

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

879




FROM: TLMA - Planning Department

SUBMITTAL DATE:  
June 19, 2014

**SUBJECT:** DESERT HARVEST SOLAR PROJECT: ADOPTION OF ORDINANCE NO. 922 Granting to Desert Harvest, LLC, 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 – Fast Track Authorization 2013-04 – Applicant: Desert Harvest, LLC – Engineer/Representative: Section Thirty Seven Consultants, LLC – Chuckwalla Zoning Area – Desert Center Area Plan – Location: Northerly of Interstate 10, westerly of Desert Center Rice Road (State Highway 177) within portions of Kaiser Road rights-of-way, 4<sup>th</sup>/4<sup>th</sup> Supervisorial District. [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors ADOPT ORDINANCE NO. 922, an Ordinance of the County of Riverside Granting to Desert Harvest, LLC, A Delaware Limited Liability Company, and its Lawful Successors and Assigns, in whole or in part, 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.

(continued on page 2)  
jcp:kgb

  
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 checked="" 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

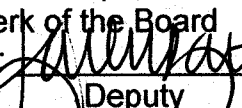
BY:   
Denise C. Harden

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and that Ordinance 922 is adopted.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: July 1, 2014  
xc: Planning, MC, COB

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

Prev. Agn. Ref.: 16-1 of 6/17/14 | District: 4/4 | Agenda Number:

3-52

FORM APPROVED COUNTY COUNSEL  
BY:   
Tiffany N. North  
DATE: 6/19/14

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: Desert Harvest Solar Project – Adoption of Ordinance No. 922**

**DATE: June 19, 2014**

**PAGE: 2 of 2**

**BACKGROUND:**

The public hearing on the Desert Harvest Solar Project ("Project") was held on June 17, 2014 as agenda item 16-1. At the conclusion of the public testimony, the Board of Supervisors closed the public hearing, (i) considered the environmental effects of the Project as shown in the "Desert Harvest Solar Farm Project Final Environmental Impact Statement and California Desert Conservation Plan Amendment" prepared and approved by the Bureau of Land Management ("BLM") in the Record of Decision, (ii) adopted Resolution No. 2014-146, (iii) approved Public Use Permit No. 914 subject to conditions of approval, and (iv) introduced Ordinance No. 922 granting a franchise to Desert Harvest, LLC ("Desert Harvest") to construct and use an electrical transmission line, under, along, across, or upon the Kaiser Road Rights-of-Way in Eastern Riverside County.

The adoption of Ordinance No. 922 will finalize the Board's approval of the franchise agreement. The County is authorized to grant a franchise pursuant to Article 11, Section 7, of the California Constitution and Government Code section 26001. Per State law, a franchise agreement is adopted by ordinance. Here, the franchise agreement (Ordinance No. 922) would allow Desert Harvest to construct and use the electrical transmission line (also referred to as a "Gen-Tie Line") under, along, across or upon the Kaiser Road rights-of-way and would compensate the County for such construction and use. In 2011, the Board granted a similar franchise for the Desert Sunlight Solar Farm Project in Ordinance No. 909. In accordance with Government Code Section 25131, the Board of Supervisors may adopt Ordinance No. 922 because more than five (5) days have passed since its introduction on June 17, 2014.

As previously advised in agenda item 16-1 of June 17, 2014, Desert Harvest and County staff have reached an agreement on the terms of the franchise which shall be for 30 years. As set forth in Ordinance No. 922 and 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 Gen-Tie 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. Further, the franchise agreement also requires Desert Harvest to defend, indemnify and hold harmless the County and requires insurance coverage.

**Impact on Citizens and Businesses**

The impacts of processing the franchise agreement and adoption of this ordinance have been evaluated through the environmental review and public hearing process by staff and the Board of Supervisors. The opportunity for public review and comment was provided during the June 17, 2014, public hearing scheduled for this Project and any verbal or written testimony provided by the public was considered by the Board at that time. Today's action on the adoption of Ordinance No. 922 will finalize the Board's approval of the franchise agreement.

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

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AN ORDINANCE OF THE COUNTY OF RIVERSIDE GRANTING TO

LAWFUL SUCCESSORS AND ASSIGNS, IN WHOLE OR IN PART,

UNDER, ALONG, ACROSS, OR UPON THE KAISER ROAD RIGHTS-OF-WAY

IN EASTERN RIVERSIDE COUNTY

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

**Section 1. DEFINITIONS.** As used in this ordinance, the following words and phrases

- a. Base Payment. An amount equal to one hundred fifty dollars (\$150) multiplied by the entire Net Acreage for the Project and which is payable to County annually pursuant to section 4 of this ordinance and increased annually by two percent (2%) from and after 2013 (currently \$153 per acre in 2014).
- b. Construct and Use. To lay, construct, excavate, erect, install, operate, maintain, use, repair, replace, relocate, and/or remove.
- c. County. The County of Riverside of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.
- d. County Parties. County, County Special Districts, their respective directors, officers, Board of Supervisors, elected officials, agents and employees.
- e. Electrical Transmission Line. Poles, towers, supports, wires, conductors, cables, guys, stubs, platforms, cross-arms, braces transformers, insulators, conduits, ducts, vaults, manholes, meters, cut-outs, switches, communication circuits, appliances, attachments, appurtenances, and any

1 other property located or to be located under, along, across, or upon the  
2 Franchise Area for the purpose described in subsection f. of section 1.

3 f. Franchise. The authorization granted hereunder to Construct and Use  
4 the Electrical Transmission Line to connect Grantee's solar power electrical  
5 generation facilities to Southern California Edison's Red Bluff Substation,  
6 under, along, across, or upon the Kaiser Road rights-of-way.

7 g. Franchise Area. The precise location of the Electrical Transmission  
8 Line to be Constructed and Used under, along, across, or upon the Kaiser  
9 Road rights-of-way, as more fully described and depicted on Exhibits A and  
10 B, attached hereto and incorporated herein by this reference. To the extent  
11 that the Franchise Area includes any real property owned in fee by County,  
12 this Franchise shall also remain valid and effective with respect to such real  
13 property, regardless of whether or not the Kaiser Road rights-of-way may or  
14 may not have merged into the underlying fee interest.

15 h. Government Agency. State, County, City or other political  
16 subdivision or governmental agency or instrumentality of the State of  
17 California, when acting in a governmental capacity.

18 i. Grantee. Desert Harvest, LLC, a Delaware Limited Liability  
19 Company, and its lawful successors and assigns, in whole or in part, which  
20 jointly hold, and may use this Franchise and which are jointly and severally  
21 responsible for all provisions, rights, obligations and duties of this  
22 ordinance.

23 j. Local Sales and Use Taxes. The one percent sales and use taxes imposed  
24 pursuant to and governed by the Bradley-Burns Uniform Local Sales and  
25 Use Tax Law, Revenue and Taxation Code Section 7200 et seq.

26 k. Net Acreage. All areas involved in the production of power including, but  
27 not limited to, the power block, solar collection equipment, areas  
28 contiguous to solar collection equipment, transformers, transmission lines

1 and/or piping, transmission facilities (on and off-site), service roads  
2 regardless of surface type – including service roads between panels or  
3 collectors, structures, and fencing surrounding all such areas. Net acreage  
4 shall not include off-site access roads or areas specifically set aside either as  
5 environmentally sensitive or designated as open space, and shall not include  
6 the fencing of such set aside areas. The approximate Net Acreage for the  
7 Project is 1,208 acres. In the event the Net Acreage of the Project is  
8 modified by any subsequent development approval of the County, court  
9 order, or by election of the Grantee, the Planning Director, in consultation  
10 with the County Executive Officer and County Counsel, shall recalculate  
11 the Net Acreage and such recalculated Net Acreage shall be documented in  
12 writing and used for all purposes under this Franchise as though it were a  
13 part hereof. An amendment to this Franchise shall be required for such  
14 recalculation and its implementation under this Franchise if such  
15 recalculation decreases the Net Acreage by twenty percent (20%) or more.

- 16 1. Project. The Desert Harvest Solar Project described in the “Desert  
17 Harvest Solar Project Final Environmental Impact Statement and California  
18 Desert Conservation Plan Amendment,” and approved by the Bureau of  
19 Land Management in its Record of Decision dated March 13, 2013,  
20 including the Electrical Transmission Line and all solar power electrical  
21 generation facilities.

22 Section 2. AUTHORITY AND GRANT. Pursuant to and in accordance with the  
23 provisions of the California Constitution Article 11, Section 7, and Government Code Section 26001, the  
24 County hereby grants to Grantee, the Franchise described in this ordinance and all provisions, rights,  
25 obligations and duties hereof shall extend and inure to and be binding on Grantee. The Franchise granted  
26 herein is solely for the specified uses set forth in this ordinance.

27 Section 3. TERM. This Franchise shall be for a definite term of thirty (30) years from  
28 the effective date of this ordinance and shall endure in full force and effect during such term unless this

1 Franchise shall be voluntarily surrendered or abandoned by Grantee; or unless the State or some  
2 municipal or public corporation shall purchase by voluntary agreement, or shall condemn and take under  
3 the power of eminent domain, all property actually used and useful in the exercise of this Franchise and  
4 situated within the territorial limits of the State, municipal, or public corporation purchasing or  
5 condemning such property; or unless this Franchise shall be forfeited for noncompliance with its terms by  
6 Grantee.

7           Section 4.       CONSIDERATION AND PAYMENTS.

- 8           a. If development of the Project occurs in a single phase, within five (5)  
9           business days of the commencement of construction of the entire Project,  
10          Grantee shall provide written notice to County of such commencement of  
11          construction and Grantee shall pay to the County an amount equal to the  
12          Base Payment calculated on the Net Acreage of the entire Project; provided  
13          however, that such initial payment shall be prorated based on the number of  
14          whole months remaining between the date of the payment and the first  
15          following September 30<sup>th</sup>.
- 16          b. As stated in the Desert Harvest Solar Project Final Environmental Impact  
17          Statement and California Desert Conservation Plan Amendment,  
18          development of the Project may occur in three phases. The phasing could  
19          include an initial phase involving pre-construction surveys, exclusion  
20          fencing around a 10-acre area in the northwest corner of the Project site,  
21          desert tortoise exclusion (if tortoise are present), clearing and construction  
22          of a laydown yard, parking area, and pad mounts for transformers. A second  
23          phase could include site fencing, installation of temporary power, site  
24          grading and preparation over a 1,043-acre area, construction of an  
25          operations and maintenance building and on-site roads, construction of the  
26          on-site wells, construction of the project substation and switch-yard, and  
27          assembly and installation of panel blocks and wiring for 137 megawatts of  
28          solar power. A third phase could include site grading and preparation over a

1 155-acre area, assembly and installation of panel blocks and wiring for 13  
2 megawatts of solar power. The Electrical Transmission Line is planned for  
3 construction during the second phase. If the development of the Project  
4 occurs in phases, prior to the commencement of construction of the Project,  
5 Grantee shall provide written notice to County of Grantee's decision to  
6 develop the Project in phases and, prior to the commencement of  
7 construction for each phase, Grantee shall provide written notice of such  
8 commencement of construction of the phase and shall pay to County an  
9 amount equal to that portion of the Base Payment calculated on the basis of  
10 the Net Acreage for the phase in question; provided, however, that each  
11 initial payment for each phase shall be prorated based on the number of  
12 whole months remaining between the date of the payment and the first  
13 following September 30<sup>th</sup>.

- 14 c. Grantee shall make subsequent annual payments in an amount equal to the  
15 Base Payment for the entire Project, or, if the construction of the Project is  
16 to be phased, that portion of the Base Payment attributable to each initiated  
17 phase of the Project, on or by September 30 of each year during the term of  
18 the Franchise.
- 19 d. Grantee shall pay any application fees, administrative fees, processing fees,  
20 late charges, accrued interest, and penalties required in connection with this  
21 Franchise. These fees may be charged at the rates applicable at the time of  
22 payment.
- 23 e. Grantee shall pay all encroachment permit fees, inspection fees, and unit  
24 inspection fees related thereto in connection with the processing of  
25 applications for any necessary encroachment permits to Construct and Use  
26 the Electrical Transmission Line in the Franchise Area as such fees are  
27 specified in Appendix A of Ordinance No. 499. These fees may be charged  
28

1 at the rates applicable at the time of payment as set forth in Appendix A of  
2 Ordinance No. 499.

3 f. Grantee shall pay to County a sum of money sufficient to reimburse it for  
4 all publication expenses incurred by it in connection with the granting of  
5 this Franchise; such payment to be made within thirty (30) days after  
6 County furnishes Grantee with a written statement of such expenses.

7 g. County has advised Grantee that Kaiser Road was not engineered to handle  
8 heavy construction truck traffic. Unless Grantee has otherwise made the  
9 repairs itself, Grantee shall pay to County the cost of all repairs to County  
10 public property (or to other public property not belonging to the County but  
11 which the County is obligated to repair) made necessary by any damage  
12 demonstrably caused by Grantee while performing any activities authorized  
13 under this Franchise. The extent of any repairs subject to this provision shall  
14 be measured from baseline conditions as of the date Grantee starts activities  
15 authorized under this Franchise and shall be calculated by phase if the  
16 Project is phased. In no event shall Grantee be obligated to perform or pay  
17 for repairs attributable to deferred maintenance of the County or to damage  
18 to public property caused by the activities of others, including incidental  
19 activities, such as third-party construction traffic. The cost of repairs  
20 attributable to Grantee shall be determined as follows:

21 1. Current Conditions Estimate. Prior to the start of activities  
22 authorized under this Franchise, Grantee shall hire an engineering  
23 firm to prepare a written determination of the then current status of  
24 County public property (or other public property not belonging to  
25 the County but which the County is obligated to repair) within the  
26 boundaries of the Franchise Area ("Grantee Engineering Report")  
27 and shall submit the Grantee Engineering Report to the County. Not  
28 later than forty-five (45) days after submittal of the Grantee



1 Engineering Report to the County, County shall either (i) accept the  
2 Grantee Engineering Report as an accurate representation of  
3 baseline conditions as of the date Grantee starts activities authorized  
4 under this Franchise; or (ii) notify Grantee in writing of County's  
5 decision to hire a different engineering firm to prepare, within ninety  
6 (90) days of the County's receipt of the Grantee Engineering Report,  
7 a separate written determination of the then current status of County  
8 public property (or other public property not belonging to the  
9 County but which the County is obligated to repair) within the  
10 boundaries of the Franchise area ("County Engineering Report").  
11 County shall be deemed to have accepted the determination of the  
12 Grantee Engineering Report if County does not notify Grantee  
13 within forty-five (45) days of County's receipt of the Grantee  
14 Engineering Report that County has decided to request the County  
15 Engineering Report. If County elects to request a County  
16 Engineering Report, and the current conditions estimate of the  
17 Grantee Engineering Report and County Engineering Report differ  
18 by ten percent (10%) or less (e.g., by reference to the Pavement  
19 Conditions Index), then the average of the two determinations shall  
20 be deemed the baseline conditions as of the date Grantee starts  
21 activities authorized under this Franchise. If such not be the case,  
22 then Grantee shall accept the lower of the two estimates or, at the  
23 election of Grantee, the engineering firm that prepared the Grantee  
24 Engineering Report and the engineering firm that prepared the  
25 County Engineering Report shall mutually select a third qualified  
26 and impartial engineering firm ("Third Engineering Firm") to issue a  
27 determination of baseline conditions as of the date Grantee starts  
28 activities authorized under this Franchise ("Third Engineering

Report"). The determination of the Third Engineering Report shall be conclusive and binding on the Parties.

2. Grantee shall designate an engineering firm, subject to the approval of the County and the approval of which shall not be unreasonably withheld, to monitor activities conducted by Grantee under this Franchise for purposes of assessing Grantee's proportional contribution to any damage to County public property (or other public property not belonging to the County but which the County is obligated to repair) made necessary by damages demonstrably caused by Grantee. County shall make reasonable efforts to assist Grantee in obtaining monitoring information regarding other activities that could reasonably be considered to cause damage to County public property within the Franchise Area.

3. Repair Estimate. Upon completion of construction activities performed under this Franchise, the same process of subsection g.1., above, shall be applied to determine, instead of then current conditions, the extent and cost of repairs to County public property (or to other public property not belonging to the County but which the County is obligated to repair) made necessary by any damage demonstrably caused by Grantee, including possible reconstruction. Grantee shall pay such costs within thirty (30) days after County furnishes Grantee with an invoice to the sum of the determination of attributable cost developed pursuant to the procedure required by this paragraph. If Grantee fails to make such payment, County may immediately draw upon a single \$2,500,000 irrevocable standby Letter of Credit in favor of the County that is required for all encroachment permits for the Project, which has been agreed upon by Grantee and County. Such draw upon the Letter of Credit shall

1 be in that amount necessary to cover the cost to the County of  
2 undertaking the repairs to County public property (or to other public  
3 property not belonging to the County but which the County is  
4 obligated to repair) made necessary by any damage demonstrably  
5 caused by Grantee. Any draws upon the Letter of Credit shall not  
6 limit the County's right and ability to make further draws upon the  
7 Letter of Credit up to the aggregate limit of \$2,500,000.

8 4. If Grantee undertakes the repair work itself, the County will  
9 inspect the work and notify Grantee as to whether it has accepted the  
10 repairs within forty-five (45) days of Grantee's written notice.

11 5. Grantee shall be responsible for all reasonable costs incurred  
12 for the services of any engineering firms regarding determinations  
13 under subsections g.1, g.2 and g.3 above, except that Grantee shall  
14 not be responsible for any cost of a County Engineering Report or  
15 Third Engineering Report to the extent it exceeds the cost of a  
16 Grantee Engineering Report by more than fifteen percent (15%).

17 h. Local Sales and Use Tax. Grantee and County acknowledge and agree that  
18 solar power plant owners have a responsibility to assure that sales and use  
19 taxes are reported and remitted to the California State Board of Equalization  
20 ("BOE") as provided by law. To ensure allocation directly to County, to the  
21 maximum extent possible under the law, of the sales and use taxes payable  
22 in connection with the construction of the Project, Grantee shall do the  
23 following consistent with the law:

24 1. If Grantee meets the criteria set forth in applicable BOE regulations  
25 and policies, Grantee shall obtain a BOE permit for the Project  
26 jobsite and report and remit all such taxable sales or uses pertaining  
27 to construction of the Project using the permit or sub-permit for that  
28 jobsite to the maximum extent possible under the law.

2. Grantee shall contractually require that all contractors and subcontractors whose contract with respect to the Project exceeds \$100,000.00 who meet the criteria set forth in applicable BOE regulations and policies ("Major Subcontractors") must obtain a BOE permit or sub-permit for the solar power plant jobsite, if required by the applicable BOE regulations and policies, and report and remit all such taxable sales or uses pertaining to construction of the Project using the permit or sub-permit for that jobsite to the maximum extent possible under the law.
3. Grantee shall notify County of the contract on-line date of the Project, such date being the date of final completion under the engineering, procurement, and construction agreement for the Project.
4. Prior to commencement of construction for any phase of the Project, Grantee shall deliver to County a list that includes, as applicable and without limitation, each Major Subcontractor's business name, value of contract, scope of work on the Project, procurement list for the Project, BOE account numbers and permits or sub-permits specific to the Project jobsite, contact information for the individuals most knowledgeable about the Project and the sales and use taxes for such Project, and, in addition, shall attach copies of each permit or sub-permit issued by the BOE specific to the Project jobsite. Said list shall include all the above information for the Project owner, its contractors, and all Major Subcontractors. Grantee 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 Major Subcontractor.
5. Grantee shall certify in writing that it understands the procedures for

1 reporting and remitting sales and use taxes in the State of California  
2 and will follow all applicable state statutes and regulations with  
3 respect to such reporting and remitting.

4 6. Grantee shall contractually require that each Major Subcontractor  
5 certify in writing that they understand the procedures for reporting  
6 and remitting sales and use taxes in the State of California and will  
7 follow all applicable state statutes and regulations with respect to  
8 such reporting and remitting.

9 7. Grantee shall deliver to County or its designee (as provided in  
10 subsection h.8 below) copies of all sales and use tax returns  
11 pertaining to the Project filed by Grantee and Major Subcontractors.  
12 Such returns shall be delivered to County or its designee within  
13 thirty (30) days of filing with the BOE. Such tax returns may be  
14 redacted to protect, among other things, proprietary information and  
15 may be supplemented by additional evidence that payments made  
16 complied with this policy.

17 8. County may, at its sole discretion, select and retain the services of a  
18 private sales tax consultant with expertise in California sales and use  
19 taxes to assist in implementing and enforcing compliance with the  
20 provisions of this Franchise and that Grantee shall be responsible for  
21 all reasonable costs incurred for the services of any such private  
22 sales tax consultant and shall reimburse County within thirty (30)  
23 days of written notice of the amount of such costs.

24 i. In the event Grantee fails to make any of the payments provided for herein,  
25 then, following notice of such failure from County and subsequent failure  
26 by Grantee to cure within the applicable cure period, Grantee shall pay a  
27 late charge of ten percent (10%) of the amount due, said ten percent (10%)  
28 being due thirty (30) days after the expiration of the applicable cure period

1 specified in section 13. The ten percent (10%) has been set by both parties  
2 hereto in recognition of the difficulty in affixing actual damages from a  
3 breach of said time of performance requirement.

4 j. In the event full payment of any rate, payment, or fee, including the ten  
5 percent (10%) late charge, is not received within sixty (60) days after the  
6 due date, an assessment of interest shall accrue on the unpaid balance at one  
7 percent (1%) per month beginning on the sixty first (61<sup>st</sup>) day after the due  
8 date, provided that County has notified Grantee in accordance with section  
9 13 and Grantee has failed to pay within the required period.

10 k. Should the Board of Supervisors adopt any new policy after the effective  
11 date of this ordinance requiring the negotiation of revenue generating  
12 agreements for solar power plants or requiring solar power plant developers  
13 to pay a specified fee in connection with County's conveyance of a real  
14 property interest or the issuance of a permit for a solar power plant to  
15 ensure that County does not disproportionately bear the burden of solar  
16 energy production, the Grantee may elect to exempt the Project from such  
17 policy, it being acknowledged and agreed that Grantee is paying  
18 consideration to County as specifically provided pursuant to the express  
19 terms of this ordinance. Grantee's other projects, however, would not be  
20 eligible to claim an exemption based on the foregoing exemption provided  
21 to Grantee pursuant to this ordinance.

22 Section 5. CONSTRUCTION, USE AND MAINTENANCE

23 a. Grantee shall Construct and Use the Electrical Transmission Line in  
24 accordance and in conformity with all of the ordinances and rules adopted  
25 by the Board of Supervisors in the exercise of its police powers and not in  
26 conflict with the paramount authority of the State, and, as to state highways,  
27 subject to the laws relating to the location and maintenance of electrical  
28 transmission lines therein.

- 1                   b.     Grantee shall Construct and Use the Electrical Transmission Line in the  
2                   Franchise Area described in Exhibits A and B and at the locations described  
3                   in the exhibits attached to the encroachment permit(s) to be issued by  
4                   County Transportation Director pursuant to this Franchise and Ordinance  
5                   No. 499. The exact locations of the Electrical Transmission Line within the  
6                   Franchise Area shall be determined by the County during the encroachment  
7                   permitting stage. The Electrical Transmission Line shall be located so that  
8                   its construction and use do not interfere with the use of the Franchise Area  
9                   by the traveling public or with the use of County property or County public  
10                  works for their primary purposes, except for temporary interference caused  
11                  by Electrical Transmission Line construction activities consistent with those  
12                  described in the Desert Harvest Solar Project Final Environmental Impact  
13                  Statement and California Desert Conservation Plan Amendment.
- 14               c.     Grantee shall undertake its work in such manner as to leave the Franchise  
15                  Area or other public property in as good condition as it was prior to said  
16                  work.
- 17               d.     Grantee shall modify the Electrical Transmission Line, and the procedures  
18                  associated with its maintenance and testing, to comply with all future  
19                  statutes, laws, ordinances and rules, regulations, policies or standards  
20                  adopted pursuant thereto that are generally applicable to pre-existing  
21                  improvements, provided, however, that County, in its proprietary capacity,  
22                  shall not undertake actions that would serve to deprive Grantee of any  
23                  material benefit of this Franchise.
- 24               e.     Prior to commencing construction of Project, Grantee shall create and  
25                  maintain an emergency response plan, and shall at all times maintain the  
26                  necessary trained personnel and equipment to respond timely to any damage  
27                  or destruction (e.g., fire) associated with the Electrical Transmission Line.  
28

- 1 f. Grantee shall in good faith commence construction under this Franchise  
2 within not more than three (3) years from the granting of this Franchise,  
3 and, if not so commenced within said time, this Franchise shall be declared  
4 forfeited, provided that Grantee's obligation to commence construction  
5 shall be extended, day for day, for each day that any stay or injunction  
6 imposed by a court of competent jurisdiction, delays the issuance of all final  
7 permits for, or construction of the Project and/or the Electrical Transmission  
8 Line. The completion of the work shall be prosecuted diligently and in  
9 good faith by Grantee.
- 10 g. Grantee shall, upon demand by County, and at the expense of Grantee,  
11 precisely identify the location, by land survey measurements or other  
12 accurate means, of the Electrical Transmission Line under this Franchise,  
13 for the purpose of the design or construction of public works projects on  
14 County rights-of-way.
- 15 h. Grantee shall relocate without expense to County any portion of the  
16 Electrical Transmission Line installed, used, and maintained under this  
17 Franchise if and when made necessary by any lawful change of grade,  
18 alignment, or width of any public street, way, alley, or place by County.
- 19 i. Before any excavation or other work requiring excavation in the Franchise  
20 Area, Grantee shall notify County Transportation Director, no less than  
21 thirty (30) days prior to commencement of such excavation or work.  
22 Provided that, in cases of emergency requiring immediate action, Grantee  
23 may make excavations and perform work in the Franchise Area to repair  
24 and restore the Electrical Transmission Line without giving prior notice to  
25 County Transportation Director of such excavation and work, but notice  
26 thereof shall be given to said Director promptly after the commencement of  
27 such excavation and work. In all cases, Grantee at its own cost and expense  
28 shall without unnecessary delay replace and restore the excavated portion of



1 the Franchise Area to as good condition as it was prior to such excavation  
2 and work.

- 3 j. In the event the County takes action which compels the Project to stop all  
4 power production for a period longer than ninety (90) consecutive days for  
5 any reason other than a default under this ordinance or a violation of the  
6 conditions of approval of any existing permit issued by the County for the  
7 Project, the next payment due under section 4.a. of this ordinance shall be  
8 reduced in proportion to the amount of time the Project was compelled by  
9 County to remain inoperative.

10 Section 6. REMOVAL. Upon surrender, abandonment, termination, or forfeiture of  
11 this Franchise, Grantee shall, upon written request of County and at its own expense, remove its Electrical  
12 Transmission Line and all ancillary equipment from County roadways and rights of way, properly and  
13 lawfully dispose of all such materials and ancillary equipment, and restore the Franchise Area to its  
14 original condition.

15 Section 7. INDEMNIFICATION.

- 16 a. Grantee shall defend, indemnify and hold harmless County Parties from any  
17 liability whatsoever, based or asserted upon any act or omission, including  
18 but not limited to negligent acts or omissions, of Grantee, its officers,  
19 agents, employees, subcontractors and independent contractors, for property  
20 damage, bodily injury, or death or any other element of damage of any kind  
21 or nature, relating to or, in any way connected with or arising from any  
22 operations under this Franchise, specifically excluding therefrom the gross  
23 negligence or willful misconduct of the County Parties. The obligation to  
24 defend, indemnify and hold harmless expressed herein shall include,  
25 without limitation, attorney fees, expert fees and investigation expenses and  
26 shall survive until any and all claims, actions and causes of action with  
27 respect to any and all such alleged acts or omissions are fully and finally  
28 barred by the applicable statute of limitations, unless such statute of

1 limitations is overturned by any court of jurisdiction whereupon the  
2 indemnification shall continue until all issues are fully resolved.

- 3 b. Grantee shall also defend, indemnify and hold harmless County Parties  
4 from any action or claim brought by any third party to attack, set aside, void  
5 or annul County's approval of this Franchise, this ordinance or any  
6 subsequently issued encroachment permit. The obligation to defend,  
7 indemnify and hold harmless expressed herein shall include, without  
8 limitation, attorney fees, expert fees and investigation expenses and shall  
9 survive until any and all claims, actions and causes of action with respect to  
10 any and all alleged acts or omissions are fully and finally barred by any  
11 applicable statute of limitations, unless such statute of limitations is  
12 overturned by any court of jurisdiction whereupon the indemnification shall  
13 continue until all issues are fully resolved.

14 Section 8. INSURANCE. Without limiting or diminishing Grantee's obligation to  
15 indemnify or hold County harmless, Grantee shall procure and maintain or cause to be maintained, at its  
16 sole cost and expense, the following insurance coverages during the term of this ordinance which either  
17 meet the limits of liability set forth below or are covered when combined with excess umbrella policies.

18 a. Workers' Compensation:

19 Grantee shall maintain statutory Workers' Compensation Insurance  
20 (Coverage A) as prescribed by the laws of the State of California. Policy  
21 shall include Employer's Liability (Coverage B) including Occupational  
22 Disease with limits not less than one million (\$1,000,000) per person per  
23 accident. Policy shall be endorsed to waive subrogation in favor of County.

24 b. Commercial General Liability:

25 Grantee shall maintain Commercial General Liability insurance coverage,  
26 including but not limited to, premises liability, contractual liability,  
27 completed operations, personal and advertising injury covering claims  
28 which may arise from or out of Grantee's performance of its obligations

1 hereunder. Policy shall include County Parties as an additional insured with  
2 respect to Grantee's performance hereunder. Policy's limit of liability shall  
3 not be less than five million dollars (\$5,000,000) in the aggregate and not  
4 less than three million dollars (\$3,000,000) per occurrence.

5 c. Vehicle Liability:

6 Grantee shall maintain liability insurance for all owned, non-owned or hired  
7 vehicles in an amount not less than one million (\$1,000,000) per occurrence  
8 combined single limit. If such insurance contains a general aggregate limit,  
9 it shall apply separately to this Franchise or be no less than two (2) times  
10 the occurrence limit. Policy shall name County Parties as an additional  
11 insured.

12 d. General Insurance Provisions - All lines:

- 13 1. Any insurance carrier providing insurance coverage hereunder shall  
14 be admitted to the State of California and have an A.M. BEST rating  
15 of not less than an A: VII (A: 7) unless such requirements are  
16 waived, in writing, by the County Risk Manager. If County's Risk  
17 Manager waives a requirement for a particular insurer such waiver is  
18 only valid for that specific insurer and only for one policy term.
- 19 2. Grantee's insurance carrier(s) must declare its insurance deductibles  
20 or self-insured retentions. If such deductibles or self-insured  
21 retentions exceed five hundred thousand dollars (\$500,000) per  
22 occurrence such deductibles and/or retentions shall have the prior  
23 written consent of County Risk Manager before commencement of  
24 construction under this Franchise. Upon notification of deductibles  
25 or self-insured retentions which are deemed unacceptable to County,  
26 at the election of County's Risk Manager, Grantee's carriers shall  
27 either: (i) reduce or eliminate such deductibles or self-insured  
28 retentions as respects this Franchise with County, or (ii) procure a

1 bond which guarantees payment of losses and related investigations,  
2 claims administration, defense costs and expenses.

- 3 3. Prior to commencement of construction of the Project or each phase  
4 of the Project and annually thereafter, at the anniversary of the  
5 Grantee's insurance renewals, Grantee shall cause its insurance  
6 carrier(s) to furnish County with: (i) a properly executed original  
7 certificate(s) of insurance and certified original copies of  
8 endorsements effecting coverage as required herein; or, (ii) if  
9 requested to do so orally or in writing by County Risk Manager,  
10 allow County Risk Manager to review a certified copy of the  
11 original policy and all endorsements thereto at the offices of the  
12 Risk Manager or provide original Certified copies of policies  
13 including all endorsements and all attachments thereto, showing  
14 such insurance is in full force and effect. Further, to the extent  
15 available from the insurance company, said certificate(s) and  
16 policies of insurance shall contain the covenant of the insurance  
17 carrier(s) providing that no less than thirty (30) days written notice  
18 be given to County prior to any material modification or  
19 cancellation of such insurance. In the event of a material  
20 modification or cancellation of coverage, County may forfeit this  
21 Franchise as provided below if Grantee does not have such  
22 insurance reinstated or replaced within the cure period specified in  
23 section 13. Evidence of any such reinstatement or replacement shall  
24 include a properly executed original certificate of insurance and  
25 original copies of endorsements or certified original policies,  
26 including all endorsements and attachments thereto evidencing  
27 coverages and the insurance herein is in full force and effect.  
28 Individual(s) authorized by the insurance carrier to do so on its

1                   behalf shall sign the original endorsements for each policy and the  
2                   certificate of insurance. Grantee shall not commence construction  
3                   under this Franchise until County has been furnished original  
4                   certificate(s) of insurance and certified original copies of  
5                   endorsements or policies of insurance including all endorsements  
6                   and any and all other attachments as required in this section.

7                   4.     It is understood and agreed by the parties hereto and Grantee's  
8                   insurance company(s) that the certificate(s) of insurance and policies  
9                   shall so covenant and shall be construed as primary insurance, and  
10                  County's insurance and/or deductibles and/or self-insured retentions  
11                  or self-insured programs shall not be construed as contributory as  
12                  respects all claims that arise from this Franchise.

13                  5.     Grantee shall pass down the insurance obligations contained herein  
14                  to all tiers of contractors and subcontractors working under this  
15                  Franchise.

16                  e.     Not more frequently than once every five (5) years, County reserves the  
17                  right to adjust the types of insurance required under this ordinance and the  
18                  monetary limits of liability for the insurance coverage required herein, if, in  
19                  County Risk Manager's reasonable judgment based on commercially  
20                  reasonable amounts of insurance coverage required to be carried for similar  
21                  operations, the amounts or types of insurance coverage specified herein  
22                  have become materially inadequate due to passage of time or changed  
23                  circumstances.

24                  Section 9.     ANNEXATION. Whenever any portion of the territory covered by this  
25                  Franchise shall be annexed to, or otherwise become a part of any municipal corporation, or of any other  
26                  county, the rights reserved under this ordinance to County, or County Parties, shall inure to the benefit of  
27                  such municipal corporation or county, and its appropriate officers and employees.  
28

1           Section 10.   TRANSFERS AND ASSIGNMENTS.   Grantee shall have the right to  
2 transfer this Franchise, in whole or in part, or assign all or part of its rights and interests hereunder,  
3 including, without limitation, granting a security interest to any lender or any other investor. In such  
4 event, Grantee shall provide County, within thirty (30) days of any sale, transfer, assignment or lease of  
5 this Franchise or any part hereof, with written evidence of the transaction certified by Grantee or its duly  
6 authorized officers. Grantee shall also provide written evidence, in a form reasonably acceptable to  
7 County, establishing to County's satisfaction that any transferee or assignee (other than a lender that has  
8 not foreclosed on its security interest) is in financially sound condition and able to comply with the  
9 obligations of Grantee under this Franchise; County shall have the right to request additional information  
10 to confirm the foregoing. Establishing County's satisfaction shall not require unreasonable measures or  
11 criteria. Any such transferee or assignee shall remain subject to all the terms and conditions in this  
12 ordinance including the obligation to maintain insurance coverage in the amounts specified in this  
13 ordinance.

14           Section 11.   GOVERNMENT AGENCY WORK.

- 15           a.   A Government Agency may improve any highway or portion thereof in  
16                which Grantee's Electrical Transmission Line has been constructed or  
17                installed, and may construct, install, repair and maintain any such highway,  
18                and may remove from any such highway any public improvement.
- 19           b.   Provided a Government Agency gives written notice to Grantee thirty (30)  
20                days in advance of the date work is to be done pursuant to any right  
21                reserved in subdivision a of this section, specifying the general nature of the  
22                work and area in which the work is to be performed, Grantee shall, upon  
23                request of the Government Agency, disconnect and relocate the Electrical  
24                Transmission Line in the Franchise Area to such extent and in such manner  
25                as shall be necessary to permit the performance of such work, and to permit  
26                the maintenance, operation and use of such public improvement or of the  
27                highway as so improved. The Government Agency shall, to the extent  
28                possible, minimize interference with Grantee's property and operations

1 pursuant to this Franchise. All of such things to be done and work to be  
2 performed by Grantee shall be at the sole cost and expense of Grantee.

3 c. Grantee shall, upon written notice from a Government Agency to relocate a  
4 portion of the Electrical Transmission Line that is in conflict with a public  
5 works project on the public right of way, cause the conflicting portion of  
6 said Electrical Transmission Line to be relocated in a diligent manner as to  
7 avoid any unreasonable delays or costs to the public works project. Any  
8 direct costs incurred by the Government Agency, resulting from a delay to a  
9 public works project directly caused by the failure of Grantee to relocate the  
10 conflicting portion of Grantee's Electrical Transmission Line in a diligent  
11 manner as to avoid any unreasonable delay, shall be the responsibility of  
12 Grantee, which shall reimburse said costs to the Government Agency upon  
13 demand.

14 d. No provision of this Franchise shall be so construed as to impose upon a  
15 Government Agency any duty or obligation to construct, repair or maintain  
16 any highway included in the area in which Grantee's Electrical  
17 Transmission Line is located in any particular manner or to any particular  
18 standard.

19 e. In the event that a Government Agency, shall hereafter construct, install,  
20 reconstruct or repair any bridge or artificial support in or underlying any  
21 highway in which Grantee's Electrical Transmission Line is located or  
22 which is prescribed as the location for any of Grantee's Electrical  
23 Transmission Line, and in the event that the cost thereof be increased in  
24 order to provide for the installation, maintenance or operation of Grantee's  
25 Electrical Transmission Line in or on the highway area covered or underlain  
26 by said bridge or other artificial support, then Grantee shall pay to such  
27 Government Agency doing such work the full amount of such increase of  
28 cost upon completion of such construction, installation or repair.

1           Section 12.   ENCROACHMENT PERMIT. No encroachment permit shall be issued for  
2 work to be undertaken in the Franchise Area, until Grantee has filed its written acceptance of the terms  
3 and conditions of this Franchise as specified in section 21. Following Grantee's acceptance of this  
4 Franchise, and provided that Grantee and its contractors have complied with all applicable permit  
5 issuance requirements established by County under Ordinance No. 499, Grantee shall be entitled to, and  
6 County shall issue, any requested encroachment permits consistent with this Franchise within sixty (60)  
7 days of application.

8           Section 13.   FORFEITURE.

9           a.   Any neglect, failure or refusal of Grantee to comply with any provision of  
10 this Franchise, following notice and opportunity to cure as provided below,  
11 shall constitute cause for possible forfeiture of this Franchise at the  
12 discretion of the Board of Supervisors. Following such an uncured default,  
13 the Board of Supervisors may hold a hearing, at which Grantee and any  
14 lender shall have the right to appear and be heard. Following such hearing,  
15 the Board of Supervisors may determine whether the provision at issue is  
16 material and essential to this Franchise, whether Grantee is in default with  
17 respect thereto and may declare this Franchise forfeited. Notice of the  
18 hearing shall be given to Grantee, and any lender previously identified to  
19 County, in accordance with the notice provisions of this ordinance not less  
20 than thirty (30) days before said hearing. If this Franchise is forfeited  
21 pursuant to the foregoing, County may exclude Grantee from any further  
22 use of the Franchise Area under this Franchise; and Grantee shall thereupon  
23 surrender all rights in and to the same, and this Franchise shall be deemed  
24 and shall remain null, void and of no effect. From time to time, upon  
25 request of Grantee or any lender, County shall confirm in writing to Grantee  
26 and any lender whether Grantee is in compliance with the terms and  
27 conditions of this ordinance.  
28



- 1                   b.     County may sue in its own name for the forfeiture of this Franchise, in the  
2                             event of noncompliance with any of the provisions or conditions hereof by  
3                             Grantee.
- 4                   c.     Grantee shall be liable to County for all damages proximately resulting  
5                             from the failure of Grantee to observe and perform any provision of this  
6                             Franchise.
- 7                   d.     Grantee shall have ten (10) business days (and any lender shall have thirty  
8                             (30) days) after written notice from County of a monetary default, or failure  
9                             to carry required insurance, to cure said default to the satisfaction of the  
10                            County. Grantee shall have thirty (30) days (and any lender shall have sixty  
11                            (60) days) after written notice from County of any non-monetary default to  
12                            cure said default to the satisfaction of the County or, if such default is not  
13                            capable of cure within such time period, Grantee shall commence to cure  
14                            such default within such time period and shall complete the cure of such  
15                            default within a reasonable time thereafter.

16                   Section 14.     SECURITY/FAITHFUL PERFORMANCE BOND

- 17                   a.     Within one (1) year following the effective date of this ordinance or prior to  
18                             construction of the Electrical Transmission Line within the Franchise Area,  
19                             whichever comes first, Grantee shall provide to County a faithful  
20                             performance bond in the sum of not less than seven hundred twenty  
21                             thousand dollars (\$720,000) payable to County and executed by a corporate  
22                             surety acceptable to County and licensed to transact business as a surety in  
23                             the State of California. Such bond shall be payable to the extent that  
24                             Grantee shall fail to faithfully perform any of its obligations under this  
25                             Franchise (specifically excluding, however, any and all consideration and  
26                             payment obligations pursuant to section 4 of this ordinance, other than the  
27                             repair obligations under subsection g. of section 4, which repair obligations  
28                             shall be included in the obligations secured by the faithful performance

1 bond and specifically excluding any construction obligations secured by the  
2 letter of credit required for any encroachment permit). In the event that  
3 Grantee fails to so perform, County may elect to make a claim under the  
4 bond equal to that amount necessary to undertake and complete such failed  
5 performance.

6 b. Throughout the term of this Franchise, Grantee shall maintain the faithful  
7 performance bond in the amount specified herein. Within thirty (30) days  
8 after written notice from County that any amount has been paid on the bond  
9 as provided in this section, Grantee shall restore the bond to the full amount  
10 specified herein, reduced by the amount of those obligations that County, in  
11 its reasonable discretion, determines have been fully satisfied.

12 c. The faithful performance bond shall continue to exist for one (1) year  
13 following any sale, transfer, or assignment of this Franchise (unless  
14 replaced by a satisfactory replacement bond from the successor Grantee), or  
15 following the expiration or termination of this Franchise. County may  
16 release said bond prior to the end of the one (1) year period upon its  
17 determination that Grantee has satisfied all the obligations of this ordinance  
18 that are to be secured by the bond.

19 d. County, in its reasonable discretion, may accept alternative security to meet  
20 the above bonding requirements in the form of an irrevocable letter of  
21 credit, certificate of deposit, or a cash deposit acceptable to County as an  
22 alternative to the faithful performance bond as described above. Such  
23 alternative security shall be made payable to County and shall be deposited  
24 with County.

25 e. The types and amounts of the performance bond or alternative security  
26 coverage shall be subject to review and adjustment at five (5) year intervals  
27 during the term of this Franchise, to the extent that County or Grantee  
28 demonstrates that the costs of the obligations to be secured by the bond

1 have materially increased or decreased. In the event of such adjustment,  
2 Grantee agrees to provide the adjusted coverage within thirty (30) days after  
3 written notice from County. Grantee and County shall meet and confer to  
4 attempt to resolve any dispute with regard to this subsection. Provided,  
5 however, that neither County nor Grantee shall by meeting and conferring  
6 waive any and all legal rights and remedies with respect to such dispute.

7 f. No Franchise operations shall commence until Grantee has complied with  
8 the requirements of this section.

9 Section 15. NOTICES. Any notice with respect to this Franchise shall be in writing and  
10 shall be made to all parties (including any lender or other assignee) and will be effective (i) immediately  
11 upon delivery in person, provided delivery is made during regular business hours or receipt is  
12 acknowledged by a person reasonably believed by the delivering party to be employed by the recipient, or  
13 (ii) 24 hours after deposit with a commercial courier or delivery service for overnight delivery, provided  
14 delivery is made during regular business hours or receipt is acknowledged by a person reasonably  
15 believed by the delivering party to be employed by the recipient, or (iii) three (3) days after deposit with  
16 the United States Postal Service postage prepaid, certified mail, return receipt requested. All notices must  
17 be properly addressed and delivered to the parties at the addresses set forth below, or at such other  
18 addresses as any party may subsequently designate by written notice:

19 If to County: Clerk of the Board of Supervisors  
20 4080 Lemon Street, 1<sup>st</sup> Floor  
21 Riverside, CA 92501  
22 (951) 955-1060  
23 (951) 955-1071

24 If to Grantee: EDF Renewable Energy, Inc.  
25 15445 Innovation Drive  
26 San Diego, CA 92128  
27 Telephone No.: (858) 521-3324  
28 Fax No.: (858) 521-3595

Attn: Robert F. Miller

With a copy to: Marten Law

455 Market Street, Suite 2200

San Francisco, CA 94105

Telephone No.: (415) 684-9358

Fax No.: (415) 684-9360

Attn: Andrew C. Bell

Section 16. LENDER PROTECTION. In addition to the specific provisions set forth in this ordinance, County agrees that any lender with a security interest in Grantee's interest in this Franchise shall have customary and commercially reasonable mortgagee protection provisions to preserve, protect, and acquire Grantee's interest in this Franchise, including, without limitation, the right for any lender to a replacement Franchise if this Franchise is surrendered, abandoned or forfeited pursuant to a Grantee bankruptcy. Upon request of Grantee's lender, County shall process an amendment to this Franchise to add specific, customary and commercially reasonable mortgagee protection provisions as may be reasonably requested by any such lender.

Section 17. POSSESSORY INTEREST. This Franchise may create a possessory interest that may be subject to taxation, if created, and the party in whom the possessory interest is vested may be subject to the payment of the property taxes levied on the interest.

Section 18. NON-EXCLUSIVE FRANCHISE. This Franchise shall not be exclusive. The Board of Supervisors reserves and shall have the right and power to grant other and additional franchises to persons, firms and corporations as authorized and provided by law, provided that any such additional franchises do not unreasonably interfere with the Franchise granted hereunder.

Section 19. AMENDMENTS. This ordinance may be amended in whole or in part only by written consent of the parties in the manner prescribed by law for the amendment of ordinances. Any amendment to this ordinance shall also require the consent of any lender.

Section 20. SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid


Section 21. EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after provided that Grantee files within the same thirty (30) day period a written acceptance hereof of the Board agreeing to abide by the terms and conditions herein. The ordinance shall not the event such written acceptance is not filed.

By: Jeff Stone  
Chairman Jeff Stone

By: Kullington  
Deputy

APPROVED AS TO FORM

June 6, 2014

By:   
TIFFANY N NORTH  
Supervising Deputy County Counsel

07.01.14 3-52

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13 STATE OF CALIFORNIA       )  
14 COUNTY OF RIVERSIDE       )       ss  
15

16 I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said county  
17 held on July 1, 2014, the foregoing ordinance consisting of 21 Sections was adopted by the  
18 following vote:

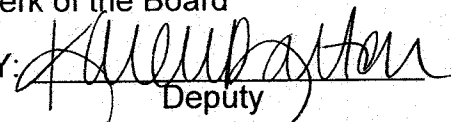
19       AYES:       Jeffries, Tavaglione, Stone, Benoit and Ashley

20       NAYS:       None

21       ABSENT:     None

22       DATE:       July 1, 2014

23                   KECIA HARPER-IHEM  
24                   Clerk of the Board

25       BY:  Deputy  
26                   

27                   SEAL

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**BEING PORTIONS OF:**

- (A) The Right-of-Way of Kaiser Road, said road being a public road easement per that certain document recorded June 20, 1962 as Document No. 57641, recorded in Book 3164 Page 201 of Official Records, County of Riverside, State of California, lying within Section 27, and Section 34 of Township 4 South, Range 15 East, and Section 3, Section 10, Section 15, and Section 22 of Township 5 South, Range 15 East, all of the San Bernardino Meridian,

**AND:**

- (B) The aforementioned County of Riverside's Fee Interest in a portion of Kaiser Road pursuant to that certain document recorded November 26, 1962 as Document No. 108734, recorded in Book 3266 Page 275 of Official Records of said County, lying within the north one-half of Section 15, Township 5 South, Range 15 East, San Bernardino Meridian,

(The aforementioned Rights-of-Way also being shown on a Record of Survey filed in Book 39, Pages 52 through 54 inclusive of Surveys, Records of said County of Riverside,)

**FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**COMMENCING** at the northwest corner of the aforementioned Section 27, Township 4 South, Range 15 East,

Thence along the northerly line of said Section 27 North  $89^{\circ}24'07''$  East, 1249.59 feet to a point on a non-tangent curve, concave southwesterly, having a radius of 9,800.00 feet, a radial line of said curve to said point bears North  $70^{\circ}48'02''$  East, said point being located on the westerly Right-of-Way of the aforementioned Kaiser Road and being the **POINT OF BEGINNING**;

Thence along said Right-of-Way and said curve southerly, through a central angle of  $18^{\circ}28'27''$ , an arc distance of 3159.86 feet;

Thence tangent from said curve continuing along said westerly Right-of-Way South  $00^{\circ}43'31''$  East, 25,735.71 feet;

Thence leaving said westerly Right-of-Way, North  $88^{\circ}50'11''$  East 300.01 feet the easterly Right-of-Way of said Kaiser Road;

Thence along said easterly Right-of-Way North  $00^{\circ}43'31''$  West 260.00 feet;

Thence leaving said easterly Right-of-Way, South 88°50'11" West 113.00 feet to a line parallel with and 187.00 feet easterly of the aforementioned westerly Right-of-Way of Kaiser Road;

Thence along said parallel line North 00°43'31" West 25,474.28 feet to the beginning of a tangent curve, concave southwesterly, having a radius of 9,987.00 feet, said curve is concentric with and 187.00 feet easterly of the aforementioned westerly Right-of-Way of Kaiser Road;

Thence northerly along said concentric curve through a central angle of 15°21'21", an arc distance of 2,676.61 feet;

Thence non-tangent from said curve, North 89°24'07" East 117.20 feet to a point on a non-tangent curve, concave southwesterly, having a radius of 10,100.00 feet, a radial line of said curve to said point bears North 74°05'47" East, said point being located on the aforementioned easterly Right-of-Way of Kaiser Road;

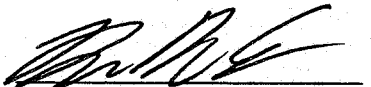
Thence northerly along said curve and said easterly Right-of-Way through a central angle of 02°43'27", an arc distance of 480.21 feet to the aforementioned northerly line of Section 27 Township 4 South, Range 15 East;

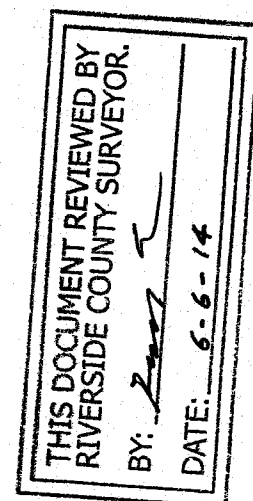
Thence non-tangent from said curve and said easterly Right-of-Way along said northerly line, South 89°24'07" West 316.01 feet to the **POINT OF BEGINNING**.

**CONTAINING 125.96 Acres, more or less.**

**EXHIBIT "B" – RIGHT-OF-WAY PLAT, attached hereto and by this reference made a part hereof.**

This description was prepared by me  
or under my direction.

  
Benjamin Daniel Egan, PE, PLS  
License Number: LS 8756  
Prepared 6/4/2014





# EXHIBIT "B"

## PLAT

OF DESERT HARVEST  
TRANSMISSION  
CORRIDOR WITHIN  
RIGHT-OF-WAY

SHEET 1 OF 1

PREPARED: 6/4/2014

### LEGEND



AREA OF TRANSMISSION  
CORRIDOR RIGHT-OF-WAY  
CONTAINS 125.96 ACRES±

— EXISTING 300' COUNTY R.O.W.

--- SECTION LINES



*Benjamin D. Egan* 6/4/2014  
BENJAMIN D. EGAN DATE:  
PLS 8756

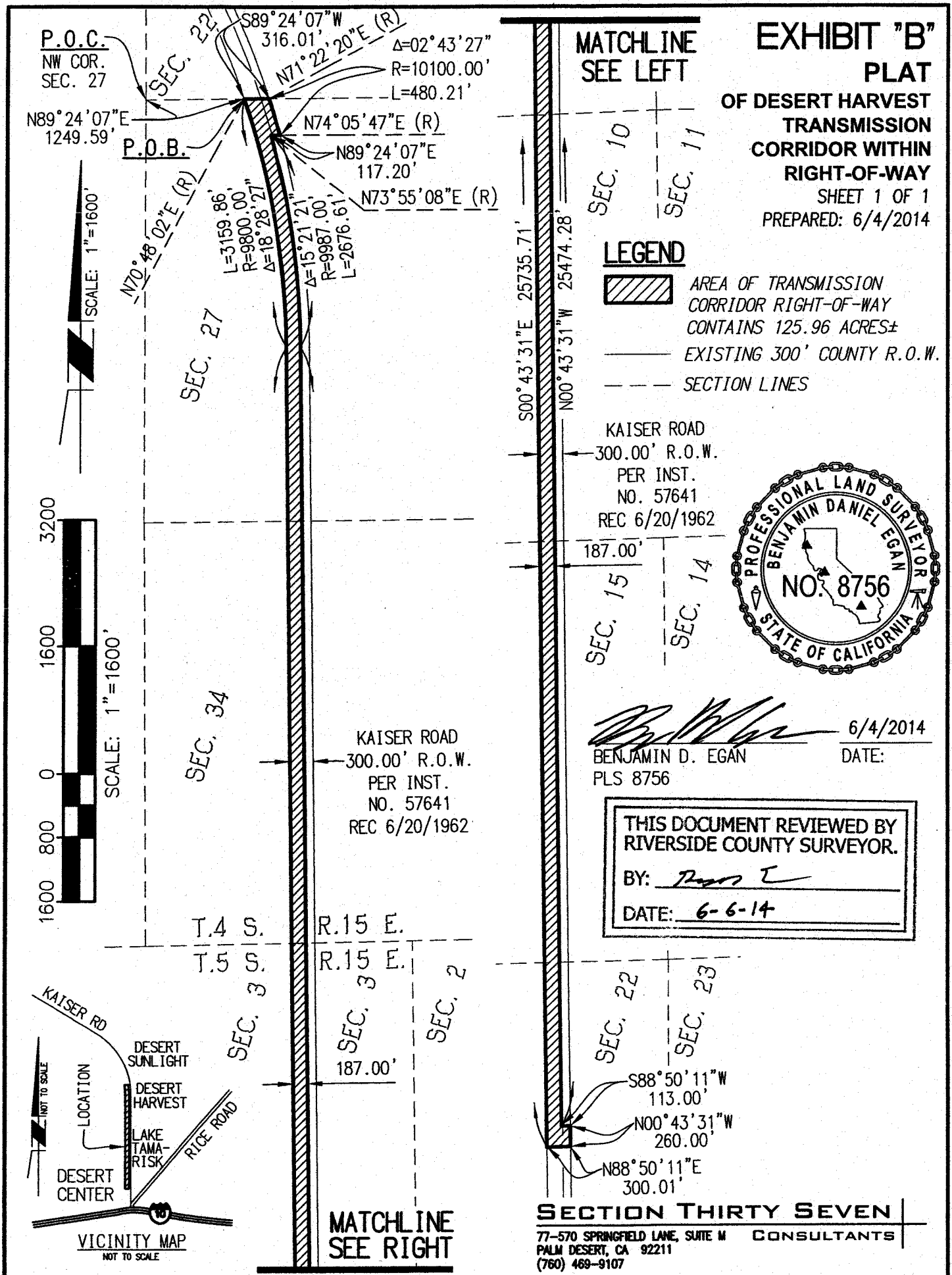
THIS DOCUMENT REVIEWED BY  
RIVERSIDE COUNTY SURVEYOR.

BY: *David E*

DATE: 6-6-14

### SECTION THIRTY SEVEN

77-570 SPRINGFIELD LANE, SUITE M CONSULTANTS  
PALM DESERT, CA 92211  
(760) 469-9107



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

766



**FROM:** TLMA - Planning Department

**SUBMITTAL DATE:**  
June 5, 2014

**SUBJECT:** Desert Harvest Solar Project: Adoption of Resolution 2014-146 Certifying the Final Environmental Impact Statement for the Desert Harvest Solar Project as a CEQA equivalent Environmental Impact Report, Adopting Environmental Findings Pursuant to CEQA, Approving a Water Supply Assessment, Adopting a Mitigation Monitoring and Reporting Plan, and Adopting a Statement of Overriding Considerations; Approval of Public Use Permit No. 914, and Adoption of Ordinance No. 922 Granting to Desert Harvest, LLC 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 – Fast Track Authorization 2013-04 – Applicant: Desert Harvest, LLC – Engineer/Representative: Section Thirty Seven Consultants, LLC – Chuckwalla Zoning Area – Desert Center Area Plan – Location: Northerly of Interstate 10, westerly of Desert Center Rice Road (State Highway 177) within portions of Kaiser Road rights-of-way, 4<sup>th</sup>/4<sup>th</sup> District. [\$0]

**RECOMMENDED MOTION:** That the Board of Supervisors open the public hearing and at the close of the public hearing:

1. **CONSIDER** the environmental effects of the Project as shown in the "Desert Harvest Solar Farm Project Final Environmental Impact Statement and California Desert Conservation Plan Amendment" prepared and approved by the Bureau of Land Management (BLM) in the Record of Decision; and,

(continued on page 2)

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 checked="" type="checkbox"/>
NET COUNTY COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	
SOURCE OF FUNDS: N/A				Budget Adjustment: N/A	
				For Fiscal Year: N/A	

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

APPROVE

BY:

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 by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and that the above ordinance is approved as introduced with waiver of reading.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley  
Nays: None  
Absent: None  
Date: June 17, 2014  
xc: Planning, Applicant, COB, Recorder

Kecia Harper-Ihem  
Clerk of the Board  
By: Deputy

Prev. Agn. Ref.: 3-21 of 4/29/14

District: 4/4

Agenda Number:

16-1

Departmental Concurrence

Positions Added

A-30

Change Order

4/5 Vote

BY: TIFANY N. NORTH  
DA: 6/11/14

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
FORM 11: Desert Harvest Solar Project - Resolution No. 2014-146, Public Use Permit No. 914 and  
Ordinance No. 922**

**DATE: June 5, 2014**

**PAGE: 2 of 4**

2. **ADOPT** RESOLUTION NO. 2014-146 Certifying the Final Environmental Impact Statement for the Desert Harvest Solar Project as a CEQA equivalent Environmental Impact Report, Approving a Water Supply Assessment, Adopting Environmental Findings Pursuant to CEQA, Adopting a Mitigation Monitoring and Reporting Plan, and Adopting a Statement of Overriding Considerations; and
3. **APPROVE** PUBLIC USE PERMIT NO. 914, subject to the attached conditions of approval and based upon the findings and conclusions incorporated in the attached staff report and in Resolution No. 2014-146; and
4. **INTRODUCE and ADOPT** on successive weeks ORDINANCE NO. 922, Granting to Desert Harvest, LLC, A Delaware Limited Liability Company, and its Lawful Successors and Assigns, in whole or in part, 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, subject to the attached conditions of approval, and based upon the findings and conclusions incorporated in the attached staff report and in Resolution No. 2014-146; and
5. **DIRECT** the Clerk of the Board to file the Notice of Determination with the County Clerk within five (5) days of approval of the project.

**BACKGROUND:**

The applicant, Desert Harvest, LLC, ("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 overall Project involves two main components: (1) a solar array field and (2) a 220 kilovolt ("kV") transmission line ("Gen-Tie Line"). The majority of the Project, including the solar array field, where the power would be generated, consists of 1,208 acres of BLM-administered public lands located immediately adjacent to the site of the Desert Sunlight Solar Farm project. The solar array field would consist of a generation area including fifteen-foot tall PV arrays, a switchyard, inverters, overhead lines, and access roads; an operations and maintenance facility; an on-site substation and switchgear; and site security, fencing and lighting. The solar array field is not within the County's land use jurisdiction. A Record of Decision approving the Project was issued by the U.S. Department of the Interior in March 2013.

The Gen-Tie Line will connect the electrical output of solar power plant to Southern California Edison's Red Bluff Substation where the power would feed into SCE's existing Devers Palo Verde No. 1 500-kV interconnection line. The Gen-Tie Line is proposed to exit the northwest portion of the Project site, run south along the west side of Kaiser Road, turn east just north of Desert Center, and then run south across Interstate 10 to the Red Bluff Substation. The entire Gen-Tie Line would be 12.1 miles long. A portion of the Gen-Tie Line will run under, along, across or upon the County of Riverside's Kaiser Road rights-of-way (a total distance of approximately 5.8 miles) requiring an encroachment permit and a franchise agreement with the County for use of road rights-of-way for placement of the transmission poles and lines. Two (2) portions of the Gen Tie Line are proposed to cross private land under the jurisdiction of the County, which requires the Applicant to also obtain a Public Use Permit (PUP) pursuant to Riverside County Ordinance No. 348, Section 18.29. These two (2) PUP portions are adjacent to Assessor's Parcel Numbers 807-171-005 and 808-161-001 and comprise a total area of 1.1 miles and approximately 22 acres under County land use jurisdiction. The Gen-Tie Line will either share steel monopoles with the approved Desert Sunlight Solar Farm project gen-tie line presently under construction or construct a separate, stand-alone Gen-Tie Line running parallel with the Desert Sunlight gen-tie line.

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 land use jurisdiction. PUP 914 is a fast track case. The Transportation Department is considering the

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
FORM 11: Desert Harvest Solar Project - Resolution No. 2014-146, Public Use Permit No. 914 and  
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**DATE: June 5, 2014**

**PAGE: 3 of 4**

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. A franchise agreement is adopted by ordinance. Here, the franchise agreement (Ordinance No. 922) would allow Desert Harvest to construct and use the Gen-Tie Line under, along, across or upon the Kaiser Road rights-of-way and would compensate the County for such construction and use. 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 which shall be for 30 years. As set forth in proposed Ordinance No. 922 and 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 Gen-Tie 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. Further, the franchise agreement also requires Desert Harvest to defend, indemnify and hold harmless the County and requires insurance coverage.

Approval and use of Public Use Permit No. 914 is conditioned upon the franchise agreement being entered into and effective.

**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 21083.7 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. As explained in Resolution No. 2014-146 and in the Planning Department Staff Report, both attached hereto, the County intends to rely upon the EIS to satisfy CEQA for this Project. The EIS identified the following significant and unavoidable impacts of the Project: Air Resources, Biological Resources, Cultural Resources, Noise and Vibration, Recreation, and Visual Resources. Resolution No. 2014-146, contains findings required by CEQA including mitigation measures for the Project, as well as a statement of overriding considerations. In addition, the EIS includes a Water Supply Assessment prepared in accordance with Water Code Section 10910 et seq. Since the Project area is not served by a Public Water System, the Board of Supervisors must make findings regarding the adequacy of the water supply which are contained in Resolution No. 2014-146 and find the water supply will be sufficient to satisfy the demands of the Project, as well as other existing and planned uses.

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.

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
FORM 11: Desert Harvest Solar Project - Resolution No. 2014-146, Public Use Permit No. 914 and  
Ordinance No. 922**

**DATE: June 5, 2014**

**PAGE: 4 of 4**

**SUPPLEMENTAL:**

**Additional Fiscal Information**

As stated above, the applicant and County staff have reached an agreement on the provisions of franchise agreement. Under Ordinance No. 922, the applicant will submit annual public benefit payments of \$150 per acre, increased annually by 2% from and after 2013, based on the solar power plant net acre amount of 1,208 acres at full build out. The project is scheduled to be built in phases and the initial annual public benefit payments will be based on the solar power plant net acreage included in each phase until complete build out. The applicant 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.

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

**Contract History and Price Reasonableness**

N/A

**Attachments:**

1. Planning Department Staff Report
2. Resolution No. 2014-146 Certifying the Final Environmental Impact Statement for the Desert Harvest Solar Project as a CEQA equivalent Environmental Impact Report, Approving a Water Supply Assessment, Adopting Environmental Findings Pursuant to CEQA, Adopting a Mitigation Monitoring and Reporting Plan, and Adopting a Statement of Overriding Considerations
3. Ordinance No. 922 – An Ordinance of the County of Riverside Granting to Desert Harvest, LLC, A Delaware Limited Liability Company, and its Lawful Successors and Assigns, in whole or in part, 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
4. Conditions of Approval for PUP 914
5. Notice of Determination

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

**Section 1.**     **DEFINITIONS.** As used in this ordinance, the following words and phrases

- a. Base Payment. An amount equal to one hundred fifty dollars (\$150) multiplied by the entire Net Acreage for the Project and which is payable to County annually pursuant to section 4 of this ordinance and increased annually by two percent (2%) from and after 2013 (currently \$153 per acre in 2014).
- b. Construct and Use. To lay, construct, excavate, erect, install, operate, maintain, use, repair, replace, relocate, and/or remove.
- c. County. The County of Riverside of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.
- d. County Parties. County, County Special Districts, their respective directors, officers, Board of Supervisors, elected officials, agents and employees.
- e. Electrical Transmission Line. Poles, towers, supports, wires, conductors, cables, guys, stubs, platforms, cross-arms, braces transformers, insulators, conduits, ducts, vaults, manholes, meters, cut-outs, switches, communication circuits, appliances, attachments, appurtenances, and any

1 other property located or to be located under, along, across, or upon the  
2 Franchise Area for the purpose described in subsection f. of section 1.

3 f. Franchise. The authorization granted hereunder to Construct and Use  
4 the Electrical Transmission Line to connect Grantee's solar power electrical  
5 generation facilities to Southern California Edison's Red Bluff Substation,  
6 under, along, across, or upon the Kaiser Road rights-of-way.

7 g. Franchise Area. The precise location of the Electrical Transmission  
8 Line to be Constructed and Used under, along, across, or upon the Kaiser  
9 Road rights-of-way, as more fully described and depicted on Exhibits A and  
10 B, attached hereto and incorporated herein by this reference. To the extent  
11 that the Franchise Area includes any real property owned in fee by County,  
12 this Franchise shall also remain valid and effective with respect to such real  
13 property, regardless of whether or not the Kaiser Road rights-of-way may or  
14 may not have merged into the underlying fee interest.

15 h. Government Agency. State, County, City or other political  
16 subdivision or governmental agency or instrumentality of the State of  
17 California, when acting in a governmental capacity.

18 i. Grantee. Desert Harvest, LLC, a Delaware Limited Liability  
19 Company, and its lawful successors and assigns, in whole or in part, which  
20 jointly hold, and may use this Franchise and which are jointly and severally  
21 responsible for all provisions, rights, obligations and duties of this  
22 ordinance.

23 j. Local Sales and Use Taxes. The one percent sales and use taxes imposed  
24 pursuant to and governed by the Bradley-Burns Uniform Local Sales and  
25 Use Tax Law, Revenue and Taxation Code Section 7200 et seq.

26 k. Net Acreage. All areas involved in the production of power including, but  
27 not limited to, the power block, solar collection equipment, areas  
28 contiguous to solar collection equipment, transformers, transmission lines

1 and/or piping, transmission facilities (on and off-site), service roads  
2 regardless of surface type – including service roads between panels or  
3 collectors, structures, and fencing surrounding all such areas. Net acreage  
4 shall not include off-site access roads or areas specifically set aside either as  
5 environmentally sensitive or designated as open space, and shall not include  
6 the fencing of such set aside areas. The approximate Net Acreage for the  
7 Project is 1,208 acres. In the event the Net Acreage of the Project is  
8 modified by any subsequent development approval of the County, court  
9 order, or by election of the Grantee, the Planning Director, in consultation  
10 with the County Executive Officer and County Counsel, shall recalculate  
11 the Net Acreage and such recalculated Net Acreage shall be documented in  
12 writing and used for all purposes under this Franchise as though it were a  
13 part hereof. An amendment to this Franchise shall be required for such  
14 recalculation and its implementation under this Franchise if such  
15 recalculation decreases the Net Acreage by twenty percent (20%) or more.

- 16 1. Project. The Desert Harvest Solar Project described in the “Desert  
17 Harvest Solar Project Final Environmental Impact Statement and California  
18 Desert Conservation Plan Amendment,” and approved by the Bureau of  
19 Land Management in its Record of Decision dated March 13, 2013,  
20 including the Electrical Transmission Line and all solar power electrical  
21 generation facilities.

22 Section 2. AUTHORITY AND GRANT. Pursuant to and in accordance with the  
23 provisions of the California Constitution Article 11, Section 7, and Government Code Section 26001, the  
24 County hereby grants to Grantee, the Franchise described in this ordinance and all provisions, rights,  
25 obligations and duties hereof shall extend and inure to and be binding on Grantee. The Franchise granted  
26 herein is solely for the specified uses set forth in this ordinance.

27 Section 3. TERM. This Franchise shall be for a definite term of thirty (30) years from  
28 the effective date of this ordinance and shall endure in full force and effect during such term unless this



1 Franchise shall be voluntarily surrendered or abandoned by Grantee; or unless the State or some  
2 municipal or public corporation shall purchase by voluntary agreement, or shall condemn and take under  
3 the power of eminent domain, all property actually used and useful in the exercise of this Franchise and  
4 situated within the territorial limits of the State, municipal, or public corporation purchasing or  
5 condemning such property; or unless this Franchise shall be forfeited for noncompliance with its terms by  
6 Grantee.

7           Section 4.       CONSIDERATION AND PAYMENTS.

- 8           a. If development of the Project occurs in a single phase, within five (5)  
9           business days of the commencement of construction of the entire Project,  
10          Grantee shall provide written notice to County of such commencement of  
11          construction and Grantee shall pay to the County an amount equal to the  
12          Base Payment calculated on the Net Acreage of the entire Project; provided  
13          however, that such initial payment shall be prorated based on the number of  
14          whole months remaining between the date of the payment and the first  
15          following September 30<sup>th</sup>.
- 16          b. As stated in the Desert Harvest Solar Project Final Environmental Impact  
17          Statement and California Desert Conservation Plan Amendment,  
18          development of the Project may occur in three phases. The phasing could  
19          include an initial phase involving pre-construction surveys, exclusion  
20          fencing around a 10-acre area in the northwest corner of the Project site,  
21          desert tortoise exclusion (if tortoise are present), clearing and construction  
22          of a laydown yard, parking area, and pad mounts for transformers. A second  
23          phase could include site fencing, installation of temporary power, site  
24          grading and preparation over a 1,043-acre area, construction of an  
25          operations and maintenance building and on-site roads, construction of the  
26          on-site wells, construction of the project substation and switch-yard, and  
27          assembly and installation of panel blocks and wiring for 137 megawatts of  
28          solar power. A third phase could include site grading and preparation over a

1 155-acre area, assembly and installation of panel blocks and wiring for 13  
2 megawatts of solar power. The Electrical Transmission Line is planned for  
3 construction during the second phase. If the development of the Project  
4 occurs in phases, prior to the commencement of construction of the Project,  
5 Grantee shall provide written notice to County of Grantee's decision to  
6 develop the Project in phases and, prior to the commencement of  
7 construction for each phase, Grantee shall provide written notice of such  
8 commencement of construction of the phase and shall pay to County an  
9 amount equal to that portion of the Base Payment calculated on the basis of  
10 the Net Acreage for the phase in question; provided, however, that each  
11 initial payment for each phase shall be prorated based on the number of  
12 whole months remaining between the date of the payment and the first  
13 following September 30<sup>th</sup>.

- 14 c. Grantee shall make subsequent annual payments in an amount equal to the  
15 Base Payment for the entire Project, or, if the construction of the Project is  
16 to be phased, that portion of the Base Payment attributable to each initiated  
17 phase of the Project, on or by September 30 of each year during the term of  
18 the Franchise.
- 19 d. Grantee shall pay any application fees, administrative fees, processing fees,  
20 late charges, accrued interest, and penalties required in connection with this  
21 Franchise. These fees may be charged at the rates applicable at the time of  
22 payment.
- 23 e. Grantee shall pay all encroachment permit fees, inspection fees, and unit  
24 inspection fees related thereto in connection with the processing of  
25 applications for any necessary encroachment permits to Construct and Use  
26 the Electrical Transmission Line in the Franchise Area as such fees are  
27 specified in Appendix A of Ordinance No. 499. These fees may be charged  
28

1 at the rates applicable at the time of payment as set forth in Appendix A of  
2 Ordinance No. 499.

3 f. Grantee shall pay to County a sum of money sufficient to reimburse it for  
4 all publication expenses incurred by it in connection with the granting of  
5 this Franchise; such payment to be made within thirty (30) days after  
6 County furnishes Grantee with a written statement of such expenses.

7 g. County has advised Grantee that Kaiser Road was not engineered to handle  
8 heavy construction truck traffic. Unless Grantee has otherwise made the  
9 repairs itself, Grantee shall pay to County the cost of all repairs to County  
10 public property (or to other public property not belonging to the County but  
11 which the County is obligated to repair) made necessary by any damage  
12 demonstrably caused by Grantee while performing any activities authorized  
13 under this Franchise. The extent of any repairs subject to this provision shall  
14 be measured from baseline conditions as of the date Grantee starts activities  
15 authorized under this Franchise and shall be calculated by phase if the  
16 Project is phased. In no event shall Grantee be obligated to perform or pay  
17 for repairs attributable to deferred maintenance of the County or to damage  
18 to public property caused by the activities of others, including incidental  
19 activities, such as third-party construction traffic. The cost of repairs  
20 attributable to Grantee shall be determined as follows:

21 1. Current Conditions Estimate. Prior to the start of activities  
22 authorized under this Franchise, Grantee shall hire an engineering  
23 firm to prepare a written determination of the then current status of  
24 County public property (or other public property not belonging to  
25 the County but which the County is obligated to repair) within the  
26 boundaries of the Franchise Area ("Grantee Engineering Report")  
27 and shall submit the Grantee Engineering Report to the County. Not  
28 later than forty-five (45) days after submittal of the Grantee

1 Engineering Report to the County, County shall either (i) accept the  
2 Grantee Engineering Report as an accurate representation of  
3 baseline conditions as of the date Grantee starts activities authorized  
4 under this Franchise; or (ii) notify Grantee in writing of County's  
5 decision to hire a different engineering firm to prepare, within ninety  
6 (90) days of the County's receipt of the Grantee Engineering Report,  
7 a separate written determination of the then current status of County  
8 public property (or other public property not belonging to the  
9 County but which the County is obligated to repair) within the  
10 boundaries of the Franchise area ("County Engineering Report").  
11 County shall be deemed to have accepted the determination of the  
12 Grantee Engineering Report if County does not notify Grantee  
13 within forty-five (45) days of County's receipt of the Grantee  
14 Engineering Report that County has decided to request the County  
15 Engineering Report. If County elects to request a County  
16 Engineering Report, and the current conditions estimate of the  
17 Grantee Engineering Report and County Engineering Report differ  
18 by ten percent (10%) or less (e.g., by reference to the Pavement  
19 Conditions Index), then the average of the two determinations shall  
20 be deemed the baseline conditions as of the date Grantee starts  
21 activities authorized under this Franchise. If such not be the case,  
22 then Grantee shall accept the lower of the two estimates or, at the  
23 election of Grantee, the engineering firm that prepared the Grantee  
24 Engineering Report and the engineering firm that prepared the  
25 County Engineering Report shall mutually select a third qualified  
26 and impartial engineering firm ("Third Engineering Firm") to issue a  
27 determination of baseline conditions as of the date Grantee starts  
28 activities authorized under this Franchise ("Third Engineering

Report"). The determination of the Third Engineering Report shall be conclusive and binding on the Parties.

2. Grantee shall designate an engineering firm, subject to the approval of the County and the approval of which shall not be unreasonably withheld, to monitor activities conducted by Grantee under this Franchise for purposes of assessing Grantee's proportional contribution to any damage to County public property (or other public property not belonging to the County but which the County is obligated to repair) made necessary by damages demonstrably caused by Grantee. County shall make reasonable efforts to assist Grantee in obtaining monitoring information regarding other activities that could reasonably be considered to cause damage to County public property within the Franchise Area.

3. Repair Estimate. Upon completion of construction activities performed under this Franchise, the same process of subsection g.1., above, shall be applied to determine, instead of then current conditions, the extent and cost of repairs to County public property (or to other public property not belonging to the County but which the County is obligated to repair) made necessary by any damage demonstrably caused by Grantee, including possible reconstruction. Grantee shall pay such costs within thirty (30) days after County furnishes Grantee with an invoice to the sum of the determination of attributable cost developed pursuant to the procedure required by this paragraph. If Grantee fails to make such payment, County may immediately draw upon a single \$2,500,000 irrevocable standby Letter of Credit in favor of the County that is required for all encroachment permits for the Project, which has been agreed upon by Grantee and County. Such draw upon the Letter of Credit shall

1 be in that amount necessary to cover the cost to the County of  
2 undertaking the repairs to County public property (or to other public  
3 property not belonging to the County but which the County is  
4 obligated to repair) made necessary by any damage demonstrably  
5 caused by Grantee. Any draws upon the Letter of Credit shall not  
6 limit the County's right and ability to make further draws upon the  
7 Letter of Credit up to the aggregate limit of \$2,500,000.

8 4. If Grantee undertakes the repair work itself, the County will  
9 inspect the work and notify Grantee as to whether it has accepted the  
10 repairs within forty-five (45) days of Grantee's written notice.

11 5. Grantee shall be responsible for all reasonable costs incurred  
12 for the services of any engineering firms regarding determinations  
13 under subsections g.1, g.2 and g.3 above, except that Grantee shall  
14 not be responsible for any cost of a County Engineering Report or  
15 Third Engineering Report to the extent it exceeds the cost of a  
16 Grantee Engineering Report by more than fifteen percent (15%).

17 h. Local Sales and Use Tax. Grantee and County acknowledge and agree that  
18 solar power plant owners have a responsibility to assure that sales and use  
19 taxes are reported and remitted to the California State Board of Equalization  
20 ("BOE") as provided by law. To ensure allocation directly to County, to the  
21 maximum extent possible under the law, of the sales and use taxes payable  
22 in connection with the construction of the Project, Grantee shall do the  
23 following consistent with the law:

24 1. If Grantee meets the criteria set forth in applicable BOE regulations  
25 and policies, Grantee shall obtain a BOE permit for the Project  
26 jobsite and report and remit all such taxable sales or uses pertaining  
27 to construction of the Project using the permit or sub-permit for that  
28 jobsite to the maximum extent possible under the law.

2. Grantee shall contractually require that all contractors and subcontractors whose contract with respect to the Project exceeds \$100,000.00 who meet the criteria set forth in applicable BOE regulations and policies ("Major Subcontractors") must obtain a BOE permit or sub-permit for the solar power plant jobsite, if required by the applicable BOE regulations and policies, and report and remit all such taxable sales or uses pertaining to construction of the Project using the permit or sub-permit for that jobsite to the maximum extent possible under the law.
3. Grantee shall notify County of the contract on-line date of the Project, such date being the date of final completion under the engineering, procurement, and construction agreement for the Project.
4. Prior to commencement of construction for any phase of the Project, Grantee shall deliver to County a list that includes, as applicable and without limitation, each Major Subcontractor's business name, value of contract, scope of work on the Project, procurement list for the Project, BOE account numbers and permits or sub-permits specific to the Project jobsite, contact information for the individuals most knowledgeable about the Project and the sales and use taxes for such Project, and, in addition, shall attach copies of each permit or sub-permit issued by the BOE specific to the Project jobsite. Said list shall include all the above information for the Project owner, its contractors, and all Major Subcontractors. Grantee 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 Major Subcontractor.
5. Grantee shall certify in writing that it understands the procedures for

1 reporting and remitting sales and use taxes in the State of California  
2 and will follow all applicable state statutes and regulations with  
3 respect to such reporting and remitting.

4 6. Grantee shall contractually require that each Major Subcontractor  
5 certify in writing that they understand the procedures for reporting  
6 and remitting sales and use taxes in the State of California and will  
7 follow all applicable state statutes and regulations with respect to  
8 such reporting and remitting.

9 7. Grantee shall deliver to County or its designee (as provided in  
10 subsection h.8 below) copies of all sales and use tax returns  
11 pertaining to the Project filed by Grantee and Major Subcontractors.  
12 Such returns shall be delivered to County or its designee within  
13 thirty (30) days of filing with the BOE. Such tax returns may be  
14 redacted to protect, among other things, proprietary information and  
15 may be supplemented by additional evidence that payments made  
16 complied with this policy.

17 8. County may, at its sole discretion, select and retain the services of a  
18 private sales tax consultant with expertise in California sales and use  
19 taxes to assist in implementing and enforcing compliance with the  
20 provisions of this Franchise and that Grantee shall be responsible for  
21 all reasonable costs incurred for the services of any such private  
22 sales tax consultant and shall reimburse County within thirty (30)  
23 days of written notice of the amount of such costs.

24 i. In the event Grantee fails to make any of the payments provided for herein,  
25 then, following notice of such failure from County and subsequent failure  
26 by Grantee to cure within the applicable cure period, Grantee shall pay a  
27 late charge of ten percent (10%) of the amount due, said ten percent (10%)  
28 being due thirty (30) days after the expiration of the applicable cure period



1 specified in section 13. The ten percent (10%) has been set by both parties  
2 hereto in recognition of the difficulty in affixing actual damages from a  
3 breach of said time of performance requirement.

4 j. In the event full payment of any rate, payment, or fee, including the ten  
5 percent (10%) late charge, is not received within sixty (60) days after the  
6 due date, an assessment of interest shall accrue on the unpaid balance at one  
7 percent (1%) per month beginning on the sixty first (61<sup>st</sup>) day after the due  
8 date, provided that County has notified Grantee in accordance with section  
9 13 and Grantee has failed to pay within the required period.

10 k. Should the Board of Supervisors adopt any new policy after the effective  
11 date of this ordinance requiring the negotiation of revenue generating  
12 agreements for solar power plants or requiring solar power plant developers  
13 to pay a specified fee in connection with County's conveyance of a real  
14 property interest or the issuance of a permit for a solar power plant to  
15 ensure that County does not disproportionately bear the burden of solar  
16 energy production, the Grantee may elect to exempt the Project from such  
17 policy, it being acknowledged and agreed that Grantee is paying  
18 consideration to County as specifically provided pursuant to the express  
19 terms of this ordinance. Grantee's other projects, however, would not be  
20 eligible to claim an exemption based on the foregoing exemption provided  
21 to Grantee pursuant to this ordinance.

22 Section 5.

CONSTRUCTION, USE AND MAINTENANCE

23 a. Grantee shall Construct and Use the Electrical Transmission Line in  
24 accordance and in conformity with all of the ordinances and rules adopted  
25 by the Board of Supervisors in the exercise of its police powers and not in  
26 conflict with the paramount authority of the State, and, as to state highways,  
27 subject to the laws relating to the location and maintenance of electrical  
28 transmission lines therein.

- 1                   b.     Grantee shall Construct and Use the Electrical Transmission Line in the  
2                   Franchise Area described in Exhibits A and B and at the locations described  
3                   in the exhibits attached to the encroachment permit(s) to be issued by  
4                   County Transportation Director pursuant to this Franchise and Ordinance  
5                   No. 499. The exact locations of the Electrical Transmission Line within the  
6                   Franchise Area shall be determined by the County during the encroachment  
7                   permitting stage. The Electrical Transmission Line shall be located so that  
8                   its construction and use do not interfere with the use of the Franchise Area  
9                   by the traveling public or with the use of County property or County public  
10                  works for their primary purposes, except for temporary interference caused  
11                  by Electrical Transmission Line construction activities consistent with those  
12                  described in the Desert Harvest Solar Project Final Environmental Impact  
13                  Statement and California Desert Conservation Plan Amendment.
- 14               c.     Grantee shall undertake its work in such manner as to leave the Franchise  
15                  Area or other public property in as good condition as it was prior to said  
16                  work.
- 17               d.     Grantee shall modify the Electrical Transmission Line, and the procedures  
18                  associated with its maintenance and testing, to comply with all future  
19                  statutes, laws, ordinances and rules, regulations, policies or standards  
20                  adopted pursuant thereto that are generally applicable to pre-existing  
21                  improvements, provided, however, that County, in its proprietary capacity,  
22                  shall not undertake actions that would serve to deprive Grantee of any  
23                  material benefit of this Franchise.
- 24               e.     Prior to commencing construction of Project, Grantee shall create and  
25                  maintain an emergency response plan, and shall at all times maintain the  
26                  necessary trained personnel and equipment to respond timely to any damage  
27                  or destruction (e.g., fire) associated with the Electrical Transmission Line.
- 28

- 1 f. Grantee shall in good faith commence construction under this Franchise  
2 within not more than three (3) years from the granting of this Franchise,  
3 and, if not so commenced within said time, this Franchise shall be declared  
4 forfeited, provided that Grantee's obligation to commence construction  
5 shall be extended, day for day, for each day that any stay or injunction  
6 imposed by a court of competent jurisdiction, delays the issuance of all final  
7 permits for, or construction of the Project and/or the Electrical Transmission  
8 Line. The completion of the work shall be prosecuted diligently and in  
9 good faith by Grantee.
- 10 g. Grantee shall, upon demand by County, and at the expense of Grantee,  
11 precisely identify the location, by land survey measurements or other  
12 accurate means, of the Electrical Transmission Line under this Franchise,  
13 for the purpose of the design or construction of public works projects on  
14 County rights-of-way.
- 15 h. Grantee shall relocate without expense to County any portion of the  
16 Electrical Transmission Line installed, used, and maintained under this  
17 Franchise if and when made necessary by any lawful change of grade,  
18 alignment, or width of any public street, way, alley, or place by County.
- 19 i. Before any excavation or other work requiring excavation in the Franchise  
20 Area, Grantee shall notify County Transportation Director, no less than  
21 thirty (30) days prior to commencement of such excavation or work.  
22 Provided that, in cases of emergency requiring immediate action, Grantee  
23 may make excavations and perform work in the Franchise Area to repair  
24 and restore the Electrical Transmission Line without giving prior notice to  
25 County Transportation Director of such excavation and work, but notice  
26 thereof shall be given to said Director promptly after the commencement of  
27 such excavation and work. In all cases, Grantee at its own cost and expense  
28 shall without unnecessary delay replace and restore the excavated portion of

1 the Franchise Area to as good condition as it was prior to such excavation  
2 and work.

- 3 j. In the event the County takes action which compels the Project to stop all  
4 power production for a period longer than ninety (90) consecutive days for  
5 any reason other than a default under this ordinance or a violation of the  
6 conditions of approval of any existing permit issued by the County for the  
7 Project, the next payment due under section 4.a. of this ordinance shall be  
8 reduced in proportion to the amount of time the Project was compelled by  
9 County to remain inoperative.

10 Section 6. REMOVAL. Upon surrender, abandonment, termination, or forfeiture of  
11 this Franchise, Grantee shall, upon written request of County and at its own expense, remove its Electrical  
12 Transmission Line and all ancillary equipment from County roadways and rights of way, properly and  
13 lawfully dispose of all such materials and ancillary equipment, and restore the Franchise Area to its  
14 original condition.

15 Section 7. INDEMNIFICATION.

- 16 a. Grantee shall defend, indemnify and hold harmless County Parties from any  
17 liability whatsoever, based or asserted upon any act or omission, including  
18 but not limited to negligent acts or omissions, of Grantee, its officers,  
19 agents, employees, subcontractors and independent contractors, for property  
20 damage, bodily injury, or death or any other element of damage of any kind  
21 or nature, relating to or, in any way connected with or arising from any  
22 operations under this Franchise, specifically excluding therefrom the gross  
23 negligence or willful misconduct of the County Parties. The obligation to  
24 defend, indemnify and hold harmless expressed herein shall include,  
25 without limitation, attorney fees, expert fees and investigation expenses and  
26 shall survive until any and all claims, actions and causes of action with  
27 respect to any and all such alleged acts or omissions are fully and finally  
28 barred by the applicable statute of limitations, unless such statute of

1 limitations is overturned by any court of jurisdiction whereupon the  
2 indemnification shall continue until all issues are fully resolved.

- 3 b. Grantee shall also defend, indemnify and hold harmless County Parties  
4 from any action or claim brought by any third party to attack, set aside, void  
5 or annul County's approval of this Franchise, this ordinance or any  
6 subsequently issued encroachment permit. The obligation to defend,  
7 indemnify and hold harmless expressed herein shall include, without  
8 limitation, attorney fees, expert fees and investigation expenses and shall  
9 survive until any and all claims, actions and causes of action with respect to  
10 any and all alleged acts or omissions are fully and finally barred by any  
11 applicable statute of limitations, unless such statute of limitations is  
12 overturned by any court of jurisdiction whereupon the indemnification shall  
13 continue until all issues are fully resolved.

14 Section 8. INSURANCE. Without limiting or diminishing Grantee's obligation to  
15 indemnify or hold County harmless, Grantee shall procure and maintain or cause to be maintained, at its  
16 sole cost and expense, the following insurance coverages during the term of this ordinance which either  
17 meet the limits of liability set forth below or are covered when combined with excess umbrella policies.

18 a. Workers' Compensation:

19 Grantee shall maintain statutory Workers' Compensation Insurance  
20 (Coverage A) as prescribed by the laws of the State of California. Policy  
21 shall include Employer's Liability (Coverage B) including Occupational  
22 Disease with limits not less than one million (\$1,000,000) per person per  
23 accident. Policy shall be endorsed to waive subrogation in favor of County.

24 b. Commercial General Liability:

25 Grantee shall maintain Commercial General Liability insurance coverage,  
26 including but not limited to, premises liability, contractual liability,  
27 completed operations, personal and advertising injury covering claims  
28 which may arise from or out of Grantee's performance of its obligations

1 hereunder. Policy shall include County Parties as an additional insured with  
2 respect to Grantee's performance hereunder. Policy's limit of liability shall  
3 not be less than five million dollars (\$5,000,000) in the aggregate and not  
4 less than three million dollars (\$3,000,000) per occurrence.

5 c. Vehicle Liability:

6 Grantee shall maintain liability insurance for all owned, non-owned or hired  
7 vehicles in an amount not less than one million (\$1,000,000) per occurrence  
8 combined single limit. If such insurance contains a general aggregate limit,  
9 it shall apply separately to this Franchise or be no less than two (2) times  
10 the occurrence limit. Policy shall name County Parties as an additional  
11 insured.

12 d. General Insurance Provisions - All lines:

- 13 1. Any insurance carrier providing insurance coverage hereunder shall  
14 be admitted to the State of California and have an A.M. BEST rating  
15 of not less than an A: VII (A: 7) unless such requirements are  
16 waived, in writing, by the County Risk Manager. If County's Risk  
17 Manager waives a requirement for a particular insurer such waiver is  
18 only valid for that specific insurer and only for one policy term.
- 19 2. Grantee's insurance carrier(s) must declare its insurance deductibles  
20 or self-insured retentions. If such deductibles or self-insured  
21 retentions exceed five hundred thousand dollars (\$500,000) per  
22 occurrence such deductibles and/or retentions shall have the prior  
23 written consent of County Risk Manager before commencement of  
24 construction under this Franchise. Upon notification of deductibles  
25 or self-insured retentions which are deemed unacceptable to County,  
26 at the election of County's Risk Manager, Grantee's carriers shall  
27 either: (i) reduce or eliminate such deductibles or self-insured  
28 retentions as respects this Franchise with County, or (ii) procure a

1 bond which guarantees payment of losses and related investigations,  
2 claims administration, defense costs and expenses.

- 3 3. Prior to commencement of construction of the Project or each phase  
4 of the Project and annually thereafter, at the anniversary of the  
5 Grantee's insurance renewals, Grantee shall cause its insurance  
6 carrier(s) to furnish County with: (i) a properly executed original  
7 certificate(s) of insurance and certified original copies of  
8 endorsements effecting coverage as required herein; or, (ii) if  
9 requested to do so orally or in writing by County Risk Manager,  
10 allow County Risk Manager to review a certified copy of the  
11 original policy and all endorsements thereto at the offices of the  
12 Risk Manager or provide original Certified copies of policies  
13 including all endorsements and all attachments thereto, showing  
14 such insurance is in full force and effect. Further, to the extent  
15 available from the insurance company, said certificate(s) and  
16 policies of insurance shall contain the covenant of the insurance  
17 carrier(s) providing that no less than thirty (30) days written notice  
18 be given to County prior to any material modification or  
19 cancellation of such insurance. In the event of a material  
20 modification or cancellation of coverage, County may forfeit this  
21 Franchise as provided below if Grantee does not have such  
22 insurance reinstated or replaced within the cure period specified in  
23 section 13. Evidence of any such reinstatement or replacement shall  
24 include a properly executed original certificate of insurance and  
25 original copies of endorsements or certified original policies,  
26 including all endorsements and attachments thereto evidencing  
27 coverages and the insurance herein is in full force and effect.  
28 Individual(s) authorized by the insurance carrier to do so on its

1                   behalf shall sign the original endorsements for each policy and the  
2                   certificate of insurance. Grantee shall not commence construction  
3                   under this Franchise until County has been furnished original  
4                   certificate(s) of insurance and certified original copies of  
5                   endorsements or policies of insurance including all endorsements  
6                   and any and all other attachments as required in this section.

7                   4.    It is understood and agreed by the parties hereto and Grantee's  
8                   insurance company(s) that the certificate(s) of insurance and policies  
9                   shall so covenant and shall be construed as primary insurance, and  
10                  County's insurance and/or deductibles and/or self-insured retentions  
11                  or self-insured programs shall not be construed as contributory as  
12                  respects all claims that arise from this Franchise.

13                  5.    Grantee shall pass down the insurance obligations contained herein  
14                  to all tiers of contractors and subcontractors working under this  
15                  Franchise.

16                  e.    Not more frequently than once every five (5) years, County reserves the  
17                  right to adjust the types of insurance required under this ordinance and the  
18                  monetary limits of liability for the insurance coverage required herein, if, in  
19                  County Risk Manager's reasonable judgment based on commercially  
20                  reasonable amounts of insurance coverage required to be carried for similar  
21                  operations, the amounts or types of insurance coverage specified herein  
22                  have become materially inadequate due to passage of time or changed  
23                  circumstances.

24                  Section 9.    ANNEXATION. Whenever any portion of the territory covered by this  
25                  Franchise shall be annexed to, or otherwise become a part of any municipal corporation, or of any other  
26                  county, the rights reserved under this ordinance to County, or County Parties, shall inure to the benefit of  
27                  such municipal corporation or county, and its appropriate officers and employees.  
28



1           Section 10.   TRANSFERS AND ASSIGNMENTS.   Grantee shall have the right to  
2 transfer this Franchise, in whole or in part, or assign all or part of its rights and interests hereunder,  
3 including, without limitation, granting a security interest to any lender or any other investor. In such  
4 event, Grantee shall provide County, within thirty (30) days of any sale, transfer, assignment or lease of  
5 this Franchise or any part hereof, with written evidence of the transaction certified by Grantee or its duly  
6 authorized officers. Grantee shall also provide written evidence, in a form reasonably acceptable to  
7 County, establishing to County's satisfaction that any transferee or assignee (other than a lender that has  
8 not foreclosed on its security interest) is in financially sound condition and able to comply with the  
9 obligations of Grantee under this Franchise; County shall have the right to request additional information  
10 to confirm the foregoing. Establishing County's satisfaction shall not require unreasonable measures or  
11 criteria. Any such transferee or assignee shall remain subject to all the terms and conditions in this  
12 ordinance including the obligation to maintain insurance coverage in the amounts specified in this  
13 ordinance.

14           Section 11.   GOVERNMENT AGENCY WORK.

- 15           a.   A Government Agency may improve any highway or portion thereof in  
16                which Grantee's Electrical Transmission Line has been constructed or  
17                installed, and may construct, install, repair and maintain any such highway,  
18                and may remove from any such highway any public improvement.
- 19           b.   Provided a Government Agency gives written notice to Grantee thirty (30)  
20                days in advance of the date work is to be done pursuant to any right  
21                reserved in subdivision a of this section, specifying the general nature of the  
22                work and area in which the work is to be performed, Grantee shall, upon  
23                request of the Government Agency, disconnect and relocate the Electrical  
24                Transmission Line in the Franchise Area to such extent and in such manner  
25                as shall be necessary to permit the performance of such work, and to permit  
26                the maintenance, operation and use of such public improvement or of the  
27                highway as so improved. The Government Agency shall, to the extent  
28                possible, minimize interference with Grantee's property and operations

1 pursuant to this Franchise. All of such things to be done and work to be  
2 performed by Grantee shall be at the sole cost and expense of Grantee.

3 c. Grantee shall, upon written notice from a Government Agency to relocate a  
4 portion of the Electrical Transmission Line that is in conflict with a public  
5 works project on the public right of way, cause the conflicting portion of  
6 said Electrical Transmission Line to be relocated in a diligent manner as to  
7 avoid any unreasonable delays or costs to the public works project. Any  
8 direct costs incurred by the Government Agency, resulting from a delay to a  
9 public works project directly caused by the failure of Grantee to relocate the  
10 conflicting portion of Grantee's Electrical Transmission Line in a diligent  
11 manner as to avoid any unreasonable delay, shall be the responsibility of  
12 Grantee, which shall reimburse said costs to the Government Agency upon  
13 demand.

14 d. No provision of this Franchise shall be so construed as to impose upon a  
15 Government Agency any duty or obligation to construct, repair or maintain  
16 any highway included in the area in which Grantee's Electrical  
17 Transmission Line is located in any particular manner or to any particular  
18 standard.

19 e. In the event that a Government Agency, shall hereafter construct, install,  
20 reconstruct or repair any bridge or artificial support in or underlying any  
21 highway in which Grantee's Electrical Transmission Line is located or  
22 which is prescribed as the location for any of Grantee's Electrical  
23 Transmission Line, and in the event that the cost thereof be increased in  
24 order to provide for the installation, maintenance or operation of Grantee's  
25 Electrical Transmission Line in or on the highway area covered or underlain  
26 by said bridge or other artificial support, then Grantee shall pay to such  
27 Government Agency doing such work the full amount of such increase of  
28 cost upon completion of such construction, installation or repair.

1           Section 12.   ENCROACHMENT PERMIT. No encroachment permit shall be issued for  
2 work to be undertaken in the Franchise Area, until Grantee has filed its written acceptance of the terms  
3 and conditions of this Franchise as specified in section 21. Following Grantee's acceptance of this  
4 Franchise, and provided that Grantee and its contractors have complied with all applicable permit  
5 issuance requirements established by County under Ordinance No. 499, Grantee shall be entitled to, and  
6 County shall issue, any requested encroachment permits consistent with this Franchise within sixty (60)  
7 days of application.

8           Section 13.   FORFEITURE.

- 9           a.   Any neglect, failure or refusal of Grantee to comply with any provision of  
10 this Franchise, following notice and opportunity to cure as provided below,  
11 shall constitute cause for possible forfeiture of this Franchise at the  
12 discretion of the Board of Supervisors. Following such an uncured default,  
13 the Board of Supervisors may hold a hearing, at which Grantee and any  
14 lender shall have the right to appear and be heard. Following such hearing,  
15 the Board of Supervisors may determine whether the provision at issue is  
16 material and essential to this Franchise, whether Grantee is in default with  
17 respect thereto and may declare this Franchise forfeited. Notice of the  
18 hearing shall be given to Grantee, and any lender previously identified to  
19 County, in accordance with the notice provisions of this ordinance not less  
20 than thirty (30) days before said hearing. If this Franchise is forfeited  
21 pursuant to the foregoing, County may exclude Grantee from any further  
22 use of the Franchise Area under this Franchise; and Grantee shall thereupon  
23 surrender all rights in and to the same, and this Franchise shall be deemed  
24 and shall remain null, void and of no effect. From time to time, upon  
25 request of Grantee or any lender, County shall confirm in writing to Grantee  
26 and any lender whether Grantee is in compliance with the terms and  
27 conditions of this ordinance.  
28

- 1                   b.     County may sue in its own name for the forfeiture of this Franchise, in the  
2                             event of noncompliance with any of the provisions or conditions hereof by  
3                             Grantee.
- 4                   c.     Grantee shall be liable to County for all damages proximately resulting  
5                             from the failure of Grantee to observe and perform any provision of this  
6                             Franchise.
- 7                   d.     Grantee shall have ten (10) business days (and any lender shall have thirty  
8                             (30) days) after written notice from County of a monetary default, or failure  
9                             to carry required insurance, to cure said default to the satisfaction of the  
10                            County. Grantee shall have thirty (30) days (and any lender shall have sixty  
11                            (60) days) after written notice from County of any non-monetary default to  
12                            cure said default to the satisfaction of the County or, if such default is not  
13                            capable of cure within such time period, Grantee shall commence to cure  
14                            such default within such time period and shall complete the cure of such  
15                            default within a reasonable time thereafter.

16                   Section 14.     SECURITY/FAITHFUL PERFORMANCE BOND

- 17                   a.     Within one (1) year following the effective date of this ordinance or prior to  
18                             construction of the Electrical Transmission Line within the Franchise Area,  
19                             whichever comes first, Grantee shall provide to County a faithful  
20                             performance bond in the sum of not less than seven hundred twenty  
21                             thousand dollars (\$720,000) payable to County and executed by a corporate  
22                             surety acceptable to County and licensed to transact business as a surety in  
23                             the State of California. Such bond shall be payable to the extent that  
24                             Grantee shall fail to faithfully perform any of its obligations under this  
25                             Franchise (specifically excluding, however, any and all consideration and  
26                             payment obligations pursuant to section 4 of this ordinance, other than the  
27                             repair obligations under subsection g. of section 4, which repair obligations  
28                             shall be included in the obligations secured by the faithful performance

1 bond and specifically excluding any construction obligations secured by the  
2 letter of credit required for any encroachment permit). In the event that  
3 Grantee fails to so perform, County may elect to make a claim under the  
4 bond equal to that amount necessary to undertake and complete such failed  
5 performance.

6 b. Throughout the term of this Franchise, Grantee shall maintain the faithful  
7 performance bond in the amount specified herein. Within thirty (30) days  
8 after written notice from County that any amount has been paid on the bond  
9 as provided in this section, Grantee shall restore the bond to the full amount  
10 specified herein, reduced by the amount of those obligations that County, in  
11 its reasonable discretion, determines have been fully satisfied.

12 c. The faithful performance bond shall continue to exist for one (1) year  
13 following any sale, transfer, or assignment of this Franchise (unless  
14 replaced by a satisfactory replacement bond from the successor Grantee), or  
15 following the expiration or termination of this Franchise. County may  
16 release said bond prior to the end of the one (1) year period upon its  
17 determination that Grantee has satisfied all the obligations of this ordinance  
18 that are to be secured by the bond.

19 d. County, in its reasonable discretion, may accept alternative security to meet  
20 the above bonding requirements in the form of an irrevocable letter of  
21 credit, certificate of deposit, or a cash deposit acceptable to County as an  
22 alternative to the faithful performance bond as described above. Such  
23 alternative security shall be made payable to County and shall be deposited  
24 with County.

25 e. The types and amounts of the performance bond or alternative security  
26 coverage shall be subject to review and adjustment at five (5) year intervals  
27 during the term of this Franchise, to the extent that County or Grantee  
28 demonstrates that the costs of the obligations to be secured by the bond

1 have materially increased or decreased. In the event of such adjustment,  
2 Grantee agrees to provide the adjusted coverage within thirty (30) days after  
3 written notice from County. Grantee and County shall meet and confer to  
4 attempt to resolve any dispute with regard to this subsection. Provided,  
5 however, that neither County nor Grantee shall by meeting and conferring  
6 waive any and all legal rights and remedies with respect to such dispute.

- 7 f. No Franchise operations shall commence until Grantee has complied with  
8 the requirements of this section.

9 Section 15. NOTICES. Any notice with respect to this Franchise shall be in writing and  
10 shall be made to all parties (including any lender or other assignee) and will be effective (i) immediately  
11 upon delivery in person, provided delivery is made during regular business hours or receipt is  
12 acknowledged by a person reasonably believed by the delivering party to be employed by the recipient, or  
13 (ii) 24 hours after deposit with a commercial courier or delivery service for overnight delivery, provided  
14 delivery is made during regular business hours or receipt is acknowledged by a person reasonably  
15 believed by the delivering party to be employed by the recipient, or (iii) three (3) days after deposit with  
16 the United States Postal Service postage prepaid, certified mail, return receipt requested. All notices must  
17 be properly addressed and delivered to the parties at the addresses set forth below, or at such other  
18 addresses as any party may subsequently designate by written notice:

19 If to County: Clerk of the Board of Supervisors  
20 4080 Lemon Street, 1<sup>st</sup> Floor  
21 Riverside, CA 92501  
22 (951) 955-1060  
23 (951) 955-1071

24 If to Grantee: EDF Renewable Energy, Inc.  
25 15445 Innovation Drive  
26 San Diego, CA 92128  
27 Telephone No.: (858) 521-3324  
28 Fax No.: (858) 521-3595

Attn: Robert F. Miller

With a copy to: Marten Law

455 Market Street, Suite 2200

San Francisco, CA 94105

Telephone No.: (415) 684-9358

Fax No.: (415) 684-9360

Attn: Andrew C. Bell

Section 16. LENDER PROTECTION. In addition to the specific provisions set forth in this ordinance, County agrees that any lender with a security interest in Grantee's interest in this Franchise shall have customary and commercially reasonable mortgagee protection provisions to preserve, protect, and acquire Grantee's interest in this Franchise, including, without limitation, the right for any lender to a replacement Franchise if this Franchise is surrendered, abandoned or forfeited pursuant to a Grantee bankruptcy. Upon request of Grantee's lender, County shall process an amendment to this Franchise to add specific, customary and commercially reasonable mortgagee protection provisions as may be reasonably requested by any such lender.

Section 17. POSSESSORY INTEREST. This Franchise may create a possessory interest that may be subject to taxation, if created, and the party in whom the possessory interest is vested may be subject to the payment of the property taxes levied on the interest.

Section 18. NON-EXCLUSIVE FRANCHISE. This Franchise shall not be exclusive. The Board of Supervisors reserves and shall have the right and power to grant other and additional franchises to persons, firms and corporations as authorized and provided by law, provided that any such additional franchises do not unreasonably interfere with the Franchise granted hereunder.

Section 19. AMENDMENTS. This ordinance may be amended in whole or in part only by written consent of the parties in the manner prescribed by law for the amendment of ordinances. Any amendment to this ordinance shall also require the consent of any lender.

Section 20. SEVERABILITY. If any provision, clause, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid

1 provision or application, and to this end, the provisions of this ordinance are hereby declared to be  
2 severable.

3           Section 21.     EFFECTIVE DATE. This ordinance shall take effect thirty (30) days after  
4 its adoption, provided that Grantee files within the same thirty (30) day period a written acceptance hereof  
5 with the Clerk of the Board agreeing to abide by the terms and conditions herein. The ordinance shall not  
6 take effect in the event such written acceptance is not filed.

7  
8                                   BOARD OF SUPERVISORS OF THE COUNTY  
9                                   OF RIVERSIDE, STATE OF CALIFORNIA

10  
11                               By: \_\_\_\_\_  
12                               Chairman

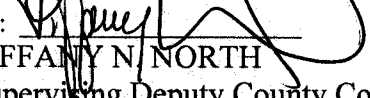
13  
14     ATTEST:  
15     CLERK OF THE BOARD

16     By: \_\_\_\_\_  
17             Deputy

18             (SEAL)

19  
20  
21     APPROVED AS TO FORM

22     June 6, 2014

23  
24     By:   
25     TIFFANY N. NORTH  
26     Supervising Deputy County Counsel

27     G:\Property\TNorth\Desert Harvest\RCO No 922 Final.doc



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

**BEING PORTIONS OF:**

- (A) The Right-of-Way of Kaiser Road, said road being a public road easement per that certain document recorded June 20, 1962 as Document No. 57641, recorded in Book 3164 Page 201 of Official Records, County of Riverside, State of California, lying within Section 27, and Section 34 of Township 4 South, Range 15 East, and Section 3, Section 10, Section 15, and Section 22 of Township 5 South, Range 15 East, all of the San Bernardino Meridian,

**AND:**

- (B) The aforementioned County of Riverside's Fee Interest in a portion of Kaiser Road pursuant to that certain document recorded November 26, 1962 as Document No. 108734, recorded in Book 3266 Page 275 of Official Records of said County, lying within the north one-half of Section 15, Township 5 South, Range 15 East, San Bernardino Meridian,

(The aforementioned Rights-of-Way also being shown on a Record of Survey filed in Book 39, Pages 52 through 54 inclusive of Surveys, Records of said County of Riverside,)

**FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS:**

**COMMENCING** at the northwest corner of the aforementioned Section 27, Township 4 South, Range 15 East,

Thence along the northerly line of said Section 27 North  $89^{\circ}24'07''$  East, 1249.59 feet to a point on a non-tangent curve, concave southwesterly, having a radius of 9,800.00 feet, a radial line of said curve to said point bears North  $70^{\circ}48'02''$  East, said point being located on the westerly Right-of-Way of the aforementioned Kaiser Road and being the **POINT OF BEGINNING**;

Thence along said Right-of-Way and said curve southerly, through a central angle of  $18^{\circ}28'27''$ , an arc distance of 3159.86 feet;

Thence tangent from said curve continuing along said westerly Right-of-Way South  $00^{\circ}43'31''$  East, 25,735.71 feet;

Thence leaving said westerly Right-of-Way, North  $88^{\circ}50'11''$  East 300.01 feet the easterly Right-of-Way of said Kaiser Road;

Thence along said easterly Right-of-Way North  $00^{\circ}43'31''$  West 260.00 feet;

Thence leaving said easterly Right-of-Way, South 88°50'11" West 113.00 feet to a line parallel with and 187.00 feet easterly of the aforementioned westerly Right-of-Way of Kaiser Road;

Thence along said parallel line North 00°43'31" West 25,474.28 feet to the beginning of a tangent curve, concave southwesterly, having a radius of 9,987.00 feet, said curve is concentric with and 187.00 feet easterly of the aforementioned westerly Right-of-Way of Kaiser Road;

Thence northerly along said concentric curve through a central angle of 15°21'21", an arc distance of 2,676.61 feet;

Thence non-tangent from said curve, North 89°24'07" East 117.20 feet to a point on a non-tangent curve, concave southwesterly, having a radius of 10,100.00 feet, a radial line of said curve to said point bears North 74°05'47" East, said point being located on the aforementioned easterly Right-of-Way of Kaiser Road;

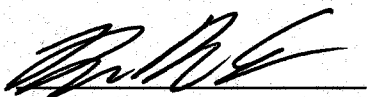
Thence northerly along said curve and said easterly Right-of-Way through a central angle of 02°43'27", an arc distance of 480.21 feet to the aforementioned northerly line of Section 27 Township 4 South, Range 15 East;

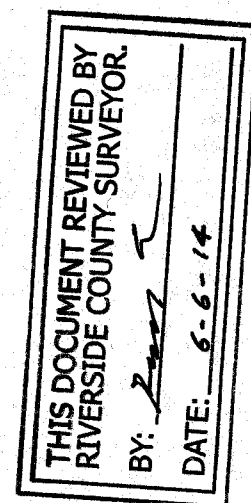
Thence non-tangent from said curve and said easterly Right-of-Way along said northerly line, South 89°24'07" West 316.01 feet to the **POINT OF BEGINNING**.

**CONTAINING 125.96 Acres, more or less.**

**EXHIBIT "B" – RIGHT-OF-WAY PLAT, attached hereto and by this reference made a part hereof.**

This description was prepared by me  
or under my direction.

  
Benjamin Daniel Egan, PE, PLS  
License Number: LS 8756  
Prepared 6/4/2014



PREPARED: 6/4/2014



### SECTION LINES

A circular seal for a Professional Land Surveyor. The outer ring contains the text "PROFESSIONAL LAND SURVEYOR" at the top and "STATE OF CALIFORNIA" at the bottom, separated by a chain-link border. Inside the ring, the name "BENJAMIN DANIEL EGAN" is written in an arc. In the center, there is a map of California with three surveying points marked by triangles. To the left of the map is a surveying instrument, and to the right is a surveying staff. Below the map, the number "NO. 8756" is printed.

6/4/2014

DATE:

DATE: 6-6-14

77-570 SPRINGFIELD EWN  
PALM DESERT, CA 92211  
(760) 469-9107



OFFICE OF  
CLERK OF THE BOARD OF SUPERVISORS  
1st FLOOR, COUNTY ADMINISTRATIVE CENTER  
P.O. BOX 1147, 4080 LEMON STREET  
RIVERSIDE, CA 92502-1147  
PHONE: (951) 955-1060  
FAX: (951) 955-1071

KECIA HARPER-IHEM  
Clerk of the Board of Supervisors

KIMBERLY A. RECTOR  
Assistant Clerk of the Board

July 8, 2014

THE DESERT SUN  
ATTN: LEGALS  
P.O. BOX 2734  
PALM SPRINGS, CA 92263

FAX: (760) 778-4731  
E-MAIL: [legals@thedesertsun.com](mailto:legals@thedesertsun.com)

RE: ADOPTION OF ORDINANCE NO. 922

To Whom It May Concern:

Attached is a copy for publication in your newspaper for **ONE (1) TIME** on **Thursday, July 10, 2014.**

We require your affidavit of publication immediately upon completion of the last publication.

Your invoice must be submitted to this office, WITH TWO CLIPPINGS OF THE PUBLICATION.

NOTE: PLEASE COMPOSE THIS PUBLICATION INTO A SINGLE COLUMN FORMAT.

Thank you in advance for your assistance and expertise.

Sincerely,

*Cecilia Gil*

Board Assistant to:  
KECIA HARPER-IHEM, CLERK OF THE BOARD

**Gil, Cecilia**

---

**From:** Moeller, Charlene <CMOELLER@palmspri.gannett.com>  
**Sent:** Tuesday, July 08, 2014 9:32 AM  
**To:** Gil, Cecilia  
**Subject:** RE: FOR PUBLICATION: Adoption of Ord. No. 922



Ad received and will publish on date(s) requested.

**Charlene Moeller** | Media Sales Legal Notice Coordinator

The Desert Sun Media Group  
750 N. Gene Autry Trail, Palm Springs, CA 92262  
t 760.778.4578 | f 760.778.4731  
[legals@thedesertsun.com](mailto:legals@thedesertsun.com) / [dowlegals@thedesertsun.com](mailto:dowlegals@thedesertsun.com)

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This email and any files transmitted with it are confidential and intended for the individual to whom they are addressed. If you have received this email in error, please notify the sender and delete the message from your system

---

**From:** Gil, Cecilia [<mailto:CCGIL@rcbos.org>]  
**Sent:** Tuesday, July 08, 2014 9:18 AM  
**To:** tds-legals  
**Subject:** FOR PUBLICATION: Adoption of Ord. No. 922

Good morning!

Attached is an Adoption of Ordinance, for publication on Thursday, July 10, 2014. Please confirm.  
THANK YOU!

**Cecilia Gil**  
Board Assistant  
Clerk of the Board  
951-955-8464  
MS# 1010

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

**SUMMARY OF ORDINANCE NO. 922**  
**AN ORDINANCE OF THE COUNTY OF RIVERSIDE**  
**GRANTING TO DESERT HARVEST, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND**  
**ITS LAWFUL SUCCESSORS AND ASSIGNS, IN WHOLE OR IN PART, 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**

This summary is presented pursuant to California Government Code section 25124(b). A certified copy of the full text of Ordinance No. 922 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside, located at 4080 Lemon Street, 1<sup>st</sup> Floor, Riverside, California.

Ordinance No. 922 grants to Desert Harvest, LLC ("Desert Harvest"), a Delaware Limited Liability Company, and its Lawful Successors and Assigns, in whole or in part, 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. Said Electrical Transmission Line will connect the electrical output of the Desert Harvest Solar Project to Southern California Edison's Red Bluff Substation. Under the terms of Ordinance No. 922, the franchise agreement will be for 30 years and 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 of Supervisors Policy No. B-29. The Project is to be built in phases and the annual payments will be based on the net acreage included in each phase until complete build out. Under the ordinance, 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. Further, the franchise agreement also requires Desert Harvest to defend, indemnify and hold harmless the County and requires specified insurance coverage. Ordinance No. 922 also contains provisions regarding construction, use, maintenance, and removal of the Electrical Transmission Line in the Franchise Area; terms about transfers and assignments of the franchise agreement; forfeiture provisions; and a security/faithful performance bond requirement. Ordinance No. 922 will be effective 30 days after adoption pending written acceptance by Desert Harvest, LLC.

Jeff Stone, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **July 1, 2014**, the foregoing Ordinance consisting of twenty-one (21) sections was adopted by said Board by the following vote:

AYES: Jeffries, Tavaglione, Stone, Benoit and Ashley  
NAYS: None  
ABSENT: None

Kecia Harper-Ihem, Clerk of the Board  
By: Cecilia Gil, Board Assistant

**Gil, Cecilia**

---

**To:** North, Tiffany  
**Subject:** RE: BOS adoption of Ordinance No. 922

---

**From:** North, Tiffany [<mailto:TNorth@co.riverside.ca.us>]  
**Sent:** Tuesday, July 01, 2014 12:06 PM  
**To:** Gil, Cecilia  
**Subject:** RE: BOS adoption of Ordinance No. 922

Yes. Thanks.

Tiffany N. North  
Supervising Deputy County Counsel  
Office of Riverside County Counsel  
Telephone (951) 955-6300  
Facsimile (951) 955-6363

---

**From:** Gil, Cecilia  
**Sent:** Tuesday, July 01, 2014 12:06 PM  
**To:** North, Tiffany  
**Subject:** RE: BOS adoption of Ordinance No. 922

Question: I still have to post (at the lobby) the full Ordinance with the vote and the exhibits, correct?

*Cecilia Gil*  
Board Assistant  
Clerk of the Board  
951-955-8464  
MS# 1010

---

**From:** North, Tiffany [<mailto:TNorth@co.riverside.ca.us>]  
**Sent:** Tuesday, July 01, 2014 11:23 AM  
**To:** Gil, Cecilia  
**Cc:** Dusek, Maria; Harper-Ihem, Kecia  
**Subject:** BOS adoption of Ordinance No. 922

Good morning Cecilia-

Today the Board adopted Ordinance No. 922 (agenda item 3-52). It was approved 5-0. Attached is an electronic version of the ordinance. As a reminder we published a summary of the ordinance before the Board's introduction of the ordinance so we only have to republish the summary again with the vote noted instead of the lengthy ordinance (thank goodness!). Also attached are the exhibits to the franchise agreement. These exhibits are part of the ordinance and should be kept by the Clerk of the Board's office as part of the officially adopted ordinance.

Also attached is the summary again in case you need it.

Please let me know if you have any questions or need anything else.

Thanks.

Tiffany N. North

TO THE HONORABLE  
BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE  
STATE OF CALIFORNIA

Delivered to:  
Kecia Harper-Ihem,  
Clerk of the Board of Supervisors  
4080 Lemon Street, 1<sup>st</sup> Floor  
Riverside, CA 92501

**ACCEPTANCE OF FRANCHISE**

Desert Harvest, LLC, a Delaware Limited Liability Company, hereby accepts the franchise which was granted to it by Riverside County Ordinance No. 922, entitled, "AN ORDINANCE OF THE COUNTY OF RIVERSIDE GRANTING TO DESERT HARVEST, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND ITS LAWFUL SUCCESSORS AND ASSIGNS, IN WHOLE OR IN PART, 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," as adopted by your Honorable Board of Supervisors on July 1, 2014, and hereby agrees to abide by the terms and conditions therein. Desert Harvest, LLC, files this acceptance with the Clerk of the Board of Supervisors, pursuant to section 21 of said Ordinance.

DATED this 28<sup>th</sup> day of July, 2014.

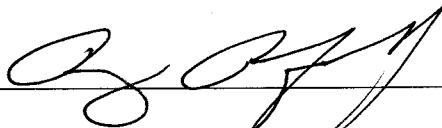
DESERT HARVEST, LLC

By: EDF Renewable Development, Inc., its Sole Manager and Member

By 

Print Name Robert Miller  
Executive V.P. -

Title General Counsel

By 

Print Name Ryan Pfaff

Title Executive Vice President  
Development

RECEIVED RIVERSIDE COUNTY  
CLERK / BOARD OF SUPERVISORS  
2014 JUL 29 AM 9:15

7/1/14 3-52



# ACKNOWLEDGEMENT

State of California }

County of San Diego

On July 28, 2014 before me, Christina D. Shoop, Notary Public, personally appeared Robert Francis Miller Jr, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/are subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in ~~his~~/her/their authorized capacity~~(ies)~~, and that by ~~his~~/her/their signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Christina D. Shoop



(Seal)



## ACKNOWLEDGEMENT

State of California }

County of San Diego

On July 28, 2014 before me, Christina D. Shoop, Notary Public, personally appeared Ryan Plaff, who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/are subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in ~~his~~/her/their authorized capacity~~(ies)~~, and that by ~~his~~/her/their signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



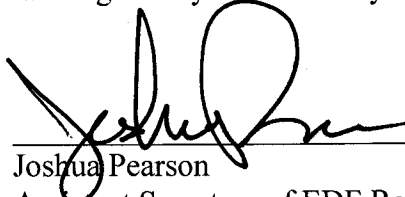
Signature Christina D. Shoop

(Seal)

## ASSISTANT SECRETARY'S CERTIFICATE

I hereby certify that I am the duly elected and qualified Assistant Secretary of EDF Renewable Development, Inc. ("EDF-RD"), and that EDF-RD is the sole member and manager of Desert Harvest, LLC, a Delaware limited liability company ("Desert Harvest") and, Robert Miller and Ryan Pfaff are Executive Vice Presidents of EDF-RD with authority to sign on behalf of EDF-RD and Desert Harvest, and that I am authorized to execute this Certificate on behalf of Desert Harvest.

IN WITNESS WHEREOF, I have signed my name on July 28, 2014.



Joshua Pearson  
Assistant Secretary of EDF Renewable Development, Inc.  
Manager of Desert Harvest, LLC

STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF SAN DIEGO                )

Subscribed and sworn to (or affirmed) before me on this 28 day of July 2014, by JOSHUA PEARSON, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

WITNESS my hand and official seal.



Notary's Signature



[Notary Seal]



# The Desert Sun

mydesert.com

750 N. Gene Autry Trail  
Palm Springs, CA 92262  
Billing Inquiries: (866) 875-0854  
Main Office: (760) 322-8889

## ADVERTISING INVOICE/STATEMENT

Make Checks payable to DESERT SUN PUBLISHING CO.  
P.O. Box 677368 Dallas, TX 75267-7368  
A finance charge of 1.5% per month (18% Annually) will be  
added to balances not paid by the 20th.

RIV06900000000000000000000050199850094874010826

80

RIVERSIDE COUNTY-BOARD OF SUP.  
PO BOX 1147  
RIVERSIDE CA 92502-1147

PLEASE RETURN THIS TOP SECTION WITH PAYMENT IN THE  
ENCLOSED ENVELOPE AND INCLUDE YOUR CUSTOMER NUMBER  
ON REMITTANCE.

Customer No.	Invoice No.
RIV069	0005019985
For the Period	Thru
06/30/14	08/03/14
Due Date	Amount Due
08/18/14	9,487.40
<b>AMOUNT PAID</b>	

Date	EDT	Class	Description	Times Run	Col	Depth	Total Size	Rate	Amount
0630			BALANCE FORWARD						19,765.07
0703			CREDIT CARD CHARGE						10,608.50-
0724			CREDIT CARD CHARGE						9,234.51-
0629	CLS	0001	CECILIA NO 1061 NOTICE O	4	2	78.00	624.00		346.08
0629	CLS	0001	CECILIA NO 1066 NOTICE O	4	2	76.00	608.00		337.36
0709	CLS	0001	CECILIA NO 1112 BOARD OF	2	2	65.00	260.00		147.70
0709	CLS	0001	CECILIA GIL NO 1113 BOARD OF	2	2	177.00	708.00		391.86
0710	CLS	0001	CECILIA NO 1123 BOARD OF	2	2	80.00	320.00		180.40
0719	CLS	0001	CECILIA NO 1175 BOARD OF	2	2	66.00	264.00		149.88
0720	CLS	0001	CECILIA NO 1179 BOARD OF	2	2	72.00	288.00		162.96
0723	CLS	0001	CECILIA NO 1189 BOARD OF	2	2	112.00	448.00		250.16
0724	CLS	0001	CECILIA NO 1185 - ORD 64	1	10	21.00	210.00		3,204.60
0724	CLS	0001	CECILIA NO 1185 - ORD 64	1	10	11.50	115.00		1,754.90
0724	CLS	0001	CECILIA NO 1198 BOARD OF	2	2	208.00	4832.00		2,639.44
<p>TLMA/Planning 3-52 of 07/01/14</p> <p>\$9565.34</p> <p>2014 AUG 13 PM 1:32</p>									
Current		Over 30 Days	Over 60 Days	Over 90 Days	Over 120 Days	Total Due			
9,487.40		.00	.00	.00	.00	9,487.40			
Contract Type	Contract Qnty.	Expiration Date	Current Usage	Total Used	Quantity Remaining	Salesperson			
						BARTELMEY			

The Advertiser shall make payment within 15 days of the billing date indicated on Company's statement, and, in the event that it fails to make payment within such time, Company may reject advertising copy and / or immediately cancel this contract and Advertiser agrees to indemnify Company for all expenses incurred in connection with the collection of amounts payable under this contract, including but not limited to collection fees, attorney's fees and court costs. If this agreement is cancelled due to Advertiser's failure to make timely payment, Company may rebill the Advertiser for the outstanding balance due at the open or earned contract rate, whichever is applicable.

TO ENSURE PROPER CREDIT, PLEASE RETURN THE TOP SECTION AND INCLUDE YOUR CUSTOMER NUMBER ON REMITTANCE.

Customer Number	Name	Invoice Number	Amount Paid
RIV069	RIVERSIDE COUNTY-BOARD OF SUP.	0005019985	

THE DESERT SUN PUBLISHING CO.  
ADVERTISING INVOICE/STATEMENT

The Desert Sun  
750 N Gene Autry Trail  
Palm Springs, CA 92262  
760-778-4578 / Fax 760-778-4731

## Certificate of Publication

State Of California ss:  
County of Riverside

**Advertiser:**

RIVERSIDE COUNTY-BOARD OF SUP.  
4080 LEMON ST  
RIVERSIDE CA 925013

2000443942

I am over the age of 18 years old, a citizen of the United States and not a party to, or have interest in this matter. I hereby certify that the attached advertisement appeared in said newspaper (set in type not smaller than non paniel) in each and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

Newspaper: .The Desert Sun

7/10/2014

I acknowledge that I am a principal clerk of the printer of The Desert Sun, printed and published weekly in the City of Palm Springs, County of Riverside, State of California. The Desert Sun was adjudicated a newspaper of general circulation on March 24, 1988 by the Superior Court of the County of Riverside, State of California Case No. 191236.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 10th day of July, 2014 in Palm Springs, California.

  
Declarant's Signature

No 1123  
BOARD OF SUPERVISORS OF THE COUNTY  
OF RIVERSIDE, STATE OF CALIFORNIA.

**SUMMARY OF ORDINANCE NO. 922**  
AN ORDINANCE OF THE COUNTY OF RIVERSIDE GRANTING TO DESERT HARVEST, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND ITS LAWFUL SUCCESSORS AND ASSIGNS, IN WHOLE OR IN PART, 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

This summary is presented pursuant to California Government Code section 25124(b). A certified copy of the full text of Ordinance No. 922 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside, located at 4080 Lemon Street, 1st Floor, Riverside, California.

Ordinance No. 922 grants to Desert Harvest, LLC ("Desert Harvest"), a Delaware Limited Liability Company, and its Lawful Successors and Assigns, in whole or in part, 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. Said Electrical Transmission Line will connect the electrical output of the Desert Harvest Solar Project to Southern California Edison's Red Bluff Substation. Under the terms of Ordinance No. 922, the franchise agreement will be for 30 years and 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 of Supervisors Policy No. B-29. The Project is to be built in phases and the annual payments will be based on the net acreage included in each phase until complete build out. Under the ordinance, 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. Further, the franchise agreement also requires Desert Harvest to defend, indemnify and hold harmless the County and requires specified insurance coverage. Ordinance No. 922 also contains provisions regarding construction, use, maintenance, and removal of the Electrical Transmission Line in the Franchise Area; terms about transfers and assignments of the franchise agreement; forfeiture provisions; and a security/faithful performance bond requirement. Ordinance No. 922 will be effective 30 days after adoption pending written acceptance by Desert Harvest, LLC.

Jeff Stone, Chairman of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on July 1, 2014, the foregoing Ordinance consisting of twenty-one (21) sections was adopted by said Board by the following vote:

AYES: Jeffries, Tavaglione, Stone, Benoit and Ashley  
NAYS: None  
ABSENT: None

Kecia Harper-Ihem, Clerk of the Board  
By: Cecilia Gil, Board Assistant

Published: 7/10/14