

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

306 B



FROM: TLMA – Planning Department/County Counsel

SUBMITTAL DATE:
April 17, 2014

SUBJECT: DESERT HARVEST SOLAR PROJECT – Resolution No. 2014-099 Declaration of Intent to Grant an Electric Franchise to Desert Harvest LLC, and its Lawful Successors and Assigns and Setting for Public Hearing Ordinance No. 922.

RECOMMENDED MOTION: That the Board of Supervisors adopt Resolution No. 2014-099, "Declaration of Intention to Grant an Electric Franchise to Desert Harvest, LLC, a Delaware Limited Liability Company, and its Lawful Successors and Assigns"; and, direct the Clerk of the Board to publish notice in substantially the same form as specified in the resolution, for the public hearing to be held at 10:30 a.m. on May 20, 2014.

BACKGROUND: Desert Harvest, LLC ("Desert Harvest") has requested a franchise to construct and use an electrical transmission line under, along, across or upon the Kaiser Road rights-of-way in eastern Riverside County. The franchise proposed in Ordinance No. 922 has a 30-year term; requires an annual franchise payment consistent with payment provisions of Board of Supervisors Policy No. B-29 that is increased yearly by 2% for the life of the franchise; and requires that Desert Harvest take specified actions to ensure allocation directly to the County of the sales and use taxes payable in connection with the construction of the solar power plant, to the maximum extent possible under the law.

Initials
JCP:lr

(continued next page)

Juan C. Perez
Juan C. Perez
TLMA Director/ Interim Planning
Director

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	Consent <input type="checkbox"/> Policy <input type="checkbox"/>
NET COUNTY COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	

SOURCE OF FUNDS: Deposit based funds	Budget Adjustment: N/A
	For Fiscal Year: N/A

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 Stone, seconded by Supervisor Ashley and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended, and is set for public hearing on Tuesday, June 17, 2014, at 10:30 a.m.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: April 29, 2014
xc: Planning, COB

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

Prev. Agn. Ref.:

District: 4/4

Agenda Number:

3-21

FORM APPROVED COUNTY COUNSEL
4/22/14
BY: TANYA N. NORRIS

Departmental Concurrence

- A-30
- 4/5 Vote
- Positions Added
- Change Order

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

FORM 11: Resolution No. 2014-099 Declaration of Intent to Grant an Electric Franchise to Desert Harvest LLC, and its Lawful Successors and Assigns and Setting for Public Hearing Ordinance No. 922.

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BACKGROUND CONT.:

Desert Harvest proposes to construct and operate a 150 megawatt (MW) photovoltaic (PV) solar power plant known as the Desert Harvest Solar Project ("Project"). The majority of the Project, including the PV solar field, will be located on federal land managed by the Bureau of Land Management. A Record of Decision approving the Project was issued by the Department of the Interior in March 2013. The solar field is not within the County's land use jurisdiction.

The Project includes construction of a 220 kilovolt ("kV") transmission line connecting the electrical output of the solar power plant to Southern California Edison's Red Bluff Substation. Approximately 5.8 miles of the transmission line will run under, along, across or upon the Kaiser Road rights-of-way and other private lands within the County's jurisdiction not within road rights-of-way. Specifically, the transmission line is proposed to exit the northwest portion of the solar power plant site, run south along the west side of Kaiser road, turn east just north of Desert Center, and then run south across I-10 to the substation.

Desert Harvest applied for a Public Use Permit (PUP 914) pursuant to Ordinance No. 348 and an encroachment permit pursuant to Ordinance No. 499 for the portions of the Project within the County's jurisdiction. PUP 914 is a fast track case currently scheduled for public hearing before the Board on May 20, 2014. The Transportation Department is considering the encroachment permit application. Board of Supervisors Policy No. B-29 states, "No encroachment permit shall be issued for a solar power plant unless the Board first grants a franchise to the solar power plant owner." The County is authorized to grant a franchise pursuant to Article 11, Section 7, of the California Constitution and Government Code section 26001. In 2011 the Board granted a similar franchise for the Desert Sunlight Solar Farm Project in Ordinance No. 909.

Desert Harvest and County staff have reached an agreement on the terms of the franchise agreement set forth in Ordinance No. 922. Consistent with Board Policy No. B-29, Desert Harvest will submit annual payments of \$150 per acre, increased annually by 2% from and after 2013 (currently \$153 per acre in 2014), based on the solar power plant net acreage amount of 1,208 acres at full build out. The total "net acreage", agreed upon by Desert Harvest, was calculated using the definition in Board Policy No. B-29. The Project is scheduled to be built in phases and the annual payments will be based on the net acreage included in each phase until complete build out. As currently contemplated by Desert Harvest, the first phase will include a net acreage of 10 acres. The first phase consists of pre-construction surveys, desert tortoise exclusion fencing, and other preconstruction activities. The second phase will include a net acreage of 1,043 acres. The third phase will include a net acreage of 155 acres. The transmission line is planned for construction during the second phase. Desert Harvest will also take agreed upon actions to ensure that local sales and use taxes are directly allocated to the County to the maximum extent possible under the law.

Consistent with the procedure in Public Utilities Code section 6232, the Clerk of the Board is required to publish notice of the public hearing in a newspaper of general circulation in the County at least once within fifteen (15) days after the adoption of Resolution No. 2014-099. The time fixed for the hearing shall be May 20, 2014, a date not less than twenty (20) nor more than sixty (60) days after the date of the adoption of the resolution.

Impact on Citizens and Businesses

An Environmental Impact Statement ("EIS") prepared by the BLM studied the overall Desert Harvest Solar Project and its impacts. Public Resources Code section 21083.5 and CEQA Guidelines Section 15221 state that when an EIS has been prepared, all or parts of the EIS may be submitted instead of an Environmental Impact Report ("EIR"), if the EIS complies with the requirements of CEQA and the CEQA Guidelines. The County intends to rely upon the EIS to satisfy CEQA for this Project. The EIS identified the following significant

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and unavoidable impacts of the Project: Air Resources, Biological Resources, Cultural Resources, Noise and Vibration, Recreation, and Visual Resources. The Board will consider the EIS at the May 20, 2014 public hearing on the Project.

The Project will aid in the transmission of renewable energy to the power grid. The Project will also increase local short-term and long-term employment opportunities, as well as boost local business activity during construction. The maximum number of onsite personnel during construction at any one time is 250 workers. An average workforce of 100 is anticipated. Over a 12-month construction period, the transmission line workforce would average 30 employees and no more than 65 employees at any one point. Therefore, the total peak workforce on the Project would be 315 construction workers. The Project would employ 8 fulltime staff during operations.

Staff labor and expenses to process the Project have been paid directly through Desert Harvest's deposit based fees.

2 RESOLUTION NO. 2014-099

3 DECLARATION OF INTENT TO GRANT AN ELECTRIC FRANCHISE TO DESERT HARVEST,
4 LLC, A DELAWARE LIMITED LIABILITY COMPANY,
5 AND ITS LAWFUL SUCCESSORS AND ASSIGNS

6 WHEREAS, Desert Harvest, LLC (hereinafter referred to as "Grantee") is a limited liability
7 company, established under the laws of the State of Delaware, and duly authorized to transact business in
8 the State of California; and,

9 WHEREAS, Grantee has requested that the Board of Supervisors grant it a franchise for the
10 purpose specified in the form of the notice set forth below; and,

11 WHEREAS, the granting of a franchise by the County is authorized by the California
12 Constitution, Article 11, Section 7 and Government Code section 26001; and,

13 WHEREAS, the Board of Supervisors believes the public good requires that the franchise be
14 granted; now therefore,

15 BE IT RESOLVED, FOUND, DETERMINED, AND ORDERED by the Board of Supervisors of
16 the County of Riverside, in regular session assembled on April 29, 2014, that it intends to grant a
17 franchise to Grantee on the terms specified in the form of the notice set forth below and the additional
18 terms specified in proposed Ordinance No. 922.

19 BE IT FURTHER RESOLVED by the Board that objections to the granting of the franchise shall
20 be heard at the time and place specified in the form of the notice set forth below, which the Clerk of the
21 Board is hereby directed to publish at least once in a newspaper of general circulation in the County
22 within fifteen (15) days after the adoption of this resolution. Said notice shall be in substantially the
23 following form:

24 "NOTICE OF INTENTION TO GRANT FRANCHISE

25 NOTICE IS HEREBY GIVEN that Desert Harvest, LLC, a Delaware Limited Liability Company,
26 has requested that the Board of Supervisors of the County of Riverside grant it a franchise to construct
27

FORM APPROVED COUNTY COUNSEL
BY: [Signature] DATE: 4/29/14
JEFFREY N. NORTH

1 and use an electrical transmission line under, along, across, or upon the Kaiser Road rights-of-way in
2 eastern Riverside County.

3 If granted, the franchise shall be for a period of 30 years. During the life of the franchise, Desert
4 Harvest, LLC, its lawful successors and assigns, in whole or in part (hereinafter referred to as "Grantee"),
5 shall annually pay to the County Treasurer, in lawful money of the United States, annual franchise
6 payments consistent with the payment provisions of Board of Supervisors Policy No. B-29. Consistent
7 with the Board policy, Grantee will submit annual payments of \$150 per acre, increased annually by 2%
8 from and after 2013 (currently \$153 per acre in 2014), based on the solar power plant net acreage amount
9 of 1,208 acres at full build out. The total "net acreage", agreed upon by the Grantee, was calculated using
10 the definition in Board Policy No. B-29. The Project is scheduled to be built in phases and the annual
11 payments will be based on the net acreage included in each phase until complete build out. As currently
12 contemplated by Grantee, the first phase will include a net acreage of 10 acres. The first phase consists of
13 pre-construction surveys, desert tortoise exclusion fencing, and other preconstruction activities. The
14 second phase will include a net acreage of 1,043 acres. The third phase will include a net acreage of 155
15 acres. The electrical transmission line is planned for construction during the second phase. The initial
16 payments for each phase shall be made within five (5) business days of the commencement of
17 construction for that phase. All subsequent payments shall be made on or by September 30th of each year
18 during the term of the franchise.

19 In the event the payments specified herein are not made, the franchise shall be forfeited following
20 the applicable cure period.

21 Grantee will also take agreed upon actions to ensure that local sales and use taxes are directly
22 allocated to the County to the maximum extent possible under the law

23 NOTICE IS HEREBY FURTHER GIVEN that any person objecting to the granting of the
24 franchise may appear before the Board of Supervisors and be heard thereon at the hour of 10:30 a.m. on
25 Tuesday, the 17th day of June 2014 at the Board Chambers, First Floor, County Administrative Center,
26 4080 Lemon Street, Riverside, California.

1 NOTICE IS HEREBY FURTHER GIVEN that at any time not later than the hour set for the
2 hearing of objections, any person interested may make written protest stating objections against the
3 granting of the franchise; which protest must be signed by the protestant and be delivered to the Clerk of
4 the Board of the County. The Board of Supervisors at the time set for hearing objections shall proceed to
5 hear and pass upon all protests so made and its decision shall be final and conclusive, subject to the right
6 of referendum of the people. The Board of Supervisors may adjourn the hearing from time to time.

7 For further particulars, reference is hereby made to Resolution No. 2014-099 adopted by the Board
8 of Supervisors on the 29th day of April 2014, declaring its intention to grant the franchise and to proposed
9 Ordinance No. 922, an ordinance of the County of Riverside granting to Desert Harvest, LLC, and its
10 lawful successors and assigns, in whole or in part, a franchise to construct and use an electrical
11 transmission line under, along, across, or upon the Kaiser Road rights-of-way in eastern Riverside
12 County, both of which are on file in the office of the Clerk of the Board.

13 DATED THIS 29th day of April, 2014.

14 By order of the Board of Supervisors of the County of Riverside, California.”
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17 ROLL CALL:

18 Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
19 Nays: None
20 Absent: None

21 The foregoing is certified to be a true copy of a resolution duly
22 adopted by said Board of Supervisors on the date therein set forth.


23 KECIA HARPER-IHEM, Clerk of said Board

24 By Kecia Harper-Ihem
25 Deputy
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MEMORANDUM

RIVERSIDE COUNTY COUNSEL

DATE: April 29, 2014
TO: Honorable Board of Supervisors
FROM: Tiffany N. North, Supervising Deputy County Counsel 
RE: Agenda item 3-21 (Desert Harvest Solar Project – Resolution No. 2014-099)

County Counsel and Planning Staff respectfully request that the public hearing date referenced in Resolution No. 2014-099 be changed from May 20, 2014 to June 17, 2014. The revised public hearing date has been discussed with and agreed upon by the project applicant.

Thank you.

321 4/29/14