Law to address the presence of Hazardous Materials.
- (rr) “Representatives” means, with respect to a Party, its Affiliates and each of its and its Affiliates’ directors, officers, partners, members, employees, agents, counsel, accountants, advisors, consultants, successors and assigns, in each case with respect to the transactions contemplated by this Agreement.
- (ss) “Required Approval” has the meaning set forth in Section 6.2.1.
- (tt) “Tax” or “Taxes” means all taxes, charges, fees, levies or other assessments, including all net income, gross income, gross receipts, excise, stamp, real or personal property, ad valorem, withholding, social security, unemployment, use, license, occupation, net worth, payroll, franchise, severance, transfer, recording, employment, premium, windfall profits, environmental, customs duties, capital stock, transfer, profits, sales, uses, registration, value added, alternative or add-on minimum, estimated or other taxes, assessments, special assessments or charges imposed by any Governmental Authority (including any amounts paid in lieu of any such taxes) and any interest, penalties or additions to tax attributable thereto.

- (uu) “Tax Return” means any returns, declarations, reports, bills, claims for refund, information returns (including where permitted or required, any consolidated, combined or unitary returns) or other documents (including any related or supporting schedules, statements or information) filed or required to be filed in connection with the determination, assessment or collection of any Taxes or in connection with the administration of any statutes, laws, rules, regulations, orders or awards of any Governmental Authorities relating to any Taxes.
- (vv) “Transaction Documents” means this Agreement and the documents, agreements or instruments required to be delivered at the Closing, including the Bill of Sale and the Assignment and Assumption Agreement.

1.2 Rules of Interpretation. In this Agreement, unless expressly provided otherwise:

- (a) words of any gender include each other gender;
- (b) the words “herein,” “hereunder,” and “hereof” refer to the provisions of this Agreement and a reference to a recital, Article, Section, subsection, or paragraph of this Agreement or any other agreement is a reference to a recital, Article, Section, subsection, or paragraph of this Agreement or other agreement in which it is used unless otherwise stated;
- (c) words using singular or plural number also include the plural or singular number, respectively;
- (d) references to this Agreement includes any schedule hereto;
- (e) a reference to this Agreement, any other agreement or an instrument, or any provision of any of them includes any amendment, variation, restatement or replacement of this Agreement or such other agreement, instrument, or provision, as the case may be;
- (f) a reference to a statute or other law (including any Applicable Law) or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, law or provision;
- (g) “including” means “including, but not limited to,” and other forms of the verb “to include” are to be interpreted similarly;
- (h) references to “or” shall be deemed to be disjunctive but not necessarily exclusive, (*i.e.*, unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”);
- (i) if the time for performing an obligation under this Agreement expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day; and

- (j) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings.

ARTICLE 2. PURCHASE AND SALE

2.1 Purchase and Sale. On the terms and subject to the conditions contained in this Agreement, at the Closing, Aztec shall receive and assume from Guzman, and Guzman shall convey, assign, transfer, and deliver to Aztec, free and clear of any Liens (except for Permitted Liens) all of Guzman's rights, title, and interests in and to the following assets (collectively, "Assets"):

2.1.1 Personal Property and Improvements. All personal property improvements of Guzman, constructed and installed on the Project Site identified on Schedule 2.1.1 ("Personal Property");

2.1.2 Contracts. Each of the contracts and agreements identified on Schedule 2.1.2 ("Contracts");

2.1.3 Surveys, Reports and Studies. All environmental and other surveys and reports and data, and all information or materials owned by Guzman and relating primarily to, or necessary for, the Project, including, without limitation, as identified on Schedule 2.1.3 ("Other Documents"); and

2.1.4 Permits. Any Permits owned or controlled by Guzman or any of its Affiliates that are used in, relate primarily to, or are necessary for the Project, including, without limitation, those listed on Schedule 2.1.4 and all application materials (but excluding emails and other written correspondence) in the possession of Guzman ("Project Permits").

2.2 Assumed Liabilities. Aztec shall assume, effective immediately after the Closing the duties, obligations and liabilities of Guzman arising under any Contract and with respect to the Assets, in each case solely to the extent arising and relating to periods after the Closing (collectively, "Assumed Liabilities").

2.3 Excluded Liabilities. Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to impose on Aztec, and Aztec shall not assume or be obligated to pay, perform, or otherwise discharge any liabilities or obligations of Guzman other than the Assumed Liabilities, including, without limitation, the following liabilities (collectively, the "Excluded Liabilities"), all of which are hereby expressly retained by Guzman and Guzman shall discharge and perform the Excluded Liabilities when and as they become due and payable:

2.3.1 any and all liabilities or obligations relating to or arising out of the ownership of the Assets arising or accruing on or prior to the Closing or relating in whole or in part to periods prior to Closing, including all debt and all accounts payables or other current liabilities and obligations; and

2.3.2 subject to Section 6.3, all liabilities and obligations for Taxes imposed with respect to the Assets or the Project for any period (or portions thereof) through the date prior to the Closing Date.

ARTICLE 3. PURCHASE PRICE

The Parties agree that the consideration for the Assets to be paid by Aztec shall be equal to ten dollars (\$10.00) (the "Purchase Price").

ARTICLE 4. REPRESENTATIONS AND WARRANTIES OF GUZMAN

Guzman hereby represents and warrants to Aztec as follows as of the Effective Date and as of the Closing Date:

4.1 Organization, Existence and Authority. Guzman is a limited liability company, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to conduct its business as it is now being conducted. Guzman has all requisite power and authority to enter into and perform its obligations under this Agreement and the other Transaction Documents, and to consummate the transactions contemplated hereby and thereby.

4.2 Execution, Delivery and Enforceability. The execution, delivery, and performance of this Agreement and the other Transaction Documents have been duly and validly authorized by all necessary limited liability company action by Guzman. This Agreement has been, and at the Closing the other Transaction Documents shall be, duly executed and delivered by Guzman. This Agreement and each of the other Transaction Documents constitutes (or will constitute when executed by Guzman) a legal, valid, and binding obligation of Guzman, enforceable against it in accordance with its respective terms, except as such enforcement may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, and other similar Applicable Laws of general application from time to time in effect that affect creditors' rights generally and (ii) general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

4.3 No Violation. None of the execution and delivery of this Agreement or any of the other Transaction Documents executed by Guzman, the performance or compliance with any provision hereof or thereof, or the consummation of the transactions contemplated hereby or thereby will (i) violate, conflict with, result in a breach of, or constitute a default under any provisions of the governing documents of Guzman, (ii) violate, conflict with, result in a breach of, or constitute a default under any agreement to which Guzman is a party as of the Effective Date, or (iii) result in the creation or imposition of any Lien on any of the Assets, or a breach of, or constitute a default under any of the Assets by Guzman, or, to the Knowledge of Guzman, give to any other Persons any rights of termination, amendment, acceleration, modification, or cancellation of any of the Assets.

4.4 No Consents. Other than the consent and approval set forth on Schedule 4.4, which will be obtained by Aztec following the Closing, no other consent or approval of, filing with, or notice to, any Person is required to be obtained or made in connection with Guzman's execution, delivery and performance of this Agreement or the other Transaction Documents, or the

consummation of the transactions contemplated hereby or thereby, which, if not obtained or made, will prevent or impair Guzman from performing its obligations hereunder or thereunder.

4.5 No Governmental Approvals. Other than the Governmental Approvals set forth on Schedule 4.5, no other Governmental Approval on the part of Guzman is required in connection with the execution, delivery, and performance of this Agreement or the other Transaction Documents or the consummation of the transactions contemplated hereby or thereby.

4.6 Compliance with Laws. Except as relates to Environmental Laws, compliance with which is exclusively and solely governed by Section 4.15 hereof, Guzman has complied in all material respects with all Applicable Laws relating to the Assets or by which any of the Assets are bound or subject. Guzman has not received any written notice or written allegation of a violation of law from any Governmental Authority.

4.7 Permits.

4.7.1 Schedule 2.1.4 is a complete and accurate list of all Permits currently held by Guzman or any of its Affiliates in respect of the development of the Project, true and correct copies of which have been provided to Aztec.

4.7.2 Except as set forth in Schedule 4.7.2, and except as relates to compliance with Environmental Laws which is exclusively and solely governed by Section 4.15 hereof, Guzman has not received written notice of violation or noncompliance from any Governmental Authority or any written notice or claim asserting or alleging that any Permit listed in Schedule 2.1.4 (i) is not in full force and effect, or (ii) is subject to any legal proceeding or unsatisfied condition that (a) is not reasonably expected to be satisfied, or (b) if not satisfied, could be reasonably expected to cause a material modification or revocation of any Permit.

4.8 Litigation. Except as set forth in Schedule 4.8, there is no litigation or proceeding affecting or relating to the Assets pending or, to the Knowledge of Guzman, threatened against Guzman. There is no claim or governmental investigation affecting or relating to the Assets pending or, to the Knowledge of Guzman, threatened against Guzman.

4.9 Zoning and Condemnation. There are no pending or, to the Knowledge of Guzman, threatened proceedings or governmental actions to modify the zoning classification of, or to condemn or take by power of eminent domain or to classify as a landmark or otherwise impose any similar restraint or restriction on, all or any part of the Assets.

4.10 Brokerage Fees and Commissions. Neither Guzman nor any of its Affiliates has incurred any obligation or entered into any agreement for any investment banking, brokerage or finder's fee or other similar commission or fee in respect of the transactions contemplated by this Agreement for which Aztec could incur any liability.

4.11 Bankruptcy. Guzman is a solvent entity. Guzman has not filed any voluntary petition in bankruptcy or been adjudicated bankrupt or insolvent, filed any petition or answer seeking any reorganization, liquidation, dissolution, or similar relief under any bankruptcy, insolvency, or other debtor relief law, or sought, consented to, or acquiesced in the appointment of any trustee, receiver, conservator, or liquidator of all or any substantial part of its respective properties. No

court of competent jurisdiction has entered an order, judgment, or decree approving a petition filed against Guzman seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any bankruptcy, insolvency, or other debtor relief law, and no other liquidator has been appointed for Guzman or all or any substantial part of its properties. No proceedings or actions of the types described in this Section 4.11 are being contemplated by Guzman or, to the Knowledge of Guzman, are threatened against Guzman.

4.12 Title to Assets. Except as set forth on Schedule 4.12, Guzman holds good and indefeasible title to the Assets free and clear of all Liens.

4.13 Contracts.

4.13.1 Guzman has provided Aztec with, or access to, true, correct, and complete copies of the Contracts set forth in Schedule 2.1.2. Each Contract constitutes the legal, valid, binding, and enforceable obligation of Guzman except as may be limited by (i) bankruptcy, insolvency, reorganization, moratorium and other similar laws of general application affecting the rights and remedies of creditors, and (ii) general principles of equity (regardless of whether such enforcement is considered in a proceeding in equity or at law). Each Contract is in full force and effect.

4.13.2 Except as set forth on Schedule 2.1.2, Guzman has not entered into any material agreement, contract, instrument, license, or franchise of any kind related to the Project.

4.13.3 None of the Contracts has been modified, supplemented, amended, or terminated by Guzman, in any such case whether orally or in writing, except as set forth on Schedule 4.13.3.

4.13.4 Except as set forth on Schedule 4.13.4, no default or event of default of Guzman (or to the Knowledge of Guzman, any other party), actual or inchoate, has occurred and is continuing under any Contract, and no Person has alleged or asserted any such default or event of default by any other party thereto, and, to the Knowledge of Guzman, no default or event of default, actual or inchoate, will arise under any Contract upon or as a result of the assignment of such Contract to Aztec.

4.14 Other Documents. Schedule 2.1.3 is a complete and accurate list of the Other Documents.

4.15 Environmental Legal Compliance. Except as set forth on Schedule 4.15:

4.15.1 All of the Assets and all uses and conditions of the Assets and, to the Knowledge of Guzman, the Project Site, have been and are in material compliance with all Environmental Laws. There are no pending claims, demands, actions, administrative proceedings, lawsuits, or investigations against or in respect of the Project Site or the Assets and there are no threatened claims, demands, actions, administrative proceedings, lawsuits, or investigations against or in respect of the Project Site or the Assets under any Environmental Law or that would reasonably be expected to result in any liability or obligation of Aztec under any Environmental Law. Neither Guzman, nor any of its Affiliates, nor anyone acting on their behalf, has received written notice of any such claims, demands, actions, proceedings, lawsuits, or investigations. Neither Guzman, nor

any of its Affiliates has entered into any consent decree, order, or other similar agreement related to the Assets;

4.15.2 Neither the Assets nor, to the Knowledge of Guzman, the Project Site, is the subject of any administrative or judicial actions, complaints, suits, proceedings, or investigations pursuant to any Environmental Law;

4.15.3 To the Knowledge of Guzman, there has been no Release on the Project Site that, under any Environmental Law; (i) imposes or could reasonably be expected to impose on Aztec a liability for fines or penalties for non-compliance with Environmental Law, or for the performance or reimbursement of the costs of removal, Remediation, or other cleanup, or liability for or obligation to reimburse damages to natural resources; (ii) has had or could reasonably be expected to have a material adverse effect on the value of the Assets; or (iii) could reasonably be expected to result in the imposition of a Lien on the Assets;

4.15.4 To the Knowledge of Guzman, no Lien in favor of any Person imposed under Environmental Law relating to or in connection with any claim under an Environmental Law has been filed or has been attached to the Assets and no response action or other Remediation by any Governmental Authority has taken place that could form the basis for such a Lien under an Environmental Law; and

4.15.5 Guzman has provided to Aztec complete and accurate copies of any environmental investigation, study, audit, test, review, and other analysis conducted for Guzman in connection with the Project.

4.16 No Third Party Options. Guzman has not granted to any Person other than Aztec any options, commitments, or rights to acquire Guzman's right, title, or interest in or to the Assets or any direct or indirect interest in Guzman except those set forth in Schedule 2.1.2.

4.17 Taxes. Except as disclosed in Schedule 4.17:

4.17.1 Guzman has timely paid all Taxes pertaining to the Assets when due and payable in compliance with Applicable Law. There are no Liens for Taxes upon any of the Assets, whether as the result of any failure to pay such Taxes, any failure to file Tax Returns or otherwise, and no Action has been initiated with regard to Taxes or Tax Returns (each an "Audit") of Guzman relating to the Assets, and Guzman has not received any written (or, to Guzman's Knowledge, oral) notice that any such Audit is pending or threatened, that could result in a Lien on any of the Assets;

4.17.2 Guzman is not a foreign person within the meaning of Section 1445 of the Code;

4.18 Operation and Maintenance. Guzman has operated and maintained the Project in accordance with the Contracts, the Permits, Applicable Law, and prudent industry practices.

4.19 Disclosure. Guzman does not own any assets pertaining to the Project other than those that are included in the definition of "Assets." Guzman has disclosed to Aztec all material information relating to the Assets and the information provided contains no material false statement or misrepresentation.

ARTICLE 5.
REPRESENTATIONS AND WARRANTIES OF AZTEC

Aztec hereby represents and warrants to Guzman as follows as of the date hereof and as of the Closing Date:

5.1 Organization, Existence and Authority. Aztec is a municipality located in the State of New Mexico and has all requisite power and authority to carry on its business as now being conducted. Aztec has all requisite power and authority to enter into and perform its obligations under this Agreement and the other Transaction Documents to which it is a party, and to consummate the transactions contemplated hereby and thereby, including to own the Assets.

5.2 Execution, Delivery and Enforceability. The execution, delivery and performance of this Agreement and the other Transaction Documents to which Aztec is a party have been duly and validly authorized by all necessary action by Aztec. This Agreement has been, and at the Closing shall be, duly executed and delivered by Aztec. This Agreement and each of the other Transaction Documents to which Aztec is a party constitutes (or when executed by Aztec will constitute) a legal, valid, and binding obligation of Aztec, enforceable against it in accordance with its respective terms, except as such enforcement may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium, and other similar laws of general application from time to time in effect that affect creditors' rights generally and (ii) general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

5.3 No Violation. Neither the execution and delivery of this Agreement or any of the other Transaction Documents executed by Aztec, the performance or compliance with any provision hereof or thereof, or the consummation of the transactions contemplated hereby or thereby will result in (i) a violation or breach of the governing documents of Aztec, (ii) a violation or breach of, or a default under any agreement to which Aztec is a party as of the Effective Date hereof.

5.4 Litigation. There is no Action pending against or, to the Knowledge of Aztec, threatened against Aztec or involving Aztec with respect to any of the transactions contemplated by this Agreement.

5.5 Bankruptcy. There are no bankruptcy, reorganization, or insolvency proceedings pending against, being contemplated by or, to the Knowledge of Aztec, threatened against Aztec.

ARTICLE 6.
CERTAIN COVENANTS

6.1 Actions by Parties; Further Assurances. Subject to the terms and conditions of this Agreement, Guzman and Aztec each agree that from time to time after the Closing Date, (i) each Party shall, and shall cause its Affiliates to, execute and deliver such other documents and instruments, provide such materials and information, and take such other actions as may reasonably be necessary, to the extent permitted by Applicable Law, to cause the Assets to be transferred to Aztec, and (ii) upon the reasonable request of any Party and at no material cost to or expense of such other Party or its Affiliates, such Party will, and will cause its Affiliates to, execute and deliver such other documents and instruments, and take such other actions as may reasonably be necessary, proper, or advisable, (A) to evidence the conveyance by Guzman or its

Affiliates to Aztec of any and all right, title, and interest that Guzman or any of its Affiliates holds in and to the Assets, (B) to assist the other Party being fully constituted with such rights, in each case to the extent consistent with the Parties' representations, warranties, and covenants set forth in this Agreement, and (C) otherwise to consummate the transactions contemplated hereby and to carry out the provisions (or cause its respective Affiliates to take) such other action, as may be reasonably necessary to carry out the purposes and intents of this Agreement.

6.2 Required Approval; Notice. After the Closing:

6.2.1 Guzman shall cooperate with Aztec as it uses commercially reasonable efforts to obtain the consent and approval listed in Schedule 4.4 ("Required Approval"). Aztec will be responsible for any costs it incurs associated with its efforts to obtain the Required Approval.

6.2.2 Aztec will promptly notify all relevant Governmental Authorities and all third Persons to whom notice must otherwise be given of the change in ownership of the Project and the Assets resulting from the transactions contemplated herein, in each case to the extent Aztec is required to do so by Applicable Laws or the agreements to which the Consents relate, and upon Guzman's request, shall give Guzman a summary of such efforts.

6.3 Tax Matters.

6.3.1 Taxes. Guzman is responsible for paying all Taxes and assessments, including excise taxes, ad valorem taxes, and any other federal, state, or local taxes or assessments attributable to ownership of the Assets for the period up to the Closing Date. Aztec is responsible for paying all Taxes and assessments, including excise taxes, ad valorem taxes, and any other federal, state, or local taxes and assessments attributable to the ownership or operation of the Assets on and after the Closing Date. Guzman will pay any excise taxes, sales taxes, or any other federal, state or local taxes and assessments attributable to the transfer of title to the Assets at the Closing. Guzman shall be responsible for any and all capital gains taxes or any similar taxes associated with the transaction contemplated under this Agreement.

6.3.2 Additional Taxes and Tax Refunds. Guzman shall be responsible for any Taxes that relate to a Pre-Closing Tax Period but are assessed after the Closing Date. As between Aztec and Guzman, Guzman will be entitled to any refunds or credits of Taxes relating to the Project and the Assets for the period prior to the Closing Date. Aztec will promptly notify and forward to Guzman the amounts of any such refunds or credits to Guzman within sixty (60) days after receipt thereof.

6.4 Duty to Notify. Prior to the Closing Date or earlier termination of this Agreement, each Party shall promptly notify the other Party of any actions, events, or circumstances that could reasonably be expected to have a material adverse effect on a Party, the Project, or the Assets, or to result in a breach by a Party of its covenants in this Article 6 or its representations and warranties in Article 4 or Article 5, as applicable.

6.5 Fulfillment of Conditions. Guzman and Aztec shall each take all commercially reasonable steps necessary or desirable, and proceed diligently and in good faith, to satisfy each condition to the obligations of Aztec and Guzman, respectively, contained in this Agreement.

ARTICLE 7.
CONDITIONS PRECEDENT TO THE OBLIGATIONS OF AZTEC

The obligations of Aztec hereunder to purchase the Assets are subject to the fulfillment, at or before Closing, of each of the following conditions (all or any of which may be waived in whole or in part by Aztec in its sole discretion):

7.1 Bring-Down of Guzman's Representations and Warranties. The representations and warranties made by Guzman in this Agreement shall be true and correct in all material respects as of the Closing Date (except for any of such representations and warranties that are qualified by materiality which shall be true in all respects) as though such representations and warranties were made on and as of the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date, in which case as of such earlier date.

7.2 Performance at Closing. Guzman shall have duly performed in all material respects all of the covenants and undertakings to be performed by Guzman on or prior to the Closing pursuant to the Agreement, and a duly authorized officer of Guzman shall have delivered to Aztec a certificate dated as of the Closing Date certifying the fulfillment of this condition and the condition set forth in Section 7.1.

7.3 Litigation. No action or proceeding shall have been instituted or threatened and no Applicable Law imposed or revised by any Governmental Authority whatsoever against Guzman or the Assets which seeks to (or will have the effect to) materially impair, restrain, prohibit, or invalidate the transactions contemplated by this Agreement or the other Transaction Documents.

7.4 Transaction Documents. Guzman shall have executed the Transaction Documents.

7.5 Consents and Approvals. Other than the Required Approval, all Consents and approvals of Governmental Authorities and other Persons required for the consummation of any of the transactions contemplated by this Agreement or the other Transaction Documents shall have been obtained and shall be in full force and effect.

ARTICLE 8.
CONDITIONS PRECEDENT TO THE OBLIGATIONS OF GUZMAN

The obligations of Guzman hereunder to sell the Assets are subject to the fulfillment, at or before Closing, of each of the following conditions (all or any of which may be waived in whole or in part by Guzman in its sole discretion):

8.1 Bring-Down of Aztec's Representations and Warranties. The representations and warranties made by Aztec in this Agreement shall be true and correct in all material respects as of the Closing Date (except for any of such representations and warranties that are qualified by materiality which shall be true in all respects) as though such representations and warranties were made on and as of the Closing Date, except to the extent such representations and warranties expressly relate to an earlier date, in which case as of such earlier date.

8.2 Performance at Closing. Aztec shall have duly performed in all material respects all of the covenants and undertakings to be performed by it on or prior to the Closing pursuant to the Agreement, and a duly authorized officer of Aztec shall have delivered to Guzman a certificate dated as of the Closing Date certifying the fulfillment of this condition and the condition set forth in Section 8.1.

8.3 Litigation. No action or proceeding shall have been instituted or threatened and no Applicable Law imposed or revised by any Governmental Authority whatsoever against Aztec which seeks to (or will have the effect to) materially impair, restrain, prohibit, or invalidate the transactions contemplated by this Agreement or the other Transaction Documents.

8.4 Transaction Documents. Aztec shall have executed the Transaction Documents.

8.5 Purchase Price Payment. Aztec shall have deposited the Purchase Price, as adjusted for any prorations and allocation of Closing costs as provided herein, into the account designated by Guzman via wire transfer.

ARTICLE 9. DUE DILIGENCE DOCUMENTATION

9.1 Due Diligence Documentation. Guzman has provided to Aztec copies of all documents, data and reports in Guzman's possession or under Guzman's control relating to the Assets, including without limitation, copies of the Contracts.

ARTICLE 10. CLOSING

10.1 Closing. The Closing shall be held at no later than [•], on a date mutually agreed upon by the Parties, or on such other date or at such other time or place as Guzman and Aztec may agree in writing; provided, however, that Guzman and Aztec intend that the Closing shall be deemed to be effective, and the transactions contemplated by this Agreement shall be deemed to occur simultaneously (unless otherwise provided herein), on the date on which the Closing actually occurs ("Closing Date"). Upon Closing, Aztec shall take sole ownership and possession of the Assets.

10.2 Guzman's Closing Deliveries. At or prior to the Closing Guzman shall:

10.2.1 Deliver a duly executed and acknowledged form of bill of sale to effect a transfer of the Personal Property to Aztec in the form attached hereto as Exhibit B ("Bill of Sale");

10.2.2 Deliver two duly executed original counterparts of the assignment of Guzman's interest in the Contracts, the Project Permits and the Other Documents to Aztec in the form attached hereto as Exhibit A ("Assignment and Assumption Agreement");

10.2.3 Deliver documentation adequately evidencing all actions required to be taken on behalf of Guzman to authorize Guzman's execution and delivery of this Agreement and each of the other Transaction Documents and instruments to be executed and delivered

by Guzman in connection herewith and the consummation of the transactions contemplated hereby;

10.2.4 Execute and deliver to Aztec a certificate from a duly authorized officer of Guzman as described in Section 7.2;

10.2.5 Deliver to Aztec originals (if available) of each of the Contracts;

10.2.6 Deliver any additional documents or instruments reasonably required to consummate the transactions contemplated hereunder.

10.3 Aztec's Closing Deliveries. At or prior to the Closing, Aztec shall:

10.3.1 Deliver the Purchase Price;

10.3.2 Deliver two duly executed original counterparts of the Assignment and Assumption Agreement to Guzman in the form attached hereto as Exhibit A;

10.3.3 Execute and deliver to Guzman a certificate from a duly authorized officer of Aztec as described in Section 8.2; and

10.3.4 Deliver any additional documents or instruments reasonably required to consummate the transactions contemplated hereunder, including a UCC-3 termination statement to release that certain Mortgage, Security Agreement and Fixture Filing made as of May 25, 2017 by Guzman to Aztec.

ARTICLE 11. INDEMNIFICATION

11.1 Indemnification.

11.1.1 By Guzman of Aztec. Subject to the other terms and limitations in this Agreement, Guzman hereby agrees to defend, indemnify, and hold harmless Aztec, from and against any and all Losses asserted against or incurred by Aztec (i) for any material breach of Guzman's representations or warranties made in this Agreement (ii) brought against Aztec, or all or any component of the Project by any Governmental Authority to the extent the same results from matters arising prior to the Closing Date, and (iii) for any material breach of the covenants or obligations of Guzman under this Agreement; provided, however, that the foregoing indemnity shall not apply to Losses caused by the gross negligence or willful misconduct of Aztec.

11.1.2 By Aztec of Guzman. Subject to the other terms and limitations in this Agreement, Aztec hereby agrees to defend, indemnify, and hold harmless Guzman, from and against any and all Losses asserted against or incurred by Guzman (i) for any material breach of Aztec's representations or warranties made in this Agreement, and (ii) for any material breach of the covenants or obligations of Aztec under this Agreement; provided, however, that the foregoing indemnity shall not apply to Losses caused by the gross negligence or willful misconduct of Guzman.

11.2 Survival and Time Limitation. After the Closing, any assertion by Aztec that Guzman is liable to Aztec for indemnification under the terms of this Agreement or otherwise in connection with the transactions contemplated in this Agreement must be made in writing and must be given to Guzman prior to the date that is one (1) year after the Closing Date, except for (i) indemnification for breach of Guzman's representations in Sections 4.12 and 4.16, which shall survive indefinitely following the Closing, (ii) indemnification for a material breach of Guzman's representations in Sections 4.1, 4.2, 4.3, 4.4, 4.6 or 4.15, which shall survive for the limitations period provided under Applicable Law, and (iii) indemnification for material breach of Guzman's representations in Section 4.17 and Guzman's other covenants and obligations under this Agreement related to Taxes, which must be made in writing and must be given to Guzman on or prior to the date that is ninety (90) days after the date on which the applicable statute of limitations expires with respect to the matters covered thereby.

11.3 Sole and Exclusive Remedy. From and after the Closing, except as otherwise provided in Section 6.3 with regard to liability for Taxes, the indemnification provisions of this Article 11 shall be the sole and exclusive remedy for any breach hereunder.

ARTICLE 12. TERMINATION

12.1 Termination. This Agreement may be terminated at any time prior to Closing as follows:

(a) by Aztec if there has been a material breach by Guzman of any representation, warranty, covenant, or agreement contained in this Agreement which would result in a failure of a condition set forth in Section 7.1 or 7.2;

(b) by Guzman if there has been a material breach by Aztec of any representation, warranty, covenant, or agreement contained in this Agreement which would result in a failure of a condition set forth in Section 8.1 or 8.2;

(c) by Aztec or Guzman if a Governmental Authority shall have issued an order or taken any other Action, in either case, having the effect of restraining, enjoining, or otherwise prohibiting, or attempting to restrain, enjoin, or otherwise prohibit, the transactions contemplated by this Agreement and such order or other Action shall have become final and non-appealable; provided, however, that the Party seeking to terminate this Agreement pursuant to this Section 12.1 shall have used reasonable efforts to prevent the entry of and to remove such order or other Action.

12.2 Effect of Termination. If this Agreement is validly terminated pursuant to Section 12.1, this Agreement will forthwith become null and void, and there will be no liability or obligation on the part of Guzman or Aztec in respect of this Agreement, except that the applicable portions of this Section 12.2, and the entirety of Article 11, Article 13, and Article 14 will continue to apply following any termination; provided, however, that nothing in this Section 12.2 shall release any Party from liability for any breach of this Agreement by such Party prior to the termination of this Agreement (and any attempted termination by the breaching Party shall be void).

ARTICLE 13.
NOTICES

13.1 Requirements for Notices and Other Communications. Except as otherwise expressly provided in this Agreement, whenever this Agreement requires that a notice be given by one Party to the other Party, or a Party's action requires the approval or consent of the other Party, then:

13.1.1 Each such notice shall be given in writing and each such consent or approval shall be provided in writing; and

13.1.2 Each such notice, consent, or approval shall be marked for the attention of the relevant Person as follows:

If delivered to Guzman:

Guzman Aztec Sun LLC
Attn: Jeffrey Heit
1125 17th Street Suite 740
Denver, Colorado 80202
Telephone 720.778.2001
Facsimile 720.778.2035
Email: jheit@guzmanenergy.com

With a copy to:

Guzman Aztec Sun LLC
Attn: Legal Department
1125 17th Street Suite 740
Denver, Colorado 80202
Email: legal@guzmanenergy.com

If delivered to Aztec:

City of Aztec
Electric Director
Electric Operations Center
402 S. Light Plant Road
Aztec, NM 87410
Telephone 505.334.7667
Facsimile 505.334.7684
Email: kgeorge@aztecnm.gov

Each such notice, consent, or approval shall be (i) delivered personally, (ii) sent by facsimile communication to the fax number of the addressee which is specified in Section 13.1.2, (iii) sent by nationally recognized overnight courier or delivery service, or (iv) sent by registered mail, return receipt requested.

13.2 Changes in Notice Details. A Party may at any time, by notice given to the other Parties, designate a different Person, address, or facsimile number for the purpose of this Article 13, which change will be effective on the fifth (5th) Business Day after each Party's receipt of such notice.

13.3 When Notice Is Effective. All notices, requests, demands, approvals, and other communications which are required to be given, or may be given, from one Party to the other Party under this Agreement shall be deemed to have been duly given, received and effective:

13.3.1 If personally delivered, on the date of delivery;

13.3.2 In the case of a notice sent by facsimile communication, on the day of actual receipt if a Business Day and received prior to 4:30 p.m. at the place of receipt, or if not so received, on the next Business Day at the place of receipt;

13.3.3 In the case of a notice sent by mail, on the second (2nd) Business Day following deposit of the notice in the U.S. mail addressed as set forth above;

13.3.4 The first Business Day in the place of receipt immediately following the day it is sent, if properly sent for next day delivery to a domestic address by a nationally recognized overnight courier or delivery service; and

13.3.5 In the case of a notice sent by email, if such email is followed by delivery of notice by means of one of the other methods expressly permitted pursuant to Article 13, on the date notice is deemed effective pursuant to such other permitted method for delivering notice.

ARTICLE 14. MISCELLANEOUS

14.1 Severability. Any provision of this Agreement that shall be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. In the event any such provision of this Agreement is so held invalid, the Parties shall, within seven (7) days of such holding, commence to renegotiate in good faith new provisions to restore this Agreement as nearly as possible to its original intent and effect. To the extent permitted by Applicable Law, the Parties hereby waive any provision of law that renders any provision of this Agreement prohibited or unenforceable in any respect.

14.2 Amendment. Except as provided herein, no amendment or variation of the provisions of this Agreement shall be binding upon the Parties hereto unless evidenced in a writing which indicates that such writing is intended to amend the terms of this Agreement and is signed by duly authorized officers of each Party. The Parties agree that this Agreement shall not be amended in any manner by any course of dealing among the Parties.

14.3 Assignment. Neither Party may assign this Agreement without the prior written consent of the other Party. Notwithstanding anything to the contrary in this Agreement, Guzman may, without the consent of Aztec, (a) transfer or assign all or substantially all of its rights and

obligations hereunder to an Affiliate or successor or (b) collaterally assign to its lenders, in connection with a financing of the Project, all or any part of Guzman's rights or obligations hereunder. Aztec agrees to provide acknowledgements, consents, or certifications reasonably requested by Guzman's lenders in conjunction with such financing. Guzman shall inform Aztec of any such transfers or assignments

14.4 No Waiver. No delay or forbearance by a Party in exercising any right or remedy accruing to such Party upon the occurrence of any breach or default by any other Party under this Agreement shall impair any such right or remedy of such Party, nor shall it be construed to be a waiver of any such breach or default, or an acquiescence therein, or any similar breach or default thereafter occurring, nor shall any waiver of any single breach or default be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver on the part of any Party of any provision or condition of this Agreement must be in writing signed by the Party to be bound by such waiver and shall be effective only to the extent specifically set forth in such writing and shall not limit or affect any rights with respect to any other or future circumstance.

14.5 No Third-Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the Parties and shall not create a third party beneficiary relationship with, or cause of action in favor of, any third party, except a Person entitled to indemnification by a Party under this Agreement.

14.6 Headings, Captions. All indexes, titles, subject headings, section titles and similar items are provided for the purpose of reference and convenience and are not intended to affect the meaning, content or scope of this Agreement.

14.7 Relationship Between Parties. This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship, franchise, or partnership between the Parties or to impose any such obligation or liability upon a Party. No Party shall have any right, power, or authority to enter into any agreement or undertaking for, act as or be an agent or representative of, or otherwise to bind any other Party.

14.8 Entire Agreement. This Agreement constitutes the entire agreement of the Parties in connection with the matters included in this Agreement and all previous agreements, understandings, and negotiations (whether written or oral) on those subject matters are hereby superseded and shall have no further effect after the Closing Date. The exhibits attached hereto are hereby incorporated into and form a part of this Agreement. If any term or condition, express or implied, of any exhibit conflicts or is at variance with any term or condition in the body of this Agreement, the term or condition in the body of this Agreement shall control and prevail.

14.9 Counterparts. This Agreement may be executed in one or more counterparts and the counterparts taken together shall constitute one and the same agreement.

14.10 Fees and Expenses. Except as otherwise expressly provided in this Agreement, all fees and expenses, including fees and expenses of counsel, financial advisors, and accountants, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the Party incurring such fee or expense, whether or not the Closing shall have occurred.

14.11 Decision Making by Parties. Except where this Agreement expressly provides for a different standard, whenever this Agreement provides for a determination, decision, permission, consent, or approval of a Party, the Party shall make such determination, decision, grant or

withholding of permission, consent, or approval in a commercially reasonable manner and without unreasonable delay. Any denial of an approval, permission, decision, determination, or consent required to be made in a commercially reasonable manner shall include in reasonable detail the reason for such denial or aspect of the request that was not acceptable.

14.12 Choice of Law. This Agreement shall be governed, construed, and interpreted in accordance with the laws of the state of New Mexico, without regard to principles of conflicts of law.

14.13 Attorneys' Fees. The prevailing Party in any legal proceeding brought under or to enforce this Agreement shall be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing Party.

14.14 Public Announcements. At all times, Guzman or Aztec will not issue or make any press releases or similar public announcements concerning the transactions contemplated hereby without first consulting with each other.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and delivered as of the date first set forth above.

GUZMAN AZTEC SUN LLC

By: _____
Name: _____
Title: _____

CITY OF AZTEC

By: _____
Name: _____
Title: _____

Attested by: _____
Name: _____
Date: _____

EXHIBIT A

FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (“Agreement”) is made and entered into as of this [__] day of _____ (“Effective Date”), by and between Guzman Aztec Sun LLC, a Delaware limited liability company (“Guzman”) in favor of City of Aztec, a municipality located in New Mexico (“Aztec”).

RECITALS

A. The Parties have entered into that certain Project Purchase Agreement dated [____] (“Purchase Agreement”), providing for the sale and transfer by Guzman to Aztec of all of the assets relating to Guzman’s development, construction, operation, and management of a one (1) MW solar power electric generating facility, consisting of the photovoltaic panels and all associated equipment, to be installed on the Premises in accordance with Exhibit C of the Second Amended and Restated Power Sales Agreement by and between Guzman and Aztec (“Project”). Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Purchase Agreement.

B. Pursuant to the Purchase Agreement, Guzman agreed to sell, convey, assign, transfer, and deliver to Aztec, free and clear of any Liens (except for Permitted Liens) on the Closing Date all of Guzman’s rights, title and interests in and to the Assets.

C. Guzman wishes to assign to Aztec all of its right, title, and interest in and to that the Contracts, and Aztec wishes to assume all of Guzman’s right, title, and interest in and to the Contracts and the obligations thereunder to the extent arising from and after the Effective Date.

D. Guzman wishes to assign to Aztec all of its right, title, and interest in and to, all environmental, archeological, cultural, historical, and other surveys, reports and data, all land surveys, title search results, and all information or materials owned by Guzman and relating primarily to, or necessary for, the Project, including, without limitation, as identified on Schedule 2.1.3 of the Purchase Agreement (“Other Documents”), and Aztec wishes to assume all of Guzman’s right, title, and interest in and to the Other Documents and the obligations thereunder to the extent arising from and after the Effective Date.

E. Guzman wishes to assign to Aztec any Permits owned or controlled by Guzman or any of its Affiliates that are used in, relate primarily to, or are necessary for the Project, including, without limitation, those listed on Schedule 2.1.4 of the Purchase Agreement and all application materials (but excluding emails and other written correspondence) in the possession of Guzman (“Permits”), and Aztec wishes to assume all of Guzman’s right, title, and interest in and to the Permits and the obligations thereunder to the extent arising from and after the Effective Date.

AGREEMENT

NOW THEREFORE in consideration of the mutual covenants contained herein and in the Purchase Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guzman and Aztec agree as follows:

1. Assignment of Contracts. Effective as of the Effective Date, (i) Guzman hereby assigns to Aztec all of its right, title, and interest in and to the Contracts, and (ii) Aztec hereby assumes all of Guzman's right, title, and interest in and to the Contracts and the obligations thereunder to the extent arising from and after the Effective Date.

2. Assignment of Other Documents. Effective as of the Effective Date, (i) Guzman hereby assigns to Aztec all of its right, title, and interest in and to the Other Documents, and (ii) Aztec hereby assumes all of Guzman's right, title, and interest in and to the Other Documents and the obligations thereunder to the extent arising from and after the Effective Date.

3. Assignment of Permits. Effective as of the Effective Date, (i) Guzman hereby assigns to Aztec all of its right, title, and interest in and to the Permits, and (ii) Aztec hereby assumes all of Guzman's right, title, and interest in and to the Permits and the obligations thereunder to the extent arising from and after the Effective Date.

4. Assumed Liabilities. In connection with the sale, transfer, assignment, conveyance, and delivery of the Assets by Guzman to Aztec as provided in Section 2.2 of the Purchase Agreement, Aztec shall assume solely the Assumed Liabilities.

5. Further Cooperation. From time to time, at Aztec's or Guzman's request, whether on or after the date hereof and without further consideration, Guzman or Aztec, as applicable, shall execute and deliver to the other, or cause to be executed and delivered to the other, such further instruments of assignment, conveyance, and transfer as may be reasonably necessary to assign, convey, and transfer the aforementioned liabilities and obligations.

6. Miscellaneous.

a. No Conflict with Agreement. This Agreement is intended to evidence the consummation of the transactions contemplated by the Purchase Agreement. This Agreement is in all respects subject to the provisions of the Purchase Agreement and is not intended in any way to supersede, limit, or qualify any provision of the Purchase Agreement. If there is any conflict between this Agreement and the Purchase Agreement, the provisions of the Purchase Agreement shall control.

b. Interpretation. Capitalized terms used but not defined herein shall have the meanings given to them in the Purchase Agreement.

c. Governing Law. The construction and performance of this Agreement shall be governed by the Law of the State of New Mexico without regard to its principles of conflicts of law.

d. Counterparts. This Agreement may be executed in one or more counterparts

(including by facsimile), each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

e. Electronic Mail Delivery. This Agreement may be executed and delivered by electronic mail (.pdf) transmission, and delivery of an executed copy by electronic mail (.pdf) transmission shall be deemed to constitute delivery of a duly executed original Agreement.

f. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of Aztec and Guzman and their respective successors and permitted assigns.

[Signature page to follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered effective as of the Effective Date.

GUZMAN AZTEC SUN LLC

By: _____
Title: _____

CITY OF AZTEC

By: _____
Title: _____

Attested by: _____
Name: _____
Date: _____

EXHIBIT B

FORM OF BILL OF SALE

BILL OF SALE

This Bill of Sale is delivered in accordance with and subject to the terms and conditions of that certain Project Purchase Agreement (“Purchase Agreement”) dated [____], by Guzman Aztec Sun LLC, a Delaware limited liability company (“Guzman”) in favor of City of Aztec, a municipality located in New Mexico (“Aztec”). All capitalized terms used but not defined herein shall have the meanings assigned to them in the Purchase Agreement.

Guzman, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, convey, transfer, assign and deliver to Aztec, and Aztec hereby accepts, acquires and purchases all right, title, and interest in and to, the Personal Property, including, without limitation, the one (1) MW solar power electric generating facility, consisting of the photovoltaic panels and all associated equipment located on the Project Site.

The Parties hereto agree that this Bill of Sale is subject to the terms and conditions of the Purchase Agreement and that the provisions contained in the Purchase Agreement are incorporated herein by reference and constitute an integral part of this Bill of Sale.

The Parties hereto hereby agree to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done or made, upon reasonable request of the other Party hereto, any and all agreements, instruments, papers, deeds, acts, or things, supplemental, confirmatory, or otherwise, as may be reasonably required for the purpose of or in connection with acquiring or more effectually vesting in Aztec or evidencing the vesting in Aztec of all of right, title, and interest in and to the Personal Property.

IN WITNESS WHEREOF, the undersigned has caused this Bill of Sale to be duly executed as of [_____].

GUZMAN AZTEC SUN LLC

By: _____
Title: _____

EXHIBIT F
INSURANCE REQUIREMENTS

SOLAR PROJECT CONSTRUCTION

Guzman and their subcontractor(s) shall carry and maintain insurance in the following amounts:

General Liability - \$1,000,000 CSL (Combined Single Limits)

Auto Liability - \$1,000,000 CSL (Combined Single Limits)

Workers Compensation – Statutory limits pursuant to the New Mexico Workers Compensation Act.

The certificate shall specifically provide that the coverage afforded under the policy or policies will not be cancelled or materially changed until prior written notice has been given to the City. Guzman shall furnish a certificate of insurance showing that the City is additionally insured prior to commencing work.

The City of Aztec shall carry and maintain insurance in the following amounts:

General Liability - \$1,000,000 CSL (Combined Single Limits)

Auto Liability - \$1,000,000 CSL (Combined Single Limits)

Workers Compensation – Statutory limits pursuant to the New Mexico Workers Compensation Act.

The certificate shall specifically provide that the coverage afforded under the policy or policies will not be cancelled or be materially changed until prior written notice has been given to Guzman. The City shall furnish a certificate of insurance showing that Guzman is additionally insured.

SOLAR PROJECT COVERAGE UNTIL TRANSFER OF OWNERSHIP TO AZTEC

In addition to above described coverages, upon completion and Commercial Operation Date, Guzman will provide documentation of:

Replacement coverage on the solar facility through 6/30/2023

Flood insurance, Zone A

City will be identified as additionally insured.

The City of Aztec shall carry and maintain insurance in the following amounts:

General Liability - \$1,000,000 CSL (Combined Single Limits)

Auto Liability - \$1,000,000 CSL (Combined Single Limits)
Workers Compensation – Statutory limits pursuant to the New Mexico Workers Compensation Act.

The certificate shall specifically provide that the coverage afforded under the policy or policies will not be cancelled or be materially changed until prior written notice has been given to Guzman. The City shall furnish a certificate of insurance showing that Guzman is additionally insured.

EXHIBIT G
GUARANTEED OUTPUT

The guaranteed output is approximately 80% of the expected output from Solar Project, with degradation calculated to occur at a rate equal to 2% during the first Contract Year, and .5% in each subsequent Contract Year, as follows:

Contract Year	Guaranteed Output
1	1,867 MWh
2	1,829 MWh
3	1,820 MWh
4	1,811 MWh
5	1,802 MWh
6	1,793 MWh
7	1,784 MWh

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Staff Summary Report

MEETING DATE: FEBRUARY 11, 2020
AGENDA ITEM: V. CONSENT AGENDA (G)
AGENDA TITLE: Letter of Support for San Juan County Senior Programs to Governor Lujan Grisham

ACTION REQUESTED BY: Commissioner Sipe
ACTION REQUESTED: Approve a Letter of Support for San Juan County Senior Programs to Governor Lujan Grisham
SUMMARY BY: Steve Mueller

PROJECT DESCRIPTION / FACTS

Commissioner Sipe is requesting support from Aztec City Commissioners for a letter that will be sent to Governor Lujan Grisham concerning decreasing funding that is available for Senior Programs in San Juan County. Over the past few years, available funding has continued to decrease for senior programs in the County which include Farmington, Bloomfield and Aztec.

SUPPORT DOCUMENTS: Draft Letter of Support

DEPARTMENT'S RECOMMENDED MOTION: Move to approve Letter of Support for San Juan County Senior Programs to Governor Lujan Grisham

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Sherri A. Sipe
Mark E. Lewis

A desirable place to live, work and play; rich in history and small town values!

February 11, 2020

The Honorable Michelle Lujan Grisham
Governor of New Mexico
Office of the Governor
490 Old Santa Fe Trail
Room 400
Santa Fe, NM 87501

Dear Governor Lujan Grisham,

I am writing to you on behalf of Northwest New Mexico Seniors Organization and the seniors of San Juan County. Currently I serve as an Aztec City Commissioner as well as an Executive Board Member of Northwest New Mexico Seniors. We are a non-profit provider of senior services including congregate and home delivered meals, companion programs, transportation, respite and homemaker services.

At the beginning of this fiscal year, our funds were cut by almost \$45,000 with the expectation that in February or March those funds would be distributed to us as has happened in the past. These funds are Federal Nutrition Services Incentive Program (NSIP) funds that are to be used strictly for food purchases.

Recently our Non-Metro AAA revealed additional NSIP funds were not forthcoming. This is money that directly buys food to feed our seniors! Now, we will be required to provide nutritious meals without the necessary funding to buy food for our senior population. This funding shortfall will place an additional burden on San Juan County and the municipalities of Aztec, Bloomfield, Farmington and Kirtland as we'll need to find the funding necessary to continue to buy food to feed our seniors. Recently, 8 senior centers have also closed on the Navajo Nation. There are also 60 seniors are on the waiting list for home deliveries.

In addition to our funding being cut, food prices continue to rise and new minimum wage requirements, costing approximately \$33,000, are severely impacting our operations. Our program is looking at a shortfall of approximately \$78,000 this year alone.

Over the last several years, we have continued to tighten our budget, so we are pretty much bare bones already. I'm sure that we are not the only organization feeling this shortage in funding.

We have also lost a lot of companies and employees in San Juan County that in the past donated money to organizations such as United Way who in turn would help cover costs through grants and other contributions to NWNM Seniors.

At this past year's New Mexico Municipal League Annual Conference, you stated that seniors were going to be a priority in this legislative session. I was very disappointed when your priority list came out and seniors were not on that list.

With the surplus of funds our State is enjoying once again, I sincerely hope that some of that money will find its way to NWNM Seniors to help us provide nutritious meals and services for the senior's of San Juan County as well as seniors throughout New Mexico.

Thank you for your consideration,

Sherri Sipe
Aztec City Commissioner
Executive Board Member NWNM Seniors

cc: Senator Steven Neville
Senator William Sharer
Representative Paul Bandy
Representative Rod Montoya
Representative James Strickler
Representative Anthony Allison
San Juan County Manager Mike Stark
Aztec Mayor Victor Snover
Farmington Mayor Nate Duckett
Bloomfield Mayor Cynthia Attencio
Kirtland Mayor Mark Duncan
NWNM Executive Board

Staff Summary Report

MEETING DATE: February 11, 2020
AGENDA ITEM: IX. BUSINESS ITEMS (A)
AGENDA TITLE: FY20 Funding Application: Aztec Motocross

ACTION REQUESTED BY: Aztec Motocross
ACTION REQUESTED: Determination of Amount of Funding
SUMMARY BY: Kathy Lamb

PROJECT DESCRIPTION / FACTS

The FY20 Adopted Budget includes funds to allow the City Commission to respond to community funding requests during the fiscal year. These funds are appropriated at the discretion of the City Commission. As of February 6, 2020, \$12,721 is available.

- Requests funded this year include:

Aztec Boys and Girls Club	\$ 26,000
Aztec Museum Association	\$ 15,000
Rein Dance (Vintage Social)	\$ 1,279

Aztec Motocross, LLC has an agreement with the City to operate at the motocross track providing opportunity for competitive motocross racing. The request is for \$5,000 to purchase equipment to maintain the track throughout the racing season.

A representative with Aztec Motocross will be available to present the request to the Commission.

The City Commission has not provided direct funding to Aztec Motocross previously. Lodger's Tax granted funding for the 2019 season (\$2,000) and the City provided water for the 2019 scheduled events (\$1,564). The Commission approved a new agreement with Aztec Motocross, on January 14, 2020 for a three year period expiring January 1, 2023.

In previous years, the City Commission has granted the funds specific to events at the motocross track:

January 2009	High Desert Racing Club	Motocross 2009 Season	\$5,000.00
February 2010	No Limit Companies LLC	Motocross 2010 Season	\$4,000.00
January 2011	No Limit Companies LLC	Motocross 2011 Season	\$7,500.00
May 2012	No Limit Companies LLC	Motocross 2012 Season	\$7,500.00
April 2013	Dye Hard Productions LLC	XRun 4 Corners Event	\$7,500.00
May 2015	Webe Racing	Motocross June 2015 Event	\$4,250.00

PROCUREMENT / PURCHASING (if applicable)

N/A

FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

Available balance for appropriation by Commission: \$12,721.

SUPPORT DOCUMENTS: • Aztec Motocross, LLC Request for Funding

RECOMMENDED MOTION: Move to Approve funding to Aztec Motocross, LLC in the amount of \$ _____.

CITY OF AZTEC
REQUEST FOR FUNDING APPLICATION
FISCAL YEAR 2019

TO:

CITY OF AZTEC
FINANCE DEPARTMENT
201 W CHACO
AZTEC NM 87410
or
klamb@aztecnm.gov

Agreement with City must be current (if applicable)

Documents to be included with Funding Application:

- Board of Directors and Key Staff
- Certificate of Insurance must be current (if applicable)
- Audited financial statement, most recently audited; must be no later than 2016
- Provide a copy of the most recent tax form filed with the IRS by your Organization (e.g., Form 990)
- Explanation of tax exempt revocation (if applicable)

Additional documents to be included with Funding Application if this is organization's first funding request since 2015 or documents have changed in the last year

- By Laws must be on file with City
- IRS Non-Profit Status Letter must be on file with City
- W-9 (information provided on this document will control to who and where funds are issued if granted by City Commission)

If your entity does not have any of the above documents, a funding request may still be submitted and may be considered for funding by the commission. If funded, disbursement of funds may be on a reimbursement basis upon submittal of satisfactory documentation of expenditures or the city may administer funds on behalf of the entity.

If your entity received funding during fiscal year 2018 (July 2017 to June 2018), has your entity provided report to the city commission? If not, a report must be provided prior to consideration of a new funding request. To schedule your presentation to the commission or provide written report, please contact Karla Saylor, City Clerk, 334-7603, ksaylor@aztecnm.gov

Upon receipt of the funding application, the request will be included with the next scheduled commission meeting. The entity will be advised of the date of the meeting to present the funding request and be available to address commission questions. If funding is approved, the entity must request the disbursement of funds in writing. The request for disbursement should be submitted to Kathy Lamb, Finance Director, City of Aztec, 201 W Chaco, Aztec NM 87410 or klamb@aztecnm.gov

Questions? Please contact Kathy Lamb, Finance Director, 505-334-7653, klamb@aztecnm.gov

CITY OF AZTEC
REQUEST FOR FUNDING APPLICATION
FISCAL YEAR 2019

Today's Date:	02/06/2020		
Organization Name:	Aztec Motocross		
Name of Project/Program/Event:	Aztec Motocross 2020 Championship Series		
What City Commission Goal(s) would this funding address: (Check all that apply)	<input type="checkbox"/> Safe, Clean, Livable Community	<input type="checkbox"/> Cost Effective Public Services	<input checked="" type="checkbox"/> Economic Development
	<input type="checkbox"/> Financial Stability of Public Funds	<input checked="" type="checkbox"/> Local / Regional Partnerships	<input type="checkbox"/> Environmental Practices
		<input checked="" type="checkbox"/> Enhance Quality of Life	<input checked="" type="checkbox"/> Citizen Involvement

FUNDING REQUEST INFORMATION

Describe the need for the funding:
Equipment is needed to maintain the track throughout the season.

Describe how funding would be utilized:
Equipment will be purchased to ensure stability of organization. Currently we rely on sponsor's to supply equipment or when sponsor's cannot provide necessary equipment local rental company's are utilized.

Location of project site (maps may be attached):
Aztec Motocross is located at 1771 Navajo Dam Highway, Aztec NM, 87410

How will success of the project be measured?
Success is measured by continued growth of rider registrations and spectators throughout the 2019 Season. Emphasis on attracting riders and spectators from out of town to the Aztec Community.

Total Amount Requested: \$ 5,000.00	Minimum Amount : \$ 5,000.00	Date Funding Required: 03/01/2020
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Can project be phased? If so, describe the phases including timelines.
No. This is not considered a project.

PROJECT TYPE	START	END	AMOUNT REQUESTED	MATCHING FUNDS	TOTAL PROJECT BUDGET
Construction/Renovation					
Design/Engineering					
Equipment					
Vehicle					
Special Program or Event – attach detailed description, budget and marketing materials/brochures for program or event	01/01/2020	01/01/2021	\$ 5,000.00	\$ 5,000.00	\$ 86,500.00
Totals			\$ 5,000.00	\$ 5,000.00	\$ 86,500.00

ORGANIZATION INFORMATION

Organization Legal Name: Aztec Motocross, LLC.	Website: www.aztecmotocross.com		
Organization Main Address: 1771 Navajo Dam Highway	City: Aztec	State: NM	ZIP Code: 87410
Organization <u>Mailing</u> Address: 22 Road 5457	City: Farmington	State: NM	ZIP Code: 87401

Principal Contact: Andrew Gallegos		Phone Number: (505) 787-9608	Fax Number:
Title: President		Email Address: aztecmotocross@gmail.com	
Chief Executive Officer (or equivalent): Andrew Gallegos		Phone Number: (505) 787-9608	Fax Number:
Title: President		Email Address: aztecmotocross@gmail.com	
What Type of Service does the Organization Provide (Check all that apply)			
<input type="checkbox"/> Housing / Homeless		<input type="checkbox"/> Senior Services	<input type="checkbox"/> Drug / Alcohol Related
<input type="checkbox"/> Educational		<input type="checkbox"/> Child Care	<input checked="" type="checkbox"/> Youth Services
<input checked="" type="checkbox"/> Recreation		<input checked="" type="checkbox"/> Economic Development	<input checked="" type="checkbox"/> Community Event
<input type="checkbox"/> [Other]			
EIN/Taxpayer ID Number: 83-2026584		Indicate Tax Status of Organization (include IRS letter of determination):	Has the Organization's tax-exempt status been revoked in the past five years? If yes, attach explanation No.
Briefly describe mission, history and principal programs and activities of the Organization: <small>Aztec Motocross is committed to bringing competitive motocross racing back to the Four Corners area! We as an organization, along with the City of Aztec, look to utilize the track located on Highway 173 to offer a safe and competitive racing environment for GROWING the off-road and outdoor industry in Northern New Mexico along with surrounding areas. The Aztec Motocross Track has been around for many generations of riders in our area and has been known as one of the best tracks in the Southwest. We look to bring back that excitement and bring riders from all surrounding states for eight rounds of racing starting in March!</small>			
Has entity received funding from the City of Aztec previously? If so, when, amount received and how funds were used: Yes, City Lodgers Tax. Funds were used for advertising/marketing which has included: Development of Organization website, signs and banners, business cards with track information and schedule, etc.			
How many paid full-time equivalents does the Organization have? 0		How many paid part-time equivalents does the Organization have? 0	
Are Organization services and/or programs available to all residents of the City of Aztec? If no or restricted, please explain. Yes.		Are fees charged for services? Yes, Race entries along with Spectator entry fee every race weekend.	
Is membership in the Organization required to participate in any of the Organization programs or to be a recipient of Organization services? No.		Have other organizations, firms, individuals provided or will provide funds or services for this project? If yes, please describe. <small>Yes, race sponsors have pledged services to help with the organization's needs which have included: money (sponsorship fee), heavy equipment during events, porta johns, fuel discounts, etc.</small>	

REPRESENTATION

I, **Andrew Gallegos**, as **President**, have the authority to submit this funding request on behalf of **Aztec Motocross, LLC.**, and certify that all information submitted is factual, accurate and complete to fullest extent of my knowledge. If funding is granted, a verbal report is required before the City Commission prior to July 1, 2019.

Andrew Gallegos Digitally signed by Andrew Gallegos
Date: 2020.02.06 09:27:51 -06'00'

02/06/2020

Signature

Date

Staff Summary Report

MEETING DATE: February 11, 2020
AGENDA ITEM: IX. Business Item (B)
AGENDA TITLE: Intent to Adopt Ordinance 2020-500 Amending Chapter 16, Division 3, Section 16-211 Solid Waste Rates

ACTION REQUESTED BY: Staff
ACTION REQUESTED: Approval of Intent to Adopt Ordinance 2020-500
SUMMARY BY: Staff

PROJECT DESCRIPTION / FACTS

- RFP 2019-672 Municipal Solid Waste Services was awarded to Waste Management of New Mexico (WMNM) during the regular commission meeting of January 22, 2019.
- The contract provides WMNM may request annual rate adjustments based on the Consumer Price Index for all Urban Customers: Garbage and Trash Collection Services for the 12 month periods ending November 30 (CPI). WMNM may also request rate adjustments for circumstances impacting the cost of their operations of which they have no reasonable control. The contract requires a rate change request be submitted to the City a minimum of 60 days prior to effective date.
- WMNM submitted a request for rate adjustments provided to the city which is a combination of the CPI and San Juan County landfill disposal costs on December 17, 2019 with an effective date of March 1, 2020. This is an increase in the costs which would be billed to the City; any rate change to utility customers is at the discretion of the City Commission.
- A workshop was held on January 29, 2020 to discuss Solid Waste Fund costs, additional services which are available to residential customers, and potential adjustments to rates billed to city customers for trash and recycling services.

- WMNM Increase Costs, effect March 1, 2020

CPI = 3.8% increase to trash and recycling services

County landfill cost increase = minimum increase is .17/residential trash cart with increases based on size of container

- WMNM New Services, Optional

Residential curb side recycling, 2 x month (currently 1 x month)

At Your Door Hazardous Waste, monthly fee would be assessed to all residential customers

Residential free access to county landfill; increase from 6 x year to 12 x year

- Solid Waste Fund Costs

A convenience center fee of \$2.35 per month per customer (residential and commercial) is billed each month to recover costs incurred for the convenience center services, utility operation costs (postage and bad debt expense) and utility administration provided by the Utility Office and Finance.

- Convenience Center – unmanned facility providing alternative location for recycling and debris disposal. Staff believes the majority of the usage for this facility is from citizens residing outside the municipal boundary.
Annual cost: \$56,000

Under the current contract with WMNM, the majority of residential customers have access to curb side recycling (currently one time per month), six free disposals at the San Juan County landfill, two community wide clean up events, two e-waste recycling events, two free bulky item pickup and two free green waste pickups per year.

- Postage, utility account write off, administration of trash utility between Finance and Utility offices are pro-rated to the Solid Waste Fund.
Annual cost: \$18,500

- Ordinance 2020-500 includes:

- WMNM rate increase request
- Residential curb side recycling from 1 x month to 2 x month
- At Your Door Hazardous Waste Disposal and continuance of E Waste events
- Residential free access to county landfill from 6 x year to 12 x year
- Solid Waste Fund Costs continue including convenience center remaining open with recycling and debris containers available to public.

The \$2.35 per month convenience center fee is reduced to \$1.65/mo/customer and other costs in the solid waste fund (postage, bad debt expense, utility administration) is added to the cost of each service.

- Commission items:

- Convenience Center – remain open or close effective February 29, 2020
- Residential Curb Side Recycling – increase to 2 times per month or remain at one time per month, effective April 1, 2020 (.81 increase under new rates from WMNM)
- Add At Your Door Hazardous Waste Disposal service; \$1.15 fee would be assessed to all residential customers
- E Waste Events – if At Your Door service is elected, the commission could direct the e-waste event to be discontinued, rate for At Your Door Service would reduce to \$0.64/month
- Increase residential free access to landfill from six times per year to 12 times per year, an increase of \$0.85/month

The attached exhibit demonstrates the various items listed above and their impacts to a residential customer.

SUPPORT DOCUMENTS: Ordinance 2020-500
Waste Management of New Mexico December 2019 Request
Residential Impact Exhibit

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve the Intent to Adopt Ordinance 2020-500 Amending Chapter 16, Division 3, Section 16-211 Solid Waste and Recycling Rates

OR

Move to Approve the Intent to Adopt Ordinance 2020-500 Amending Chapter 16, Division 3, Section 16-211 Solid Waste and Recycling Rates with the following adjustments:

- 1) Close convenience center effective February 29, 2020
 - 2) Increase residential recycling to two times per month effective April 1, 2020
 - 3) Add At Your Door Hazardous Waste service to all residential customers
 - 4) Add At Your Door Hazardous Waste service to all residential customer and eliminate the two time per E-Waste event
 - 5) Increase residential free access to landfill from six times per year to 12 times per year.
-

**City of Aztec
Ordinance 2020-500
Amending Chapter 16, Section 16-211 Solid Waste and Recycle Rates**

WHEREAS, RFP 2019-672, Municipal Solid Waste Services, was approved by City Commission and was awarded to Waste Management of New Mexico in January 2019;

WHEREAS, pursuant to Section 42 of the agreement between Waste Management of New Mexico and City of Aztec, a request for rate adjustments has been submitted timely; and

WHEREAS, this amendment will expand solid waste services to residential customers to include curb side recycling twice a month, free county landfill access from six times per year to twelve times per year and at your door hazardous waste service.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Aztec, New Mexico that Ordinance 2020-500 Amending Chapter 16, Section 16-211 Solid Waste and Recycle Rates be adopted as attached.

PASSED, APPROVED, SIGNED AND ADOPTED THIS 10th day of March 2020.
By the Aztec City Commission, City of Aztec, New Mexico

Mayor Victor C. Snover

ATTEST:

Karla Saylor, City Clerk CMC

APPROVE AS TO FORM:

City Attorney

Advertised Date of Final Adoption: _____

Effective Date of Ordinance: _____

DIVISION 4. SOLID WASTE AND RECYCLE FEES

Sec. 16-211. Solid Waste Rates.

1. Residential Trash Service.

(1) All single family residents, duplexes, and apartments. Each unit – Cart (1 x Week)	\$ 14.00	\$ 15.91
(2) Extra Cart (1 x Week)	\$ 5.25	\$ 5.76
(3) Extra Pickup	\$ 25.90	\$ 33.70
(4) Additional Bulky Item Pickup (per service)	\$ 30.00	\$ 31.23
(5) Replacement of Lost, Stolen or Missing Cart (per container)	\$ 75.00	\$ 77.85

(Ord. 2018-476, eff. 2018-Jul-18)

2. Multi-Unit Residential Trash Service.

(1) All single family residents, duplexes, and apartments. Each unit – Cart (1 x Week)	\$ 14.00	\$ 15.91
(2) Extra Cart	\$ 5.25	\$ 5.76
(3) Extra Pickup	\$ 25.90	\$ 33.70
(4) Additional Bulky Item Pickup (per service)	\$ 30.00	\$ 31.23
(5) Replacement of Lost, Stolen or Missing cart (per container)	\$ 75.00	\$ 77.85

(Ord. 2018-476, eff. 2018-Jul-18)

3. Commercial Trash Service.

Size	Frequency						<i>Extra Pickup</i>
	1 x Week	2 x Week	3 x Week	4 x Week	5 x Week	6 x Week	
1 Cart	\$ 18.75 \$ 20.09	\$ 37.50 \$ 40.19	N/A	N/A	N/A	N/A	\$ 34.69 \$ 37.05
Extra Cart	\$ 18.75 \$ 20.09	\$ 37.50 \$ 40.19	N/A	N/A	N/A	N/A	\$ 34.69 \$ 37.05
1.5 Yard	\$ 30.15 \$ 32.30	\$ 60.30 \$ 64.59	\$ 90.45 \$ 96.89	\$ 120.60 \$ 129.18	\$ 150.75 \$ 161.48	\$ 180.90 \$ 193.77	\$ 55.78 \$ 59.56
2 Yard	\$ 35.54 \$ 38.10	\$ 71.08 \$ 76.21	\$ 106.62 \$ 114.31	\$ 142.16 \$ 152.42	\$ 177.70 \$ 190.27	\$ 213.24 \$ 228.62	\$ 65.75 \$ 70.24
3 Yard	\$ 53.31 \$ 57.16	\$ 106.63 \$ 114.32	\$ 159.94 \$ 171.48	\$ 213.26 \$ 228.64	\$ 266.57 \$ 285.80	\$ 319.88 \$ 342.96	\$ 98.62 \$ 105.35
4 Yard	\$ 71.08 \$ 76.21	\$ 142.16 \$ 152.42	\$ 213.24 \$ 228.62	\$ 284.32 \$ 304.83	\$ 355.40 \$ 381.05	\$ 426.47 \$ 457.25	\$ 131.50 \$ 140.46
6 Yard	\$ 106.62 \$ 114.31	\$ 213.24 \$ 228.62	\$ 319.86 \$ 342.93	\$ 426.47 \$ 457.25	\$ 533.09 \$ 571.56	\$ 639.71 \$ 685.87	\$ 197.25 \$ 210.69
8 Yard	\$ 142.16 \$ 152.42	\$ 284.32 \$ 304.83	\$ 426.47 \$ 457.25	\$ 568.63 \$ 609.66	\$ 710.79 \$ 762.08	\$ 852.95 \$ 914.49	\$ 263.00 \$ 280.93

(Ord. 2018-476, eff. 2018-Jul-18)

4. City Facilities Trash Service

Size	Frequency					
	1 x Week	2 x Week	3 x Week	4 x Week	5 x Week	6 x Week
1 Cart	\$ 18.75 \$ 20.09	\$ 37.50 \$ 40.19	N/A	N/A	N/A	N/A
Extra Cart	\$ 18.75 \$ 20.09	\$ 37.50 \$ 40.19	N/A	N/A	N/A	N/A
1.5 Yard	\$ 32.30	\$ 64.59	\$ 96.89	\$ 129.18	\$ 161.48	\$ 193.77
2 Yard	\$ 35.54 \$ 38.10	\$ 71.08 \$ 76.21	\$ 106.62 \$ 114.31	\$ 142.16 \$ 152.42	\$ 177.70 \$ 190.27	\$ 213.24 \$ 228.62
3 Yard	\$ 53.31 \$ 57.16	\$ 106.63 \$ 114.32	\$ 159.94 \$ 171.48	\$ 213.26 \$ 228.64	\$ 266.57 \$ 285.80	\$ 319.88 \$ 342.96
4 Yard	\$ 71.08 \$ 76.21	\$ 142.16 \$ 152.42	\$ 213.24 \$ 228.62	\$ 284.32 \$ 304.83	\$ 355.40 \$ 381.05	\$ 426.47 \$ 457.25
6 Yard	\$ 106.62 \$ 114.31	\$ 213.24 \$ 228.62	\$ 319.86 \$ 342.93	\$ 426.47 \$ 457.25	\$ 533.09 \$ 571.56	\$ 639.71 \$ 685.87
8 Yard	\$ 142.16 \$ 152.42	\$ 284.32 \$ 304.83	\$ 426.47 \$ 457.25	\$ 568.63 \$ 609.66	\$ 710.79 \$ 762.08	\$ 852.95 \$ 914.49
Roll-Off	Delivery	Exchange				
30 Yard	\$115.00 \$119.37	\$145.00 \$ 150.51	Plus \$34.90 per ton Plus disposal			
40 Yard	\$115.00 \$119.37	\$145.00 \$150.51	Plus \$34.90 per ton Plus disposal			
Treated Sludge Removal (Empty and Return Fee)						
20 Yard	\$ 225.00 plus \$ 34.90 per ton \$233.55 plus disposal					
Single Stream Recycle Container						
30 Yard	\$ 145.00 plus \$ 195.00 per ton \$150.51 plus disposal					

(Ord. 2018-476, eff. 2018-Jul-18; Ord. 2017-455, eff. 2017-Apr-05; Ord. 2008-359, eff. 2008-Oct-17)

5. Residential Curb Side Recycling Service

Effective start date April 1, 2020, Twice a Month

(1) All single family residents, duplexes, and apartments. Each unit Cart Monthly	\$ 6.68	\$ 7.93
(2) Extra Cart Monthly	\$ 6.68	\$ 7.93
(3) Extra Pickup	\$ 13.80	\$ 14.68

6. City Facilities Recycling Service

- | | |
|---|---------------------|
| (1) All single family residents, duplexes, and apartments.
Each unit — Cart (Bi-Monthly) | \$ 11.10 |
| (2) Extra Cart (Bi-Monthly) | \$ 11.10 |

At Your Door Hazardous Waste

- | | |
|--|---------|
| (1) All single family residents, duplexes and apartments | \$ 1.15 |
|--|---------|

7. Convenience Center

A monthly flat rate of ~~\$ 2.35~~ \$1.65 will be charged to all solid waste customers for purposes of operating the convenience center.

(Ord. 2017-465, eff. 2017-Oct-01)

8. CPI Adjustment

The solid waste and recycle rates will be reviewed and adjusted annually to reflect increases in the Consumer Price Index for All Urban Consumers; Garbage and Trash collection services (CUUR0000SEHG02), as, published by the United States Department of Labor, for the 12 month period ending December 31.

Secs. 16-212 to 16-250. Reserved.



WASTE MANAGEMENT OF NEW MEXICO, INC.

402 Industrial Park Loop NE
Rio Rancho, NM 87174
(505) 891-6978
(505) 382-3274 Mobile

December 13, 2019

Steve Mueller, City Manager
City of Aztec
201 W. Chaco
Aztec, New Mexico 87410

Re: Annual CPI adjustment

Dear Steve:

It has been a pleasure serving the Aztec community this past year. I hope you feel we have been providing exemplary solid waste and recycling services, and we look forward to continuing our partnership into the new year. It is that time of year when we are contractually obligated to review the CPI index to see if any adjustments need to be made to the rates. The Agreement requires a 60-day advance notice of this adjustment.

The annual CPI review was conducted, using the National Consumer Price Index for All Urban Consumers: Garbage and Trash Collection Services (WST), as published by the U.S. Department of Labor, Bureau of Labor Statistics, for the 12-month period ending the previous November 30, compared to the average WST for the next previous 12-month period ending November 30, which revealed a rise of 3.8%. I have attached the documentation from the Bureau of Labor Statistics which reflects this increase for your review.

Pursuant to Section 42.B of the Agreement, adjustments may be requested for any increase in the cost of disposing of municipal solid waste. In July 2019 the San Juan County landfill adjusted their disposal fees up by 3.7%. I have attached the documentation concerning this increase. We are requesting a rate adjustment of \$0.17 per cart to cover these increased solid waste disposal costs. The commercial rates will be slightly impacted as well. We are requesting this increase be effective March 1, 2020.

A new Exhibit A, rate sheet, has also been attached, which will be effective March 1, 2020. If you have questions, please feel free to call me at 505-382-3274.

From all of us here at Waste Management of New Mexico, we would like to wish you and your staff a very Merry Christmas and a blessed New Year.

Sincerely,

A handwritten signature in black ink that reads 'Dan Darnell'.

Dan Darnell
New Mexico Public Sector Manager
Waste Management of New Mexico

CPI for All Urban Consumers (CPI-U)

Original Data Value

Series Id: CUUR0000SEHG02,CUUS0000SEHG02
 Not Seasonally Adjusted
 Series Title: Garbage and trash collection in U.S. city average,
 Area: U.S. city average
 Item: Garbage and trash collection
 Base Period: DECEMBER 1983=100
 Years: 2009 to 2019

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2009	371.828	372.503	373.241	375.392	375.599	376.582	377.494	377.879	378.285	379.560	379.208	379.248
2010	380.036	382.490	383.362	383.615	383.405	383.749	383.832	385.010	385.920	385.909	387.216	387.884
2011	389.727	391.854	391.855	392.754	395.477	395.329	395.723	396.605	397.028	397.106	398.910	398.720
2012	398.880	400.381	401.692	400.913	401.067	402.793	406.243	406.823	407.594	409.495	410.155	410.416
2013	411.126	411.805	412.305	413.675	414.511	414.802	416.505	417.760	418.357	419.687	421.427	422.237
2014	422.440	422.483	423.413	425.393	425.242	425.930	426.562	426.771	427.327	427.995	427.808	428.187
2015	427.734	429.248	429.235	429.807	431.234	430.813	431.229	432.967	433.843	434.829	436.428	436.996
2016	437.205	438.296	437.699	437.676	438.317	437.858	438.607	439.358	439.707	440.311	443.343	444.745
2017	446.266	447.699	446.987	447.129	447.272	448.046	448.328	448.717	449.008	452.196	453.820	453.596
2018	453.354	454.915	455.230	458.722	462.887	465.041	465.579	470.457	471.026	472.535	486.650	485.935
2019	475.687	477.474	478.569	479.449	480.865	480.984	482.138	483.987	484.346	486.133	486.485	

Dec -2018 through Nov -2019 Total	5782.052
Dec -2017 through Nov -2018 Total	5569.992
Change in 12-Month CPI Measure	212.06
Percent Change in 12-Month CPI	3.8%

EXHIBIT A
CITY OF AZTEC
Monthly Rates for Garbage Collection Service
REFUSE COLLECTION , DISPOSAL TO EPA-APPROVED LANDFILL
EFFECTIVE MARCH 1 2020

Above Free Contractual Allocation: City Roll Services:

Container Size	Delivery Fee	Haul & Disposal	
* 30 YD Roll off	\$ 119.37	\$ 150.51	plus disposal
*40 YD Roll off	\$ 119.37	\$ 150.51	plus disposal

SINGLE STREAM RECYCLING CONTAINER

Container Size	Delivery Fee	Per Haul	
*30 YD Roll off	\$0.00	\$ 150.51	plus disposal

* Contractual allocation - 12 trash roll offs & 12 single stream recycling containers per year.

TREATED SLUDGE REMOVAL

Container Size	Delivery Fee	Empty & Return
20 YD Roll off	\$0.00	233.55 plus disposal

**Items which are directly billed to the customer

RESIDENTIAL IMPACT EXHIBIT

Bill Scenarios using multiple options for Solid Waste 02-2020

		1	2	3	4	5	6	7	8	9	10
	Current	CPI, move operating exp to rate, Recycle 1x, Close CC	CPI, move operating exp to rate, Recycle 2x, close CC	CPI, move operate exp to rate, Recycle 1x, close CC, Inc 12x to landfill	CPI, move operating exp to rate, Recycle 2x , At your door, close C. Center, discontinue E-waste Events	CPI, Increase, move Operating Exp to rate, Recycle 1x, keep CC	CPI, move operating exp to rate, Recycle 2x , At your door, close C. Center, keep E-waste Events	CPI, move operating exp to rate, Recycle 2x, keep CC,	CPI, move operating exp to rate, Recycle 2x, keep CC, add At your Door, discontinue E-waste events	CPI, move operate exp to rate, Recycle 2x, keep CC, add At your Door and keep E-waste events	CPI, move operate exp to rate, Recycle 2x, keep CC, Add At your Door and keep E-waste events, Inc 12x to landfill
Residential 1 cart	14.00	15.06	15.06	15.06	15.06	15.06	15.06	15.06	15.06	15.06	15.06
Recycle 1 cart	6.68	7.12	7.93	7.12	7.93	7.12	7.93	7.93	7.93	7.93	7.93
At your Door Service		0.00	0.00	0.00	0.64	0.00	1.15	0.00	0.64	1.15	1.15
Conv Center	2.35	-2.35	-2.35	-2.35	-2.35	1.65	-2.35	1.65	1.65	1.65	1.65
Inc from 6 to 12x Ldfl				0.85							0.85
Total Residential Bill	20.68	19.83	20.64	20.68	21.28	23.83	21.79	24.64	25.28	25.79	26.64
Increase/(Decrease)		(0.85)	(0.04)	0.00	0.60	3.15	1.11	3.96	4.60	5.11	5.96

Staff Summary Report

MEETING DATE:	February 11, 2020
AGENDA ITEM:	IX. BUISNESS ITEMS (C)
AGENDA TITLE:	Intent To Adopt Ordinance 2020-501 Amending Chapter 2, Administration, Division 6. Municipal Judge

ACTION REQUESTED BY:	City Manager / Aztec Municipal Judge
ACTION REQUESTED:	Approve Intent To Adopt Ordinance 2020-501 Amending Chapter 2, Administration, Division 6. Municipal Judge
SUMMARY BY:	Aztec Municipal Judge / City Staff

PROJECT DESCRIPTION / FACTS

Compensation for the Aztec Municipal Judge is established by City Code (Sec. 2-166) and is currently set at fifty percent (50%) of the State Magistrate's salary. This change occurred in 2019.

When the Ordinance addressing the Municipal Judges' compensation was amended in 2019, the language was not clear as to whether the annual compensation was annually or at the start of the term. As such, this ordinance is to clarify that the compensation adjustment occurs at the start of a new term following an election for the Municipal Judge position.

FISCAL IMPACTS

This will have a fiscal impact to the budget after the next municipal election and subsequent fiscal years.

SUPPORT DOCUMENTS:	Ordinance 2020-501
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DEPARTMENT'S RECOMMENDED MOTION:	Move to Approve Intent To Adopt Ordinance 2020-501 Amending Chapter 2, Administration, Division 6. Municipal Judge
---	--

CITY OF AZTEC
Ordinance 2020-501
Amending Chapter 2 - Administration, Division 6. Municipal Judge

WHEREAS, the compensation for the Municipal Judge's annual salary was amended in 2019; and

WHEREAS, during that amendment the specification of compensation to occur at the beginning of the Municipal Judge's term was omitted;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY of the City of Aztec, New Mexico, that Ordinance 2020-501 amends Chapter 2 Administration, Division 6 Municipal Judge of the City Code as provided.

PASSED, APPROVED AND SIGNED this _____ day of _____ 2020.

Mayor Victor C. Snover

ATTEST:

Karla Saylor, City Clerk CMC

APPROVE AS TO FORM:

City Attorney

Advertised Date of Final Adoption: _____

Effective Date of Ordinance: _____

Chapter 2
ADMINISTRATION

ARTICLE III. OFFICERS AND EMPLOYEES

DIVISION 6. MUNICIPAL JUDGE

Sec. 2-161. Election.

The municipal judge shall be elected as provided by law. A vacancy in the office of municipal judge shall be filled in the manner provided by law (NMSA 1978, §35-14-4).

(Code 2007, 2-161)

Sec. 2-162. Qualifications.

The municipal judge shall be a registered, qualified elector and citizen of the city.

(Code 2007, 2-162)

Sec. 2-163. Bond and Oath.

The municipal judge shall, before entering the duties of office, if no corporate surety bond covering all municipal officials exists, obtain a surety bond to the City in an amount to be established by City Commission, conditioned upon the faithful performance of duties and the paying over to the city of all fines, forfeited bonds and other money which comes into hand by virtue of the office. The premium of the bond shall be paid by the city. The municipal judge shall take the oath of office as required in NMSA 1978, §3-10-2.

(Ord. 2010-382, eff. 2010-Jun-30; Code 2007, 2-163)

Sec. 2-164. Annual Training.

The municipal judge shall have the training as required in NMSA 1978, §3-14-10.

(Code 2007, 2-164)

Sec. 2-165. Temporary Vacancy and Appointments.

Two or more alternate judges shall be selected from a list of qualified electors (as defined by NMSA 1978 § 3-1-2). The elected municipal judge, prior to the vacation, temporary absence, unavailability or incapacity, shall select at least one designee from the alternates set forth above to serve as temporary municipal judge, to exercise all powers of the municipal judge until the return of the municipal judge. In the event that the elected municipal judge is unable to select an alternate judge to fill in their absence, the mayor shall select an alternate municipal judge. The selection of an alternate municipal judge shall be as follows:

1. The Municipal Court staff shall publish a notice in the local newspaper, utility bills, or other means for the solicitation of qualified candidates to submit a letter of interest to serve as Alternate Municipal Judge.
2. All letters of interested will be submitted to the City Clerk to verify their status as a qualified elector within the corporate City limits. Copies of those letters from qualified electors shall be given to the Municipal Judge and City Commission for review.

3. The Municipal Judge shall review all letters of interest from qualified electors and make a recommendation to the City Commission for the alternate municipal judge position(s). The recommendation will be in the form of a list of qualified candidates.
4. The term for the alternate judge(s) coincides with the current term of the municipal judge.
5. At a regularly scheduled Commission Meeting, the City Commission shall approve who serves in the position(s) as alternate municipal judge.
(Ord. 2010-379, eff. 2010-Feb-17; Ord. 2009-377, eff. 2009-Oct-21; Code 2007, 2-165)

Sec. 2-166. Duties Generally; Compensation.

1. In addition to those duties set forth in the laws of the state, the municipal judge shall be present at the court a minimum of thirty-two (32) hours per week and up to a maximum of forty (40) hours per week and shall hold court a minimum of twenty-four (24) hours per week, holidays excluded, and may conduct marriage ceremonies. The municipal judge shall be available at all reasonable hours for the issuance of warrants and summons and as necessary to accommodate the public and may provide night court to accommodate the public. The municipal judge shall be paid the annual sum of fifty percent (50%) of the State Magistrate Judges' annual salary **at the beginning of each term** and shall take the same oath as is now required of magistrates in the state.
(Ord. 2011-396, eff. 2011-Jun-22; Ord. 2010-390, eff. 2010-Aug-18; Code 2007, 2-166)
2. In the absence of the municipal judge, the alternate judge will work as designated by the municipal judge and will receive compensation from funds allocated in the municipal judge's salary except in the cases of disqualification or required absences (mandatory judges training sessions) in which the city will compensate the alternate judge at a rate of pay fixed by the municipal judge with the approval of the City Commission.
(Code 2007, 2-166)

Sec. 2-167. Employee Benefits.

Benefits for the municipal judge will include the benefits of a full-time city employee as provided in the personnel policy as adopted by the City Commission, with the exception of leave benefits.
(Code 2007, 2-167)

Sec. 2-168. Personnel.

The municipal court judge may participate in the hiring, supervising, and compensating employees of the municipal court, and shall have the sole power, subject to the grievance procedure of the city's personnel policy, to terminate employees of the municipal court. In all other respects that do not conflict with the powers of the judge, the court employees shall fall within the provisions of the city's personnel policy.
(Ord. 2010-382, eff. 2010-Jun-30; Code 2007, 2-168)

Sec. 2-169. Records.

The municipal judge shall keep, or cause to be kept, a record of every traffic complaint, uniform traffic citation and other form of traffic charge filed in his court and every official action and disposition of the charge by his court. Within ten (10) days after disposition of every charge of violating the traffic code of the city, the municipal judge shall, upon forms furnished by the Commissioner of motor vehicles, prepare, certify as correct and forward to the state department of motor vehicles an abstract of the record. A report need not be made of any conviction

involving illegal parking or standing of a vehicle, except when a uniform traffic citation is issued. When the uniform traffic citation is issued, the form of the abstract on the back of the officer's first copy containing the above information shall be used. The failure or refusal of the municipal judge to comply with the provisions of this section is misconduct in office and grounds for removal.

(Code 2007, 2-169)

Secs. 2-170 to 2-180 Reserved.