

STATE OF CALIFORNIA)  
COUNTY OF IMPERIAL )§  
CITY OF EL CENTRO )

I, L. Diane Caldwell, City Clerk of the City of El Centro, California do hereby certify that the foregoing is a true and correct copy of Resolution No. 13-06 which was duly and regularly adopted at a regular meeting of the City Council of the City of El Centro held on February 19, 2013, by the following vote:

YES:	Jackson, Viegas-Walker, Sanders
NOES:	None
ABSENT:	Silva, Solomon
ABSTAINED:	None

(SEAL)

  
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L. DIANE CALDWELL, CMC  
CITY CLERK

RESOLUTION NO. 13- 06

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CENTRO APPROVING CONDITIONAL USE PERMIT NO. 12-04(a) TO ALLOW THE DEVELOPMENT OF A 20 MW PHOTOVOLTAIC SOLAR FARM ON 54 NET ACRES OF LAND LOCATED IN THE CITY

WHEREAS, the City Council of the City of El Centro (“City Council”) has conducted a duly noticed and advertised public hearing to consider Conditional Use Permit No. 12-04(a) to allow the development of a 20 MW photovoltaic solar farm and appurtenant equipment on four parcels of land totaling 140 acres, including the subject site which is approximately 54 net acres of vacant land located in the City, further identified by APN 044-430-012, and zoned ML, light manufacturing; and

WHEREAS, the Planning Commission has recommended to the City Council that it approve Conditional Use Permit No. 12-04(a), subject to 54 conditions, as amended; and

WHEREAS, the City Council has considered the report and recommendation of the Planning Commission, including Mitigated Negative Declaration No. 12-02; and

WHEREAS, the City Council heard and considered the oral and written testimony of the project applicant, representatives and persons for and against the permit; and

WHEREAS, after due consideration of all written and oral evidence, the City Council has found that it is in the best interest of the City to approve Conditional Use Permit No. 12-04(a) in accordance with the recommendation of the Planning Commission.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CENTRO, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

That the City Council hereby approves Conditional Use Permit No. 12-04(a) to allow the development of a 20 MW photovoltaic solar farm and appurtenant equipment on four parcels of land totaling 140 acres, including the subject site which is approximately 54 net acres of vacant land located in the City, further identified by APN 044-430-012, subject to the listed conditions under Exhibit A and the findings under Exhibit B.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of El Centro, California, held on the 19th day of Feb. , 2013.

CITY OF EL CENTRO

By Benjamin James Solomon III  
Benjamin James Solomon, III, Mayor

ATTEST:

By L. Diane Caldwell  
L. Diane Caldwell, City Clerk

APPROVED AS TO FORM:

Office of the City Attorney

By Kris M. Becker  
Kris M. Becker, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF IMPERIAL ) ss  
CITY OF EL CENTRO )

I, L. Diane Caldwell, City Clerk of the City of El Centro, California, do hereby certify that the foregoing Resolution No. 13-06 was duly and regularly adopted at a regular meeting of the City Council of the City of El Centro, California, held on the 19th day of Feb. , 2013, by the following vote:

- AYES: Jackson, Viegas-Walker, Sanders
- NOES: None
- ABSENT: Silva, Solomon
- ABSTAINED: None

By L. Diane Caldwell  
L. Diane Caldwell, City Clerk

## EXHIBIT A

### Project Conditions:

1. The project shall consist of the installation, operation and maintenance of a 20 MW photovoltaic electrical generation facility on 118 acres of vacant land consisting of four parcels totaling 140 acres.
2. Conditional Use Permit No. 12-04(a) applies to the 54 net acres of land currently located in the City and zoned ML, light manufacturing.
3. The term “Developer” shall mean the person or entity who is the owner, lessee or purchaser under contract of the property constituting the Project, or any portion thereof, at the time that any of the conditions set forth herein are to be applied to such property and includes, without limitation, any owner which is the successor or assign of such person or entity.

### Air Quality

4. The project shall comply with the following measures (a through j) during construction. Written documentation of compliance with this measure shall be provided to the City of El Centro Building Official for review and approval prior to the issuance of a building permit or grading permit, whichever shall occur first.
  - a) All disturbed areas, including bulk material storage, which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material such as vegetative ground cover.
  - b) All on site and off site unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.
  - c) All unpaved traffic areas one acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emission shall be limited to no greater than 20% opacity for dust emissions by paving, chemical stabilizers, dust suppressants and/or watering.
  - d) The transport of bulk materials shall be completely covered unless six inches of freeboard space from the top of the container is maintained with no spillage and loss of bulk material. In addition, the cargo compartment of all haul trucks is to be cleaned and/or washed at delivery site after removal of bulk material.
  - e) All track-out or carryout will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an urban area.
  - f) Movement of bulk material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water,

chemical stabilizers or by sheltering or enclosing the operation and transfer line.

- g) Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel powered equipment.
  - h) Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.
  - i) Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use.
  - j) Replace fossil-fueled equipment with electrically driven equivalents provided they are not run via a portable generator set).
5. Project construction operations must adhere to the measures found in the Imperial County Air Pollution Control District (“ICAPCD”) Regulation-Fugitive Dust Rules as well as ICAPCD CEQA Handbook Measure for Construction equipment and fugitive PM10 control that assist in reducing short-term air pollutant emission (ICAPCD 2006). The ICAPCD Rules and Regulations can be found at <http://www.imperialcounty.net>. In addition, the owner/developer of the new use shall comply with Rule 310 of the ICAPCD and also provide a complete construction equipment list with Make, Model, Year, Horsepower, and hours of operation per equipment prior to issuance of any permits and/or earth movement. A Construction Dust Control Plan shall be submitted to the ICAPCD for verification and approval. An operating permit from the ICAPCD will be required.

### Biological Resources

6. A pre-construction survey shall be performed by a qualified biologist within 30 days of the start of construction of the proposed project. The biologist shall prepare a report detailing the findings of the survey and present the report to the Lead Agency for review and approval within five business days following the survey. Any new recommendations contained in the report shall be subsequently incorporated into the proposed project.
7. All onsite construction personnel shall be given worker training by a qualified biologist regarding burrowing owl, which shall include the following:
  - Description of owl
  - Biology
  - California Department of Fish and Game (“CDFG”) and United States Fish and Wildlife Service Regulations
  - Wallet card with a photograph of a typical burrowing owl picture and guidelines for protecting burrowing owl
8. During the non-nesting season (September through January), a distance of 250 feet shall be maintained between active burrows and construction activities. A qualified biologist may also employ the technique of sheltering in place (e.g., using hay bales to shelter the burrow from construction activities). If this technique is employed, the sheltered area shall be monitored weekly by the biologist.

9. In the event that occupied and/or active burrows are found that must be removed, the following shall be warranted:
  - After consultation with CDFG's appropriate regional office, artificial burrows placed 50 feet apart shall be installed using the guidelines found in the Imperial Irrigation District Artificial Burrow Installation Manual or other applicable manuals.
  - After consultation with CDFG, burrowing owl shall be excluded by installation of one-way doors installed at the opening of burrows. One-way doors shall be left in place for 48 hours if burrows are occupied. Any burrow indicating occupancy shall be thoroughly evaluated prior to excavation. Excavation shall be done using hand tools and refilled to prevent reoccupation. After burrow is collapsed, contractor shall immediately disk the area to prevent reoccupation.
  - Documentation shall be made (e.g., photographs, notes) and a report shall be prepared and sent to CDFG within five business days.
  - In the event that suitable foraging habitat is found on the project site, CDFG's mitigation guidelines for burrowing owl shall be implemented, which require a minimum of 6.5 acres of foraging habitat per pair or unpaired resident bird to be provided and protected to offset the loss of foraging and burrow habitat on the site.
10. If construction of the proposed project occurs between February 1 and September 1, the general nesting season, the Applicant shall retain the service of a qualified biologist to conduct a pre-construction nesting survey on the project site for nesting birds 30 days prior to construction activity. In the event that the biologist determines that nesting birds occur on the project site, Condition No. 11 would be required.
11. In the event that nesting birds protected under the Migratory Bird Treaty Act; candidate, sensitive, or special status species; or any other species of note are determined to occur on the project site, no construction activity shall occur around the nest(s) until the nest(s) is no longer active. If construction activity must occur within 300 feet of an active nest or 500 feet of an active raptor nest, a biological monitor shall be present onsite to ensure that no direct take of the active nest occurs as a result. Construction activity may continue at the discretion of the biological monitor.
12. Referencing typical mitigation ratios used by CDFG, during the permitting process the Applicant shall replace a minimum of 1.33 acres within the City of El Centro for disturbing CDFG riparian habitat, if such habitat is disturbed by the project. The compensation shall be at a 1:1 ratio and consist of lands of at least the same quality as the converted land on the project site.

### Cultural Resources

13. Prior to the issuance of a building permit or grading permit, whichever shall occur first, the Applicant shall retain the services of a City and County qualified archaeologist. Based upon the findings of previous surveys, the archaeologist shall record and exhaust the research potential of each previously identified historical resource found on the site including Sol-1, Sol-2, Sol-3-I, Sol-4-I, Sol-5-I, Sol-6-I, Sol-7-I, Sol-8-I, Sol-9-I, Sol-10-I, Sol-11, Sol-12, Sol-13-I, Sol-14-I, and P13-009016 and prepare a letter report. If the archaeologist determines that one or more of the previously identified resources are not

considered significant resources, then only those resources are not required to be recorded, further researched, or included in the letter report. The letter report shall be submitted to the South Coastal Information Center at San Diego State University.

14. In the event that unknown buried cultural resources are discovered during construction of the proposed project, all construction activities in the immediate vicinity of the find shall cease until a City and County qualified archaeologist can be summoned to determine whether the unearthed resource requires further study. The archeologist shall make recommendations to the Lead Agency regarding specific measures that shall be implemented to protect the discovered resource, including but not limited to excavation of the finds and evaluation of the find in accordance with §15064.5 of the State CEQA Guidelines. Potentially significant cultural resources consist of, but are not limited to stone, bone, fossils, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites. Any previously unknown resources discovered during construction activities on the project site shall be documented on appropriate California Department of Parks and Recreation forms and further evaluated for significance in terms of CEQA criteria. No further construction activities shall occur in the immediate vicinity of the find until the Lead Agency approves the measures to protect these unearthed resources. Any archaeological artifact recovered shall be donated to a qualified scientific institution approved by the Lead Agency where the resource would be afforded long-term preservation to allow future scientific study.

#### Noise

15. All construction equipment shall use available noise suppression devices and properly maintained mufflers. All internal combustion engines used in the project area shall be equipped with the type of muffler recommended by the vehicle manufacturer. In addition, all equipment shall be maintained in good mechanical condition to minimize noise created by faulty or poorly maintained engine, drive train, and other components.
16. During construction, stationary construction equipment shall be placed such that emitted noise is directed away from sensitive noise receptors and as far as possible from the boundary of sensitive receptors.
17. During installation of the solar array mounting structures occurring within 375 feet of the adjacent single-family residences, the Applicant shall comply with the City of El Centro's vibration standard of 0.003 inches per second PPV by employing an alternative method of setting the mounting structures in the ground such as employment an auger drill or similar device capable of producing less vibration. The alternative method shall be subject to City of El Centro approval.

#### Transportation & Traffic

18. Prior to the issuance of a building permit or grading permit, whichever shall occur first, the Applicant shall coordinate with the City of El Centro to prepare a Construction Traffic Management Plan. The Management Plan shall include strategies for

implementation that are aimed at reducing the number of trips accessing the project site during the AM peak hour. These strategies shall include:

- Implementation of a ride-sharing program to encourage carpooling amongst workers.
- Adjusting work schedules so workers do not access the project site during the peak hours.
- Reduce the number of workers required onsite by extending the construction schedule.
- Provide offsite parking for workers with shuttle services to transport them onsite.

#### Other Conditions

19. The project shall provide a minimum 50 foot building/structure setback along the western perimeter of the project site abutting the residential zones (R1, single family residential zone north of Villa Avenue and R2, variable residential zone south of Villa Avenue).
20. The project shall provide a decorative six foot high solid masonry wall with a painted, stucco, or natural decorative masonry or adobe surface along the western perimeter of the project site and a six foot high chain link fence at property line and an eight foot high chain link fence with tan slats setback ten feet into the project site from the existing six foot high chain link fence along Villa Avenue, and the northern, eastern and southern boundaries of the project site. In lieu of such screening, the project shall provide along all landscaped boundaries of the project site, including Villa Avenue, a six foot high chain link fence at property line and an eight foot high chain link fence with tan slats and setback ten feet into the project site from the existing six foot high chain link fence. Non-landscaped boundaries do not need to provide the additional six foot high chain link fence. The installation of barbed wire is prohibited.
21. The project shall be developed to comply with the manufacturing zone design standards as outlined in Section 29-71 of the City Code. If applicable, the applicant shall provide architectural elevation, exterior building colors and materials to the City for review and approval for the 15,299 square foot substation. Building materials and colors shall be chosen to work harmoniously with adjacent property materials and colors. If metal buildings are proposed, they shall have architectural enhancements on faces visible from public right-of-way. Exterior surface colors shall be neutral, non-reflective colors.
22. Prior to the final building inspection, all off-site improvements (curb, gutter, sidewalk, paving, and street lighting) shall be provided in accordance with the City's Subdivision Ordinance including parkways not less than 6½ feet wide, measured from the face of the curb to the outside edge of the sidewalk along N. 3rd Street. Parkway shall be landscaped in accordance with City standards.
23. The City's Circulation Element designates Villa Avenue as a four lane arterial street. Therefore, the project shall dedicate all the required street right-of-way and improvements in accordance with City standards. The Developer shall improve Villa Avenue to a two lane arterial without curb, gutter and sidewalk prior to the final Building inspection. An agreement shall be executed outlining such Villa Avenue improvement requirements.



24. City easements across the property shall be maintained free of structures.
25. Road design and improvements along Villa Avenue shall be in compliance with the City's Bicycle Master Plan, as appropriate for a Class III Bicycle Route.
26. A ten foot wide landscape strip shall be provided along the western perimeter of the project site which is adjacent to the residential zone.
27. The project shall provide and maintain landscaping in accordance with the project's approved Preliminary Landscape Plan, including an additional landscape strip along the eastern boundary of the project site located north of Villa Avenue. The length of the landscaped area shall extend northerly 400 feet from Villa Avenue along the eastern perimeter of the site. All landscaping shall be provided in accordance with the State's Model Water Efficient Landscape Ordinance and Section 29-142 of the City Code consisting primarily of live vegetation. A minimum of one tree shall be planted 30 feet on center. A top dressing shall be provided in all planter areas. Landscaping and irrigation plans prepared by a licensed landscape architect shall be submitted to the City for approval prior to the issuance of building permits.
28. Prior to the issuance of building permits, locations and specifications of all backflow/cross connection devices shall be submitted to the Department of Public Works – Engineering Division for review and approval.
29. The project shall provide a minimum of two paved-off street parking spaces in accordance with the American Planning Associations Parking Standards. Each of the proposed parking stalls shall be a minimum of 9' x 20' in size. All driveway aisles and vehicular accessways outside of the project fence shall be improved and maintained to City standards, including surfacing with cement or asphaltic concrete. Driveway aisles and vehicular accessways interior to the project shall use an all-weather surface such as gravel or decomposed granite, as required by the El Centro Fire Department and the Imperial County Air Pollution Control District. In addition, the appropriate number of accessible parking stalls shall be provided pursuant to the requirements of the Americans With Disabilities Act. A minimum five foot wide walkway shall be maintained between the accessible parking stalls and building structures or equipment shelters. All parking areas shall be maintained in accordance with Section 29-134 of the City Code.
30. The Developer shall be responsible for any costs associated with right-of-way acquisition. In the event that the City of El Centro is required to secure or condemn any off-site real property interests in order to secure any right-of-ways or easements necessary to permit the Developer to construct or install any offsite improvements which are required pursuant to these conditions of approval, then the Developer shall be responsible for reimbursing the City of El Centro for the costs incurred by it in securing or condemning such off site real property interests.
31. Prior to the first final inspection, any open drainage facilities abutting the project site, shall be fenced to restrict off-site access in accordance with the specifications of the

Imperial Irrigation District (“IID”), City and/or respective owner. The open earthen storm drain south of Villa Avenue shall be undergrounded with reinforced concrete pipe as approved by the Department of Public Works – Engineering Division.

32. If it is determined that the undergrounding and pipelining of Central Drain No. 5 is required, then the capacity for pipelining Central Drain No. 5 will be designed and constructed by IID for drain and drainage system required capacities. All costs and mitigation associated with the undergrounding and pipelining of Central Drain No. 5 shall be the responsibility of the Developer. Said undergrounding and pipelining shall be constructed to IID specifications.
33. Plans for canals and drains shall maintain existing flow rates and structure capacity to the satisfaction of the City and the IID.
34. Prior to the approval of the grading plan, a site specific drainage study and detention basin design (if required) shall be prepared by a registered civil engineer and submitted for review and approval by the City. A storm water detention basin or other agreed upon mitigation for storm water run-off shall be provided for the project site.
35. As part of the final design, a comprehensive IID hydraulic drainage system analysis shall be required for the project to address project site run-off flows into Central Drain No. 5 and Dogwood Lateral No. 13.
36. A hydrology study will be required for the project. If it is determined that a storm water retention basin is required for the project, the basin shall be developed in accordance with the City’s design standards for retention basins.
37. Utilities shall be provided in accordance with the City’s Master Water/Sewer Plan. If any improvements (including without limitation in relation to streets, water, sewer, or any other facilities or utilities) required to be constructed or paid for by the Developer and/or the project are in excess of the pro-rata portion of such improvements for which the Developer and/or the project is responsible, as identified in the Conditions of Approval, the Mitigation Monitoring and Reporting Program in the Final Mitigated Negative Declaration or otherwise, the Developer and/or the project, as applicable, shall be reimbursed for the costs of such excess from any other developments which utilize or benefit from such improvements.
38. Outdoor areas shall be lit with down-shielded lighting such that the lighting does not significantly reflect onto adjoining properties and City streets. High illumination areas not occupied on a continuous base shall have switches or motion detectors to light the area only when occupied. Lighting shall be provided within the parking lot to City standards.
39. An outside refuse collection area shall be provided on the subject property. The outside refuse collection area shall be screened by a six foot high chain link fence with tan privacy slats to match the color of the perimeter fencing. In addition, a minimum six inch thick concrete pad shall be provided in front of the trash enclosure in accordance with

City standards. Contact the sanitation company, CR&R, for further information on the size and number of the refuse/recycling container(s) required for the proposed project at (760) 482-5655. Other options for the set aside of trash storage and pickup which is not visible from a public street may be provided and shall be approved by the City.

40. The project shall comply with the City's Performance Standards for industrial developments as noted in Section 29-156 (e.g., electrical disturbance, noise, vibration, smoke, etc.) of the City Code.
41. Prior to the issuance of the first building permit, the applicant shall provide all necessary recorded deed documentation required for public facilities.
42. Fire hydrants, markers, and water mains shall be provided in accordance with the Fire Department's specifications. All fire hydrants shall be on a looped water system and shall be in service before any combustible construction begins. The project shall be developed in accordance with the Fire Department's fire protection features and specified fire lane designations. All fire suppression and fire control improvements of types, sizes, and at locations specified by the El Centro Fire Department shall be installed. Plans for said improvements shall be reviewed and approved by the Fire Department prior to installation.
43. All outdoor identification signs shall be provided in accordance with Chapter 22.1 of the City Code.
44. The project shall comply with all applicable provisions of the California Code of Regulations Title 24 (also known as the California Building Standards Code).
45. In the event the project is phased, the Developer shall submit a phase plan and identify all required public improvements to the satisfaction of the Director of Public Works and Community Development Director for approval prior to the issuance of any building permit. Further, in the event the project is phased, these conditions of approval shall be interpreted and applied to facilitate the development and construction of the Project according to such phases.
46. Building permits shall not be issued for any new construction related to the project until verification from the elementary and high school districts is received, certifying that the State mandated school impact mitigation fees (in accordance with Senate Bill 50) have been paid or addressed as otherwise provided or authorized by law.
47. Building permits shall not be issued for any new construction related to the project until the appropriate development impact and sewer/water capacity fees have been paid to the City.
48. If applicable, conduit and fiber optics cable shall be provided and placed underground by the developer to the satisfaction of the Imperial Valley Telecommunications Authority and the Director of Public Works.

49. All undeveloped areas within the project site shall be covered with blacktop, concrete, recycled asphalt, landscaping, or an approved dust preventive ground covering.
50. Developer shall ensure that all solar plant facility waste, liquid, gas or solid, which are generated on-site shall be disposed of in compliance with appropriate local, State, and Federal regulations in effect or as subsequently duly enacted. If it is determined that hazardous wastes are, or will be, generated by the proposed project, the waste shall be handled in accordance with the California Hazardous Waste Control Law, (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).
51. The project site shall be maintained in a good, clean, orderly manner, free of any debris or junk materials.
52. Developer shall contract with an environmental consultant and pay for a Compliance Construction Manager for overseeing all the required mitigation, conditional use permit conditions during the construction of the project. The Compliance Construction Manager shall provide monthly updates to the City and will be responsible for overseeing and managing the entire team of specialists needed for the environmental compliance of the project (i.e., biologist, cultural experts, etc.). Final inspection of the project will be provided by City staff.
53. Except as noted above, all conditions shall be met prior to the issuance of the first building permit.
54. The project shall comply with all applicable Federal, State and local codes, ordinances and resolutions.
55. Prior to the issuance of the building permit, the applicant shall contribute \$25,000, plus the cost of the originally proposed barbed wire, towards improvements at Swarthout Park.

## **EXHIBIT B**

### Findings:

1. Proposed use is permitted pursuant to Sections 29-69(b) (42) of the City Code.
2. Proposed use is necessary or desirable for the development of the community, is consistent with the City's General Plan and is not detrimental to the existing uses or the uses specifically permitted in the zone in which the proposed use is to be located.
3. Proposed site is adequate in size and shape to accommodate said use.
4. Site for proposed use relates properly to streets, which are designed to carry the type and quantity of traffic to be generated by the proposed use.
5. Conditions as stipulated by the City are necessary to protect the public health, safety, and welfare of the community.