



# LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT

**HEARING DATE: April 23, 2015**  
Project Description

**AGENDA ITEM # 2**  
Vicinity Map

<b>APN:</b>	0516-341-14
<b>Applicant:</b>	Sunray Energy 2, LLC
<b>Community:</b>	Daggett/1 <sup>st</sup> Supervisorial District
<b>Location:</b>	35100 Santa Fe Street, Daggett
<b>Project No:</b>	P201400484
<b>Staff:</b>	Tracy Creason
<b>Applicant Rep:</b>	Cogetrix Energy Power – John Collins
<b>Proposal:</b>	Conditional Use Permit to establish a 44 megawatt solar photovoltaic energy generation facility in two phases on approximately 333 acres after demolition of an existing solar thermal plant on the same acreage



7 Hearing Notices Sent On: April 10, 2015

Report Prepared By: Tracy Creason

**SITE INFORMATION**

**Parcel Size:** 333 Acres  
**Terrain:** Flat  
**Vegetation:** On-site is disturbed/developed; Adjacent off-site is creosote bush scrub

**SURROUNDING LAND DESCRIPTION:**

AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT/OVERLAYS
Site	Solar Thermal Electric Power Plant	Regional Industrial (IR); Biological
North	Vacant	IR; Biological
South	Vacant	IR; Biological
East	Field Crops/Transmission Lines	Resource Conservation (RC) & IR; Biological & AR3
West	Vacant	IR; Biological

**AGENCY**

**COMMENT**

City Sphere of Influence:	None	N/A
Water Service:	Existing On-site wells	EHS-approved
Sewer Service:	Existing On-site septic	EHS-approved

**STAFF RECOMMENDATION:** That the Planning Commission **APPROVE** the Conditional Use Permit to establish a 44 megawatt solar photovoltaic energy generation facility in two phases on approximately 333 acres after demolition of an existing solar thermal plant on the same acreage

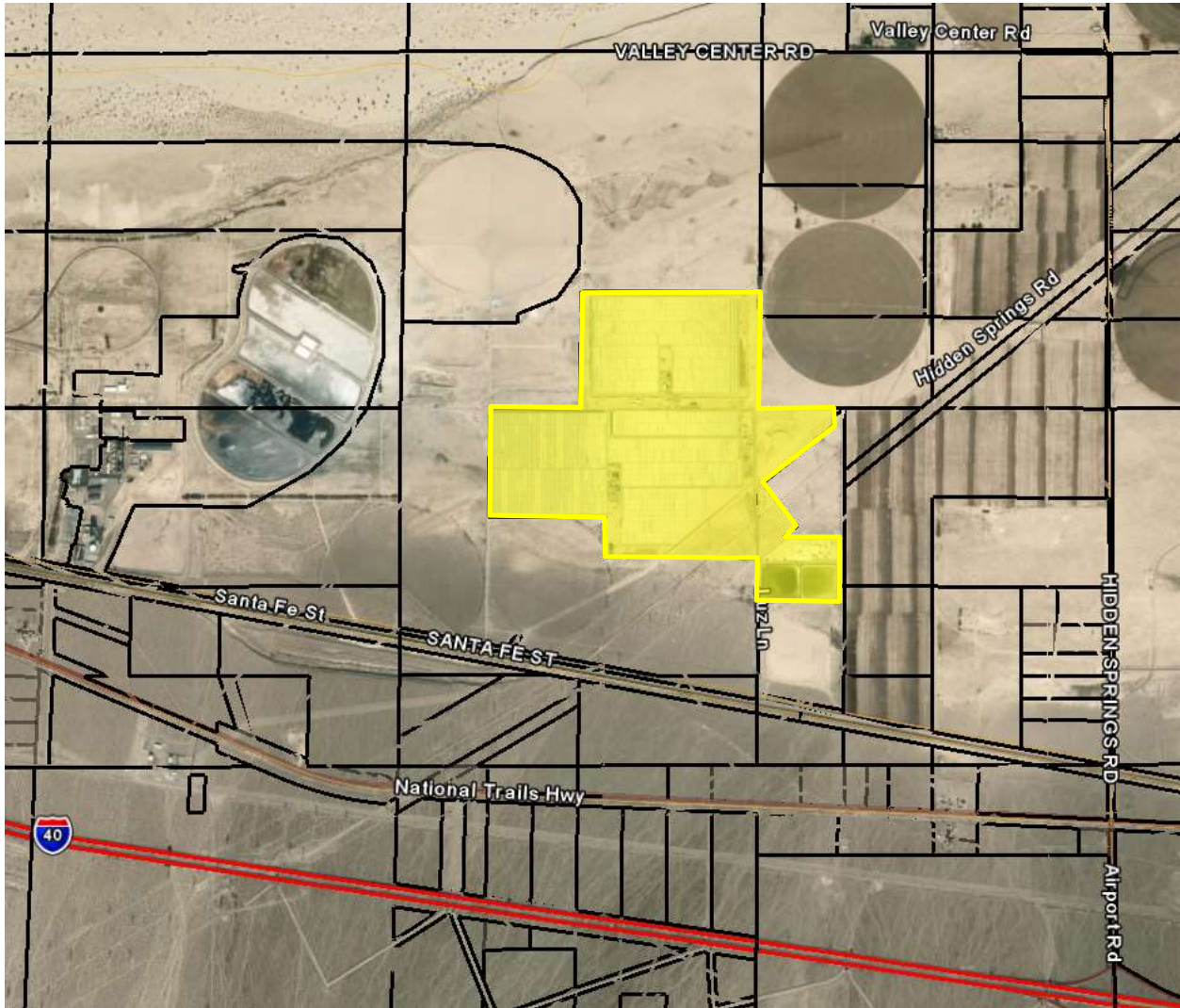
In accordance with Section 86.08.010 of the San Bernardino County Development Code, this action may be appealed to the Board of Supervisors.

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### REGIONAL VICINITY MAP



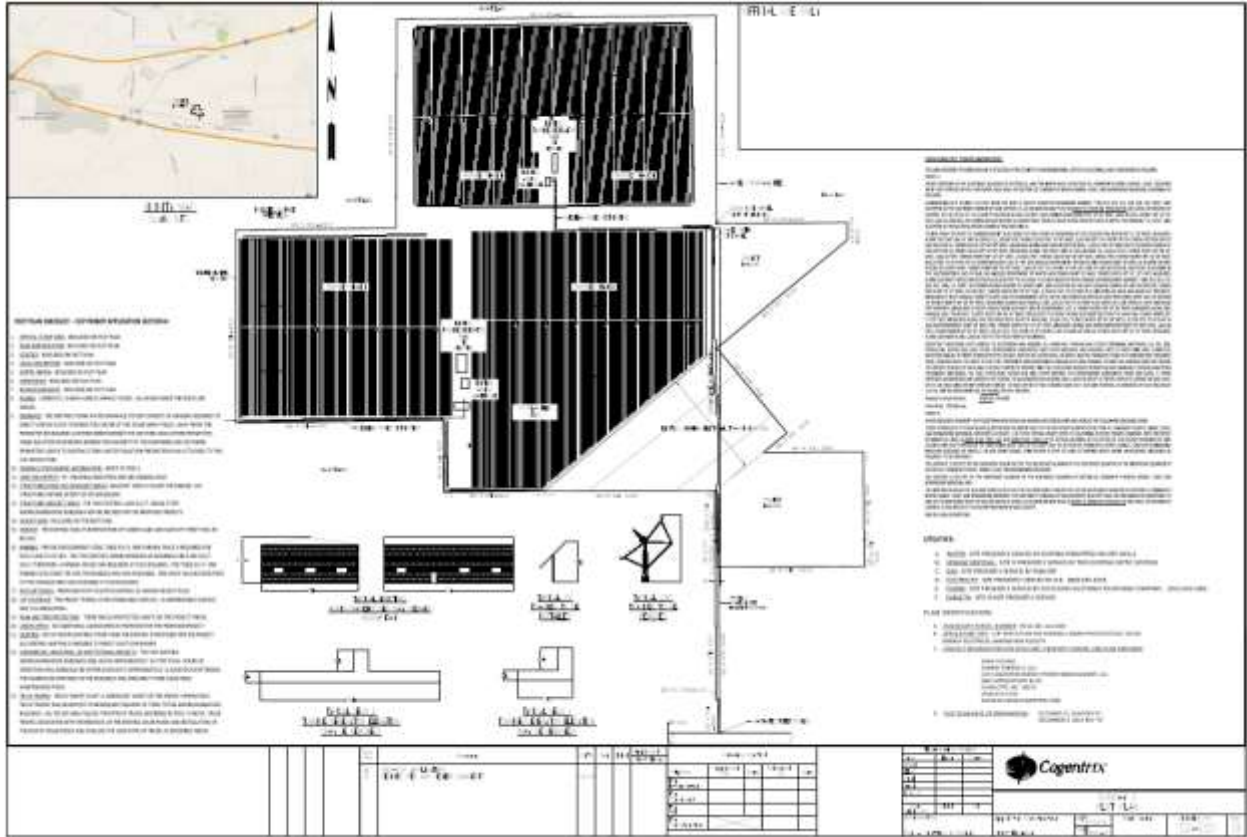
### VICINITY MAP



## OFFICIAL LAND USE DISTRICT MAP



### PLOT PLAN



## SITE PHOTOS – EXISTING FACILITY



Existing field showing mirrors, piping, and heat collector elements



View of existing mirrors from the back

**SITE PHOTOS – EXISTING FACILITY (continued)**



Existing field in the foreground with power block in background



View of the Solar Collector Assemblies



**PHOTOS – PROPOSED PHOTOVOLTAIC FACILITY**



Example of PV Solar Field with transformers and inverters shown



Example of PV Solar Field showing underneath side of solar panels

## POINT OF INTERCONNECTION (POI) MAP



## **PROJECT DESCRIPTION AND BACKGROUND:**

Project: The proposed Conditional Use Permit (CUP) is a request to establish a 44-megawatt solar photovoltaic (PV) electricity generation facility in two phases (Project) on approximately 333 acres of land in the community of Daggett. An existing solar thermal facility on the site will be demolished. Upon completion, the new facility would employ seven to ten people.

Location and Access: The Project is located approximately ¼ mile north of Santa Fe Street, west of the logical extension of 1<sup>st</sup> Street (unofficially named Sunray Lane and/or Luz Lane). The primary paved access to the existing Sunray Energy facility is from the logical extension of Silver Valley Road, between proposed phase 1 and proposed phase 2. A secondary paved access road is proposed along the southern property line on the west side of the logical extension of 1<sup>st</sup> Street. Twenty-six foot wide, all weather access roads are proposed along the site perimeter. Twenty-foot wide, all weather interior roads meeting Fire Code requirements are proposed as well. Site entry will be controlled and the site will be fenced with an eight-foot chain link fence.

Environmental Setting: The site is relatively flat, with a ten-foot change in elevation across one mile. Elevations range from approximately 1,949 feet above mean sea level (amsl) at the southwest corner to 1,939 amsl at the northeast corner. According to historic records, the site was developed with the current Solar Energy Generating Systems (SEGS I & II) Sunray Energy solar thermal facility in 1984, with activation in 1985 and 1986. No native vegetation exists on the site.

Existing Operation: The existing concentrating solar power (CSP) facility was established in 1984 when the property was owned by Southern California Edison (SCE). The original CSP facility was authorized by the California Energy Commission. The facility generates solar thermal electricity using 25-foot high CSP trackers to collect and concentrate sunlight to produce heat and power a generator to make electricity. All existing power generation equipment will be demolished and removed. Several existing on-site structures will remain.

Fire History: In February 1999, a heat transfer fluid (HTF) fire began in the on-site HFT tanks. This was a major fire to which the Fire Department was called. Over a two day period, the HTF was allowed to burn itself out. There were no injuries, but extensive property damage. The HTF tanks were removed and the contaminated soil was treated. Subsequent Phase I and Phase II Environmental Site Assessments showed that no recognized environmental conditions exist as a result of the fire.

Solar Array Operation: Planned facilities are proposed to include PV panels mounted on single axis trackers, supported by steel piles. The PV panels are proposed to be a maximum height of 20 feet, in rows running north and south on the Project site as shown on the proposed site plan. The proposed design also includes inverters and transformers mounted on small concrete pads and distributed across the site. Phase 1 (20 megawatts) and 10 megawatts of phase 2 will interconnect to an existing SCE 115kV transmission line on the interior of the site near the southern boundary, while the remainder of phase 2 will interconnect to the existing SCE 33kV transmission line on the interior of the site north of

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the logical extension of Silver Valley Road. Power lines will continue to be overhead. The site is currently surrounded by a slatted chain link perimeter fence topped with three strands of barbed wire. As a condition of Project approval, the existing barbed wire will be removed. The electric power produced by the current SEGS I & II, which comprise the Sunray Energy solar thermal or CSP plant, continues to be sold to SCE under a long-term Power Purchase Agreement (PPA) that will expire December 31, 2015. The applicant has executed a new, 20-year PPA with Pacific Gas and Electric (PG&E). The new PG&E PPA has a commercial operation date of December 1, 2016.

## **ANALYSIS:**

Consistency with General Plan and Zoning Regulations: The current General Plan land use designation for the proposed Project area is Regional Industrial (IR). This designation allows development of renewable energy generation facilities with a CUP as requested by the Project applicant. The Project will be required to comply with all proposed Conditions of Approval, which are attached to this Staff Report as Exhibit B.

Regulations also require the adoption of Findings of Consistency with applicable development standards outlined in San Bernardino County Development Code (Development Code) Chapter 84.29 – Renewable Energy Generation Facilities, as adopted in December 2013. Proposed Findings are attached to this Staff Report as Exhibit A. When the Conditions of Approval are satisfied, the proposed Project will be considered consistent with the County General Plan and the Development Code.

General Plan Policy: The County General Plan establishes goals for renewable energy production in the County. Conservation Element Policy CO 4.12 states the County shall promote siting of renewable energy resources. Conservation Element Goal CO 8 aims to minimize energy consumption and promote safe energy extraction, uses and systems to benefit local, regional and global environmental goals. Policies under this Goal include Policy CO 8.3, which states that the County will assist in efforts to develop alternative energy technologies that have minimum adverse effect on the environment, and will explore and promote newer opportunities for the use of alternative energy sources. The proposed Project would act to support these goals and policies.

Project Comparison: Both the existing CSP facility and the proposed Project have the ability to evacuate 43.8 megawatts to the grid. According to the applicant, in 2013 the existing plant provided 48,319 megawatt-hours to the grid. The Project is anticipated to provide 53,821 megawatt-hours to the grid. The PV Project is proposed because the existing equipment is at the end of its life. The new technology is more efficient, more cost effective, and better on the environment. As shown in the table below, the proposed PV facility is less impactful than the existing CSP facility. The PV facility will reduce the height of the panels from 25 feet to a maximum of 20 feet. Water usage will be dramatically reduced because the PV facility requires no water for cooling. The PV facility does not use HTF, which eliminates the need for cooling towers, evaporation ponds, and land treatment units. The existing CSP facility produces approximately 10,000 metric tons of direct Greenhouse Gas (GHG) emissions per year while generating electricity; the Project will not produce any GHG emissions to generate electricity. Furthermore, elimination of HTF and

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the associated high temperatures reduces the possibility of another fire.

Topic	Existing CSP	Proposed PV
Water Usage	300 acre-feet per year	10 acre-feet per year
Heat Transfer Fluid (HTF Oil)	400,000 gallons on site	Not needed
Cooling Towers	2 on site	Not needed
Evaporation Ponds	3 on site (20 acres total)	Not needed
Land Treatment Units	2 on site (12.1 acres total)	Not needed
Mirrors	100 percent of facility	None
PV Panels	None	100 percent of facility
Noise	Active solar	Passive solar
Visual	25 feet tall with turbine/generator structures	Maximum 20 feet tall; no turbine/generator structure

**Biological Resources:** Because the site is within a biotic resources overlay area with the potential to support desert tortoise (DT) and burrowing owl (BUOW), SummitWest Environmental, Inc. conducted a survey of the site and prepared a *Focused Survey for Desert Tortoise & Western Burrowing Owl Report* (Report) in March 2015. Results of the Report were that no DT or BUOW individuals were found and no evidence was observed that would indicate their recent or historic occurrence on site. SummitWest concluded that DT and BUOW are absent from the site.

**Renewable Energy Mandates:** The California Renewable Portfolio Standard (RPS) legislation, established in 2002 (Senate Bill 1078), and accelerated in 2006 (Senate Bill 107), requires retail sellers of electricity to obtain 20 percent of their supply of electricity from renewable energy sources by 2010 and 33 percent of electricity from renewable energy sources by 2020. The proposed Project will assist in the State’s efforts to meet the RPS standard and increased demands for electricity.

**Greenhouse Gas Emissions Reduction:** In 2006, the State of California passed the California Global Warming Solutions Act (Assembly Bill 32) which requires the state to reduce emissions of carbon dioxide (CO2) and other greenhouse gases (GHG) to 1990 emission levels (a 30 percent reduction) by 2020. Senate Bill 1368, enacted in 2006, prohibits California electric utilities from constructing power plants or entering into long-term energy purchase contracts with facilities that do not meet the GHG emissions standard. In December 2011, the County adopted a GHG reduction plan that established review criteria for GHG emissions. As stated above in the Project Comparison section, the existing CSP facility produces approximately 10,000 metric tons of direct Greenhouse Gas (GHG) emissions per year while generating electricity; the Project will not produce any GHG emissions to generate electricity. The proposed Project will assist in efforts to meet the California GHG emissions legislation, consistent with the County GHG reduction plan.

**PUBLIC COMMENTS:**

Project notices were distributed to 5 surrounding property owners located within 1,320 feet of the Project boundary on January 13, 2015. No comments were received. Staff did receive a request from Adams Broadwell Joseph & Cardozo to include them in any public distribution.

**ENVIRONMENTAL REVIEW:**

The Project is exempt from the California Environmental Quality Act (CEQA) as a Class 2 Categorical Exemption under Section 15302 of the State CEQA Guidelines, for replacement or reconstruction of existing structures and facilities. Specifically, the Project qualifies as the replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity. In addition, the proposed facility reduces water usage and visual impacts through the change of technology and reduced panel heights.

**CONCLUSION:**

The proposed Project will assist in meeting the renewable resource targets for retail sellers of electricity in California and is consistent with the State's GHG emissions goals, policies, and standards. In addition, the proposed Project is consistent with the Development Code, applicable County General Plan goals, policies, and regulations regarding renewable energy. Therefore, Planning Staff recommends approval of the Project.

**RECOMENDATION:**

- 1) **APPROVE** a Conditional Use Permit to establish a 44-megawatt solar photovoltaic energy generation facility in two phases on approximately 333 acres after demolition of an existing solar thermal plant on the same acreage;
- 2) **ADOPT** the proposed Findings for approval of the Conditional Use Permit per Development Code Section 85.06.040, and the Required Findings for Approval of a Commercial Solar Energy Facility per Development Code Section 84.29.035; and
- 3) **FILE** a Notice of Exemption.

**ATTACHMENTS:**

- Exhibit A: Findings  
Exhibit B: Conditions of Approval

# EXHIBIT A

## Findings

**Sunray Energy 2, LLC Solar Project**  
**Conditional Use Permit Findings per Development Code Section 85.06.040**  
**Applicable to all Use Permits**

In regards to a proposed Conditional Use Permit (CUP) to establish a 44-megawatt solar photovoltaic (PV) electricity generation facility in two phases (Project) on approximately 333 acres of land in the Daggett community in unincorporated San Bernardino County, after demolition of the existing solar thermal facility on the same acreage, per Development Code Section 85.06.040, the following are the required findings that the reviewing authority must determine to be true before approving a CUP. The Project's consistency with each finding is described:

- 1. The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all landscaping, loading areas, open spaces, parking areas, setbacks, walls and fences, yards, and other required features pertaining to the application.**

*Project Consistency:* The Project boundary encompasses approximately 265 acres of the 333-acre parcel (APN 0516-341-14). The Project would include demolition of the existing concentrated solar power (CSP) thermal facility and development of a PV solar facility on the same acreage. The Project site is adequate in shape and size to provide all features pertaining to the proposed solar facility within the applicable development standards, including all required setbacks and fences as required by the Development Code. Existing loading areas, open spaces, parking areas or yards will remain as required for the seven to ten employees at the solar facility.

- 2. The site for the proposed use has adequate access, which means that the site design incorporates appropriate street and highway characteristics to serve the proposed use.**

*Project Consistency:* The existing CSP facility has a paved access road from Santa Fe Street. The proposed PV Project will continue using this existing road. The Project's primary access would continue at the eastern property boundary at a point that is the logical continuation of Silver Valley Road. The site would generate negligible traffic during operations, and would therefore not require an increase in roadway capacity or changes in roadway design.

- 3. The proposed use will not have a substantial adverse effect on abutting property or the allowed use of the abutting property, which means that the use will not generate excessive noise, traffic, vibration, or other disturbance. In addition, the use will not substantially interfere with the present or future ability to use solar energy systems.**

*Project Consistency:* Since the Project is on the site of an existing CSP facility, it is known that it would not have a substantial adverse effect on abutting property. The general area has an industrial character by virtue of the current uses, including a power plant to the west, railroad track to the south, the Barstow



Daggett County Airport to the east, Interstate 15 to the north, Interstate 40 to the south, and the CSP facility on site. Given these existing characteristics, the proposed solar facility will not have a substantial adverse impact on the abutting use or property. The Project will also not generate a significant amount of traffic such that it would interfere with existing levels of service. The proposed Project will comply with required setback and fencing requirements. The Project would comply with the noise restrictions established by Development Code Section 83.01.080 during construction and operations. Construction will be temporary and not involve blasting, or produce noise and/or vibration that exceed Development Code requirements. The operation of the facility upon completion will generate noise at a level that is less than County Development Code standards and no discernible vibrations are expected during operations given the nature of the use. During Project operations, the facility will employ seven to ten personnel; therefore, generating minimal traffic. Dust will be controlled onsite during Project construction and operations pursuant to the Mojave Desert Air Quality Management District ongoing dust control requirements. The facility will not shade adjacent parcels and in no other way would limit the future development of solar energy systems or other development on neighboring properties. The facility is a passive use and would not otherwise produce any disturbance for the community.

**4. The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the General Plan and any applicable community or specific plan.**

*Project Consistency:* Solar energy generation is a conditionally permitted use within the IR land use zone; therefore, the Project's land use is consistent with the General Plan map for the area. The General Plan is strongly supportive of the development of renewable energy resources and businesses that operate in the renewable energy field. Specifically, the General Plan states that the County should:

- Encourage utilization of renewable energy resources (Goal D/CO 2).
- Encourage use of renewable and alternative energy systems for residential uses (Policy D/CO 2.2).
- Provide incentives to promote siting or use of clean air technologies (e.g., fuel cell technologies, renewable energy sources, UV coatings, and hydrogen fuel) (Policy CO 4.12).
- Assist in efforts to develop alternative energy technologies that have minimum adverse effect on the environment, and explore and promote newer opportunities for the use of alternative energy sources (Policy CO 8.3).
- Encourage a variety of industries to locate in the County, including commercial/professional office uses and "clean," high-technology industries that provide high-skill/high-wage job opportunities (Policy ED 10.1).

- 5. There is supporting infrastructure, existing or available, consistent with the intensity of development, to accommodate the proposed development without significantly lowering service levels.**

*Project Consistency:* During operation, the Project will place negligible requirements on local infrastructure, and will not significantly affect existing service levels. The Project will generate an insignificant number of vehicle trips that would easily be accommodated by existing local roadways, including the existing access road from Santa Fe Street. Electricity, water wells, septic systems, and telephone service currently exist on the site to adequately serve the Project. Pursuant to Development Code Section 84.29.040, the Project is also required to pay public safety services impact fees to offset any increased need for possible services.

- 6. The lawful conditions stated in the approval are deemed reasonable and necessary to protect the public health, safety, and general welfare.**

*Project Consistency:* The Project's Conditions of Approval largely reflect standard County conditions refined over time and designed to protect the public health, safety, and general welfare. These conditions are based on established legal requirements and are applicable to all similar projects. Consequently, they are considered reasonable and necessary to protect the public health, safety, and general welfare.

- 7. The design of the site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities.**

*Project Consistency:* The Project is a solar energy generation facility, and therefore fully complies with this requirement. Implementation of the Project would not impede development of solar energy generation systems on adjacent parcels.

- 8. The Project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and represents the independent judgment of the County acting as lead agency for the Project.**

*Project Consistency:* After review of the Project proposal, Planning Staff determined that it was exempt from the California Environmental Quality Act (CEQA) as a Class 2 Categorical Exemption under Section 15302. This Categorical Exemption covers replacement or reconstruction of existing structures or facilities. Specifically, the Project qualifies as the replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity. In addition, the change from the active CSP technology to more passive PV technology has fewer impacts overall; for example, the demolition of the existing infrastructure and the reduction of panel height from the current 25 feet to the proposed 20 feet mitigates the Project's visual impacts. Therefore, Staff recommends the filing of a Notice of Exemption.

**Sunray Energy 2, LLC Solar Project**  
**Conditional Use Permit Findings per Development Code Section 84.29.035**  
**Applicable to Commercial Solar Energy Facilities**

In regards to a proposed Conditional Use Permit (CUP) to establish a 44-megawatt solar photovoltaic (PV) electricity generation facility in two phases (Project) on approximately 333 acres of land in the Daggett community in unincorporated San Bernardino County, after demolition of the existing solar thermal facility on the same acreage, per Development Code Section 84.29.035, the following are the required findings that the reviewing authority must determine to be true before approving a commercial solar energy facility. The Project's consistency with each finding is described:

- 1. The proposed commercial solar energy generation facility is either (a) sufficiently separated from existing communities and existing/developing rural residential areas so as to avoid adverse effects, or (b) of a sufficiently small size, provided with adequate setbacks, designed to be lower profile than otherwise permitted and sufficiently screened from public view so as to not adversely affect the desirability and future development of communities, neighborhoods, and rural residential use.**

*Project Consistency:* Consistent with finding 1(a), the Project site is located approximately 1.5 miles from the nearest residential land uses (which are to the east and west). The Regional Industrial (IR) zoning does not allow residential development. Resource Conservation zoning, which allows residential development, is adjacent to the site at the east property line. Properties to the north, south, and west are vacant, although a railroad line exists approximately 0.25 miles south of the Project site and transmission lines exist adjacent to the southeast. To the east of the site approximately 0.75 miles is the Barstow-Daggett County Airport. To the west of the site approximately 0.40 miles is an existing power plant. Interstate 40 (I-40) is approximately 1 mile south and Interstate 15 (I-15) is approximately 2.85 miles north of the Project site. The City of Barstow is approximately 4.3 miles west of the Project site.

In regards to finding 1.(b), the existing Sunray Energy solar thermal concentrating solar power (CSP) facility is a prominent use along the I-40, with existing solar thermal structures being 25 feet tall with additional generators and turbines. The Project's solar PV panels—the dominant feature of the site plan—are planned to be a maximum of 20 feet, which is lower in profile than what is existing.

The proposed facility will also be able to connect to existing electrical infrastructure without requiring significant extensions to electrical lines to accommodate the electricity generated onsite. This would avoid the addition of visual clutter to the area.

With the zoning and existing long-term uses surrounding the site, there is a substantial buffer from existing communities so as to avoid adverse effects; therefore, it will not significantly affect the aesthetics of the adjacent properties or adversely affect the desirability and future development of communities, neighborhoods, and rural residential use.

**2. Proposed fencing, walls, landscaping and other perimeter features of the proposed commercial solar energy generation facility will minimize the visual impact of the Project so as to blend with and be subordinate to the environment and character of the area where the facility is to be located.**

*Project Consistency:* The environment and character of the Project area is dominated by the industrial nature of the existing CSP facility, a nearby power plant, the railroad line, the County airport, and numerous dirt roads traversing the area.

In addition, the key perimeter features shown on the site plan to minimize the visual impact of the Project include site buffers, which are undeveloped areas along the boundaries adjacent to the neighboring undeveloped areas. All boundary-adjacent areas of the site have 26-foot wide access drives inside the facility fence, which also provides a visual buffer. The entire area from the Project site boundary to the first set of panels serves to reduce the visual impact of the Project. The proposed chain link fencing is consistent in type of fencing used on other properties in the area, and is within the maximum allowed height. The perimeter fencing will also incorporate wind fencing, which will further screen the Project site.

Visual impacts will be reduced further by the proposed installation of native vegetation along the site perimeter. Due to the proposed area to be enhanced, intervening vegetation, the height of Project facilities, and the existing transmission lines, Project structures would not dominate the horizon or significantly modify the overall visual landscape.

**3. The siting and design of the proposed commercial solar energy generation facility will either be: (a) unobtrusive and not detract from the natural features, open space and visual qualities of the area as viewed from communities, rural residential uses, and major roadways and highways or (b) located in such proximity to already 'disturbed' lands -- such as electrical substations, surface mining operations, landfills, wastewater treatment facilities, etc. that it will not further detract from the natural features, open space and visual qualities of the area as viewed from communities, rural residential uses, and major roadways and highways.**

*Project Consistency:* The Project has been designed to be minimally obtrusive to the surrounding community through the incorporation of buffers, low panel profiles, installation of native vegetation along the site perimeter, and limited site lighting. Setbacks allow vegetation to screen a substantial portion of the facility.

The existing CSP facility is clearly visible from I-40 in the public views of the surrounding desert in the background. Views also take in the manmade features

that make up the existing landscape. Existing development in the general area results in Project equipment not being a dominant visual feature of the area.

Other land use features that contribute to the disturbed nature of the area are the I-40 and I-15, a number of maintained paved and unpaved roads, power transmission lines, a power plant, an airport, and a railroad line.

Given the above uses, the Project will not detract from the visual qualities of the surrounding area. Therefore, no new significant impacts damaging scenic resources or substantially degrading the existing visual character of the site and its surroundings would occur as a result of the proposed solar Project.

- 4. The siting and design of Project site access and maintenance roads have been incorporated in the visual analysis for the Project and shall minimize visibility from public view points while providing needed access to the development site.**

*Project Consistency:* The existing CSP facility has a paved access road leading from Santa Fe Street, which will remain.

- 5. The proposed commercial solar energy generation facility will not adversely affect the feasibility of financing infrastructure development in areas planned for infrastructure development or will be located within an area not planned for future infrastructure development (e.g., areas outside of water agency jurisdiction).**

*Project Consistency:* The Project will employ seven to ten personnel. On-site water and wastewater facilities exist. No additional infrastructure development is planned at the site or immediately adjacent to the site as part of the Project. No element of the proposed Project is expected to impact the feasibility of financing infrastructure development for the local area.

- 6. The proposed commercial solar energy generation facility will not adversely affect to a significant degree the availability of groundwater supplies for existing communities and existing and developing rural residential areas.**

*Project Consistency:* The Project will not be connected to the local water system for project operations. All construction water would be from the existing on-site water wells. Water usage associated with the existing CSP facility is 300 acre-feet per year. Water usage associated with the Project is expected to be 10 acre-feet per year. Compared with industrial water use, the expected Project water use is insignificant and will not affect groundwater supplies.

- 7. The proposed commercial solar energy generation facility will minimize site grading, excavating, and filling activities by being located on land where the existing grade does not exceed an average of five (5) percent across the developed portion of the Project site, and by utilizing construction methods that minimize ground disturbance.**

*Project Consistency:* The Project has been designed to minimize site grading, excavation and filling to the extent feasible by locating the facility on a previously developed site.

The Project is entirely within the existing Sunray CSP facility, which was constructed on graded land and which will be demolished prior to construction of the Project.

- 8. The proposed commercial solar energy generation facility is located in proximity to existing electrical infrastructure such as transmission lines, utility corridors and roads such that: (a) minimal ground disturbance and above ground infrastructure will be required to connect to the existing transmission grid, (b) new electrical generation tie lines have been co-located on existing power poles whenever possible, and (c) existing rights-of-way and designated utility corridors will be utilized to the extent practicable.**

*Project Consistency:* The proposed interconnection points are located within the Project site. Transmission lines are adjacent to the southeast. Interconnection will not require any significant off-site power line improvements.

- 9. The proposed commercial solar energy generation facility will be sited so as to avoid or minimize impacts to the habitat of special status species, including threatened, endangered, or rare species, Critical Habitat Areas as designated by the U.S. Fish and Wildlife Service, important habitat/wildlife linkages or areas of connectivity designated by County, State or Federal agencies, and areas of Habitat Conservation Plans or Natural Community Conservation Plans that discourage or preclude development.**

*Project Consistency:* Although the site is fully developed and currently fenced, because the site is within a biotic overlay area with the potential to support desert tortoise (DT) and burrowing owl (BUOW), SummitWest Environmental, Inc. conducted a survey of the site and prepared a *Focused Survey for Desert Tortoise & Western Burrowing Owl Report* (Report) in March 2015. Results of the Report were that no DT or BUOW individuals were found and no evidence was observed that would indicate their recent or historic occurrence on site. SummitWest thus concluded that DT and BUOW are absent from the site. Even so, Project design features, policies, plans and procedures that are responsive to this potential have been incorporated as Conditions of Approval. Implementation of the Project would not result in impacts.

- 10. Adequate provision has been made to maintain and promote native vegetation and avoid the proliferation of invasive weeds during and following construction.**

*Project Consistency:* The Project will not cause or encourage the growth of invasive weeds during and following construction. The Project will involve grubbing, which will remove and destroy existing invasive species on the site.

- 11. The proposed commercial solar energy generation facility will be located so as to avoid or mitigate impacts to significant cultural and historic resources, as well as sacred landscapes.**

*Project Consistency:* The Project site is fully developed and has been since 1984. However, implementation of policies, plans and procedures, and precautionary measures related to paleontological resources have been incorporated as Conditions of Approval. No impacts to cultural resources resulting from the Project are anticipated.

- 12. The proposed commercial solar energy generation facility will be designed in a manner that does not impede flood flows, avoids substantial modification of natural water courses, and will not result in erosion or substantially affect area water quality.**

*Project Consistency:* The Project includes design features to ensure storm flows are properly managed, do not cause on- or off-site damage, and flow to the same destinations. Precautionary measures have been incorporated as Conditions of Approval to insure that these features remain intact.

- 13. The proposed commercial solar energy generation facility will not be located within a floodway designated by the Federal Emergency Management Agency (FEMA), has been evaluated for flood hazard impacts pursuant to Chapter 82.14 of the Development Code, and will not result in increased flood hazards to upstream or downstream properties.**

*Project Consistency:* The solar Project site is not located within a 100-year floodplain or in a floodway. Review of the Project determined there would be no new significant impacts related to flooding.

- 14. All on-site solar panels, switches, inverters, transformers and substations will be located at least one foot above the base flood elevation as shown on the Flood Insurance Rate Maps.**

*Project Consistency:* No portion of the solar site is within a 100-year flood zone, and there are no established base flood elevations for the area.

- 15. For development sites proposed on or adjacent to undeveloped alluvial fans, the commercial solar energy generation facility has been designed to avoid potential channel migration zones as demonstrated by a geomorphic assessment of the risk of existing channels migrating into the proposed development footprint, resulting in erosion impacts.**

*Project Consistency:* The Project is not on or adjacent to undeveloped alluvial fans. There is no realistic potential for stormwater flows to result in erosion on the site, but precautionary measures have been incorporated into the Conditions of Approval even so.

- 16. For proposed facilities located on prime agricultural soils or land designated by the California Farmland Mapping and Monitoring Program as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, where use of the land for agricultural purposes is feasible, the proposed**

**commercial solar energy generation facility will not substantially affect the agricultural viability of surrounding lands.**

*Project Consistency:* The Project is not located on Important Farmland, as mapped by the State.

**17. If the proposed site is subject to a Williamson Act contract, the proposed commercial solar energy generation facility is consistent with the principles of compatibility set forth in California Government Code Section 51238.1.**

*Project Consistency:* The Project site is not subject to a Williamson Act contract.

**18. The proposed commercial solar energy generation facility will not preclude access to significant mineral resources.**

*Project Consistency:* The Project site is not located in an area of known, significant mineral resources. Additionally, solar energy generation is considered an interim land use (with a limited-term contract with a utility) and is expected to be removed after its contractual lifetime.

**19. The proposed commercial solar energy generation facility will avoid modification of scenic natural formations.**

*Project Consistency:* As described in Finding #1, above, the environment and character of the Project area is dominated by the industrial nature of the existing CSP facility, the railroad line, the County airport, the existing power plant, two interstate highways, and numerous paved and dirt roads traversing the area.

**20. The proposed commercial solar energy generation facility will be designed, constructed, and operated so as to minimize dust generation, including provision of sufficient watering of excavated or graded soil during construction to prevent excessive dust. Watering will occur at a minimum of three (3) times daily on disturbed soil areas with active operations, unless dust is otherwise controlled by rainfall or use of a dust palliative, or other approved dust control measure.**

*Project Consistency:* The Project will apply dust control measures in compliance with Mojave Desert Air Quality Management District (MDAQMD) regulations. The incorporated project design features, policies plans and procedures, and preparation and implementation of a Dust Control Plan have been incorporated as Conditions of Approval.

**21. All clearing, grading, earth moving, and excavation activities will cease during period of winds greater than 20 miles per hour (averaged over one hour), or when dust plumes of 20 percent or greater opacity impact public roads, occupied structures, or neighboring property, and in conformance with Air Quality Management District (AQMD) regulations.**

*Project Consistency:* The Project will apply dust control measures in compliance with MDAQMD regulations that have been incorporated as Conditions of Approval. The Dust Control Plan prepared for the Project will require activities on



unpaved surfaces cease when wind speeds exceed 20 miles per hour or when significantly visible dust occurs.

- 22. For sites where the boundary of a new commercial solar energy generation facility is located within one-quarter mile of a primary residential structure, an adequate wind barrier will be provided to reduce potentially blowing dust in the direction of the residence during construction and ongoing operation of the commercial solar energy generation facility.**

*Project Consistency:* The Project site is not located within 0.25 mile of a primary residential structure. The nearest residential land uses are to the east and west, approximately 1.5 miles away. Nevertheless, the Project includes a project design feature, which has been incorporated as a Condition of Approval requiring that all perimeter fencing shall have wind barrier fencing (e.g., slats) or the equivalent.

- 23. Any unpaved roads and access ways will be treated and maintained with a dust palliative or graveled or treated by another approved dust control method to prevent excessive dust and paving requirements will be applied pursuant to Chapter 83.09 of the Development Code.**

*Project Consistency:* The Project will apply dust control measures in compliance with MDAQMD regulations. Project design features, policies plans and procedures, and Conditions of Approval requiring preparation and implementation of a Dust Control Plan, which will contain measures to ensure dust generation is controlled, such as watering and the use of soil stabilizers.

- 24. On-site vehicle speed will be limited to 15 miles per hour.**

*Project Consistency:* The Project will apply dust control measures in compliance with MDAQMD regulations. Project design features, policies plans and procedures, and Conditions of Approval will limit vehicle speeds on unpaved roads to 15 miles per hour.

- 25. For proposed commercial solar energy generation facilities within two (2) miles of the Joshua Tree National Park boundaries, the location, design, and operation of the proposed commercial solar energy generation facility will not be a predominant visual feature along the main access roads to the park (Park Boulevard and Utah Trail), nor will it substantially impair views from hiking/nature trails, campgrounds, and backcountry camping areas within the National Park.**

*Project Consistency:* The Project site is not within two miles of Joshua Tree National Park. Joshua Tree National Park is about 70 miles to the southeast.

- 26. For proposed facilities within two (2) miles of the Mojave National Preserve boundaries, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, hiking and backcountry camping areas within the National Preserve.**

*Project Consistency:* The Project site is not within two miles of the Mojave National Preserve. The Mojave National Preserve is about 67 miles to the east.

- 27. For proposed facilities within two (2) miles of Death Valley National Park boundaries, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, hiking and backcountry camping areas within the National Park.**

*Project Consistency:* The Project site is not within two miles of Death Valley National Park. Death Valley National Park is about 55 miles to the northeast.

- 28. For proposed facilities within two (2) miles of the boundaries of a designated wilderness area, the location, design, and operation of the proposed commercial solar energy facility will not be a predominant visual feature of, nor substantially impair views from, the designated wilderness area.**

*Project Consistency:* The Project site is not within two miles of any designated wilderness area. The nearest wilderness area is Newberry Mountains Wilderness, 4 miles to the southeast.

- 29. For proposed facilities within two (2) miles of the boundaries of any active military base, the location, design, and operation of the proposed commercial solar energy facility will not substantially impair the mission of the facility.**

*Project Consistency:* The Project site is not within two miles of any active military base. The nearest active military base is the Marine Corps Logistics Base in Barstow, 5.8 miles to the northwest.

- 30. When located within a city's sphere of influence, the proposed commercial solar energy facility is consistent with relevant city zoning requirements that would be applied to similar facilities within the city.**

*Project Consistency:* The Project site is not within the sphere of influence of a city. The City of Barstow sphere of influence is approximately 5.4 miles west of the Project site.

- 31. On terms and in an amount acceptable to the Director, adequate surety is provided for reclamation of new commercial solar energy facility sites should energy production cease for a continuous period of 180 days and/or if the site is abandoned.**

*Project Consistency:* Decommissioning of the site will occur in compliance with Development Code Section 84.29.060, which requires removal of site facilities when operations cease. A removal surety bond equal to 120 percent of the cost of removal (as estimated by a civil engineer) will be required in the Project's Conditions of Approval.

## **EXHIBIT B**

### **Conditions of Approval**

## CONDITIONS OF APPROVAL

### GENERAL REQUIREMENTS

Conditions of Operation and Procedure

*[Not subject to Condition Compliance Release Form (CCRF) signatures]*

#### **LAND USE SERVICES – Planning Division (760) 995-8140**

1. Project Approval Description. The County conditionally approves the proposed Conditional Use Permit to establish a 44-megawatt (MW) solar photovoltaic electricity generation facility in two phases (Project) on approximately 333 acres of land in compliance with the San Bernardino County Code (SBCC), California Building Codes (CBC), the San Bernardino Fire Code (SBFC), the following Conditions of Approval, the approved site plan, and all other required and approved reports and displays (e.g., elevations). After demolition of the existing solar thermal facility, this Project will consist of arrays of PV panels, which will be mounted on single-axis tracking systems and will have a maximum height of 20 feet. Each solar module shall be installed to the ground surface via driven piles resulting in minimal additional disturbance to topsoil. The Project site is currently surrounded by a slatted, eight-foot high chain link fence with three strands of barbed wire. No barbed wire or other sharp pointed material shall be allowed as part of the Project.

The developer shall provide a copy of the approved conditions and the site plan to every current and future Project tenant, lessee, and property owner to facilitate compliance with these Conditions of Approval and continuous use requirements for the Project Site with APN: 0516-341-14 and Project Number: P201400484.

2. Project Location. The Project site is in the unincorporated community of Daggett at 35100 Santa Fe Street in Daggett. The site is approximately 0.25 miles north of Santa Fe Street and west of the logical continuation of 1<sup>st</sup> Street, which carries unofficial names of Sunray Lane and Luz Lane.
3. Development Standards/IR. The Project site is located in the Desert Region, within the Regional Industrial (IR) Land Use Zoning District. Development Standards are listed in SBCC Chapter 82.06.
4. Annual Requirements: The developer of any approved commercial solar energy generation facility shall maintain a Special Use Permit and pay public safety services impact fees on an annual basis in compliance with SBCC §84.29.040.
5. Facility Design. The facility design shall incorporate the following guidelines:
  - The applicant shall arrange the arrays in a logical, orderly manner and pattern.
  - The applicant shall maintain the panels, inverters, and transformers so that electrical interference will not affect adjacent properties.

- The applicant shall perform any repairs or upgrades to the components of the solar power facility at such times and in such a manner that noise and glare will not be significantly disruptive to adjacent properties, roads, or traffic.
6. Continuous Maintenance. The Project property owner shall continually maintain the property so that it is not dangerous to the health, safety, and general welfare of both on-site users (e.g. employees) and surrounding properties. The developer shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. The elements to be maintained, include but are not limited to:
- Annual maintenance and repair inspections shall be conducted for all structures, fencing/walls, driveways, and signs to assure proper structural, electrical, and mechanical safety.
  - Graffiti and debris shall be removed within 48 hours of notification.
  - Dust control measures shall be maintained on any undeveloped areas where landscaping has not been provided.
  - Erosion control measures shall be maintained to reduce water runoff, siltation, and promote slope stability.
  - Signage. All on-site signs, including posted area signs (e.g. “No Trespassing”) shall be maintained in a clean readable condition at all times and all graffiti and vandalism shall be removed and repaired on a regular basis. Signs on the site shall be of the size and general location as shown on the approved site plan or subsequent County Planning-approved sign plan.
  - Fire Lanes. All markings required by the Fire Department, including “No Parking” designations and “Fire Lane” designations shall be clearly defined and shall be maintained in good condition at all times.
7. Performance Standards. The approved land uses shall operate in compliance with the general performance standards listed in the SBCC Chapter 83.01, regarding air quality, electrical disturbance, fire hazards (storage of flammable or other hazardous materials), heat, noise, vibration, and the disposal of liquid waste. In addition to these, none of the following shall be perceptible without instruments at any point outside the Project boundaries at adjoining property lines:
- Odors: No offensive or objectionable odor.
  - Smoke: No smoke of a greater density than that described in No. 2 on the Ringelmann Chart, as published currently by the United States Bureau of Mines, shall be emitted from any Project source.
  - Radiation: No dangerous amount of radioactive emissions.
  - Toxic Gases: No emission of toxic, noxious or corrosive fumes of gases.
  - Glare: No intense glare that is not effectively screened from view at any point outside the Project boundary.
8. Revisions. Any proposed change to the approved use/activity on the site (e.g. from solar facility to other uses); or any increase in the developed area of the site

or expansion to the approved facilities, including changes to structures, tracking system, equipment, elevations, heights, signs, parking allocation, lighting, or a proposed change in the Conditions of Approval, including operational restrictions from those shown either on the approved site plan and/or in the Conditions of Approval shall require that an additional land use application (e.g. Revision to an approved Action) be approved by the County. The developer shall prepare, submit with fees, and obtain approval of the application prior to implementing any such revision or modification. (SBCC §86.06.070)

9. Continuous Effect/Revocation. All of the Conditions of Approval applied to this Project shall be effective continuously throughout the operative life of the Project for all approved structures and approved land uses/activities. Failure of the property owner or developer to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the approved land use, provided adequate notice, time, and opportunity is provided to the property owner, developer, or other interested party to correct the non-complying situation.
10. Indemnification. In compliance with SBCC §81.01.070, the developer shall agree to defend, indemnify, and hold harmless the County or its “indemnitees” (herein collectively the County’s elected officials, appointed officials [including Planning Commissioners], Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning the map or permit or any other action relating to or arising out of County approval, including the acts, errors, or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval.

Any Condition of Approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the developer of any claim, action, or proceeding and that the County cooperates fully in the defense. The developer shall reimburse the County and its indemnitees for all expenses resulting from such actions, including any court costs and attorney’s fees, which the County or its indemnitees may be required by a court to pay as a result of such action.

At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the developer of their obligations under this condition to reimburse the County or its indemnitees for all such expenses.

This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer’s indemnification obligation applies to the indemnitee’s “passive” negligence but does not apply to the indemnitee’s “sole”

or “active” negligence or “willful misconduct” within the meaning of Civil Code Section 2782.

11. Local Labor. *The developer shall give preference to and employ San Bernardino County residents as much as practicable during construction and operation of the facility.*
12. Development Impact Fees. Additional fees may be required prior to issuance of development permits. Fees shall be paid as specified in adopted fee ordinances.
13. Project Account. The Job Costing System (JCS) account number is P201400484. This is an actual cost Project with a deposit account to which hourly charges are assessed. The developer shall maintain a positive account balance at all times. A minimum balance of \$1000 must be in the Project account at the time the Condition Compliance Review is initiated. Sufficient funds must remain in the account to cover the charges during each compliance review. All fees required for processing shall be paid in full prior to final inspection, occupancy and operation of the approved use. There shall be sufficient funds remaining in the account to properly fund file closure and any other required post-occupancy review and inspection (e.g. landscape performance).
14. Expiration/CUP. This Project permit approval shall expire and become void if it is not exercised within three years of the effective date of this approval, unless an extension of time is approved. The permit is deemed exercised when either:
  - A. The developer has commenced actual construction or alteration under a validly issued Building Permit, or
  - B. The developer has substantially commenced the approved land use or activity on the Project site, for those portions of the Project not requiring a Building Permit. (SBCC 86.06.060)
  - C. Occupancy of completed structures and operation of the approved exercised land use remains valid continuously for the life of the Project and the approval runs with the land, unless one of the following occurs:
    - Construction permits for all or part of the Project are not issued or the construction permits expire before the structure is completed and the final inspection is approved.
    - The land use is determined by the County to be abandoned or non-conforming.
    - The land use is determined to be not operating in compliance with these Conditions of Approval, the County Code, or other applicable laws, ordinances, or regulations. In these cases, the land use may be subject to a revocation hearing and possible termination.

PLEASE NOTE: *This will be the ONLY notice given of the expiration date. The developer is responsible for initiation of any Extension of Time application.*

15. Extension of Time/CUP. Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments each not to exceed an additional three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than 30 days before the expiration date. Extensions of time may be granted based on a review of the application, which includes a justification of the delay in construction and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised Conditions of Approval or site plan modifications. (SBCC §86.06.060)
16. Condition Compliance. In order to obtain construction permits for grading, building, final inspection and/or tenant occupancy for each approved building, the developer shall process a Condition Compliance Release Form (CCRF) for each respective building and/or phase of the development through County Planning in accordance with the directions stated in the Approval letter. County Planning shall release their holds on each phase of development by providing to County Building and Safety the following:
  - A. Grading Permits – a copy of the signed CCRF for grading/land disturbance and two “red” stamped and signed approved copies of the grading plans.
  - B. Building Permits – a copy of the signed CCRF for building permits and three “red” stamped and signed approved copies of the final approved site plan.
  - C. Final Inspection – a copy of the signed CCRF for final inspection of each respective building, after an on-site compliance inspection by County Planning.
17. Additional Permits. The property owner, developer, and land use operator are all responsible to ascertain and comply with all laws, ordinances, regulations, and any other requirements of Federal, State, County, and Local agencies as are applicable to the development and operation of the approved land use and Project site. These include:
  - A. FEDERAL: U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service
  - B. STATE: California Department of Fish and Wildlife, Mojave Desert Air Quality Management District, Lahontan Regional Water Quality Control Board, California Energy Commission
  - C. COUNTY: Land Use Services – Divisions of Planning, Building and Safety, Code Enforcement, Land Development; County Fire; Environmental Health Services; and Public Works
  - D. LOCAL: None
18. Clear Sight Triangle. Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90-degree angle intersections of public rights-of-way and private driveways. All signs, structures, and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC 83.02.030) or as otherwise required by County Traffic.



19. Construction Hours: Construction will be limited to the hours between 7:00 AM and 7:00 PM, Monday through Saturday in accordance with the SBCC standards. No construction activities are permitted outside of these hours or on Sundays and Federal holidays.
20. Lighting Requirements. The area of illumination from any lighting will be confined to within the site boundaries to minimize impacts to night sky views from surrounding properties. On-site lighting will be fully shielded, diffused, or directed in a manner to avoid glare directed at adjacent properties, roadways or any light spill into any wildland areas surrounding the site that might affect nocturnal animals. No light will Project onto adjacent roadways in a manner that interferes with on-coming traffic. All lighting will be limited to that necessary for maintenance activities, security, and safety purposes. All signs proposed by this Project will only be lit by steady, stationary, shielded light directed at the sign, by light inside the sign or by direct stationary neon lighting.

#### **LAND USE SERVICES – Code Enforcement (760) 995-8140**

21. Enforcement. If any County enforcement activities are required to enforce compliance with the Conditions of Approval, the property owner shall be charged for such enforcement activities in accordance with the County Code Schedule of Fees.
22. Weed Abatement. In conjunction with required permits, the applicant shall comply with San Bernardino County Desert Area Fire Hazard Abatement regulations [SBCC§ 23.031-23.043] and periodically clear the site of all non-complying vegetation. This includes removal of all Russian thistle (tumbleweeds).

#### **PUBLIC HEALTH – Environmental Health Services [DEHS] (800) 442-2283**

23. Noise. Noise level shall be maintained at or below County Standards, Development Code Section 83.01.080. For information, please call DEHS at 1-800-442-2283.

#### **SAN BERNARDINO COUNTY FIRE – Community Safety (760) 995-8190**

24. Jurisdiction. The above referenced Project is under the jurisdiction of the San Bernardino County Fire Protection District, herein “Fire Department”. Prior to any construction occurring on any parcel, the developer shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances, and standards of the Fire Department.
25. Expiration. Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized

by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred within 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.

### **LAND USE SERVICES – Land Development – Drainage (909) 387-8311**

26. Tributary Drainage. Adequate provisions should be made to manage the tributary off-site/on-site drainage flows around and through the site in a manner that will not adversely affect adjacent or downstream properties.
27. Natural Drainage. The natural drainage courses traversing the site shall not be occupied or obstructed.
28. Additional Drainage Requirements. In addition to drainage requirements stated herein, other on-site and/or off-site improvements may be required that cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

### **PUBLIC WORKS – Solid Waste Management Division (909) 386-8701**

29. Mandatory Commercial Recycling. Beginning July 1, 2012 all businesses defined to include a commercial or public entity that generates 4 or more cubic yards of commercial solid waste a week or is a multi-family residential dwelling of 5 units or more to arrange for recycling services. The County is required to monitor business recycling and will require the business to provide recycling information. This requirement is to assist the County in compliance with the recycling requirements of AB 341.

**PRIOR TO ISSUANCE OF DEMOLITION PERMITS,**

Completion of the following must occur, with written confirmation of compliance provided

**PUBLIC WORKS – Solid Waste Management Division (909) 386-8701**

30. Construction and Demolition Waste Management Plan (CDWMP) Part 1 – The developer shall prepare, submit, and obtain approval from SWMD of a CDWMP Part 1 for each phase of the project. The CWMP shall list the types and weights or volumes of solid waste materials expected to be generated from demolition. The CDWMP shall include options to divert from landfill disposal, materials for reuse or recycling by a minimum of 50 percent of total weight or volume. Forms can be found on our website at [www.sbcounty.gov/dpw/solidwaste](http://www.sbcounty.gov/dpw/solidwaste). An approved CDWMP Part 1 is required before a demolition permit can be issued.

**PRIOR TO ANY LAND DISTURBANCE OR ISSUANCE OF ANY GRADING PERMITS,**  
Completion of the following must occur, with CCRF signatures

**LAND USE SERVICES – Building and Safety (909) 387-8311**

31. Retaining Wall Plans. Submit plans and obtain separate permits for any required walls or retaining walls.
32. Geology Report. A geology report shall be submitted to the Building and Safety Division for review and approval by the County Geologist and fees paid for the review prior to final project approval.
33. Geotechnical (Soil) Report. When earthwork quantities exceed 5,000 cubic yards, a geotechnical (soil) report shall be submitted to the Building and Safety Division for review and approval prior to issuance of grading permits.
34. Demolition Permit. Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.
35. Erosion and Sediment Control Plan. An erosion and sediment control plan and permit shall be submitted to and approved by the Building Official prior to any land disturbance.
36. Grading Plans. Grading plans shall be submitted to Building and Safety for review and approval prior to grading/land disturbance of more than 50 cubic yards.
37. Erosion Control Installation. Erosion control devices must be installed at all perimeter openings and slopes. No sediment is to leave the job site.
38. NPDES Permit. A NPDES permit – Notice of Intent (NOI) - is required on all grading of one acre or more prior to issuance of a grading/construction permit. Contact your Regional Water Quality Control Board for specifics. [www.swrcb.cas.gov](http://www.swrcb.cas.gov)
39. Regional Board Permit Letter. CONSTRUCTION projects involving one or more acres must be accompanied by a copy of the Regional Board permit letter with the WDID#. Construction activity includes clearing, grading, or excavation that results in the disturbance of at least one acre of land total.

**LAND USE SERVICES – Code Enforcement Division (760) 995-8140**

40. Special Use Permit: The developer shall submit for review and gain approval for a Special Use Permit (SUP) from County Code Enforcement. Thereafter, the SUP shall be renewed annually subject to annual inspections. The annual SUP inspections shall review & confirm continuing compliance with the listed Conditions of Approval, including all mitigation measures. This comprehensive

compliance review shall include evaluation of the maintenance of all storage areas, landscaping, screening and buffering. Failure to comply shall cause enforcement actions against the developer. Such actions may cause a hearing or an action that could result in revocation of this approval and imposition of additional sanctions and/or penalties in accordance with established land use enforcement procedures. Any additional inspections that are deemed necessary by the Code Enforcement Supervisor shall constitute a special inspection and shall be charged at a rate in accordance with the County Fee Schedule, including travel time, not to exceed three (3) hours per inspection.

### **LAND USE SERVICES – Planning (760) 995-8140**

41. Public Safety Services Impact Fee. As part of the Special Use Permit, the developer shall pay an annual public safety services impact fee in accordance with Code §84.29.040(d). This shall be paid annually in conjunction with the SUP renewal.
42. Landscape Buffers. The Developer shall provide landscaping buffers between the solar panel fields and the adjacent properties in compliance with Chapter 83.10 of the County Development Code, at a minimum. Provide verification to the Planning Division prior to land disturbance.
43. Adequate Wind Barrier. An adequate wind barrier of fence slats or similar wind barrier shall be installed along any property boundary within ¼ mile of a residential structure. Provide verification of compliance (i.e. material specification sheets, site photos showing installation, etc.) to the Planning Division prior to land disturbance.
44. AQ/Dust Control Plan. The developer will prepare, submit and obtain approval from County Planning of a Dust Control Plan (DCP) consistent with MDAQMD guidelines and a letter agreeing to include in any construction contracts/subcontracts a requirement that Project contractors adhere to the requirements of the DCP. The DCP will include the following elements to reduce dust production:
  - a) Exposed soils and haul roads will be watered three times per day to reduce fugitive dust during all grading/construction activities. Inactive areas will be treated with soil stabilizers such as hay bales, non-toxic soil binder, or aggregate cover.
  - b) Street sweeping will be conducted when visible soil accumulations occur along site access roadways to remove dirt dropped by construction vehicles.
  - c) Site access driveways and adjacent streets will be washed daily, if there are visible signs of any dirt track-out at the conclusion of any workday.
  - d) All trucks hauling dirt away from the site will be covered, and speeds on unpaved roads will be reduced below 15 miles per hour (mph).
  - e) During high wind conditions (i.e., wind speeds exceeding 25 mph), areas with disturbed soil will be watered hourly and activities on unpaved surfaces will cease until wind speeds no longer exceed 25 mph.

- f) Storage piles that are to be left in place for more than three working days will be sprayed with a non-toxic soil binder, covered with plastic, or re-vegetated.
45. Worker Environmental Awareness Program. Although Presence/Absence Surveys determined the site is unoccupied by special status species, prior to the start of construction activities, the Applicant shall prepare and implement a Worker Environmental Awareness Program (WEAP) for site construction works. This program shall include information specific to protected or special-status species which could potentially be impacted by the Project, including Desert Tortoise and burrowing owl. The WEAP will summarize the general rules and procedures that must be followed by each person on the Project to assure the minimization or complete avoidance of impacts to protected biological resources and special status species.
46. Desert Tortoise – On and Off-site Raven Management Plan. In order to offset direct impacts from development Projects with the potential to increase raven populations (and decrease desert tortoise populations), the applicant shall develop an on-site raven management plan. This plan is to eliminate and/or minimize the availability of subsidies (i.e. food, water, nest sites), and the potential for ravens to occupy the site during all phases of development and use, including construction, operation, maintenance, and decommissioning. The applicant shall also contribute to the regional raven management plan, which is managed by the National Fish and Wildlife Foundation. For Projects with 30-year durations, the contribution to the regional plan is \$105 per acre impacted. The total contribution includes acreage associated with substations and transmission lines.
47. Burrowing Owl – Pre-Construction Surveys. Although Presence/Absence Surveys determined the site is unoccupied by special status species, within 14 days prior to ground disturbance, the Applicant will retain a qualified biologist to conduct burrowing owl surveys within the area to be disturbed. The survey will be performed by walking parallel transects spaced no more than 20 meters apart, and will be focused on detecting burrows that are occupied, or are suitable for occupation, by the burrowing owl. The results of the surveys, including graphics showing the locations of any active burrows detected and any avoidance measures required, will be submitted to the County of San Bernardino within 14 days following completion of the surveys. If active burrows are detected, the following take avoidance measures will be implemented:
- If burrowing owls are observed using burrows on-site during the non-breeding season (September through January, unless determined otherwise by a qualified biologist based on field observations in the region), occupied burrows will be left undisturbed, and a burrowing owl habitat management plan shall be created.
  - If avoiding disturbance of owls and owl burrows on-site is infeasible, owls will be excluded from all active burrows through the use of exclusion devices placed in occupied burrows in accordance with protocols established in

CDFW's Staff Report on Burrowing Owl Mitigation (2012). Specifically, exclusion devices, utilizing one-way doors, will be installed in the entrance of all active burrows. The devices will be left in the burrows for at least 48 hours to ensure that all owls have been excluded from the burrows. Each of the burrows will then be excavated by hand and/or mechanically and refilled to prevent reoccupation. Exclusion will continue until the owls have been successfully excluded from the disturbance area, as determined by a qualified biologist.

- Any active burrowing owl burrows detected on-site during the breeding season (February through August, unless determined otherwise by a qualified biologist based on field observations in the region), will not be disturbed and a burrowing owl habitat management plan shall be created (see below). To the maximum extent practicable, a buffer zone from occupied nests should be maintained during physical ground disturbing activities. Once nesting has ended, the buffer may be removed.

48. Nesting Bird – Pre-Construction Surveys. Although Presence/Absence Surveys determined the site is unoccupied by special status and common species, within 30 days prior to vegetation clearing or ground disturbance associated with demolition, grading, or construction that would occur during the nesting/breeding season (February through August, unless determined otherwise by a qualified biologist based on observations in the region), the Applicant will retain a qualified biologist to determine if active nests of species protected by the Migratory Bird Treaty Act or the California Fish and Game Code are present within or adjacent to the disturbance zone or within 100 feet (300 feet for raptors) of the disturbance zone. The surveys will be conducted no more than seven days prior to initiation of disturbance work within active Project areas. If ground disturbance activities are delayed, then additional pre-disturbance surveys will be conducted such that no more than seven days will have elapsed between the survey and ground disturbance activities. If ground disturbance will be phased across the Project site, pre-disturbance surveys may also be phased to conform to the development schedule.

- If active nests are found, clearing and construction within 100 feet of the nest will be postponed or halted, until the nest is vacated and juveniles have fledged, as determined by the biologist. Avoidance buffers will be established in the field with highly visible construction fencing or flagging, and construction personnel will be instructed on the sensitivity of nest areas. A qualified biologist will serve as a construction monitor during those periods when construction activities will occur near active nests to ensure that no inadvertent impacts on these nests occur.
- The results of pre-construction nesting bird surveys, including graphics showing the locations of any nests detected, and documentation of any avoidance measures taken, will be submitted to the County of San Bernardino within 14 days of completion of the pre-construction surveys or construction monitoring to document compliance with applicable state and federal laws pertaining to the protection of native birds.

## **PUBLIC WORKS – Surveyor (909) 387-8149**

49. Record of Survey or Corner Record. Pursuant to Sections 8762(b) and/or 8773 of the Business and Professions Code, a Record of Survey or Corner Record shall be filed under any of the following circumstances:
  - a. Monuments set to mark property lines or corners;
  - b. Performance of a field survey to establish property boundary lines for the purposes of construction staking, establishing setback lines, writing legal descriptions, or for boundary establishment/mapping of the subject parcel;
  - c. Any other applicable circumstances pursuant to the Business and Professions Code that would necessitate filing of a Record of Survey
50. Monumentation. If any activity on this Project will disturb any land survey monumentation, including but not limited to vertical control points (benchmarks), said monumentation shall be located and referenced by or under the direction of a licensed land surveyor or registered civil engineer authorized to practice land surveying prior to commencement of any activity with the potential to disturb said monumentation, and a corner record or record of survey of the references shall be filed with the County Surveyor (Section 8771(b) Business and Professions Code).

## **LAND USE SERVICES – Land Development – Drainage (909) 387-8311**

51. Drainage Improvements. A Registered Civil Engineer shall investigate and design adequate drainage improvements to intercept and conduct the off-site and on-site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties. Submit drainage study for review and obtain approval. A \$520 deposit for drainage review will be collected upon submittal to the Land Development Division.
52. FEMA Flood Zone. The Project is located within Flood Zone D according to FEMA Panel Number 4600H dated 8/28/08. Flood Hazards are undetermined in this area but possible. The requirements may change based on the recommendations of a drainage study accepted by the Land Development Division and the most current Flood Map prior to issuance of grading permit.
53. Topo Map. A topographic map shall be provided to facilitate the design and review of necessary drainage facilities.
54. Grading Plans. Grading plans shall be submitted for review and approval obtained. A \$520 deposit for grading plan review will be collected upon submittal to the Land Development Division.

## **SPECIAL DISTRICTS DEPARTMENT/AIRPORTS – (909) 387-5530**

55. Avigation Easement. Review, approval, and recordation of avigation easement documents must be completed prior to issuance of grading permits.



**SAN BERNARDINO COUNTY FIRE – Community Safety (760) 995-8190**

56. Access. The development shall have a minimum of one point of vehicular access. This is for fire/emergency equipment access and for an evacuation route.
- Single Story Road Access Width: All buildings shall have access provided by approved roads, alleys and private drives with a minimum 26 foot unobstructed width and vertically to 14 feet 6 inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.  
Multi-Story Road Access Width: Buildings three stories in height or more shall have a minimum access of 30 feet unobstructed width and vertically to 14 feet 6 inches in height.
57. Encroachment Permits. Prior to installation of road and drainage improvements, a permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8046, as well as other agencies prior to work within their jurisdiction.

**PRIOR TO ISSUANCE OF BUILDING PERMITS,**  
Completion of the following must occur, with CCRF signatures

**LAND USE SERVICES – Planning (760) 995-8140**

58. Decommissioning Requirements. In accordance with SBCC 84.29.070, Decommissioning Requirements, the Developer shall submit a Closure Plan to the Planning Division for review and approval. The Decommissioning Plan shall satisfy the following requirements:
- a) Closure Plan. Following the operational life of the Project, the Project owner shall perform site closure activities to meet federal, state, and local requirements for the rehabilitation and re-vegetation of the Project Site after decommissioning. The applicant shall prepare a Closure, Re-vegetation, and Rehabilitation Plan and submit to the Planning Division for review and approval prior to building permit issuance. Under this plan, all aboveground structures and facilities shall be removed to a depth of three feet below grade, and removed off-site for recycling or disposal. Concrete, piping, and other materials existing below three feet in depth may be left in place. Areas that had been graded shall be restored to original contours unless it can be shown that there is a community benefit for the grading to remain as altered. Succulent plant species native to the area shall be salvaged prior to construction, transplanted into windrows, and maintained for later transplanting following decommissioning. Shrubs and other plant species shall be re-vegetated by the collection of seeds and re-seeding following decommissioning.
  - b) Closure Compliance. Following the operational life of the Project, the developer shall perform site closure activities in accordance with the approved closure plan to meet federal, state, and local requirements for the rehabilitation and re-vegetation of the Project site after decommissioning. Project decommissioning shall be performed in accordance with all other plans, permits, and mitigation measures that would assure the Project conforms to applicable requirements and would avoid significant adverse impacts. These plans shall include the following as applicable:
    - Erosion and Sediment Control Plan
    - Drainage Report
    - Notice of Intent and Stormwater Pollution Prevention Plan
    - Air Quality Permits
    - Biological Resources Report
    - Incidental Take Permit, Section 2081 of the Fish and Game Code
    - Cultural Records Report
    - The County may require a Phase 1 Environmental Site Assessment be performed at the end of decommissioning to verify site conditions.

### **LAND USE SERVICES – Building and Safety (909) 387-8311**

59. Demolition Permit. Obtain a demolition permit for any building/s or structures to be demolished. Underground structures must be broken in, back-filled and inspected before covering.
60. Construction Plans. Any building, sign, or structure to be constructed or located on site, will require professionally prepared plans based on the most current County and California Building Codes, submitted for review and approval by the Building and Safety Division.
61. Temporary Use Permit. A Temporary Use Permit (TUP) for the office trailer will be required or it must be placed on a permanent foundation per State H.C.D. guidelines. A TUP is only valid for a maximum of five years.

### **PUBLIC WORKS – Solid Waste Management Division (909) 386-8701**

62. Construction and Demolition Waste Management Plan (CDWMP) Part 2 – Upon completion of demolition, the developer shall complete SWMD's CDWMP Part 2 and shall provide documentation of diversion of materials including but not limited to receipts, invoices or letters showing material type(s) and weights or volume from diversion facilities or certification of reuse of materials on site. An approved Part 2 of the CDWMP is required prior to issuance of building permits.
63. Construction and Demolition Waste Management Plan (CDWMP) Part 1 – The developer shall prepare, submit, and obtain approval from SWMD of a CDWMP Part 1 **for each phase of the project.** The CWMP shall list the types and weights or volumes of solid waste materials expected to be generated from construction. The CDWMP shall include options to divert from landfill disposal, materials for reuse or recycling by a minimum of 50% of total weight or volume. Forms can be found on our website at [www.sbcounty.gov/dpw/solidwaste](http://www.sbcounty.gov/dpw/solidwaste). An approved CDWMP Part 1 is required before a building permit can be issued.

### **SAN BERNARDINO COUNTY FIRE – Community Safety (760) 995-8190**

64. Building Plans. No less than three complete sets of Solar/Photovoltaic Plans shall be submitted to the Fire Department for review and approval. Plans shall be submitted and approved prior to CCRF for building permit issuance.
65. Road Standards. All roads must be an all-weather driving surface or an aggregate base compacted to 85 percent. Roads must have a 45' outside turning radius. Access roads must be a maximum of 600' apart. Perimeter roads must be no less than 26' wide and interior roads no less than 20' wide.
66. Commercial Addressing. Commercial and industrial developments of 100,000 square feet or less shall have the street address installed on the building with numbers that are a minimum six inches in height with a  $\frac{3}{4}$  inch stroke. The street

address shall be visible from the street. During hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is 200 feet or more from the roadway, additional non-illuminated contrasting six inch numbers shall be displayed at the property access entrances.

67. Street Sign. This Project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the Project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.

**PRIOR TO FINAL INSPECTION OR OCCUPANCY,**  
Completion of the following must occur, with CCRF signatures

**SAN BERNARDINO COUNTY FIRE – (760) 995-8190**

68. Haz-Mat Approval. The applicant shall contact the San Bernardino County Fire Department/Hazardous Materials Division (909) 386-8400 for review and approval of building plans, where the planned use of such buildings will or may use hazardous materials or generate hazardous waste materials.
69. Material Identification Placards. The applicant shall install Fire Department approved materials identification placards on the outside of all buildings and/or storage tanks that store or plan to store hazardous or flammable materials in all locations deemed appropriate by the Fire Department. Additional placards shall be required inside the buildings when chemicals are segregated into separate areas. Any business with an NFPA 704 rating of 2-3-3 or above shall be required to install an approved key box vault on the premises, which shall contain business access keys and a business plan.
70. Inspection by Fire Department. Permission to occupy or use the building (Certification of Occupancy or Shell Release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

**COUNTY FIRE DEPARTMENT – Hazardous Materials Division (909) 386-8401**

71. Emergency/Contingency Plan. Prior to occupancy, the operator shall submit a Business Emergency/Contingency Plan for emergency release or threatened release of hazardous materials and wastes or a letter of exemption. For information, contact the Office of the Fire Marshall, Hazardous Materials Division at (909) 386-8401.
72. Permits. Prior to occupancy, the applicant shall be required to apply for one or more of the following: a Hazardous Materials Handler Permit, a Hazardous Waste Generator Permit, and/or an Underground Storage Tank Permit. For information, contact the Office of the Fire Marshall, Hazardous Materials Division at (909) 386-8401.

**PUBLIC WORKS – Solid Waste Management Division (909) 386-8701**

73. C&D Plan – Part 2. The developer shall complete SWMD's C&D Plan Part 2". This summary shall provide documentation of diversion of materials including but not limited to receipts or letters from diversion facilities or certification reuse of materials on site. The C&D Plan – Part 2 shall provide evidence to the satisfaction of County Solid Waste that demonstrates that the Project has

diverted from landfill disposal materials for reuse or recycling by a minimum of 50 percent of total volume of all construction waste.

**LAND USE SERVICES – Land Development – Drainage (909) 387-8311**

74. Drainage Improvements. All required drainage improvements shall be completed by the applicant. The private registered engineer shall inspect improvements outside the County right-of-way and certify that these improvements have been completed according to the approved plans. Certification letter shall be submitted to Land Development.

**LAND USE SERVICES – Building and Safety (909) 387-8311**

75. Condition Compliance Release Form Sign-off. Prior to occupancy, all Department and/or Division requirements and sign-offs shall be completed.

**LAND USE SERVICES – Planning (760) 995-8140**

76. CCRF/Occupancy. Prior to occupancy/use, all Condition Compliance Release Forms (CCRF) shall be completed to the satisfaction of County Planning with appropriate authorizing signatures from each affected agency.
77. AQ – Installation. The developer shall submit for review and obtain approval from County Planning of evidence that all air quality-related conditions have been installed properly and that specified performance objectives are being met to the satisfaction of County Planning and County Building and Safety.
78. Dust Control – Operation. Prior to final inspection, the Applicant shall develop an Operational Dust Control Plan that shall be approved and implemented prior to energization of the solar facility. The Operational Dust Control Plan shall include Dust Control Strategies sufficient to ensure that areas within the Project site shall not generate visible fugitive dust (as defined in Mojave Desert Air Quality Management District's [MDAQMD's] Rule 403.2) such that dust remains visible in the atmosphere beyond the property boundary. During high wind events, Dust Control Strategies shall be implemented so as to minimize the Project site's contribution to visible fugitive dust beyond that observed at the upwind boundary.
79. Removal Surety. Surety in a form and manner determined acceptable to County Counsel and the Land Use Services Director shall be required for the closure costs and complete removal of the solar energy generating facility and other elements of the facility. The developer shall either:
- a) Post a performance or other equivalent surety bond issued by an admitted surety insurer to guarantee the closure costs and complete removal of the solar panels and other elements of the facility in a form or manner determined acceptable to County Counsel and the Land Use Services Director in an

amount equal to 120 percent of the cost estimate generated by a licensed civil engineer and approved by the Land Use Services Director; OR

- b) Cause the issuance of a certificate of deposit or an irrevocable letter of credit payable to the County of San Bernardino issued by a bank or savings association authorized to do business in this state and insured by the Federal Deposit Insurance Corporation for the purpose of guaranteeing the closure costs and complete removal of the solar panels and other elements of the facility in a form or manner determined acceptable to County Counsel and the Land Use Services Director in an amount equal to 120 percent of the cost estimate generated by a licensed civil engineer and approved by the Land Use Services Director.
80. Installation of Improvements. All required on-site improvements shall be installed.
81. Payment of Fees. Prior to final inspection by Building and Safety Division and/or issuance of a Certificate of Conditional Use by the Planning Division, the applicant shall pay in full all fees required under actual cost job number P201400484.

**END OF CONDITIONS**