

## DOCKETED

<b>Docket Number:</b>	09-AFC-07C
<b>Project Title:</b>	Palen Solar Power Project - Compliance
<b>TN #:</b>	201078
<b>Document Title:</b>	County of Riverside letter regarding Final Staff Assessment - Parts A and B
<b>Description:</b>	County of Riverside comment letter regarding FSA Parts A and B.
<b>Filer:</b>	Tiffany North
<b>Organization:</b>	County of Riverside
<b>Submitter Role:</b>	Public Agency
<b>Submission Date:</b>	10/30/2013 10:34:39 AM
<b>Docketed Date:</b>	10/29/2013

OFFICE OF COUNTY COUNSEL  
COUNTY OF RIVERSIDE

PAMELA J. WALLS  
County Counsel

ANITA C. WILLIS  
Assistant County Counsel

3960 ORANGE STREET, SUITE 500  
RIVERSIDE, CA 92501-3674  
TELEPHONE: 951/955-6300  
FAX: 951/955-6322 & 951/955-6363



October 29, 2013

Commissioner Karen Douglas, Presiding Member  
Christine Stora, Project Manager  
Ken Celli, Hearing Officer  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street, MS-14 (Dockets Unit)  
Sacramento, CA 95814-5512

Subject: County of Riverside Comments on the Final Staff Assessment – Parts A and B  
for the Proposed Palen Solar Electric Generating System Amendment (09-AFC-7C)

Dear Commissioner Douglas, Ms. Stora and Hearing Officer Celli:

The County of Riverside (“County”) is grateful to the California Energy Commission (“CEC”) Staff for attending to many of the County’s concerns and comments submitted in response to the Preliminary Staff Assessment (“PSA”) for the Palen Solar Electric Generating System Amendment (“PSEGS” or “Project”). The County also appreciates the opportunity to provide the following comments on Parts A and B of the Final Staff Assessment (“FSA”).

As advised in earlier correspondence, although PSEGS is located on federal land and under the CEC’s certification authority, PSEGS will have impacts on the County, County services and County residents that must be addressed. PSEGS, as amended, will have an impact on County’s fire and emergency response services, and County roads. Moreover, there is the potential for PSEGS to interfere with the County’s Public Safety Enterprise Communication System Project (“PSEC”). In addition, PSEGS will have a significant lasting visual impact on the scenic vistas of the eastern Coachella and Chuckwalla valleys. All of these impacts need to be fully addressed and fully mitigated to the greatest extent feasible so the County and its residents do not unfairly bear the burden of solar energy production at PSEGS. The County also remains concerned about PSEGS’s impact to biological resources and the necessary mitigation for such impacts.

**Biological Resources**

As stated by the County in its comment letter on the Preliminary Staff Assessment, the County remains concerned about the impacts to avian species from this relatively new solar tower technology on such a large scale. The County appreciates the increased conditioning that has been added in conditions of certification BIO-16a and BIO-16b.

The County also continues to have concerns that the Project has yet to identify the location of mitigation lands. If private land within the County must be permanently restricted for mitigation purposes, the economic impact resulting from the removal of those lands must be accounted for and further mitigation may be necessary to offset any identified adverse impacts to the County or to the environment.

### Cultural Resources

The County previously expressed its concern about the potential visual effects that the PSEGS would have on cultural resources within the Coachella and Chuckwalla valleys. The County requested that these effects be evaluated in more depth and reserved the right to comment further on cultural resources issues.

A review of the FSA – Part B found that the document primarily focuses on assessing the potential visual effects that PSEGS would have on cultural resources located beyond the facility site. The CEC Staff determined that the Project Area of Analysis (“PAA”) used in the 2010 licensing was not adequate to analyze the potential visual effects associated with the amended Project. As such, the CEC Staff expanded the PAA to include all areas visible within an approximately 15 miles of the two proposed solar power towers. This expansion resulted in the inclusion of much of the Chuckwalla and Palen valleys in the revised PAA. Although CEC Staff acknowledged that the view shed extends much farther than 15 miles in some areas, CEC staff determined that expanded PAA constitutes the geographic area in which the amended Project has the potential to have significant visual effects on cultural resources.

The far greater reach of the visual effects of PSEGS draw many more cultural resources into consideration. In an attempt to inventory cultural resources within the expanded PAA, the CEC Staff conducted limited field reconnaissance and additional records searches. Results of these additional investigations determined that the amended Project had the potential to visually impact prehistoric, ethnographic, and historic-period resources located beyond the facility site. To take into account the greater visual effects of the PSEGS on cultural resources, the CEC Staff recommended the adoption of revisions to CUL-1, along with a new Condition of Certification CUL-17. CEC Staff notes that although mitigation measures can reduce the cumulative visual impacts of PSEGS on cultural resources, these impacts cannot be reduced to a less than significant level.

The County finds the analysis regarding cultural resources in FSA – Part B to be adequate for the purposes of CEQA. The use of the expanded PAA, which includes all visible areas within a 15-mile radius of the project area boundary, seems appropriate for the evaluation of significant visual impacts on cultural resources of the amended Project. Furthermore, the conclusion that the amended Project would result in significant visual impacts to cultural resources is supported by the available data. The County has no additional comments at this time regarding the visual impacts of the PSEGS on cultural resources.

### Hazardous Materials Management

The County appreciates CEC Staff incorporating the County’s earlier comments into conditions of certification HAZ-2 and HAZ-4.

### Socioeconomics

The County appreciates CEC Staff’s addressing many of the County’s earlier comments on the socioeconomics section. The County now has a few questions about Socioeconomics Table 14 in the FSA. The County has reviewed Socioeconomics Table 14 on page 4.8-38 of the FSA and is unclear as to the tax revenue that will actually be realized by the County. The table lumps together “state and local sales taxes.” The table estimates sales taxes for construction of the PSEGS at \$7 million. The table estimates sales taxes during operation of PSEGS at \$70 million. It is unclear if this \$70 million amount is direct, indirect or induced economic impacts. Table 14 does not specify the amount of the sales tax revenue that will actually be realized by the County for the Project. The County respectfully requests that the state and local sales tax amounts in Table 14 and the “Noteworthy Public Benefits” section related thereto be clarified.

### Traffic and Transportation

The County remains concerned about the impact that construction-related traffic will have on County roads and intersections. Absent the CEC’s certification authority, the County would have the ability to

ensure mitigation of these impacts to County roads and intersections, and respectfully requests the CEC do the same.

The County agrees with Condition of Certification Trans-1 as proposed in the FSA and reiterated in Energy Commission Staff's Rebuttal Testimony.

The County has reviewed Condition of Certification Trans-3 as proposed in the FSA and as further amended in the Staff's Rebuttal Testimony. Condition of Certification Trans-3 was modified in the Rebuttal Testimony based on comments made in Palen Solar Holding, LLC's ("PSH") Opening Testimony. The County continues to request that, prior to approval of the PSEGS amendment, the Project owner be required to perform and provide analyses of the pavement structure for all County roadways that may be utilized by PSEGS's construction traffic. The County does not think it is sufficient to just focus this pavement testing on a portion of Corn Springs Road, as suggested by petitioner. We respectfully request that Trans-3 be revised to require that the Project owner consult with the County prior to construction to reasonably determine which roadways should be tested. The County also further requests the Project owner restore all County public roads, easements, and rights-of-way that may be damaged due to Project-related construction activities to original or near-original condition in a timely manner and that the Project owner be required to provide financial security to the County, in a form acceptable to the County, to ensure the restoration or replacement of County public roads, easements, and rights-of-way.

Additionally, given that Trans-3 has changed after publication of the FSA, it is not entirely clear that Trans-3 still includes the County's earlier request that the Traffic and Transportation Conditions of Certification be amended to require that all monthly compliance reports ("MCRs") be forwarded to the County of Riverside Department of Transportation for review and comment. The County continues to request that this be reflected in Trans-3.

The County appreciates PSH's inclusion of the modification to Condition of Certification Trans-7 as set forth in PSH's Opening Testimony which was previously agreed to by PSH and the County to address the County's public safety communication system, currently known as the Riverside County Public Safety Enterprise Communication System (PSEC). The County has one requested addition to the language proposed for Trans-7 as set forth in PSH's Opening Testimony. Specifically, the County requests that No. 7 in Trans-7 regarding the communication protocol be expanded to include the following:

Said specific contact information shall be for representatives at the PSEGS site that are knowledgeable about the heliostat operations, movements and positions and who have authority to take immediate steps to stop the interference with operation of the Riverside County public safety communication system, including but not limited to, repositioning or stowing the interfering heliostat(s).

#### Visual Resources

The County continues to have concerns about the visual impact of PSEGS. Even after implementing all staff-recommended conditions of certification, PSEGS will still have significant and unavoidable adverse direct visual impacts. It will also contribute to significant accumulated visual effects that will be cumulatively considerable when combined with the effects of other renewable and development projects along the Interstate 10 corridor, within the Chuckwalla Valley, and within the California Desert Conservation Area as a whole. This impact needs to be carefully evaluated, considered and addressed because it will have a lasting, permanent impact on the County's scenic vistas, desert wilderness and view shed.

#### Waste Management

The County has reviewed the additional solid waste information provided by CEC staff after release of the PSA. Based on that review and discussion between Riverside County Waste Management

Department Staff and CEC Staff, the County concurs with the conclusion that there is sufficient landfill capacity within Riverside County to accommodate the PSEGS project and that no cumulative solid waste impacts would occur. So long as the PSEGS project complies with all LORS, as proposed by CEC Staff, the County believes there would be no significant waste management impacts.

#### Worker Safety & Fire Protection

As previously advised, the County continues to support conditions of certification Worker Safety 1-4 and Worker Safety 8 and 9. The County thanks CEC staff for considering and including the County's suggested changes to conditions of certification Worker Safety 5, 6, and 10, as well as newly added condition of certification Haz-4 concerning NFPA 56(PS). The County also supports those conditions of certification as proposed by CEC Staff in the FSA.

Condition of Certification Worker Safety-7, as currently proposed in the FSA, states:

**WORKER SAFETY-7.** The project owner shall fund capital costs in the amount of \$1,000,000 and shall provide an annual payment of \$313,000 to the RCFD commencing with site mobilization and continuing annually thereafter. All annual payments after the initial payment shall be subject to an annual escalator equal to the Consumer Price Index (CPI-U, US City Average, All Items Less Food and Energy) for the previous calendar year as published by the U.S Bureau of Labor Statistics to account of inflation on the anniversary until the final date of power plant closure.

**Verification:** At least 30 days prior to the start of site mobilization, the project owner shall provide proof to the CPM that \$1,000,000 has been provided paid to the RCFD for capital costs.

**Documentation** that the annual payment of a letter of credit in the amount of \$313,000 has been paid to the RCFD on the first day of site mobilization and each year after that plus escalator shall be included each year in the Project Owner's Annual Report to the CPM.

The County supports Worker Safety-7 as proposed by CEC staff in the FSA and thanks CEC Staff for including the requested annual escalator into the condition.

In further reviewing the FSA, we believe it is important to highlight the additional comments made by CEC Staff in regards to the workload that RCFD would encounter at these potential calls within the PSEGS. As CEC Staff correctly and clearly articulates, the industrial level emergencies made possible by this Project and its change in technology would result in very labor intensive operations by RCFD. These operations would be made even more demanding on RCFD personnel by the high temperatures the majority of the year, and the prevailing and weather related high winds which blow across the desert.

The County recognizes that PSH disagrees with CEC Staff's proposed Worker Safety-7. The County also notes that PSH disagrees with CEC Staff's analysis and determination of mitigation compensation required for fire and emergency services over the life of the PSEGS. The County has reviewed PSH's Opening Testimony, including the declaration of Wesley Alston, and provides the following comments in response.

We respectfully disagree with Mr. Alston's assertion the County nor CEC Staff conducted any assessment of what infrastructure or level of support would be required solely due to the addition of the PSEGS. We continue to stand by the County's letters of July 30, 2013 and August 16, 2013. Those letters and the Attachment A, "Battalion 8 Solar Project Impacts and Mitigation," outline in detail the County's position regarding the fire needs of this Project, which remains unchanged after review of PSH's Fire and Emergency Services Risk Assessment and the declaration and testimony of Wesley Alston.

One of Mr. Alston's main arguments is that the "Commission should recognize that the RCFD will receive contributions from these other projects and, therefore, it is fundamentally unfair to place the entire burden for constructing infrastructure and manpower on the four projects over which the Commission has jurisdiction." As stated in the County's earlier letters, the solar thermal projects present a need for RCFD to be prepared to provide immediate technical rescue services and to be prepared for more complex emergencies requiring technical expertise and specialized equipment, including, but not limited to, confined space, trench, hi-angle rope rescues, entrapments, etc. As recognized by CEC Staff in the FSA, PSEGS is very different from the industrial, commercial, and residential development currently found in the Riverside County desert region. Solar photovoltaic projects do not present the same need for specialized technical rescue staffing, training and equipment.

Mr. Alston also argues that based on the frequency of calls, the current staffing of RCFD at the area fire stations should be sufficient to handle any increased volume from PSEGS construction and operation. As stated in the County's earlier letters and recognized by CEC Staff, it is not the anticipated frequency of calls, but the various hazards created by PSEGS and the types of inherent risks associated with potential emergencies which will impact the County. The solar power tower thermal technology brings with it an increase in the complexity of types of rescues likely to be encountered.

The County also would like to take this opportunity to clarify statements made in PSH's Opening Testimony regarding Board of Supervisors' Policy No. B-29 ("Policy B-29"). On November 8, 2011, the County adopted a comprehensive, integrated legislative solar power plant program which included General Plan Amendment No. 1080, Ordinance No. 348.4705, and Policy B-29. Together, the General Plan Amendment, the Zoning Ordinance Amendment, and Policy B-29 comprise the County's comprehensive, integrated legislative Solar Power Plant Program. When the Board of Supervisors adopted Policy B-29, it was expressly stated that "[T]he policy does not affect development impact fees or Fire Department capital costs, which will be handled as they have been in the past." A copy of the Board of Supervisor's approval documents from November 8, 2011 is attached hereto for ease of reference.

On May 21, 2013, the Board of Supervisors adopted revisions to Policy B-29. A copy of the Board of Supervisor's approval documents is attached hereto for ease of reference. Under Policy B-29:

- No encroachment permit shall be issued for a solar power plant unless the Board of Supervisors first grants a franchise to the solar power plant owner.
- No interest in the County's property, or the real property of any district governed by the County, shall be conveyed for a solar power plant unless the Board of Supervisors first approves a real property interest agreement with the solar power plant owner.
- No approval required by the County's Zoning or Subdivision Ordinances shall be given for a solar power plant unless the Board of Supervisors first approves a development agreement with the solar power plant owner and the development agreement is effective.

Policy B-29, as revised, requires that all such agreements shall include a term requiring a solar power plant owner to make an annual payment to the County of \$150 for each acre involved in the power production process and a term requiring that all such agreements include provisions to ensure the sales and use taxes payable in connection with the construction of the solar power plant are allocable to the County to the maximum extent possible under the law.

The expressed purpose of the Board's Solar Power Plant Program is to ensure that the County can fully implement its General Plan, that the County does not disproportionately bear the burden of solar energy production, and that the County is compensated in an amount it deems appropriate for the use of its real

property. As stated above, the payments made under agreements entered into under Policy B-29 are not a substitute for development impact fees or Fire Department capital costs.

PSH also asserts that CEC “Staff has underestimated the existing service capacity of the RCFD and the positive revenue impact to the RCFD from other approved solar energy projects.” The County respectfully disagrees. Mr. Alston’s testimony inaccurately argues that there are eight active conditional use permits for solar power plants under consideration by the County at this time. The table submitted with his testimony lists the following eight projects:

1. Indigo Ranch (CUP 03693)
2. Renewable Resources Group (CUP 03685)
3. Renewable Resources Group (CUP 03684)
4. McCoy Solar (CUP 03682)
5. US Solar Holdings (CUP 03680)
6. Renewable Resources Group (CUP 03677)
7. McCoy Solar (CUP 03671)
8. Renewable Resources Group (CUP 03670)

Mr. Alston states, “[I]f the eight (8) active CUPs under consideration by Riverside County are approved they would receive \$4.2 million annually.” There are not eight active conditional use permits for solar power plants currently pending in the County. Mr. Alston’s table lists that the Indigo Ranch project (CUP 03693) is subject to Policy B-29. This is incorrect. The Indigo Ranch project is only 4.5 megawatts. Board Policy B-29 expressly excludes projects that are fewer than 20 megawatts. Therefore, the Indigo Ranch project will not be making payments under Policy B-29.

Further, the US Solar Holdings project (CUP 03680) has been suspended and is no longer an active project in the County. The County was informed by Keith Latham, Vice President of NRG Solar LLC on January 17, 2013, that the US Solar Holdings project (CUP 03680) was not moving forward and that all work and billing on the project was to be suspended. County staff has not worked on that project since January 2013. County staff has not been informed that the project should be reopened. Therefore, the US Solar Holdings project will not be making payments under Policy B-29.

In addition, CUP 03670, CUP 03671, and CUP 03677 are the same projects as CUP 03684, CUP 03682, and CUP 03685, respectively. As indicated in the attached letters, the initial applications for the McCoy Solar project and the Renewable Resources Group projects were all returned to the applicants because the applications were improper at the time they were initially filed. Each applicant then submitted new applications and the projects are now moving forward under conditional use permit cases CUP 03684, CUP 03682, and CUP 03685.

Of the eight projects identified in PSH’s Opening Testimony, only three of the projects are actively being processed with development agreements subject to Policy B-29: McCoy Solar (CUP 03682), Renewable Resources Group (CUP 03684), and Renewable Resources Group (CUP 03685). In addition, in the interest of providing a complete picture to the Commission, the County is also currently processing a franchise agreement with EDF Renewable Energy (formerly enXco) for its Desert Harvest Solar Project. This franchise agreement is also subject to Policy B-29 to compensate the County for placing transmission lines in the County’s road right-of-way.

PSH’s Opening Testimony also alleges, “Riverside County has stated that 75 percent of the B-29 fee would be used for public services. Assumes half of that amount is applied to RCFD.” This is also not entirely accurate. As documented in the attached Resolution 2013-158, the Board of Supervisors approved requirements, limitations and procedures for the use of payments collected under Policy B-29 on June 25, 2013. Resolution 2013-158 clearly sets forth the limitations on the use of the payments. It

states:

“Effective July 1, 2013, of all such solar power plant payments specified above, 25 percent shall be committed toward appropriations that benefit communities in the general vicinity of the solar power plant for which payments are made and 75 percent shall be committed toward appropriations for any general purpose use consistent with the limitations of this Resolution. ... Permissible appropriations of such payments include, but are not limited to, County programs for economic and employment development, employee training and retraining, affordable housing, promoting tourism, and other activities and programs to retain, preserve, attract, and grow agricultural, recreational, industrial and commercial uses. In all cases, appropriations of such solar power plant payments shall not be used to mitigate project-specific impacts, including but not limited to mitigation that would be required under the California Environmental Quality Act (“CEQA”) or Ordinance No. 659, nor shall such solar power plant payments supplant such mitigation payments or development impact fees.” [Emphasis added.]

While the Board may choose to use some payments made under a development agreement, franchise agreement or real property interest agreement toward fire services and activities in an effort to preserve, attract, and grow agricultural, recreational, industrial and commercial uses, the Board expressly cannot use those payments to mitigate for project-specific impacts; nor to supplant mitigation payments or development impact fees. While the Board may choose to use some of the payments it receives under the franchise agreements on the Desert Sunlight and Desert Harvest projects for fire services, such payments are not being received for mitigation purposes. Those franchise payments are being made to compensate the County for the use of the County’s rights-of-way.

Finally, Mr. Alston alleges “CEC Staff ignores any of the real tax revenue that will be generated by construction and operation of the PSEGS. Please refer to the Socioeconomics section of the FSA for an estimate of those taxes.” The County has reviewed Socioeconomics Table 14 on page 4.8-38 of the FSA and is unclear as to the tax revenue that will actually be realized by the County. The table lumps together “state and local sales taxes.” It does not specify exactly how much the sales and use tax revenue will actually be realized by the County for the project. As mentioned briefly above, if this were a project under the County’s jurisdiction, the County would require that any agreement entered into under the County’s Solar Power Plant program include provisions to ensure the sales and use taxes payable in connection with the construction of the solar power plant are allocable to the County to the maximum extent possible under the law. Those provisions, which are set forth in Policy B-29, include the following:

- (1) Each solar power plant owner who meets the criteria set forth in applicable Board of Equalization (“BOE”) regulations and policies must obtain a BOE permit, or sub-permit, for the solar power plant jobsite and report and remit all such taxable sales or uses pertaining to construction of the solar power plant using the permit or sub-permit for that jobsite to the maximum extent possible under the law.
- (2) Each solar power plant owner shall contractually require that all contractors and subcontractors whose contract with respect to the solar power plant exceeds \$100,000.00 (“Major Subcontractors”) who meet the criteria set forth in applicable BOE regulations and policies must obtain a BOE permit, or sub-permit, for the solar power plant jobsite and report and remit all such taxable sales or uses pertaining to construction of the solar power plant using the permit or sub-permit for that jobsite to the maximum extent possible under the law.
- (3) Prior to the commencement of any grading or construction of a solar power plant, each solar power plant owner shall deliver to the County a list that includes, as applicable and without limitation, each contractor’s and Major Subcontractor’s business name, value of



contract, scope of work on the solar power plant, procurement list for the solar power plant, BOE account numbers and permits or sub-permits specific to the solar power plant jobsite, contact information for the individuals most knowledgeable about the solar power plant and the sales and use taxes for such solar power plant, and, in addition, shall attach copies of each permit or sub-permit issued by the BOE specific to the solar power plant jobsite. Said list shall include all the above information for the solar power plant owner, its contractors, and all Major Subcontractors. The solar power plant owner shall provide updates to the County of the information required under this section within thirty (30) days of any changes to the same, including the addition of any contractor or Major Subcontractor.

- (4) Each solar power plant owner shall certify in writing that they understand the procedures for reporting and remitting sales and use taxes in the State of California and will follow all applicable state statutes and regulations with respect to such reporting and remitting.
- (5) Each solar power plant owner shall contractually require that each contractor or Major Subcontractor certify in writing that they understand the procedures for reporting and remitting sales and use taxes in the State of California and will follow all applicable state statutes and regulations with respect to such reporting and remitting.
- (6) Each solar plant owner shall deliver to the County or its designee (as provided in section 7 below) copies of all sales and use tax returns pertaining to the solar power plant filed by the solar power plant owner, its contractors and Major Subcontractors. Such returns shall be delivered to the County or its designee within thirty (30) days of filing with the BOE. Such returns may be redacted to protect, among other things, proprietary information and may be supplemented by additional evidence that payments made complied with this policy.
- (7) The County may, in its sole discretion, select and retain the services of a private sales tax consultant with expertise in California sales and use taxes to assist in implementing and enforcing compliance with the provisions of the agreement and that each solar power plant owner shall be responsible for all reasonable costs incurred for the services of any such private sales tax consultant and shall reimburse the County within thirty (30) days of written notice of the amount of such costs.

PSH maintains that the County will receive a benefit from the sales and use tax revenue to be generated by PSEGS. The County of Riverside will only receive the sales and use tax revenue if there is a jobsite permit filed with the BOE. The spillover effect of sales taxes in stores in the area will primarily only occur in cities' jurisdictions and the County will not receive any of that alleged sales tax benefit. Further, any monies that are received as sales tax revenues are general purpose revenues that help fund general county services, not just fire services and certainly not used to supplant project specific funds to be paid for fire mitigation. The County respectfully asks that a condition of certification be added to the Socioeconomics section so as to ensure that the proper steps are taken to make certain that the sales and use taxes for PSEGS are allocable to the County to the maximum extent of the law.

As mentioned briefly above, the County of Riverside supports Worker Safety-7 as currently proposed by CEC Staff in the FSA. The County appreciates the time and thought that CEC Staff has expended in addressing this issue.

#### Detailed Facility Closure Plan

As previously commented, the County understands that a fully detailed facility closure plan may not be possible at this time while the Project is still in the development stages. However, a framework for a closure plan should be discussed publicly now, during the CEC's Project review stage, to validate if the

closure plan is possible, if it will be sufficient, and if it entails impacts requiring mitigation. Moreover, when the final plan is submitted, a noticed public hearing should be conducted prior to adoption of the plan.

In addition, the County respectfully continues to request that the Project owner be required to post an adequate financial assurance prior to the start of construction, based on estimated costs, should the Project owner fail to comply with the plan at closure. The provision of financial assurance is an important guarantee, without which there can be no expectation that a project owner will have either the interest or the funds to reclaim the industrial site. Although PSEGS is on entirely on BLM land, the County has a strong interest in ensuring that the Project is decommissioned in an environmentally and fiscally responsible manner, and that the County and its citizens bear no burden for such decommissioning – or project abandonment.

Thank you, again, for the opportunity to provide comments on the FSA. Should you need additional information from the County, please contact me at (951) 955-6300 or Deputy Fire Chief Dorian Cooley at (760) 393-3450.

Sincerely,

PAMELA J. WALLS  
County Counsel

A handwritten signature in black ink, appearing to read 'T. North', followed by a large, stylized circular flourish.

TIFFANY NORTH  
Supervising Deputy County Counsel

Enclosures as stated.

MINUTES OF THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



16.2

1:30 p.m. being the time set for public hearing on the recommendation from Transportation & Land Management Agency/ Planning regarding Public Hearing on the Approval of Board Policy B-29 Pertaining to Solar Power Plants; Adoption of Resolution 2011-273 Amending the Riverside County General Plan – Second Cycle of General Plan Amendments for 2011 General Plan Amendment No. 1080; and Adoption of Ordinance 348.4705, an Ordinance of the County of Riverside amending Ordinance 348 relating to zoning, regarding solar energy systems and solar power plants.

On motion of Supervisor Benoit, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended, and IT WAS FURTHER ORDERED that Board Policy B-29 is approved as amended to include:

1. Under Payment change \$640.00 to \$450.00 for each acre of land
2. Under Local Hire Incentive add San Bernardino County
3. add Permanent Job Incentive
4. add Early Construction Incentive
5. Under Sales Tax Surety add second paragraph
6. Under Exemptions change five to 20 or fewer megawatts
7. Under Definition delete "Fulltime Equivalent Worker."

THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF A MINUTE ORDER OF  
THE BOARD OF SUPERVISORS ENTERED  
ON November 8, 2011  
Dated: February 15, 2017  
KECIA HARPER-IHEM, Clerk of the Board of  
Supervisors, County of Riverside, California  
*[Signature]* Deputy

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on November 8, 2011 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors  
Dated: November 8, 2011  
Kecia Harper-Ihem, Clerk of the Board of Supervisors, in  
and for the County of Riverside, State of California.

(seal)

By: *[Signature]* Deputy

AGENDA NO.  
16.2

xc: Planning, All Dept's, COB

00020

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Transportation and Land Management Agency

**SUBMITTAL DATE:**  
November 3, 2011

**SUBJECT:** General Plan Amendment No. 1080; Resolution No. 2011-273 Amending the Riverside County General Plan - Second Cycle of General Plan Amendments for 2011; Ordinance No. 348.4734, amending Ordinance No. 348 regarding solar energy systems; Ordinance No. 348.4705, amending Ordinance No. 348 regarding solar power plants; Board of Supervisors Policy No. B-29 pertaining to solar power plants

**RECOMMENDED MOTION:** That the Board of Supervisors:

- (1) Adopt General Plan Amendment No. 1080 amending the Land Use Element of the General Plan;
- (2) Adopt Resolution No. 2011-273 amending the Riverside County General set forth in Attachment A;
- (3) Adopt Ordinance No. 348.4734 amending Ordinance No. 348 regarding solar energy systems, set forth in Attachment B;
- (4) Adopt Ordinance No. 348.4705, amending Ordinance No. 348 regarding solar power plants, set forth in Attachment C;
- (5) Approve Board of Supervisors Policy No. B-29 pertaining to solar power plants, set forth in Attachment D;
- (6) Find Ordinance No. 348.4734 exempt from CEQA pursuant to CEQA Guidelines sections 15061(b)(3) and 15268; and
- (7) Find GPA No. 1080, Ordinance No. 348.4705 and Board of Supervisors Policy No. B-29 exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3).


(continued on page 2)

  
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 George Johnson, Director  
 Transportation and Land Management Agency

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ NA	In Current Year Budget:	NA
	Current F.Y. Net County Cost:	\$ NA	Budget Adjustment:	NA
	Annual Net County Cost:	\$ NA	For Fiscal Year:	

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE  
  
 BY: \_\_\_\_\_  
 Denise C. Harden

**County Executive Office Signature**

Consent     Policy  
 Consent     Policy

Dept't Recomm.:  
 Per Exec. Ofc.:

FORM APPROVED COUNTY COUNSEL  
 BY:  KATHERINE A. LIND  
 DATE: 11/03/11

Departmental Contact Name

RE: General Plan Amendment No. 1080; Resolution No. 2011-273 Amending the Riverside County General Plan - Second Cycle of General Plan Amendments for 2011; Ordinance No. 348.4734, amending Ordinance No. 348 regarding solar energy systems; Ordinance No. 348.4705, amending Ordinance No. 348 regarding solar power plants; Board of Supervisors Policy No. B-29 pertaining to solar power plants  
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## **BACKGROUND:**

Pursuant to this agenda item, staff is asking the Board to consider two projects. The first project is Ordinance No. 348.4734, an amendment to Ordinance No. 348 regarding solar energy systems. The second project is a comprehensive, integrated legislative solar power plant program which includes General Plan Amendment No. 1080 ("GPA No. 1080"), Ordinance No. 348.4705 and Board of Supervisors Policy No. B-29 ("Board Policy No. B-29").

### **Solar Energy Systems**

Ordinance No. 348.4734 would allow a "solar energy system" as an accessory use in all zones, subject to administrative review by the Director of Building and Safety. A "solar energy system" is a system which is an accessory use to any residential, commercial, industrial, mining, agricultural or public use, used primarily (i.e. more than 50 percent) to reduce onsite utility usage. In certain cases, as stated in the ordinance, a "solar energy system" could require a plot plan. The Planning Commission recommended adoption of the solar energy system provisions reflected in Ordinance No. 348.4734 on July 14, 2010.

### **Solar Power Plants**

Solar companies are descending on the County to take advantage of the County's superior sunshine, easy transmission access, expansive open space and close proximity to population centers. These unique attributes, coupled with the following state mandates have put Riverside County at the epicenter of the solar rush – 33 percent of the total electricity sold to retail customers by December 31, 2020, must come from renewable energy resources and 75 percent of all such renewable energy resources must be from in-state sources by 2017. This influx is being heavily subsidized by taxpayer dollars. Solar power plants are largely exempt from property taxes paid by residents and other businesses, including other renewable energy generators. Photovoltaic plants are completely exempt from paying property taxes on all energy generation facilities and equipment. Solar thermal plants are 75 percent exempt on their dual use energy generation facilities and equipment.

While the County supports solar energy and acknowledges its benefits, it is clear a comprehensive, integrated legislative program is now necessary to ensure that:

- The County can fully implement its General Plan;
- The County does not disproportionately bear the burden of solar energy production; and
- The County is compensated in an amount it deems appropriate for the use of its real property.

The benefits of solar power plants occur primarily on a national, statewide and regional level. The County wants to contribute its fair share to meet renewable energy goals, but not at the expense of its residents. At the local level, solar power plants permanently alter the landscape. They also permanently commit vast areas of the County to energy production and preclude all other potential uses including, but not limited to, agricultural, recreational, commercial, residential and open space uses. The amount of land required to operate solar power plants is

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significantly greater than the amount of land required to operate other renewable energy facilities and conventional energy facilities. Photovoltaic (PV) solar power plants consume between 5 and 7 acres per megawatt - 250 to 350 acres are required for a 50 megawatt plant. In contrast, a conventional natural gas-fired power plant needs only 37 acres to generate 800 megawatts.

Currently, more than 20 utility-scale solar power plants are proposed on 118,000 acres between Desert Center and Blythe. That equates to an area the size of the cities of Palm Springs, Cathedral City, Rancho Mirage, Palm Desert and Indio combined. Because Riverside County is one of the fastest growing counties in the state, and because it is expected to be the second most populous county in the state by 2044, the commitment of so much land to a single use has serious consequences.

The County's comprehensive, integrated solar power plant program includes GPA No. 1080, Ordinance No. 348.4705 and Board Policy No. B-29.

GPA No. 1080 is a County-initiated general plan amendment that would add two new countywide policies to the Land Use Element of the General Plan. Proposed Land Use Policy LU 15.15 provides that the County will permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including, but not limited to, the development of solar power plants. The Board of Supervisors adopted an order to initiate GPA No. 1080 on February 9, 2010. The Planning Commission recommended adoption of GPA No. 1080 on July 14, 2010.

Ordinance No. 348.4705 would amend Ordinance No. 348 to authorize solar power plants on lots ten (10) acres or larger, subject to a conditional use permit in the following zone classifications: General Commercial (C-1/C-P), Commercial Tourist (C-T), Scenic Highway Commercial (C-P-S), Rural Commercial (C-R), Industrial Park (I-P), Manufacturing Servicing Commercial (M-SC), Medium Manufacturing (M-M), Heavy Manufacturing (M-H), Mineral Resources (M-R), Mineral Resource and Related Manufacturing (M-R-A), Light Agriculture (A-1), Light Agriculture with Poultry (A-P), Heavy Agriculture (A-2), Agriculture-Dairy (A-D), Controlled Development (W-2), Regulated Development Areas (R-D), Natural Assets (N-A), Waterways and Watercourses (W-1), and Wind Energy Resource Zone (W-E). The Planning Commission recommended adoption of Ordinance No. 348.4705 on July 14, 2010.

Ordinance No. 348.4705 is necessary because solar power plants are not currently listed as permitted or conditionally permitted use in any zone classification. When a use is not specifically listed as permitted or conditionally permitted in a zone classification, the use is prohibited. The Planning Director has limited ability to make a determination that a use is substantially the same in character and intensity as those uses permitted or conditionally permitted in the zone classification.

Such a determination cannot appropriately be made with respect to solar power plants because there are no other uses substantially similar in Ordinance No. 348. Some zones permit "public utility substations and storage yards," but the generation of solar energy at a large scale solar

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power plant is not the same in character and intensity as a substation and storage yard. Moreover, solar power plant owners maintain they are not public utilities.

On February 8, 2011, the Board recognized the impact the sudden influx of renewable energy plants will have on Riverside County and directed staff to prepare a board policy. On June 28, 2011, the Executive Office placed Board Policy No. B-29 on the Board's agenda for its consideration (agenda item 3.112).

Board Policy No. B-29, as proposed in June, provided that certain permits and approvals would not be issued for a solar power plant unless the Board of Supervisors first approved a franchise, real property interest, or development agreement with the solar power plant owner. As a term of such agreements, the solar power plant owner would annually pay 2 percent of gross annual receipts. Consistent with state law, the County has a long-standing practice of granting electricity franchises requiring payment of 2 percent of gross annual receipts in return for encroaching on the County's rights-of-way for the purpose of installing electrical transmission facilities. On June 28, the Board of Supervisors continued the Board policy so that staff could meet with solar industry representatives.

Staff held meetings with representatives from 12 different solar companies on August 8, 2011, August 11, 2011, August 30, 2011, September 14, 2011, September 22, 2011, October 20, 2011, and October 25, 2011. Each of these meetings lasted several hours and many ideas were discussed. The solar industry representatives strongly objected to the County's initial proposal for a payment of 2 percent of gross annual receipts, although public utilities such as Edison make such payments. They also objected to County staff's suggested megawatt-based methodology. At the solar industry's request, staff agreed to use their preferred per-acre payment methodology. Although there was consensus on many points, no agreement on a comprehensive policy was reached.

Revised Board Policy No. B-29 strikes a balance between economic development and protecting county taxpayers. It currently provides that:

- No encroachment permit shall be issued for a solar power plant unless the Board of Supervisors first grants a franchise to the solar power plant owner.
- No interest in the County's property, or the real property of any district governed by the County, shall be conveyed for a solar power plant unless the Board of Supervisors first approves a real property interest agreement with the solar power plant owner.
- No approval required by Ordinance Nos. 348 or 460 shall be given for a solar power plant unless the Board of Supervisors first approves a development agreement with the solar power plant owner and the development agreement is effective.

All such agreements shall include a term requiring a solar power plant owner to make an annual payment to the County of \$640 for each acre involved in the power production process, adjusted

for inflation. A solar power plant owner is also required to deliver a letter of credit to the County to secure the payment of sales and use taxes.

The revised policy includes a local hire incentive, a collocation incentive, and a property tax credit, all of which may be applied to reduce the base payment amount, as appropriate, by no more than 50 percent. In addition, the revised policy includes a suspension of operation provision and an exemption provision for solar power plants with a rated production capacity of five or fewer megawatts. The incentives, credit and exemption provisions resulted from thoughtful deliberation during meetings with solar industry representatives and further discussions among staff.

Board Policy No. B-29 provides further benefits to solar power plant owners. Specifically:

- **Cost certainty**                    A franchise, real property interest or development agreement would set the solar power plant payment.
- **Development rights**            A development agreement would secure a vested right to develop in accordance with the rules and regulations existing at the time the development agreement became effective.
- **Project phasing**                A development agreement would secure the right to develop the project in such order and at such rate and at such times as the owner deems appropriate within the exercise of its subjective business judgment, subject only to any timing or phasing requirements set forth in its development plan.
- **Equipment upgrades**          A development agreement would secure the right to make equipment upgrades or repower without additional County discretionary approvals, provided that the mode of production and original footprint remain the same, and height is not increased.
- **Assignment rights**              A franchise, real property interest or development agreement would secure the right to assign or transfer the benefits of the agreement to future purchasers.
- **Duration**                         A franchise, real property interest or development agreement would secure the benefits referenced above for a term that coincides with the operation of the solar power plant.

The policy does not affect development impact fees or Fire Department capital costs, which will be handled as they have in the past.

When the Board considered Board Policy No. B-29 on June 28, numerous speakers said the proposed payment would place an onerous burden on solar power plants. As a result, they claimed, fewer plants would be constructed or, alternatively, would move out of the County or state. This displacement argument is without merit, according to the report titled "Effect of



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Proposed Board Policy B-29 on Solar Power Plant Projects," prepared by Dr. David Kolk of Complete Energy Consulting, LLC, attached hereto and incorporated herein by reference as Attachment E. Dr. Kolk's analysis indicates that the proposed per-acre annual payment will have a minimal impact on solar power plants and will not affect the County's ability to attract and retain those projects. Dr. Kolk reasoned that the major driver of locating solar projects within California will continue to be transmission interconnection costs. "To the extent Riverside County offers better access to new transmission facilities it will continue to have an advantage over other parts of the state in attracting solar projects after the proposed payment is adopted." Dr. Kolk also demonstrated that the minimal impact of the payment would be reduced by the property tax credit, local hire incentive and collocation incentive proposed in the Board policy. Dr. Kolk indicated additional incentives such as an early construction incentive and a permanent jobs incentive could further reduce the impact. These additional incentives are available for the Board's consideration.

Ordinance No. 348.4734 is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty there is no possibility the amendment may have a significant effect on the environment. Ordinance No. 348.4734 implements a mandatory state program requiring that provisions be made for the approval of solar energy systems on a ministerial basis. This program is set forth in Government Code section 65850.5 and Health and Safety Code section 17959.1. As a result, the adoption of this ordinance is also exempt from CEQA as a ministerial project pursuant to CEQA Guidelines section 15268.

GPA No. 1080, Ordinance No. 348.4705 and Board Policy No. B-29 are exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3), in that it can be seen with certainty there is no possibility the project may have a significant effect on the environment. The project merely establishes a discretionary permitting process for solar power plants in the County. To perform any environmental analysis at this early stage would require the County to speculate as to which parcels might be involved, what type of solar technology might be used, and what impacts a future solar power plant project might have. As a result, such analysis would be premature and meaningless. "Determining whether a project qualifies for the common sense exemption need not necessarily be preceded by detailed or extensive factfinding. Evidence appropriate to the CEQA stage in issue is all that is required." *Muzzy Ranch Co. v. Solano County Airport Land Use Commission* (2007) 41 Cal.4<sup>th</sup> 372, 388. There is no specific development application connected with this project and it does not commit the County to any development. As noted by Dr. Kolk in his report, the project will not displace solar power plants to locations outside Riverside County. Accordingly, the County's approval of the project does not create a reasonably foreseeable physical change in the environment. Before development occurs on any particular site, all environmental issues will be analyzed in site-specific environmental impact reports or other environmental documents. The conclusions expressed herein are consistent with CEQA Guidelines section 15004 (b) which provides: "Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment."

2  
3 **RESOLUTION NO. 2011-273**  
4 **AMENDING THE RIVERSIDE COUNTY**  
5 **GENERAL PLAN**

6 **(Second Cycle General Plan Amendments for 2011)**

7 **WHEREAS**, pursuant to the provisions of Government Code Section 65350 et. seq., notice was  
8 given and public hearings were held before the Riverside County Board of Supervisors and before the  
9 Riverside County Planning Commission to consider a proposed amendment to the Land Use Element of  
10 the Riverside County General Plan; and,

11 **WHEREAS**, all provisions of the California Environmental Quality Act ("CEQA") and Riverside  
12 County CEQA implementing procedures have been satisfied; and,

13 **WHEREAS**, the proposed general plan amendment was discussed fully with testimony and  
14 documentation presented by the public and affected government agencies; now, therefore,

15 **BE IT RESOLVED, FOUND, DETERMINED AND ORDERED** by the Board of Supervisors  
16 of the County of Riverside in regular session assembled on November 8, 2011 that:

17 **General Plan Amendment No. 1080** (GPA No. 1080) is a County-initiated general plan  
18 amendment to incorporate into the Land Use Element the two new policies set forth in "GPA No. 1080  
19 Exhibit A," a copy of which is attached hereto and incorporated herein by reference. GPA No. 1080 has  
20 County-wide application and affects all properties located in the unincorporated area. GPA No. 1080, the  
21 text of Ordinance No. 348.4734 and Ordinance No. 348.4705 were considered concurrently at the public  
22 hearing before the Planning Commission on July 14, 2010. The Planning Commission recommended  
23 adoption of GPA No. 1080 on July 14, 2010. GPA No. 1080, Ordinance No. 348.4734, Ordinance No.  
24 348.4705, and Board of Supervisors Policy B-29 were considered concurrently at the Board of  
25 Supervisors on November 8, 2011.

26 GPA No. 1080 adds the following policies to the Land Use Element under a new heading entitled  
27 "Solar Energy Resources:"

- 28
1. LU-15.14 - Permit and encourage solar energy systems as an accessory use to any residential, commercial, industrial, mining, agricultural or public use.

FORM APPROVED COUNTY COUNSEL  
BY:  KATHERINE A. LIND  
DATE: 11/08/11

1           2.     LU 15.15 - Permit and encourage, in an environmentally and fiscally responsible  
2                     manner, the development of renewable energy resources and related infrastructure,  
3                     including but not limited to, the development of solar power plants in the County of  
4                     Riverside.

5           Ordinance No. 348.4734 amends Ordinance No. 348 to allow "solar energy systems" as an  
6 accessory use in all zones, subject to administrative review by the Director of Building & Safety. In  
7 certain cases, as stated in the ordinance, a "solar energy system" may require a plot plan. Ordinance No.  
8 348.4705 amends Ordinance No. 348 to add "solar power plants" as a permitted use subject to the  
9 issuance of a conditional use permit on lots ten (10) acres or larger in the following zones: General  
10 Commercial (C-1/C-P), Commercial Tourist (C-T), Scenic Highway Commercial (C-P-S), Rural  
11 Commercial (C-R), Industrial Park (I-P), Manufacturing-Service Commercial (M-SC), Medium  
12 Manufacturing (M-M), Heavy Manufacturing (M-H), Mineral Resources (M-R), Mineral Resource and  
13 Related Manufacturing (M-R-A), Light Agriculture (A-1), Light Agriculture with Poultry (A-P), Heavy  
14 Agriculture (A-2), Agriculture-Dairy (A-D), Controlled Development (W-2), Regulated Development  
15 Areas (R-D), Natural Assets (N-A), Waterways and Watercourses (W-1), and Wind Energy Resource (W-  
16 E).

17           Board of Supervisors Policy B-29 provides that the County will not issue certain permits or  
18 approvals unless the Board of Supervisors first approves a franchise, real property interest or development  
19 agreement with the owner of a solar power plant. The permits or approvals involve (i) use of County  
20 rights-of-way, (ii) use of other County property, or (iii) land development under the County's zoning and  
21 subdivision ordinances. As a term of such agreements, the owner of a solar power plant would annually  
22 pay a fixed amount per acre of land devoted to the power production process. The purposes of this Board  
23 policy are to implement the General Plan, to ensure that the County does not disproportionately bear the  
24 burden of solar energy production, to ensure the County is compensated in an amount it deems  
25 appropriate for the use of its real property, and to give solar power plant owners certainty as to the  
26 County's requirements.

27           **BE IT FURTHER RESOLVED** by the Board of Supervisors, based on the evidence presented on  
28 this matter, both written and oral, including the Notice of Exemption, that:

1           1.       GPA No. 1080 does not involve a change in or conflict with the Riverside County  
2           Vision, any General Planning Principle set forth in Appendix B or any Foundation  
3           Component designation in the General Plan. “Creativity and Innovation,” “Natural  
4           Environment,” and “Sustainability” are fundamental values of the County expressed in  
5           the Vision of the General Plan. Encouraging solar energy systems as an accessory use  
6           and encouraging the development of renewable energy resources and related  
7           infrastructure, in an environmentally and fiscally responsible manner, reaffirms the  
8           County’s commitment to these fundamental values. No changes to General Planning  
9           Principles or Foundation Component designations are proposed; no conflict with those  
10          principles or designations will result.

11          2.       GPA No. 1080 will either contribute to the purposes of the General Plan or, at a  
12          minimum, would not be detrimental to them for the reasons specified above. In  
13          addition, GPA No. 1080 is complementary to Policy OS 13.2 in the Multipurpose Open  
14          Space Element of the General Plan which calls for the County to “support and  
15          encourage voluntary efforts to provide active and passive solar access opportunities in  
16          new development.”

17          3.       Special circumstances or conditions have emerged that were unanticipated in  
18          preparing the General Plan. After the General Plan was adopted in 2003, the Governor  
19          of the State of California issued Executive Order S-21-09 and the legislature passed SB  
20          X 1-2 establishing the California Renewables Portfolio Standard Program. Pursuant to  
21          this program, the amount of electricity required to be generated per year from  
22          renewable energy resources has been increased to an amount that equals at least 33% of  
23          the total electricity sold to retail customers by December 31, 2020. Moreover, 75% of  
24          all renewable resources are to be from in-state sources by 2017. This aggressive 33%  
25          standard was not anticipated in preparing the General Plan. GPA No. 1080 will aid in  
26          meeting the 33% standard while also ensuring that solar power plants and related  
27          infrastructure do not jeopardize the County’s fundamental values set forth in the  
28          General Plan Vision Statement, the General Planning Principles set forth in Appendix B  
                and the General Plan policies.

1           4.     A change in policy is required to conform to changes in state or federal law or  
2           applicable findings of a court of law. GPA No. 1080 will implement Government Code  
3           section 65850.5 and Health and Safety Code section 17959.1 by reflecting the policy of  
4           the State to promote and encourage the use of solar energy systems and to limit  
5           obstacles to their use.

6           **BE IT FURTHER RESOLVED** by the Board of Supervisors that that it finds General Plan  
7 Amendment No. 1080 exempt from CEQA for the reasons set forth in the staff report and the Notice of  
8 Exemption.

9           **BE IT FURTHER RESOLVED** by the Board of Supervisors that Land Use Policy LU 15.15 is  
10 adopted as part of a comprehensive, integrated legislative program which also includes the adoption of  
11 Ordinance No. 348.4705 and Board of Supervisors Policy No. B-29. The Board of Supervisors declares  
12 that it would not have adopted Land Use Policy LU 15.15 unless Ordinance No. 348.4705 and Board of  
13 Supervisors Policy No. B-29 were also adopted and effective. In the event that any provision of Land Use  
14 Policy LU 15.15, Ordinance No. 348.4705 or Board of Supervisors Policy No. B-29 is determined to be  
15 invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, then Land Use Policy  
16 LU 15.15, Ordinance No. 348.4705 and Board of Supervisors Policy No. B-29 shall be deemed invalid in  
17 their entirety and shall have no further force or effect.

18           **BE IT FURTHER RESOLVED** by the Board of Supervisors that it **ADOPTS** General Plan  
19 Amendment No. 1080 as described herein and as shown on the exhibit entitled "GPA No. 1080 Exhibit  
20 A."

21           **BE IT FURTHER RESOLVED** by the Board of Supervisors that the custodians of the  
22 documents upon which this decision is based are the Clerk of the Board of Supervisors and the County  
23 Planning Department, and that such documents are located at 4080 Lemon Street, Riverside, California.

GPA No. 1080 Exhibit A

To be added to the Countywide Policies of the Land Use Element of the General Plan after "Wind Energy Resources" and before "Density Transfers."

"Solar Energy Resources

LU 15.14 Permit and encourage solar energy systems as an accessory use to any residential, commercial, industrial, mining, agricultural or public use.

LU 15.15 Permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including but not limited to, the development of solar power plants in the County of Riverside."

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ORDINANCE NO. 348.4734

AN ORDINANCE OF THE COUNTY OF RIVERSIDE  
AMENDING ORDINANCE NO. 348  
RELATING TO ZONING

The Board of Supervisors of the County of Riverside ordains as follows:

Section 1. Section 18.51 of Ordinance No. 348 is added to read as follows:

“SECTION 18.51. SOLAR ENERGY SYSTEMS. Notwithstanding any other provision of this ordinance, solar energy systems are permitted as an accessory use in all zones subject to the provisions of this section.

- a. The intent of this section is to provide for the implementation of section 65850.5 of the Government Code and section 17959.1 of the Health and Safety Code by complying with the mandatory provisions of those state statutes and to advance the state policy of encouraging the installation of solar energy systems by removing obstacles to, and minimizing costs of, permitting such systems. This section is intended to avoid any unreasonable restrictions on the ability of homeowners, agricultural concerns and business concerns to install solar energy systems. Solar energy systems utilize a renewable and nonpolluting energy resource, enhance the reliability and power quality of the electrical grid, reduce peak power demands, and make the electricity supply market more competitive by promoting consumer choice.
  
- b. Applications to install solar energy systems shall be administratively reviewed and approved by the Director of the Department of Building and Safety as nondiscretionary permits; provided, however, that if the Director of the Department of Building and Safety determines in good faith that a solar energy system could have a specific adverse impact on the public health or safety, the applicant shall be required to apply for a plot plan

1 pursuant to section 18.30 of this ordinance and all provisions of that section  
2 shall apply except as modified by this section.

3 c. Review of an application to install a solar energy system shall be limited to  
4 a determination of whether the application meets all health and safety  
5 requirements of county, state and federal law. The requirements of county  
6 law shall be limited to those standards and regulations necessary to avoid a  
7 specific adverse impact upon the public health or safety. Review for  
8 aesthetic purposes, including any ordinance provision requiring the  
9 screening of the solar energy system, shall not be applicable.

10 d. If a plot plan is required pursuant to subsection b above, the plot plan shall  
11 not be denied unless the denial is based on written findings in the record  
12 that the proposed installation would have a specific adverse impact on the  
13 public health or safety, and there is no feasible method to satisfactorily  
14 mitigate or avoid the specific, adverse impact. The findings shall include  
15 the basis for rejection of potential feasible alternatives of preventing the  
16 adverse impact.

17 e. Any conditions imposed on an application to install a solar energy system  
18 shall be designed to mitigate the specific, adverse impact upon the public  
19 health and safety at the lowest cost possible.

20 f. A solar energy system for heating water shall be certified by the Solar  
21 Rating Certification Corporation (SRCC) or other nationally recognized  
22 certification agency. SRCC is a nonprofit third party supported by the  
23 United States Department of Energy. The certification shall be for the  
24 entire solar energy system and installation.

25 g. A solar energy system for producing electricity shall meet all applicable  
26 safety and performance standards established by the National Electrical  
27 Code, the Institute of Electrical and Electronics Engineers, and accredited  
28 testing laboratories such as Underwriters Laboratories and, where



1 applicable, rules of the Public Utilities Commission regarding safety and  
2 reliability.

3 h. For purposes of this section, the following terms shall have the following  
4 meanings:

5 (1) A "specific adverse impact" means a significant,  
6 quantifiable, direct and unavoidable impact, based on objective,  
7 identified and written public health or safety standards, policies or  
8 conditions as they existed on the date the application was deemed  
9 complete.

10 (2) A "feasible method to satisfactorily mitigate or avoid the  
11 specific, adverse impact" includes, but is not limited to, any cost-  
12 effective method, condition, or mitigation imposed by the county on  
13 another similarly situated application in a prior successful  
14 application for a permit. The county shall use its best efforts to  
15 ensure that the selected method, condition, or mitigation does not  
16 "significantly" increase the cost of the system or "significantly"  
17 decrease its efficiency or specified performance, or allows for an  
18 alternative system of comparable cost, efficiency, and energy  
19 conservation benefits. For solar domestic water heating systems or  
20 solar swimming pool heating systems that comply with state and  
21 federal law, "significantly" means an amount exceeding 20 percent  
22 of the cost of the system or decreasing the efficiency of the solar  
23 energy system by an amount exceeding 20 percent as originally  
24 specified and proposed. For photovoltaic systems that comply with  
25 state or federal law, "significantly" means an amount not to exceed  
26 \$2000 over the system cost as originally specified and proposed, or  
27 a decrease in system efficiency of an amount exceeding 20 percent  
28 as originally specified and proposed."

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Section 2.

A new section 21.62i of Article XXI of Ordinance No. 348 is added

to read as follows:

“Section 21.62i. SOLAR ENERGY SYSTEM. A system which is an accessory use to any residential, commercial, industrial, mining, agricultural or public use, used primarily (i.e. more than 50 percent) to reduce onsite utility usage, and which is either of the following:

- (a) Any solar collector or other solar energy device the primary purpose of which is to provide for the collection, storage and distribution of solar energy for electric generation, space heating, space cooling, or water heating.
- (b) Any structural design feature of a building, the primary purpose of which is to provide for the collection, storage and distribution of solar energy for electric generation, space heating, space cooling, or water heating.”

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Section 3. This ordinance shall take effect thirty (30) days after its adoption.

BOARD OF SUPERVISORS OF THE COUNTY  
OF RIVERSIDE, STATE OF CALIFORNIA

By: \_\_\_\_\_  
Chairman

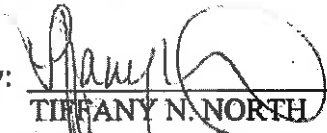
ATTEST:  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy

(SEAL)

APPROVED AS TO FORM

November 3, 2011

By:   
TIFFANY N. NORTH  
Deputy County Counsel

G:\Property\TNorth\RCO No 348 solar energy systems.doc

1 ORDINANCE NO. 348.4705

2  
3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE

4 AMENDING ORDINANCE NO. 348

5 RELATING TO ZONING

6  
7 The Board of Supervisors of the County of Riverside ordains as follows:

8 Section 1. A new subsection (19) is added to Section 9.1.d. of Article IX of Ordinance  
9 No. 348 to read as follows:

10 “(19) Solar power plant on a lot 10 acres or larger.”

11 Section 2. A new subsection d. is added to Section 9.25 of Article IXa of Ordinance  
12 No. 348 to read as follows:

13 “d. The following uses are permitted provided a conditional use permit has  
14 been granted pursuant to the provisions of Section 18.28 of this ordinance:

15 (1) Solar power plant on a lot 10 acres or larger.”

16 Section 3. A new subsection (25) is added to Section 9.50.b. of Article IXb of  
17 Ordinance No. 348 to read as follows:

18 “(25) Solar power plant on a lot 10 acres or larger.”

19 Section 4. A new subsection (8) is added to Section 9.62.b. of Article IXc of  
20 Ordinance No. 348 to read as follows:

21 “(8) Solar power plant on a lot 10 acres or larger.”

22 Section 5. A new subsection (4) is added to Section 10.1.b. of Article X of Ordinance  
23 No. 348 to read as follows:

24 “(4) Solar power plant on a lot 10 acres or larger.”

25 Section 6. A new subsection (19) is added to Section 11.2.c. of Article XI of  
26 Ordinance No. 348 to read as follows:

27 “(19) Solar power plant on a lot 10 acres or larger.”  
28

1           Section 7.     A new subsection (22) is added to Section 11.26.c. of Article XIa of  
2 Ordinance No. 348 to read as follows:

3                         “(22) Solar power plant on a lot 10 acres or larger.”

4           Section 8.     A new subsection (18) is added to Section 12.2.c. of Article XII of  
5 Ordinance No. 348 to read as follows:

6                         “(18) Solar power plant on a lot 10 acres or larger.”

7           Section 9.     A new subsection (2) is added to Section 12.50.e. of Article XIIIa of  
8 Ordinance No. 348 to read as follows:

9                         “(2) Solar power plant on a lot 10 acres or larger.”

10          Section 10.    A new subsection (2) is added to Section 12.60.e. of Article XIIIb of  
11 Ordinance No. 348 to read as follows:

12                         “(2) Solar power plant on a lot 10 acres or larger.”

13          Section 11.    A new subsection (12) is added to Section 13.1.c. of Article XIII of  
14 Ordinance No. 348 to read as follows:

15                         “(12) Solar power plant on a lot 10 acres or larger.”

16          Section 12.    A new subsection (4) is added to Section 13.51.h. of Article XIIIa of  
17 Ordinance No. 348 to read as follows:

18                         “(4) Solar power plant on a lot 10 acres or larger.”

19          Section 13.    A new subsection (16) is added to Section 14.1.c. of Article XIV of  
20 Ordinance No. 348 to read as follows:

21                         “(16) Solar power plant on a lot 10 acres or larger.”

22          Section 14.    A new subsection (2) is added to Section 14.52.c. of Article XIVa of  
23 Ordinance No. 348 to read as follows:

24                         “(2) Solar power plant on a lot 10 acres or larger.”

25          Section 15.    A new subsection (32) is added to Section 15.1.d. of Article XV of  
26 Ordinance No. 348 to read as follows:

27                         “(32) Solar power plant on a lot 10 acres or larger.”

28          Section 16.    A new subsection (3) is added to Section 15.101.c. of Article XVa of

1 Ordinance No. 348 to read as follows:

2 “(3) Solar power plant on a lot 10 acres or larger.”

3 Section 17. A new subsection (15) is added to Section 15.200.c. of Article XVb of  
4 Ordinance No. 348 to read as follows:

5 “(15) Solar power plant on a lot 10 acres or larger.”

6 Section 18. A new subsection (10) is added to Section 16.2.b. of Article XVI of  
7 Ordinance No. 348 to read as follows:

8 “(10) Solar power plant on a lot 10 acres or larger.”

9 Section 19. A new subsection (2) is added to Section 17.2.g. of Article XVII of  
10 Ordinance No. 348 to read as follows:

11 “(2) Solar power plant on a lot 10 acres or larger.”

12 Section 20. A new subsection (5) is added to Section 17.3.b. of Ordinance No. 348 to  
13 read as follows:

14 “(5) No solar power plants shall be closer than 10 feet from any lot line.”

15 Section 21. A new Section 21.63 of Article XXI of Ordinance No. 348 is added to read  
16 as follows:

17 “Section 21.63. SOLAR POWER PLANT. A facility used to generate electricity  
18 from solar energy where the power plant will be connected to the power grid and  
19 the electricity will be used primarily (i.e. more than 50 percent) at locations other  
20 than the site of the solar power plant. Solar power plants include power plants  
21 using both solar thermal systems and photovoltaic systems to convert solar energy  
22 to electricity. Solar thermal systems concentrate heat to drive a turbine which is  
23 then used to create electricity from generators and include systems using solar  
24 troughs, solar dishes, and solar power towers. Photovoltaic systems use a  
25 technology such as solar cells which generates electricity directly from sunlight.”

26 Section 22. Existing Section 21.63 of Article XXI of Ordinance No. 348 is renumbered  
27 21.64.

28 Section 23. Ordinance No. 348.4705 is adopted as part of a comprehensive,

1 integrated legislative program which also includes the adoption of General Plan Amendment No 1080  
2 (Land Use Policy LU 15.15) and Board of Supervisors Policy No. B-29. The Board of Supervisors  
3 declares that it would not have adopted Ordinance No. 348.4705 unless General Plan Amendment No.  
4 1080 (Land Use Policy LU 15.15) and Board of Supervisors Policy No. B-29 were also adopted and  
5 effective. In the event that any provision of Ordinance No. 348.4705, General Plan Amendment No. 1080  
6 (Land Use Policy LU 15.15) or Board of Supervisors Policy No. B-29 is determined to be invalid or  
7 unenforceable, in whole or in part, by a court of competent jurisdiction, then Ordinance No. 348.4705,  
8 General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Board of Supervisors Policy No. B-  
9 29 shall be deemed invalid in their entirety and shall have no further force or effect.

10 Section 24. This ordinance shall take effect thirty (30) days after its adoption.

11  
12 BOARD OF SUPERVISORS OF THE COUNTY  
13 OF RIVERSIDE, STATE OF CALIFORNIA

14 By: \_\_\_\_\_  
15 Chairman

16 ATTEST:  
17 CLERK OF THE BOARD

18  
19 By: \_\_\_\_\_  
20 Deputy

21  
22 (SEAL)

23  
24 APPROVED AS TO FORM

25 November 3, 2011

26  
27 By:   
28 TIFFANY N. NORTH  
Deputy County Counsel

**COUNTY OF RIVERSIDE, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

**Attachment D**

**Policy**

**Subject:**  
**SOLAR POWER PLANTS**

**Number**  
**B-29**

**Page**  
**1 of 6**

**Purpose:**

The Board supports solar energy and acknowledges its benefits. The benefits of solar power plants, however, occur on a national, statewide and regional level. The County wants to contribute its fair share to meet renewable energy goals, but not at the expense of its residents. At the local level, solar power plants permanently alter the landscape. They also permanently commit vast areas of the County to energy production and preclude all other potential uses, including, but not limited to, agricultural, recreational, commercial, residential and open space uses. The amount of land required to operate these facilities is significantly greater than the amount of land required to operate other renewable energy facilities and conventional energy facilities. Because Riverside County is one of fastest growing counties in the state and because it is expected to be the second most populous county in the state by 2044, the commitment of so much land to a single use has serious consequences.

There are currently such a large number of solar power plants approved and pending in the County that the fundamental values of the County expressed in its General Plan are in jeopardy. These fundamental values include "sustainability", pursuant to which the County has an expectation that its future residents will inherit communities offering them a reasonable range of choices (General Plan pg. V-7); and the "natural environment", pursuant to which the County is committed to maintaining sufficient areas of natural open space and sustaining the permanent viability of unique landforms and ecosystems (General Plan pg. V-6).

The vision of the County expressed in its General Plan is also in jeopardy. Corridors and areas may not be preserved for distinctive purposes, including multi-purpose open space; economic development; agriculture; residences; and public facilities (General Plan pg. V-11). The rich diversity of the County's environmental resources may not be preserved and enhanced for the enjoyment of present and future generations (General Plan pg. V-11). The public may not have access to recreation opportunities (General Plan pg. V-11). There may not be expanded local employment opportunities (General Plan pg. V-12). Development may not occur where appropriate and where adequate public facilities and services are available (General Plan pg. V-15). Agricultural lands may not remain as a valuable form of development (General Plan pg. V-22).

The following General Plan Policies will be affected by the large number of approved and pending solar power plants:



**COUNTY OF RIVERSIDE, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

**Attachment D**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

**Number**

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- Land Use Element Policy LU 2.1.c. - the County shall provide a broad range of land uses, including a range of residential, commercial, business, industry, open space, recreation and public facility uses (General Plan pg. LU-20).
- Land Use Element Policy LU 5.1- the County shall ensure that development does not exceed the ability to adequately provide supporting infrastructure and services (General Plan LU-24).
- Land Use Element Policy LU 7.1 - the County shall accommodate the development of a balance of land uses that maintain and enhance the County's fiscal viability, economic diversity and environmental integrity (General Plan LU-26).
- Land Element Policy LU 8.1 - the County shall provide for the permanent preservation of open space lands that contain important natural resources and scenic and recreational values (General Plan LU-28).
- Land Use Element Policy LU 13.1 - the County shall preserve and protect outstanding scenic vistas and visual features for the enjoyment of the traveling public (General Plan LU-31).
- Land Use Element Policy LU 15.15 - the County shall permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including but not limited to, the development of solar power plants in the County of Riverside (General Plan LU-37).

The purposes of this Board policy are to implement these and other General Plan provisions, to ensure that the County does not disproportionately bear the burden of solar energy production, to ensure the County is compensated in an amount it deems appropriate for the use of its real property, and to give solar power plant owners certainty as to the County's requirements.

**Policy:**

To secure public health, safety and welfare, a solar power plant shall be subject to the requirements of this policy as well as the requirements of any applicable ordinance, state or federal law.

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Attachment D**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

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No encroachment permit shall be issued for a solar power plant unless the Board first grants a franchise to the solar power plant owner. No interest in the County's real property, or the real property of any special district governed by the County, shall be conveyed for a solar power plant unless the Board first approves a real property interest agreement with the solar power plant owner. No approval required by Ordinance Nos. 348 or 460 shall be given for a solar power plant unless the Board first approves a development agreement with the solar power plant owner and the development agreement is effective.

Notwithstanding the foregoing, the County may waive the requirement for multiple agreements where otherwise two or more agreements would be required.

Each such franchise, real property interest agreement or development agreement shall include provisions consistent with the following requirements:

**Payment.** The solar power plant owner shall annually pay the County \$640.00 for each acre of land involved in the power production process (hereinafter "net acreage"). The initial payment shall be due within five business days of the commencement of project construction. Subsequent payments shall be due by September 30 of each year.

**CPI Adjustment.** The initial payment, and each subsequent payment shall be adjusted based on the Consumer Price Index, All Urban Consumers, (Los Angeles — Anaheim). In no event, however, shall the Consumer Price Index adjustment be less than one percent nor more than four percent.

**Incentives and Credits.** The following incentives and credits may be applied to reduce the base payment amount as appropriate, but in no event shall a combination of these incentives and credits reduce the adjusted base payment by more than 50 percent:

- **Local Hire Incentive.** For a three calendar year period from the commencement of project construction, the annual base payment may be reduced by \$1,500 for each full time equivalent worker residing in Riverside County prior to the date of hire.
- **Collocation Incentive.** The annual base payment of each participating solar power plant owner may be reduced by five percent for collocation of transmission lines on common poles or by three percent for collocation of transmission lines in a common corridor.
- **Property Tax Credit.** The base payment may be reduced by the amount of the County's 12.44 percent share and the Fire Department's 2.58 percent share of the 1 percent general purpose property taxes and/or possessory interest taxes paid on the

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Attachment D**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

**Number**

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net acreage in the immediately preceding fiscal year, including any supplemental assessments.

**Suspension of Operations.** If the County causes a solar power plant to stop operating for longer than 90 days for a reason not related to a violation of the terms of any applicable agreement or a violation of the project conditions of approval, the base payment may be reduced by up to 50 percent upon written request of the solar power plant owner for the period of time the solar power plant remains inoperative.

**Sales Tax Surety.** The solar power plant owner shall deliver a letter of credit to the County within five business days of the close of project financing in an amount equal to the sales and use taxes the County estimates will be generated by construction of the solar power plant to ensure such taxes are allocated to the County whenever possible. The solar power plant owner shall provide the information needed by the County to make this estimate. The County shall release annually a portion of the letter of credit equal to the amount of taxes received by the County, as reported by the State Board of Equalization. If, upon completion of construction, the sales and use taxes received are less than the taxes owed, the solar power plant owner shall pay the difference and, upon deposit of such payment in full, the County shall authorize release of the letter of credit.

**Term.** The appropriate agreement shall be for a term coextensive with the operation of the solar power plant.

**Exemption:**

This policy shall not apply to a solar power plant that has a rated production capacity of five or fewer megawatts; provided, however, this exemption shall not apply if the County determines that a solar power plant owner, or an affiliated company, filed separate applications so as to obtain the exemption.

**Exception:**

A solar power plant owner may make a written request to be excepted from this policy at the time the solar power plant owner files an application for a permit or approval described in this ordinance or any time thereafter. The Board may grant the exception request upon a finding of special circumstances. Special circumstances shall include, but not be limited to, a determination that the solar power plant has a substantial benefit to the County above and beyond the payment of required taxes or the implementation of

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Attachment D**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

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mitigation measures identified in any applicable environmental document. Special circumstances shall not include financial or economic hardship.

**Definitions:**

As used in this policy, the following terms shall have the following meanings:

**"Collocation."** Locating transmission lines either on common poles or in a common corridor no wider than 300 feet either for a distance of at least one mile or, for 80 percent of the length of the longest transmission line, if that line is shorter than one mile.

**"Full-time Equivalent Worker."** A worker employed for at least 2,080 hours in a calendar year.

**"Net Acreage."** All areas involved in the production of power including, but not limited to, the power block, solar collection equipment, areas contiguous to solar collection equipment, transformers, transmission lines and/or piping, transmission facilities (on and off-site), service roads regardless of surface type – including service roads between panels or collectors, structures, and fencing surrounding all such areas. Net acreage shall not include off-site access roads or areas specifically set aside either as environmentally sensitive or designated as open space, and shall not include the fencing of such set aside areas.

**"Solar Power Plant."** A facility used to generate electricity from solar energy where the power plant will be connected to the power grid and the electricity will be used primarily (i.e. more than 50 percent) at locations other than the site of the solar power plant. Solar power plants include power plants using both solar thermal systems and photovoltaic systems to convert solar energy to electricity. Solar thermal systems concentrate heat to drive a turbine which is then used to create electricity from generators and include systems using solar troughs, solar dishes, and solar power towers. Photovoltaic systems use a technology such as solar cells which generates electricity directly from sunlight. A solar power plant does not include a solar energy system as defined in Ordinance No. 348.

**"Solar Power Plant Owner."** A person or entity developing, owning or operating a solar power plant.

**COUNTY OF RIVERSIDE, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

**Attachment D**

**Policy**

**Subject:  
SOLAR POWER PLANTS**

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**Integration:**

Board of Supervisors Policy No. B-29 is approved as part of a comprehensive, integrated legislative program which also includes the adoption of General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Ordinance No. 348.4705. The Board of Supervisors declares that it would not have adopted Board of Supervisors Policy No. B-29 unless General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Ordinance No. 348.4705 were also adopted and effective. In the event that any provision of Board of Supervisors Policy No. B-29, General Plan Amendment No. 1080 (Land Use Policy LU 15.15) or Ordinance No. 348.4705 is determined to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, then Board of Supervisors Policy No. B-29, General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Ordinance No. 348.4705 shall be deemed invalid in their entirety and shall have no further force or effect.

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

623



**FROM:** County Counsel

**SUBMITTAL DATE:**  
May 15, 2013

**SUBJECT:** Revised Board of Supervisors Policy No. B-29 pertaining to Solar Power Plants

**RECOMMENDED MOTION:** That the Board of Supervisors:

- (1) Adopt Revised Board Policy No. B-29 pertaining to Solar Power Plants as set forth in Attachment A; and
- (2) Find Revised Board Policy No. B-29 exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3).

**BACKGROUND:** On November 8, 2011, the Board adopted General Plan Amendment No. 1080 ("GPA"), Land Use Ordinance Amendment No. 348.4705 ("Zoning Amendment"), and Board of Supervisors Policy No. B-29 entitled "Solar Power Plants" ("Existing Policy B-29"). These three legislative actions were adopted as part of a comprehensive, integrated legislative program. Together, the GPA, Zoning Amendment, and Policy B-29 comprise the Riverside County Solar Power Plant Program (the "Solar Power Plant Program").

Departmental Concurrence

(continued on page 2)

*Tiffany North*  
Tiffany North, Deputy County Counsel for  
Pamela J. Walls, County Counsel

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ NA	In Current Year Budget:	NA
	Current F.Y. Net County Cost:	\$ NA	Budget Adjustment:	NA
	Annual Net County Cost:	\$ NA	For Fiscal Year:	NA

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY: *Denise C. Harden*  
Denise C. Harden

County Executive Office Signature

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Benoit, seconded by Supervisor Ashley and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Benoit and Ashley  
Nays: Stone  
Absent: None  
Date: May 21, 2013  
xc: Co. Co., COB

Kecia Harper-Ihem  
Clerk of the Board  
By: *K. Harper-Ihem*  
Deputy

Policy  
 Policy  
 Consent  
 Consent  
 Dep't Recomm.:  
 Per Exec. Ofc.:

Prev. Agn. Ref.: 11/8/11; 16.2 | District: ALL | Agenda Number:

3-24

Existing Policy B-29 includes several provisions regarding the development of solar power plants. It provides, among other things:

- No encroachment permit shall be issued for a solar power plant unless the Board first grants a franchise to the solar power plant owner.
- No interest in the County's real property, or the real property of any special district governed by the County, shall be conveyed for a solar power plant unless the Board first approves a real property interest agreement with the solar power plant owner.
- No approval required by Ordinance Nos. 348 or 460 shall be given for a solar power plant unless the Board first approves a development agreement with the solar power plant owner and the development agreement is effective.

Existing Policy B-29 further requires that all such agreements shall include a term requiring a solar power plant owner to make an annual payment to the County of \$450 for each acre involved in the power production process and a term requiring a solar power plant owner to secure the payment of sales and use taxes. The annual payment may be reduced by up to 50% through the use of incentives and credits set forth in Existing Policy B-29.

On November 8, 2011, the Board declared that the purposes of Existing Policy B-29 "are to implement . . . [the] General Plan . . . , to ensure that the County does not disproportionately bear the burden of solar energy production, to ensure the County is compensated in an amount it deems appropriate for the use of its real property, and to give solar power plant owners certainty as to the County's requirements."

On February 3, 2012, the Independent Power Producers Association, dba Independent Energy Producers Association and the Large-Scale Solar Association filed suit against the Board and the County challenging Existing Policy B-29 on behalf of themselves and their members (Riverside Superior Court Case No. INC1200838).

Now, the parties to the litigation believe their mutual interests will be best served if any and all legal disputes between them are resolved without further litigation by the Board considering adoption of a Revised Board Policy No. B-29 ("Revised Policy B-29"). Accordingly, the parties have entered into agreement requiring the Board's consideration of Revised Policy B-29, consideration of public comment, and then action by the Board on the Revised Policy B-29. It is understood and acknowledged by the parties that the Board has discretion and that the agreement cannot restrict or bind the Board's legislative decision-making authority.

#### REVISED BOARD POLICY B-29

Revised Policy B-29, as set forth in Attachment A, makes the following revisions to Existing Policy B-29:

**Payment:** The solar power plant owner shall pay annually to the County \$150 for each acre of land involved in the power production process ("net acreage"). For solar power plants that are built in phases, the annual payments shall be based on net acreage of each defined phase.

**Annual Increase:** The initial payment and each subsequent payment shall increase by two percent each year from and after 2013.

**Incentives and Credits:** All incentives and credits have been removed from Existing Policy B-29 given the lower payment amount.

**Sales and Use Taxes:** Revised Policy B-29 states that each franchise, real property interest agreement or development agreement shall include all necessary provisions and construction contract requirements, consistent with law, to ensure the sales and use taxes payable in connection with the construction of the solar power plant are allocable to the County to the maximum extent possible under the law. Revised Policy B-29 further requires that the solar power plant owner reimburse the County for the County's use of a private sales tax consultant to assist in implementing and enforcing compliance with the sales and use tax provisions of the agreement.

**Expedited Processing:** Revised Policy B-29 states that the County shall establish a program to expedite review and approval of any agreements, permits, or other approvals from the County necessary to site, develop, and operate solar power plants.

All other terms and provisions of Existing Policy B-29 shall remain unchanged and shall remain in full force and effect.

Revised Policy B-29 is exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) in that it can be seen with certainty there is no possibility the policy may have a significant effect on the environment. The policy merely establishes a discretionary process for solar power plants in the County. To perform any environmental analysis at this early stage would require the County to speculate as to which parcels might be involved, what type of solar technology might be used, and what impacts a future solar power plant project might have. As a result, such analysis would be premature and meaningless. "Determining whether a project qualifies for the common sense exemption need not necessarily be preceded by detailed or extensive fact-finding. Evidence appropriate to the CEQA stage in issue is all that is required." *Muzzy Ranch Co. v. Solana County Airport Land Use Commission* (2007) 41 Cal.4<sup>th</sup> 372, 388. There is no specific development application connected with Revised Policy B-29 and it does not commit the County to any development. Accordingly, the County's approval of the policy does not create a reasonably foreseeable physical change in the environment. Before development occurs on any particular site, all environmental issues will be analyzed in site-specific environmental impact reports or other environmental documents. The conclusions expressed herein are consistent with CEQA Guidelines section 15004(b) which provides: "Choosing the precise time for CEQA compliance involves a balancing of competing factors. EIRs and negative declarations should be prepared as early as feasible in the planning process to enable environmental considerations to influence project program and design and yet late enough to provide meaningful information for environmental assessment."



**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

**Number**

**B-29**

**Page**

**1 of 7**

**Purpose:**

The Board supports solar energy and acknowledges its benefits. The benefits of solar power plants, however, occur on a national, statewide and regional level. The County wants to contribute its fair share to meet renewable energy goals, but not at the expense of its residents. At the local level, solar power plants permanently alter the landscape. They also permanently commit vast areas of the County to energy production and preclude all other potential uses, including, but not limited to, agricultural, recreational, commercial, residential and open space uses. The amount of land required to operate these facilities is significantly greater than the amount of land required to operate other renewable energy facilities and conventional energy facilities. Because Riverside County is one of fastest growing counties in the state and because it is expected to be the second most populous county in the state by 2044, the commitment of so much land to a single use has serious consequences.

There are currently such a large number of solar power plants approved and pending in the County that the fundamental values of the County expressed in its General Plan are in jeopardy. These fundamental values include "sustainability", pursuant to which the County has an expectation that its future residents will inherit communities offering them a reasonable range of choices (General Plan pg. V-7); and the "natural environment", pursuant to which the County is committed to maintaining sufficient areas of natural open space and sustaining the permanent viability of unique landforms and ecosystems (General Plan pg. V-6).

The vision of the County expressed in its General Plan is also in jeopardy. Corridors and areas may not be preserved for distinctive purposes, including multi-purpose open space; economic development; agriculture; residences; and public facilities (General Plan pg. V-11). The rich diversity of the County's environmental resources may not be preserved and enhanced for the enjoyment of present and future generations (General Plan pg. V-11). The public may not have access to recreation opportunities (General Plan pg. V-11). There may not be expanded local employment opportunities (General Plan pg. V-12). Development may not occur where appropriate and where adequate public facilities and services are available (General Plan pg. V-15). Agricultural lands may not remain as a valuable form of development (General Plan pg. V-22).

The following General Plan Policies will be affected by the large number of approved and pending solar power plants:

**COUNTY OF RIVERSIDE, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

**Number**

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- Land Use Element Policy LU 2.1.c. - the County shall provide a broad range of land uses, including a range of residential, commercial, business, industry, open space, recreation and public facility uses (General Plan pg. LU-20).
- Land Use Element Policy LU 5.1- the County shall ensure that development does not exceed the ability to adequately provide supporting infrastructure and services (General Plan LU-24).
- Land Use Element Policy LU 7.1 - the County shall accommodate the development of a balance of land uses that maintain and enhance the County's fiscal viability, economic diversity and environmental integrity (General Plan LU-26).
- Land Element Policy LU 8.1 - the County shall provide for the permanent preservation of open space lands that contain important natural resources and scenic and recreational values (General Plan LU-28).
- Land Use Element Policy LU 13.1 - the County shall preserve and protect outstanding scenic vistas and visual features for the enjoyment of the traveling public (General Plan LU-31).
- Land Use Element Policy LU 15.15 - the County shall permit and encourage, in an environmentally and fiscally responsible manner, the development of renewable energy resources and related infrastructure, including but not limited to, the development of solar power plants in the County of Riverside (General Plan LU-37).

The purposes of this Board policy are to implement these and other General Plan provisions, to ensure that the County does not disproportionately bear the burden of solar energy production, to ensure the County is compensated in an amount it deems appropriate for the use of its real property, and to give solar power plant owners certainty as to the County's requirements.

**Policy:**

To secure public health, safety and welfare, a solar power plant shall be subject to the requirements of this policy as well as the requirements of any applicable ordinance, state or federal law.

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

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No encroachment permit shall be issued for a solar power plant unless the Board first grants a franchise to the solar power plant owner. No interest in the County's real property, or the real property of any special district governed by the County, shall be conveyed for a solar power plant unless the Board first approves a real property interest agreement with the solar power plant owner. No approval required by Ordinance Nos. 348 or 460 shall be given for a solar power plant unless the Board first approves a development agreement with the solar power plant owner and the development agreement is effective.

Notwithstanding the foregoing, the County may waive the requirement for multiple agreements where otherwise two or more agreements would be required.

Each such franchise, real property interest agreement or development agreement shall include provisions consistent with the following requirements:

**Payment.** The solar power plant owner shall annually pay the County \$150 for each acre of land involved in the power production process (hereinafter "net acreage"). The initial payment shall be due within five business days of the commencement of project construction. Subsequent payments shall be due by September 30 of each year. For solar power plant projects that are built in defined phases approved prior to, or concurrent with, approval of an agreement called for in this policy, the annual payments shall be based on net acreage of each defined phase.

**Annual Increase.** The initial payment of \$150, and each subsequent payment shall increase annually by two percent from and after 2013.

**Suspension of Operations.** If the County causes a solar power plant to stop operating for longer than 90 days for a reason not related to a violation of the terms of any applicable agreement or a violation of the project conditions of approval, the base payment may be reduced by up to 50 percent upon written request of the solar power plant owner for the period of time the solar power plant remains inoperative.

**Sales and Use Taxes.** Solar power plant owners have substantial control with respect to sales and use taxes payable in connection with the construction of a solar power plant and a corresponding responsibility to assure that such sales and use taxes are reported and remitted to the California State Board of Equalization (BOE) as provided by law. Each franchise, real property interest agreement or development agreement required by this policy shall include all necessary provisions and construction contract requirements, consistent with law, to ensure allocation directly to the County, to the maximum extent possible under the law, of the sales and use taxes payable in

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Policy**

**Subject:**

**SOLAR POWER PLANTS**

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connection with the construction of the solar power plant including, without limitation, provisions and requirements consistent with the following:

- 1) Each solar power plant owner who meets the criteria set forth in applicable BOE regulations and policies must obtain a BOE permit, or sub-permit, for the solar power plant jobsite and report and remit all such taxable sales or uses pertaining to construction of the solar power plant using the permit or sub-permit for that jobsite to the maximum extent possible under the law.
- 2) Each solar power plant owner shall contractually require that all contractors and subcontractors whose contract with respect to the solar power plant exceeds \$100,000.00 ("Major Subcontractors") who meet the criteria set forth in applicable BOE regulations and policies must obtain a BOE permit, or sub-permit, for the solar power plant jobsite and report and remit all such taxable sales or uses pertaining to construction of the solar power plant using the permit or sub-permit for that jobsite to the maximum extent possible under the law.
- 3) Prior to the commencement of any grading or construction of a solar power plant, each solar power plant owner shall deliver to the County a list that includes, as applicable and without limitation, each contractor's and Major Subcontractor's business name, value of contract, scope of work on the solar power plant, procurement list for the solar power plant, BOE account numbers and permits or sub-permits specific to the solar power plant jobsite, contact information for the individuals most knowledgeable about the solar power plant and the sales and use taxes for such solar power plant, and, in addition, shall attach copies of each permit or sub-permit issued by the BOE specific to the solar power plant jobsite. Said list shall include all the above information for the solar power plant owner, its contractors, and all Major Subcontractors. The solar power plant owner shall provide updates to the County of the information required under this section within thirty (30) days of any changes to the same, including the addition of any contractor or Major Subcontractor.
- 4) Each solar power plant owner shall certify in writing that they understand the procedures for reporting and remitting sales and use taxes in the State of California and will follow all applicable state statutes and regulations with respect to such reporting and remitting.
- 5) Each solar power plant owner shall contractually require that each contractor or Major Subcontractor certify in writing that they understand the procedures for reporting and remitting sales and use taxes in the State of California and will follow all applicable state statutes and regulations with respect to such reporting and remitting.

**COUNTY OF RIVERSIDE, CALIFORNIA  
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- 6) Each solar plant owner shall deliver to the County or its designee (as provided in section 7 below) copies of all sales and use tax returns pertaining to the solar power plant filed by the solar power plant owner, its contractors and Major Subcontractors. Such returns shall be delivered to the County or its designee within thirty (30) days of filing with the BOE. Such returns may be redacted to protect, among other things, proprietary information and may be supplemented by additional evidence that payments made complied with this policy.
- 7) The County may, in its sole discretion, select and retain the services of a private sales tax consultant with expertise in California sales and use taxes to assist in implementing and enforcing compliance with the provisions of the agreement and that each solar power plant owner shall be responsible for all reasonable costs incurred for the services of any such private sales tax consultant and shall reimburse the County within thirty (30) days of written notice of the amount of such costs.

**Term.** The appropriate agreement shall be for a term coextensive with the operation of the solar power plant.

**Expedited Review and Approval.**

The County shall establish a program to expedite review and approval of any agreements, permits or other approvals from the County necessary to site, develop and operate solar power plants. In the interim, permits for solar power plants subject to this policy shall be eligible for an expedited entitlement process in accordance with applicable County ordinances, policies, and state law to the extent feasible.

**Exemption:**

This policy shall not apply to a solar power plant that has a rated production capacity of 20 or fewer megawatts; provided, however, this exemption shall not apply if the County determines that a solar power plant owner, or an affiliated company, filed separate applications so as to obtain the exemption.

**Exception:**

A solar power plant owner may make a written request to be excepted from this policy at the time the solar power plant owner files an application for a permit or approval described in this policy or any time thereafter. The Board may grant the exception request upon a finding of special circumstances. Special circumstances shall include, but not be limited to, a determination that the solar power plant has a substantial benefit to the County above and beyond the payment of required taxes or the implementation of

**COUNTY OF RIVERSIDE, CALIFORNIA  
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mitigation measures identified in any applicable environmental document. Special circumstances shall not include financial or economic hardship.

**Definitions:**

As used in this policy, the following terms shall have the following meanings:

**"Net Acreage."** All areas involved in the production of power including, but not limited to, the power block, solar collection equipment, areas contiguous to solar collection equipment, transformers, transmission lines and/or piping, transmission facilities (on and off-site), service roads regardless of surface type – including service roads between panels or collectors, structures, and fencing surrounding all such areas. Net acreage shall not include off-site access roads or areas specifically set aside either as environmentally sensitive or designated as open space, and shall not include the fencing of such set aside areas.

**"Solar Power Plant."** A facility used to generate electricity from solar energy where the power plant will be connected to the power grid and the electricity will be used primarily (i.e. more than 50 percent) at locations other than the site of the solar power plant. Solar power plants include power plants using both solar thermal systems and photovoltaic systems to convert solar energy to electricity. Solar thermal systems concentrate heat to drive a turbine which is then used to create electricity from generators and include systems using solar troughs, solar dishes, and solar power towers. Photovoltaic systems use a technology such as solar cells which generates electricity directly from sunlight. A solar power plant does not include a solar energy system as defined in Ordinance No. 348.

**"Solar Power Plant Owner."** A person or entity developing, owning or operating a solar power plant.

**Integration:**

Board of Supervisors Policy No. B-29, as adopted on November 8, 2011 and as amended on May 21, 2013, is approved as part of a comprehensive, integrated legislative program which also includes the adoption of General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Ordinance No. 348.4705. The Board of Supervisors declares that it would not have adopted Board of Supervisors Policy No. B-29 unless General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Ordinance No. 348.4705 were also adopted and effective. In the event that any provision of Board of Supervisors Policy No. B-29, General Plan Amendment No. 1080

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

<b>Policy</b>		
<b><u>Subject:</u></b>	<b><u>Number</u></b>	<b><u>Page</u></b>
<b>SOLAR POWER PLANTS</b>	<b>B-29</b>	<b>7 of 7</b>

(Land Use Policy LU 15.15) or Ordinance No. 348.4705 is determined to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, then Board of Supervisors Policy No. B-29, General Plan Amendment No. 1080 (Land Use Policy LU 15.15) and Ordinance No. 348.4705 shall be deemed invalid in their entirety and shall have no further force or effect.

**Reference:**

Minute Order 16.2 of 11/08/2011  
Minute Order 3.24 of 5/21/2013



PLANNING CASE INFORMATION FOR CUP03693

Online Services

Results for CUP03693 as of 10/22/2013 12:33:55 PM

*Indigo Ranch*

**Basic Case Information**

**CASE NUMBER:** CUP03693

**CASE STATUS:** DRT

**APPLIED DATE:** 03/05/2013

**DECISION DATE:**

**EXPIRATION DATE:**

**GENERAL LOCATION:** N I-10 E KAISER RD

**DESCRIPTION:** 4.5 MEGAWATT SOLAR PHOTOVOLTAIC GENERATING FACILIT

**APPLICANT:** INDIGO RANCH PROJECT LLC

**ADDRESS 1:** 12657 ALCOSTA BLV STE 130

**ADDRESS 2:** SAN RAMON CA

**ADDRESS 3:**

**ZIP:** 94583

**Fee Information**

**TOTAL FEES:** \$50,146.14

**TOTAL PAYMENTS:** \$24,646.14

**BALANCE DUE:** \$25,500.00

**Case Planner Information**

**Project Planner:** ROSS LARRY

[Click here to go to a listing of Planning staff e-mails](#)

**Search Another Planning Case**

Enter Case Number:

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PLANNING CASE INFORMATION FOR CUP03680

Online Services

Results for CUP03680 as of 10/22/2013 1:11:45 PM

Basic Case Information

**CASE NUMBER:** CUP03680  
**CASE STATUS:** DRT  
**APPLIED DATE:** 11/22/2011  
**DECISION DATE:**  
**EXPIRATION DATE:**  
**GENERAL LOCATION:** N/O I-10 E/O DESERT CENTER  
**DESCRIPTION:** SOLAR POWER PLANT 49.5 MW ON 452.88 ACRES  
**APPLICANT:** US SOLAR HOLDINGS, LLC  
**ADDRESS 1:** 1015 W HAYS  
**ADDRESS 2:** BOISE ID  
**ADDRESS 3:**  
**ZIP:** 83702

*Us Solar Holdings Desert Center 50 project*

Fee Information

**TOTAL FEES:** \$20,500.00  
**TOTAL PAYMENTS:** \$10,300.00  
**BALANCE DUE:** \$10,200.00

Case Lock Information

\* This case is locked at this time. Please contact the case planner for more information.

Case Planner Information

Project Planner: OLIVAS JAY

[Click here to go to a listing of Planning staff e-mails](#)

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PAMELA J. WALLS  
County Counsel

OFFICE OF COUNTY COUNSEL  
COUNTY OF RIVERSIDE

KATHERINE A. LIND  
Assistant County Counsel

3960 ORANGE STREET, SUITE 500  
RIVERSIDE, CA 92501-3674  
TELEPHONE: 951/955-6300  
FAX: 951/955-6322 & 951/955-6363



March 1, 2012

Rupal Patel  
RENEWABLE RESOURCES GROUP  
5700 Wilshire Blvd., Ste. 330  
Los Angeles, CA 90036

Re: Return of Conditional Use Permit Application No. 03670

Dear Ms. Patel:

Returned herewith is your conditional use permit application received on May 12, 2011 seeking the approval of a solar power plant. At the time your application was received, a solar power plant was not a permitted or conditionally permitted use in any zone classification. Such a use was in fact prohibited pursuant to Section 3.3 of Ordinance No. 348 which provides in pertinent part: "When a use is not specifically listed as permitted or conditionally permitted in a zone classification, the use is prohibited . . . ."

To the extent you may have received information suggesting that a solar power plant was a permitted or conditionally permitted use at the time your application was received, such information was incorrect under the controlling provisions of Ordinance No. 348. Accordingly, your application should have been rejected and the County will not further process it.

On November 8, 2011, after your conditional use permit application was received, the Board of Supervisors adopted a comprehensive, integrated legislative solar power plant program which included General Plan Amendment No. 1080, Ordinance No. 348.4705, and Board of Supervisors Policy No. B-29.

Ordinance No. 348.4705 amended the County's Land Use Ordinance to authorize solar power plants, subject to the approval of a conditional use permit, on lots ten (10) acres or larger in a number of zones, including the W-2, A-1, and A-2 zones which are applicable to the property underlying your application. Ordinance No. 348.4705 became effective on December 8, 2011.

Because a solar power plant is currently an authorized use in the W-2, A-1, and A-2 zones, subject to the approval of a conditional use permit, you may submit a new conditional use permit application for the solar power plant referenced in your returned application. If a new application is submitted, the County will, to the fullest extent possible, use all data and documentation previously submitted in processing the new application with the exception of the fast track authorization, which is invalid for the reasons stated in the first paragraph above. You may request fast track processing in conjunction with any new conditional use permit application.

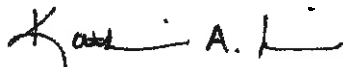
Rupal Patel  
RENEWABLE RESOURCES GROUP  
March 1, 2012

Unused fees paid in conjunction with your returned application may either be applied to processing a new conditional use permit application or refunded.

Your professional courtesy and cooperation are appreciated.

Sincerely,

PAMELA J. WALLS  
County Counsel

A handwritten signature in black ink, appearing to read "Katherine A. Lind". The signature is fluid and cursive, with a prominent initial "K" and a long horizontal stroke at the end.

Katherine A. Lind  
Assistant County Counsel

PAMELA J. WALLS  
County Counsel

OFFICE OF COUNTY COUNSEL  
COUNTY OF RIVERSIDE



KATHERINE A. LIND  
Assistant County Counsel

3960 ORANGE STREET, SUITE 500  
RIVERSIDE, CA 92501-3674  
TELEPHONE: 951/955-6300  
FAX: 951/955-6322 & 951/955-6363

March 1, 2012

Meg Russell  
McCoy Solar, LLC  
c/o NextEra Energy Resources, LLC  
700 Universe Blvd.  
Juno Beach, FL 33408

Re: Return of Conditional Use Permit Application No. 03671

Dear Ms. Russell:

Returned herewith is your conditional use permit application received on May 18, 2011 seeking the approval of a solar power plant. At the time your application was received, a solar power plant was not a permitted or conditionally permitted use in any zone classification. Such a use was in fact prohibited pursuant to Section 3.3 of Ordinance No. 348 which provides in pertinent part: "When a use is not specifically listed as permitted or conditionally permitted in a zone classification, the use is prohibited . . . ."

To the extent you may have received information suggesting that a solar power plant was a permitted or conditionally permitted use at the time your application was received, such information was incorrect under the controlling provisions of Ordinance No. 348. Accordingly, your application should have been rejected and the County will not further process it.

On November 8, 2011, after your conditional use permit application was received, the Board of Supervisors adopted a comprehensive, integrated legislative solar power plant program which included General Plan Amendment No. 1080, Ordinance No. 348.4705, and Board of Supervisors Policy No. B-29.

Ordinance No. 348.4705 amended the County's Land Use Ordinance to authorize solar power plants, subject to the approval of a conditional use permit, on lots ten (10) acres or larger in a number of zones, including the W-2 zone which is applicable to the property underlying your application. Ordinance No. 348.4705 became effective on December 8, 2011.

Because a solar power plant is currently an authorized use in the W-2 zone, subject to the approval of a conditional use permit, you may submit a new conditional use permit application for the solar power plant referenced in your returned application. If a new application is submitted, the County will, to the fullest extent possible, use all data and documentation previously submitted in processing the new application with the exception of the fast track authorization, which is invalid for the reasons stated in the first paragraph above. You may

Meg Russell  
McCoy Solar, LLC  
March 1, 2012

request fast track processing in conjunction with any new conditional use permit application. Unused fees paid in conjunction with your returned application may either be applied to processing a new conditional use permit application or refunded.

Your professional courtesy and cooperation are appreciated.

Sincerely,

PAMELA J. WALLS  
County Counsel

A handwritten signature in black ink, appearing to read "Katherine A. Lind". The signature is written in a cursive style with a large initial "K" and a long horizontal stroke.

Katherine A. Lind  
Assistant County Counsel

cc: Michelle Ouellette, Esq.

PAMELA J. WALLS  
County Counsel

KATHERINE A. LIND  
Assistant County Counsel

OFFICE OF COUNTY COUNSEL  
COUNTY OF RIVERSIDE

3960 ORANGE STREET, SUITE 500  
RIVERSIDE, CA 92501-3674  
TELEPHONE: 951/955-6300  
FAX: 951/955-6322 & 951/955-6363



March 1, 2012

Rupal Patel  
RENEWABLE RESOURCES GROUP  
5700 Wilshire Blvd., Ste. 330  
Los Angeles, CA 90036

Re: Return of Conditional Use Permit Application No. 03677

Dear Ms. Patel:

Returned herewith is your conditional use permit application received on September 6, 2011 seeking the approval of a solar power plant. At the time your application was received, a solar power plant was not a permitted or conditionally permitted use in any zone classification. Such a use was in fact prohibited pursuant to Section 3.3 of Ordinance No. 348 which provides in pertinent part: "When a use is not specifically listed as permitted or conditionally permitted in a zone classification, the use is prohibited . . . ."

To the extent you may have received information suggesting that a solar power plant was a permitted or conditionally permitted use at the time your application was received, such information was incorrect under the controlling provisions of Ordinance No. 348. Accordingly, your application should have been rejected and the County will not further process it.

On November 8, 2011, after your conditional use permit application was received, the Board of Supervisors adopted a comprehensive, integrated legislative solar power plant program which included General Plan Amendment No. 1080, Ordinance No. 348.4705, and Board of Supervisors Policy No. B-29.

Ordinance No. 348.4705 amended the County's Land Use Ordinance to authorize solar power plants, subject to the approval of a conditional use permit, on lots ten (10) acres or larger in a number of zones, including the W-2, N-A, and A-1 zones which are applicable to the property underlying your application. Ordinance No. 348.4705 became effective on December 8, 2011.

Because a solar power plant is currently an authorized use in the W-2, N-A, and A-1 zones, subject to the approval of a conditional use permit, you may submit a new conditional use permit application for the solar power plant referenced in your returned application. If a new application is submitted, the County will, to the fullest extent possible, use all data and documentation previously submitted in processing the new application with the exception of the fast track authorization, which is invalid for the reasons stated in the first paragraph above. You may request fast track processing in conjunction with any new conditional use permit application.

Rupal Patel  
RENEWABLE RESOURCES GROUP  
March 1, 2012

Unused fees paid in conjunction with your returned application may either be applied to processing a new conditional use permit application or refunded.

Your professional courtesy and cooperation are appreciated.

Sincerely,

PAMELA J. WALLS  
County Counsel

A handwritten signature in black ink, appearing to read "Katherine A. Lind". The signature is written in a cursive style with a horizontal line extending to the right.

Katherine A. Lind  
Assistant County Counsel

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Executive Office

**SUBMITTAL DATE:**  
June 25, 2013

**SUBJECT:** Approval of Revisions to Resolution No. 2013-158 Establishing Requirements, Limitations & Procedures Concerning the Use of Payments Collected Under a Franchise, Real Property Interest Agreement or Development Agreement Involving a Solar Power Plant & Associated Budget Adjustments

**RECOMMENDED MOTION:** That the Board of Supervisors approve:

- 1) Resolution No. 2013-158, attached, as verbally amended by the Board on June 25, 2013, establishing the requirements, limitations, and procedures concerning use of solar power plant payments to dedicate 25 percent toward use in communities in the general vicinity of solar power plants for which payments are made and 75 percent toward general purpose use pursuant to a 4/5<sup>th</sup> vote of the Board; and,
- 2) Approve and direct the Auditor-Controller to make corresponding budget adjustments in Schedule A, attached, to implement the revised provisions of Resolution No. 2013-158.

**BACKGROUND:** On June 25, 2013, the Board approved Resolution No. 2013-158 with verbal amendments, and the budget adjustments accompanying it. The actions recommended here memorialize those actions and make further budget adjustments necessary to implement those amendments with regard to appropriation levels and commitments of fund balance from solar franchise revenue from the Desert Sunlight solar power project. Together with the prior action, the adjustments recommended leave \$195,500 in appropriations for staffing the solar program, \$400,000 committed toward renovation of the Lake Tamarisk Clubhouse for benefit of the local community, and the remaining \$503,813 in FY 11/12 and anticipated FY 13/14 fund balance committed toward general purpose use consistent with Resolution No. 2013-158.

*Denise C. Harden*  
Denise C. Harden, Principal Management Analyst

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ (125,290)	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	Yes
	Annual Net County Cost:	\$ 0	For Fiscal Year:	FY 13/14

<b>SOURCE OF FUNDS:</b> Solar payment revenue fund	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input checked="" type="checkbox"/>

**C.E.O. RECOMMENDATION:** **APPROVE**

BY: *Ivan M. Chand* 6/25/2013  
Ivan M. Chand  
**County Executive Office Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Tavaglione, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: July 2, 2013  
xc: E.O., Auditor

JUN 25 2013 5:02  
RECEIVED BY FAX 6/25/2013

Kecia Harper-Ihem  
Clerk of the Board  
By: *Kecia Harper-Ihem*  
Deputy

**3-50**

**Prev. Agn. Ref.:** 06/25/13 #3-46, #3-47 **District:** All **Agenda Number:**

Dept's Recomm.:  Consent  Policy   
 Per Exec. Off.:  Consent  Policy   
 Departmental Concurrence  
 BY: *Samuel Wong* 6/25/13  
 SAMUEL WONG  
 FISCAL FRULED BY: PAUL ANGULO, CPA, AUDITOR-CONTROLLER



Schedule A

Decrease contributions to other funds:	
22840-1104100000-551100 Contribution to other county funds	125,290
Decrease committed fund balance:	
22840-1104100000-330157 Committed fund balance for 4 <sup>th</sup> District benefit	378,523
Increase committed fund balance:	
22840-1104100000-330156 Committed fund balance for community benefit	181,871
22840-1104100000-330157 Committed fund balance for general purpose	321,942

13 APR 58 PM 11 03

110 1104100000-330156  
110 1104100000-330157

2  
3 RESOLUTION NO. 2013-158

4  
5 A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE  
6 ESTABLISHING REQUIREMENTS, LIMITATIONS AND PROCEDURES  
7 CONCERNING THE USE OF PAYMENTS COLLECTED UNDER A  
8 FRANCHISE, REAL PROPERTY INTEREST AGREEMENT OR DEVELOPMENT AGREEMENT  
9 INVOLVING A SOLAR POWER PLANT

10  
11 WHEREAS, the Board of Supervisors supports solar energy and acknowledges its benefits; and,  
12 WHEREAS, the benefits of solar power plants occur on a national, statewide and regional level;  
13 and,

14 WHEREAS, the development of solar power plants presents unique and unprecedented issues  
15 for Riverside County not involved in any other type of development; and,

16 WHEREAS, the development of solar power plants involves new and rapidly evolving  
17 technology; and,

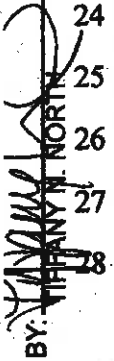
18 WHEREAS, except for experimental facilities, large-scale solar power plants have not  
19 previously been completed or operated anywhere in the state; and,

20 WHEREAS, there has been a rush to develop solar power plants due to state mandates and  
21 federal and state financial incentives; and,

22 WHEREAS, development of solar power plants will permanently alter the natural landscape,  
23 and detrimentally affect scenic and recreational values; and,

24 WHEREAS, development of solar power plants will permanently commit vast areas of the  
25 County to industrial, large-scale solar energy production and preclude all other potential uses on those  
26 lands, including, but not limited to, agricultural, recreational, commercial, industrial, residential, cultural,  
27 and open space uses; and,

28 WHEREAS, compared to these other potential uses, the number of permanent jobs created by

BY:  7/2/13  
Tiffany North  
DA

1 solar power plants is very limited; and,

2 WHEREAS, on November 8, 2011, the Board of Supervisors adopted a comprehensive,  
3 integrated, legislative solar power plant program which included General Plan Amendment No. 1080,  
4 Ordinance No. 348.4705 and Board of Supervisors Policy No. B-29; and,

5 WHEREAS, on May 21, 2013, the Board of Supervisors adopted a revised Board Policy No. B-  
6 29 (Board Policy No. B-29); and,

7 WHEREAS, General Plan Amendment No. 1080 adds a new General Plan policy which  
8 declares that the County "shall permit and encourage, in an environmentally and fiscally responsible  
9 manner, the development of renewable energy resources and related infrastructure, including but not  
10 limited to, the development of solar power plants in the County of Riverside"; and,

11 WHEREAS, Board Policy No. B-29, among other things, provides for certain payments for  
12 franchises, real property interest agreements, or development agreements involving solar power plants; and,

13 WHEREAS, on December 18, 2012, the Board of Supervisors adopted Resolution 2012-252  
14 establishing requirements, limitations, and procedures concerning the use of payments collected under a  
15 development agreement involving a solar power plant; and,

16 WHEREAS, the Board of Supervisors now desires to expand and amend the requirements,  
17 limitations and procedures adopted in Resolution No. 2012-252 to address the use of payments collected  
18 under franchises and real property interest agreements, as well as development agreements, involving solar  
19 power plants and allow for diversified uses and appropriations of such payments consistent with law and  
20 the purpose of Board Policy No. B-29;

21 NOW, THEREFORE, BE IT RESOLVED, FOUND, DETERMINED AND ORDERED by the  
22 Board of Supervisors of the County of Riverside in regular session assembled on June 25, 2013, that the  
23 following requirements, limitations and procedures concerning the use of payments collected under  
24 franchises, real property interest agreements, or development agreements involving solar power plants are  
25 hereby established:

26 1. LIMITED TO PAYMENTS COLLECTED UNDER FRANCHISES, REAL PROPERTY  
27 INTEREST AGREEMENTS, AND DEVELOPMENT AGREEMENTS INVOLVING SOLAR POWER  
28 PLANTS. This Resolution shall apply only to payments collected under franchises, real property interest

1 agreements, and development agreements adopted consistent with Board Policy No. B-29 or Ordinance 909  
2 and involving solar power plants, notwithstanding the provisions of any other Board policy. However, this  
3 Resolution shall not apply to any payment collected under such franchise, real property interest agreement,  
4 or development agreement for the purpose of providing funding for the administration of the subject  
5 agreement. For the purposes of this Resolution, "solar power plant" shall have the same meaning as  
6 defined in Riverside County Ordinance No. 348.

7           2.       LIMITED TO SPECIFIC PURPOSES. Effective July 1, 2013, of all such solar power  
8 plant payments specified above, 25 percent shall be committed toward appropriations that benefit  
9 communities in the general vicinity of the solar power plant for which payments are made and 75 percent  
10 shall be committed toward appropriations for any general purpose use consistent with the limitations of this  
11 Resolution. All appropriations made pursuant to this Resolution shall have an articulated public purpose  
12 consistent with the objectives outlined in Board Policy No. B-29. Permissible appropriations of such  
13 payments include, but are not limited to, County programs for economic and employment development,  
14 employee training and retraining, affordable housing, promoting tourism, and other activities and programs  
15 to retain, preserve, attract, and grow agricultural, recreational, industrial and commercial uses. In all cases,  
16 appropriations of such solar power plant payments shall not be used to mitigate project-specific impacts,  
17 including but not limited to mitigation that would be required under the California Environmental Quality  
18 Act ("CEQA") or Ordinance No. 659, nor shall such solar power plant payments supplant such mitigation  
19 payments or development impact fees.

20           3.       SEPARATE FUND AND ACCOUNTING. All such payments shall be deposited into  
21 and disbursed from a separate special revenue fund of the County hereby established entitled the "Solar  
22 Payment Revenue Fund."

23           4.       RESOLUTION 2012-252. Resolution 2012-252 is superseded and amended in its  
24 entirety by this Resolution.

25 ROLL CALL:

26 Ayes:           Jeffries, Tavaglione, Stone, Benoit and Ashley  
27 Nays:           None  
28 Absent:         None

The foregoing is certified to be a true copy of a  
resolution duly adopted by said Board of Super-  
visors on the date therein set forth.

KECIA HARPER-IHEM Clerk of said Board

By \_\_\_\_\_ Deputy