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**City of Las Cruces**<sup>®</sup>  
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**Council Action and Executive Summary**

Item # 4

Ordinance# 11-189

Council District: 4

For Meeting of March 7, 2011  
 (Adoption Date)

**TITLE:** A RESOLUTION EXEMPTING COMMERCIAL PERSONAL PROPERTY OF SUNEDISON LOCATED ON MUNICIPALLY OWNED LAND FROM THE PORTION OF PROPERTY TAX ASSESSED TO THE BENEFIT OF THE CITY OF LAS CRUCES AS PROVIDED FOR UNDER THE COMMUNITY DEVELOPMENT INCENTIVE ACT, CHAPTER 3, ARTICLE 64 NMSA 1978.

**PURPOSE(S) OF ACTION:** Exempt SunEdison solar project on the west mesa from the City portion of personal property tax for the first 10 years of the project.

<b>Drafter and Staff Contact:</b> Christine Logan <i>DW for CL</i>		<b>Department:</b> Community Development		<b>Phone:</b> 541-2286	
<b>Department</b>	<b>Signature</b>	<b>Phone</b>	<b>Department</b>	<b>Signature</b>	<b>Phone</b>
Community Development	<i>DW</i>	528-3067	Budget	<i>Richard Sublenny</i>	541-2281
			Assistant City Manager (For)	<i>BT</i>	541-2271
Legal	<i>R. Sublenny</i>	541-2128	City Manager	<i>Chris Man</i>	541-2076

**BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:** SunEdison is an international solar energy generation company that is proposing a project near the West Mesa Industrial Park. The project is proposed for a 150 acre tract of land they have agreed to lease from the City (City Council approved the lease with Ordinance No. 2606 on February 22, 2011). To make the project economically viable, SunEdison is requesting a property tax abatement from the City of Las Cruces.

SunEdison is requesting a ten-year abatement from the City's portion of property taxes generated from this proposed project. A detailed description of their request, justification for abatement and support information has been provided with the CAES' *REFERENCE INFORMATION* as memo M-11-036.

Local governments are permitted to abate property taxes by the New Mexico Community Development Incentive Act (Attachment "2") of State statutes. Approval of the tax abatement request by City Council makes construction of this solar energy project financially feasible for the property near the West Mesa Industrial Park. Without the tax abatement, SunEdison will likely construct the project in Otero County.

**SUPPORT INFORMATION:**

1. Resolution
2. Exhibit "A" - Site Plan
3. Attachment "1" - SunEdison Request for Property Tax Abatement
4. Attachment "2" - New Mexico Community Development Incentive Act

**SOURCE OF FUNDING:**

<b>N/A</b>	<b>Is this action already budgeted?</b>		
	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
	<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.	
<b>Does this action create any revenue? N/A</b>			
	Yes	<input type="checkbox"/>	Funds will be deposited into this fund:
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

**FUND EXPENDITURE SUMMARY:**

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

**OPTIONS / ALTERNATIVES:**

1. Vote YES on the Resolution to exempt SunEdison from the City portion of property tax assessed on the west mesa solar project for ten years as allowed under the New Mexico Community Development Incentive Act.
2. Vote NO on the Resolution to reject the tax exemption. If Dona Ana County approves an exemption for their portion of the tax, the project may still be located on the west mesa but it would be less likely to do so.
3. Vote to AMEND the Resolution to modify the terms of the exemption and then adopt the Resolution.
4. Vote to TABLE the Resolution and instruct staff to seek alternative direction.

**REFERENCE INFORMATION**

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

Ordinance No. 2606: An Ordinance Authorizing an Option to Lease Agreement Between the City of Las Cruces and SunEdison, for the Thirty Year Lease of up to 200 Acres of Municipally Owned Land in Section 2, South of the West Mesa Industrial Park, for the Purpose of Developing a Solar Energy Project.

Interoffice Memorandum M-11-036.

(Continue on additional sheets as required)

**RESOLUTION NO. 11-189**

**A RESOLUTION EXEMPTING COMMERCIAL PERSONAL PROPERTY OF SUNEDISON LOCATED ON MUNICIPALLY OWNED LAND FROM THE PORTION OF PROPERTY TAX ASSESSED TO THE BENEFIT OF THE CITY OF LAS CRUCES AS PROVIDED FOR UNDER THE COMMUNITY DEVELOPMENT INCENTIVE ACT, CHAPTER 3, ARTICLE 64 NMSA 1978.**

The City Council of the City of Las Cruces is informed that:

**WHEREAS**, the legislature of the State of New Mexico, in adoption of the Community Development Incentive Act (CDIA), has declared that the governing body of a municipality may by a majority vote of the members elected to the governing body adopt a resolution exempting commercial personal property of a new business facility located in the municipality from the imposition of any property tax on commercial personal property authorized to be imposed by the respective governing body; and

**WHEREAS**, the City of Las Cruces has adopted a strategic plan which includes an objective of fostering a vibrant economy and one of the areas of focus toward that objective is to promote green industry and job creation; and

**WHEREAS**, SunEdison intends to construct new business facilities for the generation of electricity which is eligible for exemption of property taxes under the CDIA and SunEdison has requested an exemption of municipal commercial personal property taxes for a period of ten years as an incentive to make such a project within the City of Las Cruces viable.

**NOW, THEREFORE**, Be it resolved by the governing body of the City of Las Cruces:

**(I)**

**THAT** there is granted, a 100% exemption under New Mexico law of the property tax due to the City of Las Cruces on the value of commercial personal property owned by SunEdison and used in the generation of electric power as a part of the photovoltaic project depicted on the attached Exhibit "A" which is incorporated herein.

**(II)**

**THAT** the effective date of the exemption shall be January 1, 2012 and shall terminate on December 31, 2021.

(III)

THAT this Resolution hereby adopts by reference all definitions, exemptions and provisions contained in the New Mexico Community Development Incentive Act, NMSA 1978 Comp. Sections 3-64-1 to 3-64-5, inclusive.

(IV)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

APPROVED:

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Moved by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

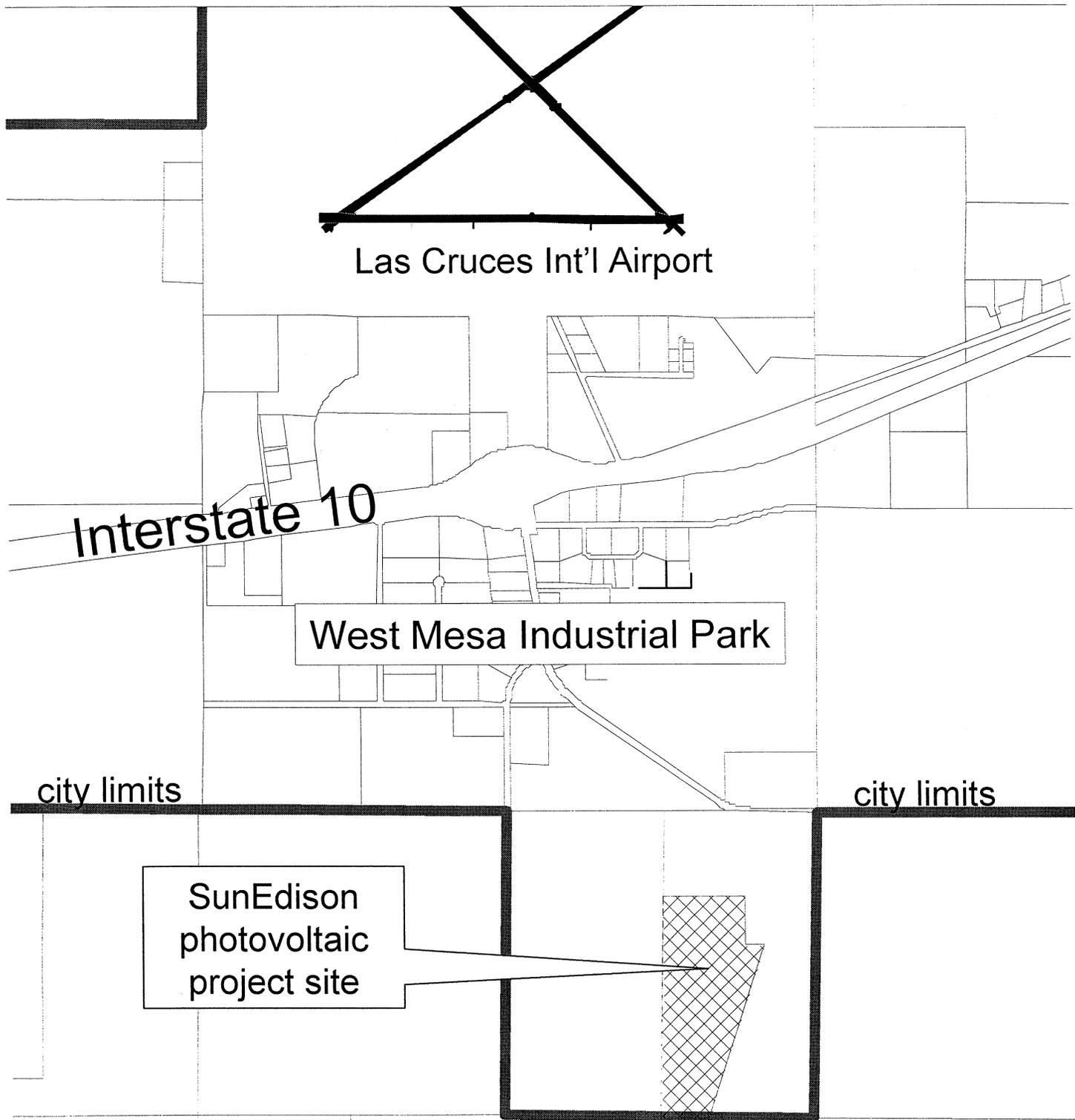
VOTE:

Mayor Miyagishima: \_\_\_\_\_  
Councillor Silva: \_\_\_\_\_  
Councillor Connor: \_\_\_\_\_  
Councillor Pedroza: \_\_\_\_\_  
Councillor Small: \_\_\_\_\_  
Councillor Sorg: \_\_\_\_\_  
Councillor Thomas: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

# Exhibit "A"



Las Cruces Int'l Airport

Interstate 10

West Mesa Industrial Park

city limits

city limits

SunEdison  
photovoltaic  
project site



December 15, 2010

Attn: Christine Logan  
City of Las Cruces  
700 North Main Street  
Las Cruces, NM 88007

**RE: Request for Property Tax Abatement for Solar Projects**

Dear Christine,

On behalf of the SunEdison team, I would like to thank you all for your economic development efforts with us for the last several months. As a result of these efforts, we are in the process of gaining contracts and approvals with El Paso Electric (EPE) to locate, design, build, own and operate two 12MW AC solar arrays in Southwest New Mexico for the next 25 years.

Per our recent visits and discussions, our plan is to locate one of our solar arrays in Doña Ana County and it will require a site with 120 to 160 acres. We have optioned both primary and back-up sites within the City and are in the process of qualifying engineering and easement issues to confirm our ability to use the Airport and Industrial sites.

The solar facility includes a 12 MW (AC) solar electric energy system. The solar energy system will consist of poly-crystalline photovoltaic (PV) solar modules mounted to a series of tracking systems. The tracker's support pipe framework will be aligned in a north-south row orientation. The solar modules will rotate in an east-west motion about a horizontal axis throughout the day. Multiple strings of tracker mounted solar modules will be electrically connected to power inverters. The inverters will connect to transformers where the energy will be converted to the prescribed interconnection voltage before interconnecting to the utility distribution system.

Under the New Mexico Community Development Incentives Act, SunEdison is requesting that:

1. For the first 10 years of operation, we be granted an exemption of 100 percent (100%) of the personal property taxes due to Doña Ana County and to the City of Las Cruces on the value of commercial personal property owned by Sun Edison, located in the City of Las Cruces and used in the generation of electric power to begin on July 1, 2012 for a 25 year term, ending July 1, 2037.
2. We mutually consider converting our option to purchase into an option to lease for the industrial site

Following are key points supporting our requests:

- SunEdison is evaluating property in both Doña Ana and Otero Counties. The property tax on the properties we are evaluating in Otero County is 23.459 mils per \$1000 taxable value which is 28% less expensive than the 32.668 mils per \$1000 taxable value in Doña Ana County.
- A combination of these economic development incentives helps us achieve the needed abatement on the entire mil rate to balance out the premium currently demonstrated by locating in Dona Ana County. By gaining abatements from the City and County, we are able to avoid abatement requests to other taxing entities including both the School District and the Community College.

- SunEdison is committed to economic, community and education development in the areas that it develops projects and around the United States. If the City and County provided the requested abatement, our team would be willing to invest in education development efforts with your school district or community college. We have already started discussions with the College to begin exploration of how we can provide this value and make an impact.
- While SunEdison is asking for a partial property tax abatement, we also expect to pay the full property tax for the remainder of the term years 11 – 25 of our PPA in addition to the appropriate City and County gross receipts tax requirements which should create substantial tax revenues for both the City and County.
- While utility scale solar projects are capital cost intensive, they do not create strain on local infrastructure (requiring little to no water, sewer, gas, fire, police or related critical local services). This should create a win-win for the County and City in that the taxes can be used for purposes other than supporting SunEdison's solar project footprint.
- Solar has a capital cost of 4 – 5 times more than natural gas or wind plants for the same generation created which means property tax has a similar compound effect on our economics.
  - Solar's cost has come down by more than 50% in the last 5 years and we expect it to do it again in the next 5 years to help us become competitive with traditional fossil fuel energy generation.
  - The only way we continue to reduce our costs and attract the solar industry to New Mexico is with the economic development efforts demonstrated by MVEDA, the State of New Mexico and the Federal Government.
- New Mexico is one of only three states SunEdison does business in that requires property tax for solar generation facilities (all others have waived it for economic incentive purposes).
- The Wind industry (and some solar providers that are using temporary financing models) have substantially reduced or eliminated its property tax and gross receipts tax requirements in New Mexico due to its use of industrial revenue bonds. The Federal ITC for solar projects for projects that break ground in 2011 and beyond (including SunEdison's projects proposed here) do not allow for solar to use similar bonding instruments.
- Our initial solar project will help support the County and City's efforts to attract the solar industry. Unlike other economic development projects that occur one time, these projects will continue to spur demand for several other similar projects as EPE meets its renewable portfolio standard required by 2020.
- This project will create approximately 230 construction jobs and 4 – 6 operations jobs for 25 years (the term of our agreement with EPE) for the local economy. In turn, this project will help jump start the education of a new industry in Southwest New Mexico which the City of Las Cruces and Doña Ana County has the benefit of hosting and growing over time.

Do not hesitate to contact me with any questions or further discussion as needed on our request. We genuinely appreciate the positive working relationship we have gained with the City of Las Cruces, Doña Ana County, MVEDA and your entire community and look forward to making these solar facilities a reality in the near future.

Thank you,

Jared Schoch  
Director of Utility Sales – Western US

**Attachment #2****New Mexico Statutes Annotated 1978**

Chapter 3 Municipalities.

**ARTICLE 64 Development Incentives**

## Section

- 3-64-1 Short title.
- 3-64-2 Definitions.
- 3-64-3 Exemption of certain commercial personal property from property tax by local bodies.
- 3-64-4 Transmittal of exemption resolution; action of assessor.
- 3-64-5 Expiration of exemption; action of assessor.

**3-64-1. Short title.**

Chapter 3, Article 64 NMSA 1978 may be cited as the "Community Development Incentive Act".

**3-64-2. Definitions.**

A. As used in the Community Development Incentive Act:

- (1) "commencement of commercial operations" occurs when the new business facility is first available for use by the taxpayer or first capable of being used by the taxpayer in the revenue-producing enterprise in which the taxpayer intends to use the new business facility;
- (2) "facility" means any factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex of buildings located within the state, including the land on which the facility is located and all machinery, equipment and other real and tangible personal property located at or within the facility and used in connection with the operation of the facility;
- (3) "new business facility" means a facility that satisfies the following requirements:
  - (a) the facility is employed by the taxpayer in the operation of a revenue-producing enterprise; the facility shall not be considered a "new business facility" in the hands of the taxpayer if the taxpayer's only activity with respect to the facility is to lease it to another person; if the taxpayer employs only a portion of the facility in the operation of a revenue-producing enterprise and leases another portion of the facility to another person or does not otherwise use such other portions in the operation of a revenue-producing enterprise, the portion employed by the taxpayer in the operation of a revenue-producing enterprise shall be considered a "new business facility" if the requirements of Subparagraphs (b), (c) and (d) of this paragraph are satisfied;
  - (b) the facility is acquired by or leased to the taxpayer on or after July 1, 2003; provided, the facility shall be deemed to have been acquired by or leased to the taxpayer on or after the specified date if the transfer of title to the taxpayer, the transfer of possession pursuant to a binding contract to transfer title to the taxpayer or the commencement of the term of the lease to the taxpayer occurs on or after that date or if the facility is constructed, erected or installed by or on behalf of the taxpayer, the construction, erection or installation is completed on or after that date;
  - (c) if the facility was acquired by the taxpayer from another person and the facility was employed, immediately prior to the transfer of title to the facility to the taxpayer or to the commencement of the term of the lease of the facility to the taxpayer, by any other person in the operation of a revenue-producing enterprise, the taxpayer does not continue the operation of the same or a substantially identical revenue-producing enterprise at the facility; and
  - (d) the facility is not a replacement business facility;

(4) "new business facility employee" means a person employed by the taxpayer in the operation of a new business facility during the taxable year for which the exemption authorized by Section 3-64-3 NMSA 1978 is granted; a person shall be considered to have been so employed if the person performs duties in connection with the operation of the new business facility on:

- (a) a regular, full-time basis;
- (b) a part-time basis if the person is customarily performing the described duties at least twenty hours per week throughout the taxable year; or
- (c) a seasonal basis if the person performs the described duties for substantially all of the season customary for the position in which the person is employed.

The number of new business facility employees during any property tax year shall be determined by dividing by twelve the sum of the number of new business facility employees on the last business day of each month of that year. If the new business facility is in operation for less than the entire property tax year, the number of new business facility employees shall be determined by dividing the sum of the number of new business facility employees on the last business day of each full calendar month during the portion of the property tax year during which the new business facility was in operation by the number of full calendar months during that period;

(5) "new business facility investment" means the value of the real and tangible personal property, except inventory or property held for sale to customers in the ordinary course of the taxpayer's business, that constitutes the new business facility or that is used by the taxpayer in the operation of the new business facility during the property tax year for which the exemption authorized by Section 3-64-3 NMSA 1978 is granted and the value of that property during the year shall be:

- (a) its original cost if owned by the taxpayer; or
- (b) eight times the net annual rental rate if leased by the taxpayer; the "net annual rental rate" is the annual rental rate paid by the taxpayer, less any annual rental rate received by the taxpayer from subrentals;

(6) "related taxpayer" means:

- (a) a corporation, partnership, limited liability company, trust or association controlled by the taxpayer;
- (b) an individual, corporation, limited liability company, partnership, trust or association under the control of the taxpayer; or
- (c) a corporation, limited liability company, partnership, trust or association controlled by an individual, corporation, limited liability company, partnership, trust or association under the control of the taxpayer.

For the purposes of this paragraph, "control of a corporation" means ownership, directly or indirectly, of stock possessing at least eighty percent of the total combined voting power of all classes of stock entitled to vote and at least eighty percent of all other classes of stock of the corporation; "control of a partnership, limited liability company or association" means ownership of at least eighty percent of the capital or profits interest in such partnership, limited liability company or association; and "control of a trust" means ownership, directly or indirectly, of at least eighty percent of the beneficial interest in the principal or income of the trust;

(7) "replacement business facility" means a facility as defined in Paragraph (3) of this subsection and referred to in this paragraph as a "new facility" that replaces another facility, referred to in this paragraph as an "old facility", located within the state in which the taxpayer or a related taxpayer previously operated but discontinued operating on or before the close of the first property tax year in which the exemption authorized by Section 3-64-3 NMSA 1978 is claimed; a new facility shall be deemed to replace an old facility if the following conditions are met:

- (a) the old facility was operated by the taxpayer or a related taxpayer for more than three full property tax years out of the five property tax years next preceding the property

tax year in which commencement of commercial operations occurs at the new facility;  
and

(b) the old facility was employed by the taxpayer or a related taxpayer in the operation of a revenue-producing enterprise and the taxpayer continues the operation of the same or a substantially identical revenue-producing enterprise at the new facility.

Notwithstanding the provisions of Subparagraph (a) of this paragraph, a facility shall not be considered a "replacement business facility" if the taxpayer's investment in the new facility exceeds three million dollars (\$3,000,000) or, if less, three hundred percent of the investment in the old facility by the taxpayer or related taxpayer. The investment in the new facility and in the old facility shall be determined in the manner provided in Paragraph (5) of this subsection;

(8) "revenue-producing enterprise" means:

- (a) the production, assembly, fabrication, manufacture or processing of any agricultural, mineral or manufactured product;
- (b) the storage, warehousing, distribution or sale of any products of agriculture, mining or manufacturing;
- (c) the feeding of livestock at a feedlot;
- (d) the operation of laboratories or other facilities for scientific, agricultural animal husbandry or industrial research development;
- (e) the generation of electricity;
- (f) the performance of services of any type;
- (g) the administrative management of any of the activities listed in Subparagraphs (a) through (f) of this paragraph; or
- (h) any combination of any of the activities referred to in Subparagraphs (a) through (g) of this paragraph; and

(9) "same or a substantially identical revenue-producing enterprise" means a revenue-producing enterprise in which the products produced or sold, the services performed or the activities conducted are the same in character and use and are produced, sold, performed or conducted in the same manner and to or for the same types of customers as the products, services or activities produced, sold, performed or conducted in another revenue-producing enterprise.

B. The new business facility investment shall be determined by dividing by twelve the sum of the total value of such property on the last business day of each calendar month of the property tax year. If the new business facility is in operation for less than an entire property tax year, the new business facility investment shall be determined by dividing the sum of the total value of the property on the last business day of each full calendar month during the portion of the property tax year during which the new business facility was in operation by the number of full calendar months during that period.

C. If a facility that does not constitute a new business facility is expanded by the taxpayer, the expansion shall be considered a separate facility eligible for the exemption authorized by Section 3-64-3 NMSA 1978 if:

- (1) the taxpayer's investment in the expansion exceeds one million dollars (\$1,000,000) or, if less, one hundred percent of its investment in the original facility prior to expansion; and
- (2) the expansion otherwise constitutes a new business facility.

The taxpayer's investment in the expansion and in the original facility prior to expansion shall be determined in the manner provided in Paragraph (5) of Subsection A of this section.

D. If a facility that does not constitute a new business facility is expanded by the taxpayer, the expansion shall be considered a separate facility for purposes of the exemption granted by Section 3-64-3 NMSA 1978 if:

- (1) the expansion results in the employment of ten or more new business facility employees over and above the average number of employees employed in the county or municipality granting the exemption by the taxpayer during the twelve months immediately prior to the expansion, computed pursuant to Paragraph (4) of Subsection A of this section; and
- (2) the expansion otherwise constitutes a new business facility.

**3-64-3. Exemption of certain commercial personal property from property tax by local bodies.**

A. The governing body of a county or a municipality may by a majority vote of the members elected to the governing body adopt a resolution exempting commercial personal property of a new business facility located in the county or municipality from the imposition of any property tax on commercial personal property authorized to be imposed by the respective governing body, subject to the limitations of Subsection B of this section.

B. The exemption authorized by Subsection A of this section may be for up to one hundred percent of the value for property taxation purposes of the property exempted.

C. The exemption authorized by Subsection A of this section may be for any period of time not to exceed twenty years. The effective date of any exemption shall be January 1 of the property tax year in which the new business facility commences commercial operations.

**3-64-4. Transmittal of exemption resolution; action of assessor.**

A. After a resolution of exemption of personal property is adopted by a governing body, copies of it shall be certified by the clerk of the entity; one copy shall be delivered immediately to the county assessors; and one copy shall be sent to the taxation and revenue department.

B. Upon receipt of a certified copy of an exemption resolution, the county assessor of the county in which the exempted property is located shall take appropriate action to enter the exemption in the property tax schedule for the property tax year in which the exemption becomes effective and shall also enter the exemption as appropriate for subsequent years during which the exemption remains in effect.

**3-64-5. Expiration of exemption; action of assessor.**

An exemption granted under Section 3-64-3 NMSA 1978 shall automatically terminate on the last day of the property tax year in which it expires pursuant to the exemption resolution or on the last day of the property tax year in which a new business facility ceases commercial operations, whichever occurs first.



## City of Las Cruces

### Community Development Interoffice Memorandum

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To: Brian Denmark, Interim Assistant City Manager

From: Christine Logan, Economic Development Administrator *DLW for CL*

Subject: SunEdison

Date: February 24, 2011 M-11-036

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The purpose of this memo is to provide background and support information for SunEdisons request property tax abatement from the City of Las Cruces. The abatement is being made to facilitate the construction of a solar energy facility adjacent to the the City's West Mesa Industrial Park on City owned property..

SunEdison intends to develop two photovoltaic solar project sites in the El Paso Electric New Mexico service area, which includes Otero and Dona Ana Counties. The project site identified in Dona Ana County is a 150 acre tract of City owned land located south of the West Mesa Industrial Park. SunEdison has executed an option for the property and is completing technical and financial feasibility studies. The project site appears to satisfy the technical requirements of the project but there are financial concerns which have prompted SunEdison to request assistance.

SunEdison is evaluating properties in both Dona Ana and Otero Counties. The property tax rate in Otero County is 23.459 mils per \$1000 taxable value whereas the tax rate on the proposed City site is 39% higher at 32.668 mils. Solar projects require significant capital investment and so the variation in the tax rate on the investment is significant. As an example, SunEdison would owe \$326,680 annual property tax on \$30,000,000 of equipment on the City site but only \$234,590 for the identical project in Otero County. Over the 30 year life of a solar project, the lower tax rate could account for over \$2,750,000 in savings.

Under the Community Development Incentive Act (CDIA), New Mexico State law allows a local government to exempt a company that is developing a new business facility in the jurisdiction from personal property taxation for up to 100% of the rate imposed, for a period of up to twenty years.

Property taxes in the City of Las Cruces are collected through the County Assessor's Office but distributed to various entities:

	<u>mil rate</u>
State debt service	1.234
DAC operational	11.850
DAC debt service	0.232
CLC operational	4.831
CLC flood control	2.000
Public schools operational	0.450
Public schools debt service	7.504
Public schools capital imp.	2.000
NMSU comm. college	1.000
NMSU debt service	1.000
	<u>32.101</u>

The proposed SunEdison project meets the definition of new business facility and is eligible for the incentive offered under the CDIA. SunEdison is requesting exemption from the Dona Ana County portion of the property tax (12.082 mils) and from the City of Las Cruces portion (6.831 mils). They are not pursuing any exemption from the State (1.234 mil), public school (9.954 mil), or university (2.000 mil) assessments. The request for County and City exemption is for a 10 year period as opposed to the 20 year allowed by Statute. SunEdison feels that within 10 years, technology advances will allow solar to compete with other energy production methods without the need for this incentive.

With no property tax exemption, both SunEdison project sites would likely be located in Otero County and the City owned land is very unlikely to be developed in the near future. There would be no tax revenue generated from the property.

If the City and County both authorize property tax exemptions for 10 years, SunEdison intends to begin construction on the City site by late summer. In year 1 through 10 of the project, the State, Las Cruces Public Schools, and NMSU would realize additional property tax revenue (\$131,000 per year based on a personal property value of \$30M) but the City and County would still not realize any property tax revenue. The project would generate approximately 230 construction jobs in the first year or two and the local project development costs (estimated at \$3 to \$8 million dollars based on likelihood that the general contractor would be from out of town but would use local suppliers and subcontractors) are subject to gross receipt tax. The City would realize approximately \$75,000 per year in lease revenue for the first 5 years of the project and approximately \$90,000 per year for years 6 through 10. In year 11 through 30 of the project, the City and County would receive full payment of property tax due on the project value and the other entities would continue to receive their assessment. As solar technologies continue to advance quickly, it is likely that at least once

or twice during the life of the project, major renovations and upgrades would result in additional gross receipts tax revenue.

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The Dona Ana County Board of County Commissioners will consider adoption of the 10 year property tax exemption at its March 8, 2011 Commission meeting. SunEdison has indicated that both exemptions are required in order to make the project financially feasible within Dona Ana County.

An exemption granted under the CDIA automatically terminates on the last day of the property tax year in which a new business facility ceases commercial operations or at the end of the tenth year, whichever occurs first. If the City authorizes a tax exemption but SunEdison never initiates the project, the exemption would terminate on December 31, 2012 with no taxes having been due before then (no value to tax). The City would continue to market that property for other uses. If the project was operational but then ceased before the end of the 30 year project term, the City would have foregone the property tax revenue with no recourse but would still have benefited from the employment, gross receipts tax revenue, and lease revenue.

The Resolution provides a tax exemption only to SunEdison. If SunEdison were to sell the solar project during the exemption period, the exemption would not transfer to a new owner unless there was specific action of the City Council to extend that incentive.

Cc: David Weir, Community Development Director *DW*