



*City of Arts & Innovation*

# City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL** **DATE: JANUARY 10, 2017**

**FROM: PUBLIC UTILITIES DEPARTMENT** **WARDS: ALL**

**SUBJECT: ADOPTION OF MITIGATED NEGATIVE DECLARATIONS AND MITIGATION MONITORING AND REPORTING PROGRAMS FOR THE CUMULATIVE 4.5 MEGAWATT RENEWABLE SOLAR PHOTOVOLTAIC ENERGY PROJECT FOR THE SAN BERNARDINO WELLS SOLAR PROJECT LOCATED AT THE COOLEY, SCHEUER AND GARNER WELL SITES**

## **ISSUES:**

Adopt the Mitigated Negative Declarations and Mitigation Monitoring and Reporting Programs for the cumulative 4.5 megawatt renewable solar photovoltaic energy project for the San Bernardino Wells Solar Project located at the Cooley, Scheuer and Garner Wells sites.

## **RECOMMENDATIONS:**

That the City Council:

1. Adopt the attached Mitigated Negative Declarations (Attachments 1 and 3) for the San Bernardino Wells Solar Project (Project) located at the Cooley, Scheuer and Garner Well sites; and
2. Adopt the attached Mitigation Monitoring and Reporting Programs (Attachments 2 and 4) for the Project.

## **BACKGROUND:**

On April 2 and 21, 2015, the Board of Public Utilities and City Council, respectively, approved a Power Purchase Agreement (PPA) with Solar Star California XXXIX, LLC (Solar Star), direct subsidiary of SunPower Corporation, to develop solar photovoltaic (PV) facilities upon City-owned well sites located in San Bernardino, which included environmental review.

The attached Mitigated Negative Declarations have been prepared pursuant to the California Environmental Quality Act (CEQA). The final requirements for Project approvals will come before the City Council at a future date. However, prior to such final approvals, the appropriate CEQA documents must be adopted.

## DISCUSSION:

The proposed Project includes the construction, operations, maintenance and decommissioning of three solar (PV) facilities located northeast of Waterman Avenue and Third Street in San Bernardino as depicted in Figures 1. The Project is designed to produce approximately 4.50 megawatts (MW) of renewable energy offsetting current Southern California Edison demands.

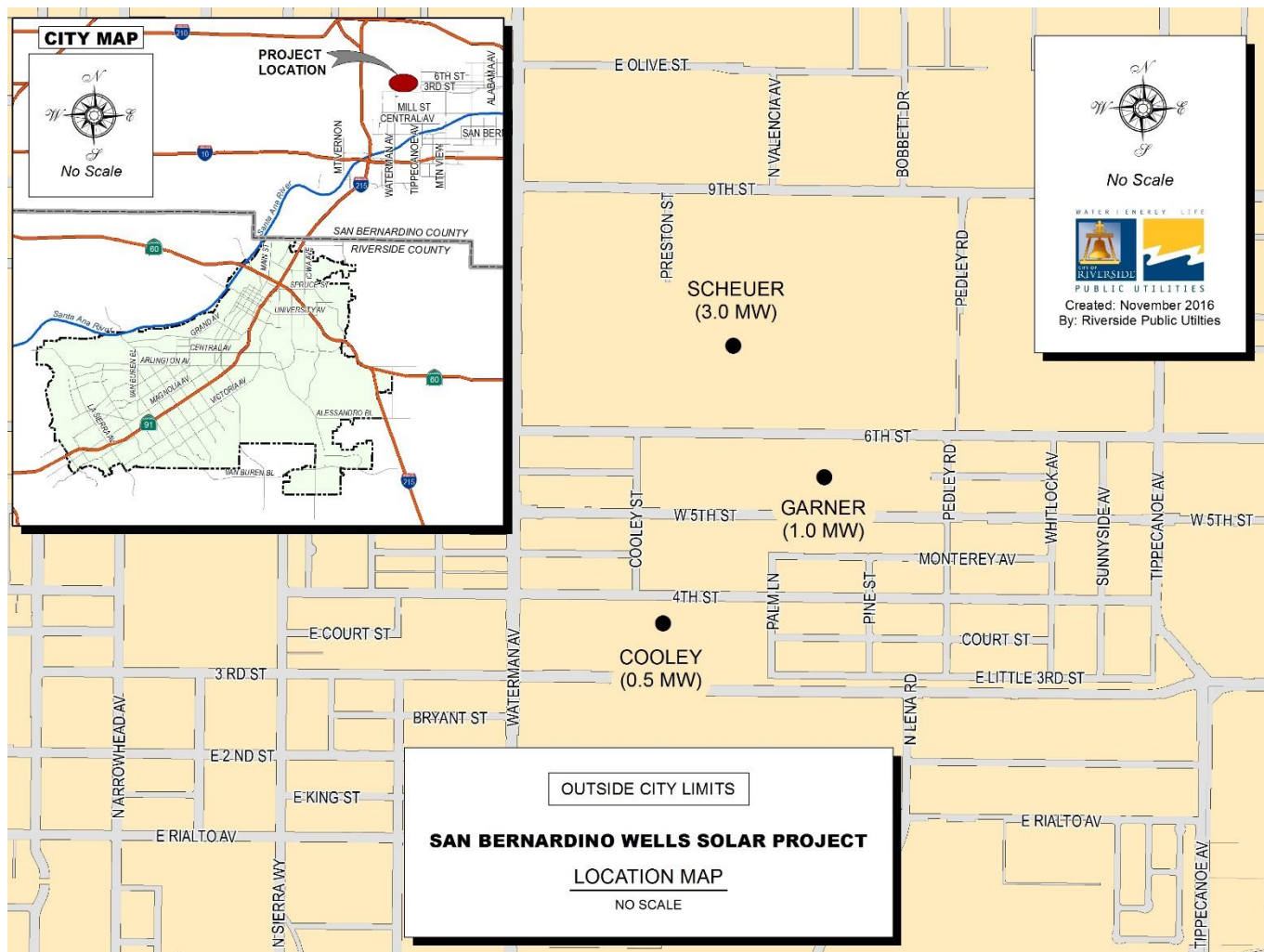


Figure 1: Project Location

The Project is located in both the City and County of San Bernardino jurisdictional areas. The Cooley well site is located in the County of San Bernardino and the Scheuer and Garner well sites are located in the City of San Bernardino. Due to the jurisdictional split, RPU elected to prepare two separate IS/MNDs for the Project, one for the Cooley well site located in the County and one for the Scheuer and Garner well sites located in the City.

RPU retained Aspen Environmental Group (Aspen) as a sub-consultant to Solar Star to perform both Initial Studies. Based on Aspen's findings, two Mitigated Negative Declarations were prepared along with the Initial Studies (IS/MNDs). On February 05, 2016, both IS/MNDs were circulated and notices were sent out as required by CEQA. The review period ended on February 25, 2016.

### Cooley Solar Power Facility

Four comment letters were received during the review period. All comments, including staff

responses, are included within the Final IS/MND as provided in Attachment 1. All issues raised in the comments were thoroughly addressed in the Final IS/MND. Only minor changes were made to the IS/MND in response to the comments. The changes were for clarification or amplification purposes, or to make insignificant modifications. The changes and clarifications do not create any new significant environmental effects and are not necessary to mitigate an avoidable significant effect. Therefore, pursuant to section 15073.5 of the State CEQA Guidelines, recirculation of the IS/MND is not required.

### *Summary of Findings*

Based on the attached Initial Study and all documents referenced, the proposed Project will not have a significant effect on the environment with mitigation. Mitigation measures set forth in the Mitigation Monitoring and Reporting Program (Attachment 2) will reduce environmental impacts identified in the Project's Initial Study to below the level of significance, and include the following actions:

1. Employees shall be trained to ensure that all workers on-site (including contractors) are aware of all applicable mitigation measures for biological resources. Specifically, workers shall be required to: (1) limit all activities to approved work areas; (2) pick up and properly dispose of any food, trash or construction refuse; and (3) report any spilled materials (oil, fuel, solvent, engine coolant, raw concrete, or other material potentially hazardous to wildlife) to the site supervisor.
2. All trash and food materials shall be properly contained within vehicles or closed refuse bins while on any site, and shall be regularly removed from the site (at least on a weekly basis) for proper disposal. All refuse from construction activities shall be removed from the work site upon completion of work. No raw cement, concrete or washings thereof, asphalt, paint, oil, solvents, or other petroleum products, or any other substances that could be hazardous to vegetation or wildlife resources, shall be disposed of on-site or allowed to spill onto soil. Cleanup of any spilled material shall begin immediately.
3. In the event that unanticipated resources are encountered during ground-disturbing or other construction activities, work must cease within 50 feet of the discovery and a County Cultural Resources Specialist and tribal representatives from San Manuel Band of Mission Indians, Soboba Band of Luiseno Indians and Gabrieleño Band of Mission Indians notified by phone and email. Work may continue only after the resources are recorded and evaluated by a cultural resources specialist who meets or exceeds the Secretary of the Interior Professional Qualification Standards in archaeology and examined tribal representatives qualified to identify tribal cultural resources as defined in AB 52 (PRC § 21080.3.1(a)).
4. In accordance with Section 7050.5 of the California Health and Safety Code and PRC Section 5097.98, if human remains are found, the San Bernardino County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains do not require an assessment of cause of death and that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the Most Likely Descendent (MLD) of the deceased Native

American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.

5. Ground-disturbing activities related to construction, which extend 1 foot below the modern ground surface, shall be monitored by a cultural resources monitor. Monitoring shall be conducted by a qualified archaeologist familiar with the types of historical and prehistoric resources that could be encountered within the approved project area, and under direct supervision of a cultural resources specialist who meets or exceeds the Secretary of the Interior Professional Qualification Standards in archaeology.
  - a. Part-time monitoring at all locations where disturbance extends below 1 foot.
  - b. In the event cultural resources are identified by the qualified archaeological monitor at the site, the three Native American tribes who have expressed an interest in the site shall be notified. One Native American monitor shall be arranged to monitor further activities. In the event the City and the interested Tribes cannot agree upon the monitor, then the City shall select a monitor and arrange for that monitor. The intensity of Native American monitoring (full or part time) will be determined by both tribal and archaeological specialists, based on the nature of the find and the possibility of finding additional resources.
6. The cultural resources monitor shall document interim results of the construction monitoring program with daily monitoring logs and photographs. At the conclusion of monitoring a summary of the results shall be prepared.
  - a. If no resources were identified, copies of the daily logs and a brief letter report summarizing the monitoring activities will be submitted to the project owner and the CEQA lead agency.
  - b. If resources were identified during monitoring, a cultural resources report shall be prepared and all work must be halted within 50 feet of the discovery. The report shall be written by or under the direction of a cultural resources specialist who meets or exceeds the Secretary of the Interior Professional Qualification Standards in archaeology and shall be provided in the State of California Archaeological Resource Management Report format. The final document shall report on all field activities including dates, times and locations, results, samplings, and analyses. All Department of Parks and Recreation (DPR) 523 forms, data recovery reports, and any additional research reports shall be included as appendices. This report shall be submitted to the project owner, the CEQA lead agency and the California Historical Resource Information System (CHRIS).
  - c. Any information gathered during tribal AB 52 consultation may not be shared with the public without prior written tribal consent. The report will conform with these confidentiality requirements (PRC § 21080.3.2).
7. The project owner shall invite the Gabrieleno Band of Mission Indians – Kizh Nation (“Gabrieleno”) to the project kickoff/pre-construction meeting where the project schedule will be outlined in detail. The project owner will notify the Gabrieleno 5 business days prior to pre-construction meeting and commencement of ground disturbing work in order to

provide them an opportunity to assign a tribal monitor to visit the site. Ground-disturbing activities related to construction - including but not limited to pavement removal, pot holing or auguring, boring, grading, excavation and trenching - may be monitored full-time by one tribal monitor per project site. Gabrieleno to provide at their cost, the tribal monitor. Prior to entering the project site, the tribal monitor shall receive proper safety training and execute an Agreement to Release All Liability.

8. The applicant shall prepare a hazardous materials business plan to ensure proper storage, transport, and disposal of hazardous waste generated at the proposed project site during construction. An alternate or amended business plan shall be prepared for waste generated at the site during operation. At a minimum, the hazardous materials business plan shall be in compliance with California Health and Safety Code Chapter 6.5. The plan shall comply with all future revisions and updates to the regulations. Such a plan would enable workers to respond to any potential release of hazardous materials and ensure quick and safe cleanup. The plan shall include measures to implement emergency response procedures to reduce the potential for contamination and exposure of workers or the public to hazardous materials in the event of an accidental spill, by providing various measures to ensure that any spilled material is contained and any resulting surficial contaminated soil was quickly cleaned up and disposed of properly.
9. The applicant shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall:
  - a. Identify water quality Best Management Practices (BMPs) to minimize erosion and to guide the clean-up of any accident, per the California Stormwater BMP Handbook;
  - b. Identify potential pollutant sources that may affect water quality; and
  - c. Identify monitoring and reporting procedures to ensure all BMPs are adhered to during construction and operations.
10. The applicant shall review the final site plan prior to construction to verify that all staging areas, PV arrays, and other associated equipment are to be located outside of the 100-year flood plain as mapped by the Federal Emergency Management Agency. If any structures are proposed within the flood plain, the applicant will revise the site plan prior to construction to relocate those structures outside of the flood plain.

### *Comments and Responses*

1. Letter from Governor's Office of Planning and Research (February 26, 2016)

Comment: The commenter confirms that no state agency has provided comments on the Draft MND and that compliance with the State Clearinghouse review requirements has been met pursuant to CEQA.

Response: No response required.

2. Letter (Confidential) from Gabrieleno Band of Mission Indians – Kizh Nation (February 09, 2016)

Comment: This comment letter requests that one of the Tribe monitors be present during all ground disturbances.

Response: Mitigation Measures CR-5 has been added to address this comment.

3. Letter (Confidential) from Soboba Band of Luiseno Indians (February 26, 2016)

Comment: This comment letter requests the addition of another cultural resources mitigation measure regarding the treatment and disposition of unanticipated finds.

Response: Existing Cultural Resource Mitigation Measures address the Tribe's request.

4. Letter from San Bernardino County Department of Public Works (February 22, 2016)

Comment: The letter provided by the San Bernardino County, Department of Public Works, is an information disclosure identifying the permitting needs if the project were to encroach into the County's Flood Control District right-of-way or US Army Corps of Engineers 408 right-of-way. As stipulated by Mitigation Measure WQ-2, all project staging areas, PV arrays, and other associated equipment are to be located outside of the 100-year flood plain. No comments were provided on the adequacy of the document.

Response: No response required.

### *Scheuer and Garner Solar Power Facilities*

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Four comment letters were received during the review period. All comments, including staff responses, are included within the Final IS/MND as provided in Attachment 3. All issues raised in the comments were thoroughly addressed in the Final IS/MND. Only minor changes were made to the IS/MND in response to the comments. The changes were for clarification or amplification purposes, or to make insignificant modifications. The changes and clarifications do not create any new significant environmental effects and are not necessary to mitigate an avoidable significant effect. Therefore, pursuant to section 15073.5 of the State CEQA Guidelines, recirculation of the IS/MND is not required.

### *Summary of Findings*

Based on the attached Initial Study and all documents referenced, the proposed project will not have a significant effect on the environment with mitigation. Mitigation measures set forth in the Mitigation and Monitoring Program (Attachment 4) will reduce environmental impacts identified in the project initial study to below the level of significance, and include the following actions:

1. The project applicant shall provide the City of San Bernardino a Landscaping/Screening Conceptual Plan consistent with City of San Bernardino Development Code Chapter 19.28 (Landscaping Standards) for review and approval.
2. Employees shall be trained to ensure that all workers on-site (including contractors) are aware of all applicable mitigation measures for biological resources. Specifically, workers shall be required to: (1) limit all activities to approved work areas; (2) pick up and properly

dispose of any food, trash or construction refuse; and (3) report any spilled materials (oil, fuel, solvent, engine coolant, raw concrete, or other material potentially hazardous to wildlife) to the site supervisor.

3. All trash and food materials shall be properly contained within vehicles or closed refuse bins while on any site, and shall be regularly removed from the site (at least on a weekly basis) for proper disposal. All refuse from construction activities shall be removed from the work site upon completion of work. No raw cement, concrete or washings thereof, asphalt, paint, oil, solvents, or other petroleum products, or any other substances that could be hazardous to vegetation or wildlife resources, shall be disposed of on-site or allowed to spill onto soil.
4. In the event that unanticipated resources are encountered during ground-disturbing or other construction activities, work must cease within 50 feet of the discovery and a County Cultural Resources Specialist and tribal representatives from San Manuel Band of Mission Indians, Soboba Band of Luiseno Indians and Gabrieleño Band of Mission Indians notified by phone and email. Work may continue only after the resources are recorded and evaluated by a cultural resources specialist who meets or exceeds the Secretary of the Interior Professional Qualification Standards in archaeology and examined tribal representatives qualified to identify tribal cultural resources as defined in AB 52 (PRC § 21080.3.1(a)).
5. In accordance with Section 7050.5 of the California Health and Safety Code and PRC Section 5097.98, if human remains are found, the San Bernardino County Coroner shall be notified within 24 hours of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie potential remains shall occur until the County Coroner has determined, within two working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains do not require an assessment of cause of death and that the remains are or are believed to be Native American, the Coroner shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with Section 5097.98 of the California Public Resources Code, the NAHC must immediately notify those persons it believes to be the Most Likely Descendent (MLD) of the deceased Native American. The descendants shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the County, the disposition of the human remains.
6. Ground-disturbing activities related to construction, which extend 1 foot below the modern ground surface, shall be monitored by a cultural resources monitor. Monitoring shall be conducted by a qualified archaeologist familiar with the types of historical and prehistoric resources that could be encountered within the approved project area, and under direct supervision of a cultural resources specialist who meets or exceeds the Secretary of the Interior Professional Qualification Standards in archaeology.
  - a. Scheuer: Full time monitoring within 10 feet of historic Warm Creek Channel. Part-time monitoring at all other locations where disturbance extends below 1 foot.
  - b. Garner: Full time monitoring.
  - c. In the event cultural resources are identified by the qualified archaeological monitor at either site, the three Native American tribes who have expressed an interest in the site shall be notified. One Native American monitor shall be arranged to monitor

further activities. In the event the City and the interested Tribes cannot agree upon the monitor, then the City shall select a monitor and arrange for that monitor. The intensity of Native American monitoring (full or part time) will be determined by both tribal and archaeological specialists, based on the nature of the find and the possibility of finding additional resources.

7. The cultural resources monitor shall document interim results of the construction monitoring program with daily monitoring logs and photographs. At the conclusion of monitoring a summary of the results shall be prepared.
  - a. If no resources were identified, copies of the daily logs and a brief letter report summarizing the monitoring activities will be submitted to the project owner and the CEQA lead agency.
  - b. If resources were identified during monitoring, a cultural resources report shall be prepared and all work must be halted within 50 feet of the discovery. The report shall be written by or under the direction of a cultural resources specialist who meets or exceeds the Secretary of the Interior Professional Qualification Standards in archaeology and shall be provided in the State of California Archaeological Resource Management Report format. The final document shall report on all field activities including dates, times and locations, results, samplings, and analyses. All Department of Parks and Recreation (DPR) 523 forms, data recovery reports, and any additional research reports shall be included as appendices. This report shall be submitted to the project owner, the CEQA lead agency and the California Historical Resource Information System (CHRIS).
  - c. Any information gathered during tribal AB 52 consultation may not be shared with the public without prior written tribal consent. The report will conform with these confidentiality requirements (PRC § 21080.3.2).
8. The project owner shall invite the Gabrieleno Band of Mission Indians – Kizh Nation (“Gabrieleno”) to the project kickoff/pre-construction meeting where the project schedule will be outlined in detail. The project owner will notify the Gabrieleno 5 business days prior to pre-construction meeting and commencement of ground disturbing work in order to provide them an opportunity to assign a tribal monitor to visit the site. Ground-disturbing activities related to construction - including but not limited to pavement removal, pot holing or auguring, boring, grading, excavation and trenching - may be monitored full-time by one tribal monitor per project site. Gabrieleno to provide at their cost, the tribal monitor. Prior to entering the project site, the tribal monitor shall receive proper safety training and execute an Agreement to Release All Liability.
9. The applicant shall prepare a hazardous materials business plan to ensure proper storage, transport, and disposal of hazardous waste generated at each proposed project site during construction. An alternate or amended business plan shall be prepared for waste generated at the site during operation. At a minimum, the hazardous materials business plan shall be in compliance with California Health and Safety Code Chapter 6.5. The plan shall comply with all future revisions and updates to the regulations. Such a plan would enable workers to respond to any potential release of hazardous materials and ensure quick and safe cleanup. The plan shall include measures to implement emergency response procedures to reduce the potential for contamination and exposure of workers or the public to hazardous materials in the event of an accidental spill, by providing various measures to ensure that any spilled material is contained and any resulting surficial

contaminated soil was quickly cleaned up and disposed of properly. The plan will be provided to the City of Riverside and the City of San Bernardino within 30 days of the start of construction.

10. The applicant shall prepare and implement a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall:
  - a. Identify water quality Best Management Practices (BMPs) to minimize erosion and to guide the clean-up of any accident, per the California Stormwater BMP Handbook;
  - b. Identify potential pollutant sources that may affect water quality; and
  - c. Identify monitoring and reporting procedures to ensure all BMPs are adhered to during construction and operations.
11. The applicant shall review the final site plan prior to construction to verify that all staging areas, PV arrays, and other associated equipment are to be located outside of the 100-year flood plain as mapped by the Federal Emergency Management Agency. If any structures are proposed within the flood plain, the applicant will revise the site plan prior to construction to relocate those structures outside of the flood plain.

#### *Comments and Responses*

1. Letter from Governor's Office of Planning and Research (February 26, 2016)

Comment: The commenter confirms that no state agency has provided comments on the Draft MND and that compliance with the State Clearinghouse review requirements has been met pursuant to CEQA.

Response: No response required.

2. Letter (Confidential) from Gabrieleno Band of Mission Indians – Kizh Nation (February 09, 2016)

Comment: This comment letter requests that one of the Tribe monitors be present during all ground disturbances.

Response: Mitigation Measures CR-5 has been added to address this comment.

3. Letter (Confidential) from Soboba Band of Luiseno Indians (February 26, 2016)

Comment: This comment letter requests the addition of another cultural resources mitigation measure regarding the treatment and disposition of unanticipated finds.

Response: Existing Cultural Resource Mitigation Measures address the Tribe's request.

4. Electronic Mail from Joseph E. Bonadiman & Associates, Inc. on behalf of LKQ Wrecking Yard (February 18, 2016)

Comment A: The commenter states they may have fill material available for the project. No comments were provided on the adequacy of the Draft MND.

Response A: The Scheuer and Garner sites are balanced, with little to no fill expected during grading.

Comment B: The commenter provides background regarding fill of historic drainages from the City of San Bernardino. No comments were provided on the adequacy of the document.

Response B: The project applicant has performed a hydrology study for the Scheuer site, with the project adding a drainage basin to the south of the proposed solar array.

Comment C: The commenter asks how drainage will be handled at the Scheuer site. No comments were provided on the adequacy of the Draft MND.

Response C: The project will install a new drainage basin at the start of the project during the grading phase to the south of the proposed solar array.

Comment D: The commenter states theft is a concern in the area. No comments were provided on the adequacy of the Draft MND.

Response D: As part of the project, exterior fencing will be installed (it will not be electrified). Additionally, signage will be posted warning about electrical power output of the system. During construction, when the solar PV array is on-site, security will be present until the arrays have been installed.

### **FISCAL IMPACT:**

There is no fiscal impact at this time associated with the adoption of the Mitigated Negative Declaration.

Prepared by: Girish Balachandran, Utilities General Manager  
Certified as to  
availability of funds: Scott Miller, PhD, Chief Financial Officer/City Treasurer  
Approved by: John A. Russo, City Manager  
Approved as to form: Gary G. Geuss, City Attorney

### **Attachments:**

1. Cooley Solar Power Facility Initial Study and Mitigated Negative Declaration
2. Cooley Solar Power Facility Mitigation Monitoring and Reporting Program
3. Scheuer and Garner Solar Power Facilities Initial Study and Mitigated Negative Declaration
4. Scheuer and Garner Solar Power Facilities Mitigation Monitoring and Reporting Program