

DRAFT CONDITIONS OF APPROVAL

MEETING DATE: August 13, 2019

TITLE: Conditional Use Permit No 01-18; for the installation of up to four (4) new 499 foot-tall wind turbines and the decommissioning of 69 smaller wind turbines on a site located in the foothills and west of highway 62 and north of the I-10 freeway.

CASE NO: CUP No. 01-18 (Terra-Gen/DHS Wind Energy project)

PREPARED BY: Scott Taschner, Senior City Planner

REVIEWED BY: Rebecca Deming, Community Development Director

Project Specific Conditions

1. The approval of Conditional Use Permit (CUP) No 01-18 is to allow the decommissioning of 69 antiquated wind turbines and the installation/construction of up to four new 493-foot-tall, state-of-the art, wind turbines.
2. The Community Development Director shall monitor the subject use and in the event that the Director determines that use requires additional review, a hearing shall be scheduled before the Planning Commission to review the permit, and consider modification or revocation thereof.
3. The project proponent/developer shall comply with all mitigation measures outlined in the attached Mitigation Monitoring Program.
4. The project proponent/developer shall comply with all of the provisions of the Bird and Bat Conservation Survey and the Eagle Study.
5. The applicant/project proponent shall submit the results of the 3-year post construction Avian Fatality Monitoring Report, upon its completion, to City staff for evaluation.
6. The approval of CUP No. 01-18 is subject to the requirements of Section 17.16.140(F)(1), which states *“Any WECS Conditional Use Permit that is granted shall be used within 2 years from the effective date thereof, or within such additional time as may be set in the conditions or approval, which shall not exceed a total of 5 years; otherwise, the permit shall be null and void.”*

7. The applicant/developer may file a request for a time extension pursuant to Section 17.16.140(F)(1), which states. *“An extension of time may be granted by the Commission upon a determination that valid reason exists for permittee not using the permit within the required period of time. If an extension is granted, the total time allowed for use of the permit shall not exceed a period of 5 years, calculated from the effective date of the issuance of the permit.”*
8. Pursuant to Section 17.16.140(F)(2) the life of the Conditional Use Permit shall not exceed 30 years.
9. The approval of Variance No 01-18 is to allow the additional height (above 200 feet) and is subject to the use commencing (as defined in 17.16.140(F)(1)) within one year of the date of approval. Development of the site, the new wind turbines and the new meteorological tower shall be in compliance with all Federal Aviation Administration (FAA) requirements.
10. All commercial WECS shall be either light environmental colors such as off-white, gray or galvanized, beige or tan. All commercial WECS shall have a matte or galvanized finish unless the Director determine that such finish adversely affects the performance of the WECS or other good cause is shown to permit any other finish.
11. All necessary permits shall be obtained with the FAA, the Coachella Valley Conservation Commission (CVCC), the Riverside County Airport Commission, and the City of Desert Hot Springs Building Department.
12. Prior to issuance of a grading permit the applicant/developer shall enter into an indemnification agreement with the City Council.

Conservation Commission Conditions

13. **Prior to issuance of grading permit** the applicant/developer shall to meet with the Coachella Valley Conservation Commission to identify the plans for restoration and begin the restoration process (The City will be out of Rough Step until the restoration is found to be successful. It will take at least 66 months for restoration to be considered successful).
14. **Prior to issuance of grading permits** the applicant/developer shall submit qualifications of biologists to the CVCC. The Wildlife Agencies shall have thirty (30) days to provide input on the qualifications of any biologists on the list. If the Wildlife Agencies have not responded within thirty days (30) of receipt of the qualifications from the CVCC, the biologists shall be deemed acceptable.
15. The applicant/developer shall comply with all of the mitigation measures imposed by the Coachella Valley Conservation Commission and outlined below.

- a. **Biological Corridors.** Specific roads in Conservation Areas, where culverts or Under-crossings are required to maintain Biological Corridors, are delineated in the Section 4.3 subsections on individual Conservation Areas.
- b. **Burrowing Owl.** This measure does not apply to single-family residences and any noncommercial accessory uses and structures including but not limited to second units on an existing legal lot, or to O&M of Covered Activities other than levees, berms, dikes, and similar features that are known to contain burrowing owl burrows. O&M of roads is not subject to this requirement. For other projects that are subject to CEQA, the Permittees will require burrowing owl surveys in the Conservation Areas using an accepted protocol (as determined by the CVCC in coordination with the Permittees and the Wildlife Agencies). Prior to Development, the construction area and adjacent areas within 500 feet of the Development site, or to the edge of the property if less than 500 feet, will be surveyed by an Acceptable Biologist for burrows that could be used by burrowing owl. If a burrow is located, the biologist will determine if an owl is present in the burrow. If the burrow is determined to be occupied, the burrow will be flagged and a 160-foot buffer during the non-breeding season and a 250-foot buffer during the breeding season, or a buffer to the edge of the property boundary if less than 500 feet, will be established around the burrow. The buffer will be staked and flagged. No Development or O&M activities will be permitted within the buffer until the young are no longer dependent on the burrow. If the burrow is unoccupied, the burrow will be made inaccessible to owls, and the Covered Activity may proceed. If either a nesting or escape burrow is occupied, owls shall be relocated pursuant to accepted Wildlife Agency protocols. A burrow is assumed occupied if records indicate that, based on surveys conducted following protocol, at least one burrowing owl has been observed occupying a burrow on site during the past three years. If there are no records for the site, surveys must be conducted to determine, prior to construction, if burrowing owls are present. Determination of the appropriate method of relocation, such as eviction/passive relocation or active relocation, shall be based on the specific site conditions (e.g., distance to nearest suitable habitat and presence of burrows within that habitat) in coordination with the Wildlife Agencies. Active relocation and eviction/passive relocation require the preservation and maintenance of suitable burrowing owl habitat determined through coordination with the Wildlife Agencies. Within one (1) year of Permit issuance, CVCC will cooperate with County Flood Control, CVWD and IID to conduct an inventory of levees, berms, dikes, and similar features in the Plan Area maintained by those Permittees. Burrowing owl burrow locations will be mapped and each of these Permittees will incorporate the information into its O&M practices to avoid impacts to the burrowing owl to the maximum extent Feasible. CVCC in cooperation with County Flood Control, CVWD, and IID will prepare a manual for maintenance staff, educating them about the burrowing owl and appropriate actions to take when owls are encountered to avoid impacts to the maximum extent Feasible. The manual will be submitted to the Wildlife Agencies for review and comment within two (2) years of Permit issuance. In conjunction with the Monitoring Program, the maps of the burrowing owl locations along the above-described levees, berms, dikes, and similar features will be periodically updated.
- c. **Fluvial Sand Transport.** Activities, including O&M of facilities and construction of permitted new projects, in fluvial sand transport areas in the Cabazon, Stubbe and Cottonwood Canyons, Snow Creek/Windy Point, Whitewater

Canyon, Whitewater Floodplain, Upper Mission Creek/Big Morongo Canyon, Mission Creek/Morongo Wash, Willow Hole, Long Canyon, Edom Hill, Thousand Palms, West Deception Canyon, and Indio Hills/Joshua Tree National Park Linkage Conservation Areas will be conducted in a manner to maintain the fluvial sand transport capacity of the system.

- d. **Le Conte's Thrasher.** This measure does not apply to single-family residences and any non-commercial accessory uses and structures including but not limited to second units on an existing legal lot, or to O&M of Covered Activities. In modeled Le Conte's thrasher Habitat in all the Conservation Areas, during the nesting season, January 15 - June 15, prior to the start of construction activities, surveys will be conducted by an Acceptable Biologist on the construction site and within 500 feet of the construction site, or to the property boundary if less than 500 feet. If nesting Le Conte's thrashers are found, a 500-foot buffer, or to the property boundary if less than 500 feet, will be established around the nest site. The buffer will be staked and flagged. No construction will be permitted within the buffer during the breeding season of January 15 – June 15 or until the young have fledged.
- e. **Palm Springs Pocket Mouse.** To avoid impacts to the Palm Springs pocket mouse and its habitat in the Upper Mission Creek/Big Morongo Canyon and Willow Hole Conservation Areas, Flood Control-related construction activities will comply with the following avoidance and minimization measures.
- f. **Clearing:** For construction that would involve disturbance to Palm Springs pocket mouse habitat, activity should be phased to the extent feasible and practicable so that suitable habitat islands are no farther than 300 feet apart at any given time to allow pocket mice to disperse between habitat patches across non-suitable habitat (i.e., unvegetated and/or compacted soils). Prior to project construction, a biological monitor familiar with this species should assist construction crews in planning access routes to avoid impacts to occupied habitat as much as feasible (i.e., placement of preferred routes on project plans and incorporation of methods to avoid as much suitable habitat/soil disturbance as possible). Furthermore, during construction activities, the biological monitor will ensure that connected, naturally vegetated areas with sandy soils and typical native vegetation remain intact to the extent feasible and practicable. Finally, construction that involves clearing of habitat should be avoided during the peak breeding season (approximately March to May), and activity should be limited as much as possible during the rest of the breeding season (January to February and June to August).
- g. **Revegetation:** Clearing of native vegetation (e.g., creosote, rabbitbrush, burrobush, cheesebush) should be followed by revegetation, including natural reestablishment and other means, resulting in habitat types of equal or superior biological value for Palm Springs pocket mouse.
- h. **Trapping/Holding:** All trapping activity should be conducted in accordance with accepted protocols and by a qualified biologist who possesses a Memorandum of Understanding with CDFG for live-trapping of heteromyid species in Southern California.
- i. **Translocation:** Should translocation between distinct population groups be necessary, as determined through the Adaptive Management and Monitoring Program, activity should be conducted by a qualified biologist who possesses a Memorandum of Understanding with CDFG for live-trapping of heteromyid species in Southern California. Trapping and subsequent translocation activity should be conducted in accordance with accepted protocols. Translocation

programs should be coordinated by or conducted by the CVCC and/or RMOC to determine the appropriate trapping, holding, marking, and handling methods and potential translocation sites.

Standard Land Use Adjacency Conditions (CVMSHCP)
Administrative Conditions

16. The applicant/developer, at applicant's/developer's sole cost, shall indemnify, protect, hold harmless and defend, with counsel selected at sole discretion, including outside counsel, by the City, the City and any agency or instrumentality thereof, and/or any of its officers, employees and agents from any and all claims, actions, demands, or proceedings, including those involving environmental issues, against the City to attack, set aside, void, annul, and/or seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voters of the City, concerning the entitlement application or Project. City shall promptly notify both the Applicant/Developer and landowner of any claim, action, or proceeding to which this condition is applicable and shall further cooperate fully in the defense of the action. The City reserves its right to take any and all action the City deems to be in the best interest of the City and its citizens in regard to such defense.

Applicant/developer shall reimburse the City for one hundred percent (100%) of the City's actual fees and costs invoiced by the City's Outside Counsel in connection with its representation of the City in any Litigation ("Legal Fees and Costs"). Such Legal Fees and Costs shall include, but not be limited to, all reasonable court costs and attorneys' fees, including attorneys' fees and costs incurred by the City's Outside Counsel, City Attorney, and other City staff time, consultants or experts, spent in regard to defense of the Litigation. The City's reasonable Legal Fees and Costs in defending any Litigation shall be reimbursed to City by applicant/developer.

Applicant/developer shall deposit \$20,000 within thirty (30) days of the filing as of any lawsuit pertaining to the Project as an advance ("Advance") on Legal Fees and Costs that the City may incur in any Litigation. The City shall pay all invoices it receives from the City's Outside Counsel, City Attorney, and other City staff time, consultants or experts, using funds from the Advance until the Advance is fully expended. Once the Advance is fully expended, Indemnitor shall be responsible for remitting payment on any monthly invoice that it receives from the City for Legal Fees and Costs incurred by the City's Outside Counsel in accordance with the following terms. Indemnitor shall make reimbursement payment to City of any undisputed invoice within thirty (30) calendar days following Indemnitor's receipt of each invoice from City, or resolution of any disputed matters,

whichever comes first. Failure of Indemnitor to make payment within thirty (30) calendar days shall be deemed grounds for revocation.

17. Applicant/developer shall indemnify, protect, hold harmless and defend, with counsel selected by the City, the City and any agency or instrumentality thereof, and/or any of its officers, employees and agents from any and all claims, actions, or proceedings, including those involving environmental issues, against the City to attack, set aside, void, annul, and/or seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voters of the City, concerning the entitlement application. City shall promptly notify both the Applicant/Developer and landowner of any claim, action, or proceeding to which this condition is applicable and shall further cooperate fully in the defense of the action. The City reserves its right to take any and all action the City deems to be in the best interest of the City and its citizens in regard to such defense.
18. All development on the Project Site shall be in compliance with all applicable provisions of the City's Municipal Code as well as all applicable provisions of the adopted Building and Fire Codes. All new construction shall obtain a building permit and comply with the requirements of the Planning, Building, and Fire Departments.
19. The development of the Project on the Project Site shall be in substantial compliance with the exhibits contained in the project file for CUP No. 01-18 as shown in all Exhibits attached hereto and incorporated herein by this reference.
20. **Within fifteen (15) days of final approval of the project** by the Planning Commission, the applicant/developer shall submit in writing, a statement indicating that he/she has read and agrees to the conditions imposed herein. This approval shall become void, and any privilege, permit, or other authorization granted under these entitlements if compliance with this condition has not been undertaken within the specified time limits.
21. The applicant/developer shall pay all established service, permit, impact, public art, and other applicable fees required by the City.

Note: The Transportation Unified Mitigation Fee is collected by the City of Desert Hot Springs on behalf of the Coachella Valley Association of Governments. Questions on the calculation of this fee should be addressed to them at (760) 346-1127. The School District Fees are imposed by the Palm Springs Unified School District and questions should be addressed to them at (760) 416-6159.

22. **The applicant/developer shall deliver within two (2) working days** a cashier's check, money order, or other acceptable form of payment made payable to "Riverside County" in the amount of \$3,321(\$3,271 + \$50 for CA Fish & Wildlife handling fee) to enable the City to file the Supplement to the Final EIR, as required pursuant to California Code of Regulations Section 15075. Any additional fees that may be attributed to the required filing of environmental documents shall be paid by the Applicant/Developer. If Applicant/Developer has not delivered to the Community Development Department the check as required above, the approval for the project granted shall be void by reason of failure of condition (Fish and Game Code Section 711.4(c)).

Standard Environmental / Tribal Mitigation Conditions

23. If the project involves any ground disturbance Applicant / Developer shall hire a paleontological monitor and shall be responsible for payment of all related expenses. If paleontological resources are encountered, adequate funding shall be provided to collect, curate and report on these resources to ensure the values inherent in the resources are adequately characterized and preserved.
24. **Prior to the issuance of building permit**, the applicant/developer shall provide tribe(s) which have initiated formal consultation under AB 52 the following:
- a. Cultural resources inventory of the project area (by a qualified archaeologist) prior to any development activities in the area.
 - b. Copy of the records search with associated survey reports and site records from the information center.
 - c. Copies of any cultural resource documentation (report and site records) generation in connection with this project.
25. **The applicant/developer shall have on site during any ground disturbing activities (including archeological surveys) an approved Cultural Resource/Tribal Monitor(s) for the consulting tribe(s) which have initiated formal consultation under AB 52.** Should buried cultural resource be encountered, the Monitor may request that desiccative construction halt and the Monitor shall notify a Qualified Archeologist to investigate and, if necessary, prepare a mitigation plan for submission to the State Historic Preservation Officer and each of the consulting Tribal Preservation Office's.
26. In the event that human remains (or remains that may be human) are discovered at the project site during grading or earthmoving, the construction contractors, project archaeologist, and/or designated Native American Monitor shall immediately stop all activities within 100 feet of the find. The project proponent shall then inform the Riverside County Coroner

and the City of Desert Hot Springs immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b). Section 7050.5 requires that excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If human remains are determined as those of Native American origin, the applicant shall comply with the state relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (PRC Section 5097). The coroner shall contact the NAHC to determine the most likely descendant(s). The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site. The Disposition of the remains shall be overseen by the most likely descendant(s) to determine the most appropriate means of treating the human remains and any associated grave artifacts. The specific locations of Native American burials and reburials will be proprietary and not disclosed to the general public. The County Coroner will notify the Native American Heritage Commission in accordance with California Public Resources Code 5097.98. According to California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100), and disturbance of Native American cemeteries is a felony (Section 7052) determined in consultation between the project proponent and the MLD. In the event that the project proponent and the MLD are in disagreement regarding the disposition of the remains, State law will apply and the median and decision process will occur with the NAHC (see Public Resources Code Section 5097.98(e) and 5097.94(k)).

27. **Prior to grading permit issuance:** If there are any changes to project site design and/or proposed grades, the applicant shall contact the consulting tribes to provide an electronic copy of the revised plans for review. Additional consultation shall occur between the City of Desert Hot Springs, applicant and interested tribes to discuss the proposed changes and to review any new impacts and/or potential avoidance/preservation of the cultural resources on the Project. The applicant will make all attempts to avoid and/or preserve in place as many as possible of the cultural resources located on the project site if the site design and/or proposed grades should be revised in consult with the City of Desert Hot Springs. In specific circumstances where existing and/or new resources are determined to be unavoidable and/or unable to be preserved in place despite all feasible alternatives, the developer shall make every effort to relocate the resource to a nearby open space or designated location on the property that is not subject any future development, erosion or flooding.
28. **Archaeological Monitoring:** The developer, the City and the consulting tribe(s) shall develop an archaeological monitoring plan to address details, timing and responsibilities of all archaeological activities that will occur at

the project site, when it is determined by either the city or the consulting tribe(s) to be necessary. Details of the plan may include:

- a. Project grading and development scheduling;
- b. The development of a rotating or simultaneous schedule in coordination with the applicant and the Project Archeologist for designated Native American Tribal Monitors from the consulting tribes during grading, excavation and ground disturbing activities on the site: including the scheduling, safety requirements, duties, scope of work, and Native American Tribal Monitors' authority to stop and redirect grading activities in coordination with all Project archaeologists;
- c. The protocols and stipulations that the Developer, City of Desert Hot Springs, the consulting tribes and Project archaeologist will follow in the event of inadvertent cultural resources discoveries, including any newly discovered cultural resource deposits that shall be subject to a cultural resources evaluation;
- d. Archaeological Monitoring Plan shall take into account the potential impacts to undiscovered buried archaeological and cultural resources and procedures to protect in place and/or mitigate such impacts.

29. **Treatment and Disposition of Cultural Resources:** In the event that Native American cultural resources are inadvertently discovered during the course of grading for this Project. The following procedures will be carried out for treatment and disposition of the discoveries:

- a. **Temporary Curation and Storage:** During the course of construction, all discovered resources shall be temporarily curated in a secure location onsite or at the offices of the project archaeologist. The removal of any artifacts from the project site will need to be thoroughly inventoried with tribal monitor oversight of the process; and
- b. **Treatment and Final Disposition:** The landowner(s) shall relinquish ownership of all cultural resources, including sacred items, burial goods, and all archaeological artifacts and non-human remains as part of the required mitigation for impacts to cultural resources. The applicant shall relinquish the artifacts through one or more of the following methods and provide the City of Desert Hot Springs with evidence of same:
 - i. Accommodate the process for onsite reburial of the discovered items with the consulting Native American tribes or bands. This shall include measures and provisions to protect the future reburial area from any future impacts. Reburial shall not occur until all cataloguing and basic recordation have been completed;
 - ii. A curation agreement with an appropriate qualified repository within Riverside County that meets federal standards per 36 CFR Part 79 and therefore would be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within Riverside County, to be

accompanied by payment of the fees necessary for permanent curation:

- iii. For purposes of conflict resolution, if more than one Native American tribe or band is involved with the project and cannot come to an agreement as to the disposition of cultural materials, they shall be curated at the Western Science Center or Agua Caliente Cultural Museum.
- iv. At the completion of grading, excavation and ground disturbing activities on the site a Phase IV Monitoring Report shall be submitted to the City of Desert Hot Springs documenting monitoring activities conducted by the project Archaeologist and Native Tribal Monitors within 60 days of completion of grading. This report shall document the impacts to the known resources on the property; describe how each mitigation measure was fulfilled; document the type of cultural resources recovered and the disposition of such resources; provide evidence of the required cultural sensitivity training for the construction staff held during the required pre-grade meeting; and, in a confidential appendix, include the daily/weekly monitoring notes from the archaeologist. All reports produced will be submitted to the consulting tribes and Eastern Information Center and interested tribes.

Standard Planning Conditions

- 30. The site shall remain undisturbed until the applicant/developer is ready to begin building/construction process.
- 31. Any/all permits may be subject to revocation if the applicant/developer/project is not in compliance with all of the conditions of approval contained herein.
- 32. Minor changes to the approved CUP may be approved subject to the process outlined in Section 17.010 -.030 of the DHSMC, and subject to the Director's discretion.
- 33. The applicant/developer shall maintain the Project Site after the start of construction and until the Project is completed, free of weeds, debris, trash or any other offensive, unhealthful and dangerous material. If after five (5) days notice by certified mail, the applicant/developer does not comply with the before mentioned criterion, the City may either cancel building or grading permits and/or enter the Project Site with City staff and remove all subject violations, bill the applicant/developer and/or put a lien on the Project Site.
- 34. All new breaker boxes, fire sprinkler risers, utility conduits, and drain pipes shall be interior to the building. Any exposed pipes are specifically prohibited. All new drain terminations shall be



from the Watts Drainage Product RD-940 or a product of equal value.

Standard Graffiti Conditions

35. The applicant/developer and/or successor(s) in interest shall be responsible for the removal of any graffiti vandalism from the project site (exterior surfaces and/or exterior walls/fences) within 48-hour after discovering the graffiti vandalism or receipt of notice from the City of the same. The Applicant/Developer shall contact the City's Graffiti Hot Line at 888-562-3822 within 48 hours of discovering the graffiti vandalism.
36. The applicant/developer and/or successor(s) shall apply (and maintain) a protective coating or graffiti resistant materials acceptable to the City's Public Works and/or Community Development Department, to provide for the effective and expeditious removal of graffiti on all structures.
37. The applicant/developer and/or successor(s) in interest hereby agrees to allow the City and/or its agents to enter the property for the purpose of removing or painting over graffiti vandalism, if the applicant/developer and/or successor(s) in interest fail to remove the reported graffiti vandalism within the 48 hours of discovering the graffiti or receipt of notice from the City.

Standard Building & Safety Conditions

38. The applicant/developer shall pay all established service, permit, impact, public art, and other applicable fees required by the City.

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39. Project shall comply with the 2016 California Building Standards Code (Title 24, California Code of Regulations) and other adopted City Ordinances which include the following:
 - a. CA Building Code
 - b. CA Plumbing Code
 - c. CA Mechanical Code
 - d. CA Electrical Code
 - e. CA Fire Code
 - f. CA Green Building Standards Code
 - g. CA Energy Code

40. The requirements of the Department of Environmental Health Services and the Air Quality Management District shall be satisfied prior to the issuance of any permit if hazardous materials are stored and/or used.
41. Any temporary building, trailer, commercial coach, etc. installed and/or used in connection with a construction project shall obtain a Temporary Use Permit and comply with the City of Desert Hot Springs requirements.
42. Prior to issuance of building permits, the site plan shall indicate all perimeter walls and fences to be of a design to prevent or discourage scaling & graffiti.
43. All property lines, easement lines, etc. shall be located and/or relocated in such a manner as to not cause any existing structure to become non-conforming with the requirements of the latest adopted edition of the Building Code, or any other applicable law, ordinance, or code.

Standard Construction/Demolition Activity Fire Safety Conditions

44. Operations involving the use of cutting and welding shall be done in accordance with Chapter 35 of the 2018 International Fire Code (International Code Council).
45. Structures under construction, alteration or demolition shall be provided with not less than one approved portable fire extinguisher in accordance with section 906 and sized for not less than ordinary hazard as follows:
 - a. At each stairway on all floor levels where combustible materials have accumulated.
 - b. In every storage and construction shed.
 - c. Additional portable fire extinguishers shall be provided where special hazards exist including hazards exist including, but not limited to, the storage and use of flammable and combustible liquids.

Engineering Department Conditions

46. The applicant/developer shall pay the Five Thousand Dollars (\$5,000) cost for the City's consultant to annex to PTAX2 and the City fee for processing the request, prior to the issuance of an occupancy permit.
47. The applicant/developer shall provide proof of access to the site from the nearest publically dedicated street.
48. The applicant/developer shall provide recorded slope, construction and maintenance easements for any cut/fill slopes which are not on the applicants/owner's property.
49. Applicant/developer shall submit the following items for approval from the

Engineering Department which are prepared by a Registered City Engineer:

- a. Grading Plans with the street address for the lot.
- b. Access Road Plans for access road on-site and off-site.

- 50. If the applicant/developer requests a Temporary Certificate of Occupancy before all the improvements are completed the applicant/developer shall submit the following items for approval with the submittal of the Improvement Agreement for the project;
 - a. Soils Report
 - b. Title Report
 - c. Preliminary Grading Plan
 - d. Hydrology Report
 - e. Utility master plan
 - f. Engineer's Estimate of the incomplete improvements
- 51. Prior to the installation of any improvements in the public right-of-way (ROW), an encroachment permit shall be obtained from the City Public Works Department.
- 52. If imported or exported soil material is necessary to balance the grading on the site, a separate grading plan and haul permit approval is necessary before transport of the material.
- 53. A soil report shall be prepared and submitted with the grading and access road plans. A compaction report shall be prepared and submitted to the City Building Department for approval prior to issuance of any building permits.
- 54. There shall be no encroachment into public rights of way for construction trailers, equipment, trash bins, portable toilets, or materials; all of which shall be kept on-site. Construction access to the site shall be by an approved driveway, entry, or curb cut; no asphalt ramps or curb jumping is permitted.
- 55. At no time shall any adjacent streets for the project be allowed to be used for construction staging, storage or other such construction related activities. Access by heavy equipment shall be limited to the minimum number of trips essential to completing the construction. Any damage to the existing public roadways, sidewalks or other infrastructure shall be repaired or replaced by the Applicant's contractor at his own expense, as directed by the Public Works Director.
- 56. Applicant/developer shall submit an owner-and contractor-signed PM10 Dust Control Implementation Plan in accordance with the standards and codes of the City and the South Coast Air Quality Management District (SCAQMD). Plans shall be submitted for review and approval by the Public Works Department prior to the issuance of any grading and/or applicable

building permits.

57. The applicant/developer/contractor shall comply with section 8.08 Recycling and Diversion of Waste from Construction and Demolition of the Municipal Code and file a Plan with the City's Building Department prior to the start of any construction.
58. The Applicant/Developer shall construct the access road to be a 24-foot wide. The access road shall be capable of supporting a 60,000-pound dual axle wheel load per Riverside County Fire Department standards. R-Value gravel equivalent shall be submitted which supports the recommendation. This requirement may be modified by the City's Fire Department.
59. Applicant/developer shall submit a project specific Hydrology Report, using Riverside County Flood Control and Water Conservation District's Hydrology Manual for City review and approval. The Hydrology Report shall address the adequacy of the proposed culverts to carry flood flows under the access road.
60. No nuisance water shall escape the site onto public streets.
61. The applicant/developer shall provide on-site storm water retention basin(s) or system(s) designed to the satisfaction of the City Engineer, if necessary to keep any runoff on-site. Each retention basin shall include a sufficient number of underground vertical drywells designed to eliminate standing water in the basin. The retention basin shall be sized to retain all post-development storm water runoff within the limits of the project based on a 100-year storm event of 24-hour duration and shall completely drain/percolate any storm event within 72 hours. All upstream runoff from adjacent properties that has historically been directed onto the proposed project may be considered to pass through the project with the exception of historical retention that occurred on-site. The retention basin shall be designed with a maximum depth of 5 feet and maximum side slopes of 3:1 and shall not be used for purposes other than for the collection of storm water, nuisance water and well blow-off water.
 - a. Any other facilities required in the drainage/hydrology study shall be designed and installed as detailed in Section 15.68, Flood Plain Management, and Section 15.72 Floodplain Construction of the Desert Hot Springs Municipal Code.
 - b. All retention basins/systems shall be located on site; off-site retention basins/systems are specifically prohibited.
 - c. Retention Basin Vehicular Access - Vehicular access shall be provided for maintenance of the retention basins to the satisfaction of the City Engineer. The City Engineer shall determine the need and/or design of such access. The grading of a "road" to the bottom shall comply with health and safety standards and shall meet the requisite design

requirements including geometries and capacity of the basin(s). Any basins designed to ultimately retain 2 feet of water or more during the 100 year storm event shall be fenced to prohibit unauthorized entry. Maintenance of retention basins and drainage system shall be the responsibility of the applicant/property owner/operator.

62. Applicant/developer shall comply with the National Pollution Discharge Elimination System (NPDES) requirements per the California Regional Water Quality Control Board (RWQCB) regulations. The Applicant/Developer shall submit a Project Specific Stormwater Pollution Prevention Plan (SWPPP) to comply with the California General Permit for Stormwater Discharges Associated with the Construction Activity, prior to the issuance of a grading permit. For projects larger than 1 acre, the Applicant/Developer shall obtain all required permits from the California Regional Water Quality Control Board (RWQCB) and submit a copy of the Notice of Intent (NOI) and the Waste Discharge Identification Number (WDID#) to the City's Public Works Department prior to the issuance of the any grading permit.

For further information contact the RWQCB at:

California Regional Water Quality Control Board (RWQCB),
Colorado River Basin Region,
73-720 Fred Waring Drive #100
Palm Desert, CA 92260
(760) 346-7491
www.waterboards.ca.gov/colorariver

63. If the applicant/developer requests a Temporary Certificate of Occupancy before all the improvements are completed the applicant/developer shall file an improvement agreement with security to guarantee completion of public improvements as follows:
- a. A faithful performance security in an amount deemed sufficient by the City Engineer to cover up to 100% of the total estimated cost of all required improvements, including bonding requirements for grading as outlined in the Municipal Code.
 - b. A labor and material security to cover up to 50% of the total estimated cost of all required improvements.
 - c. If the required project improvements are financed and installed pursuant to special assessment proceedings, upon the furnishing by the contractor of the faithful performance and labor and material security required by the special assessment act being used, the City may reduce the improvement security of the Applicant/Developer by an amount corresponding to the amount of the security furnished by the contractor.
 - d. Notwithstanding the above, the applicant/developer may satisfy the requirement for security of certain improvements by providing proof that

same has been posted with another public agency subject to the approval of the City Engineer.

64. Security may be one of the following types subject to the approval of the City Engineer and City Attorney as to form:
 - a. Bonds - All bonds shall be executed by a surety company authorized to transact business as a surety, and have an agent for service in California, together with an acceptable policy holder's rating. The bond(s) shall contain the nearest street address of the institution providing the bond(s).
 - b. Cash Deposits - In lieu of the faithful performance and labor and material bonds, the developer may submit cash deposits or negotiable bonds of a kind approved for securing deposits of public monies under the conditions hereinafter described.
 - c. Disbursements from cash deposits shall be made in compliance with a separate agreement between the developer and the City. A bookkeeping fee of 1% of the total amount deposited with the City for each cash deposit shall be submitted with each security. Disbursements from a cash deposit in any instance shall not be permitted unless and until authorized in writing by the City Engineer.
65. All improvement agreements shall be approved by the City Attorney and City Council. Security for the agreement shall be approved by the City Attorney and Finance Director.

Fire Department Conditions

66. FIRE DEPARMTENT ACCESS
 - a. Vehicle access gates shall be provided with KNOX Box, Padlock or Key-switch access. Automatic gates shall also have Opticom IR receivers
 - b. Approved addressing shall be installed and visible
 - c. Maintain existing access road
67. CLEARANCE
 - a. Maintain 100' (dead flashy fuels/seasonal vegetation) or equivalent around all structures without violation to environmental/critical habitat
68. CALIFORNIA FIRE CODE CHAPTER 33
 - a. Comply with all applicable codes during demolition and construction
69. INSPECTION REQUIRED
 - a. Call and schedule inspection prior to final

Riverside County Airport Land Use Commission Conditions

70. The proposed wind turbines ("WECS") shall not generate electrical

interference that may be detrimental to the operation of aircraft and/or
aircraft instrumentation.

71. Rotor blades shall utilize a flat or matte (non-glossy) finish so as to minimize the reflection of sunlight towards an aircraft engaged in an initial straight climb during takeoff or towards an aircraft engaged in a straight final approach toward a landing at an airport
72. The WECS and any accessory uses shall not generate smoke or water vapor and shall be designed so as not to attract large concentrations of birds.
73. The combined height of each WECS and its foundation shall not exceed 499 feet above ground level (AGL).
74. This project has been evaluated by Airport Land Use Commission (ALUC) and the Federal Aviation Administration (FAA) for four (4) wind turbines only (T-1 through T-4). Any increase in number, height, or change in location of the turbines, or any proposal for new structures taller than 200 feet from ground level, will require subsequent submittal to, and review by, the ALUC and FAA. No meteorological towers 200 feet or greater in height are included in this determination.
75. The Federal Aviation Administration has conducted aeronautical studies of each proposed wind turbine (Aeronautical Study Nos. 2018-WTW-12513-OE through 2018-WTW-12516-OE) and has specified that each of these structures shall be marked/lighted in accordance with FAA Advisory circular 70/7460-1 L Change 2, Obstruction Marking and Lighting, white paint/synchronized red lights – Chapters 4, 12, & 13 (Turbines), unless superseded by subsequent FAA determination(s) in writing.
76. In order to ensure proper conspicuity of turbines at night during construction, all turbines should be lit with temporary lighting once they reach a height of 200 feet or greater until such time the permanent lighting configuration is turned on. As the height of the structure continues to increase, the temporary lighting should be relocated to the uppermost part of the structure. The temporary lighting may be turned off for periods when they would interfere with construction personnel. If practical, permanent obstruction lights should be installed and operated at each level as construction progresses. An FAA Type L-810 steady red light fixture shall be used to light the structure during the construction phase. If power is not available, turbines shall be lit with self-contained, solar powered LED steady red light fixture that meets the photometric requirements of an FAA Type L-810 lighting system. The lights should be positioned to ensure that a pilot has an unobstructed view of at least one light at each level. The use of NOTAM (D) to not light turbines within a project until the entire project has

been completed is prohibited.

77. Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as normal operation is restored, notify the same number.

78. The maximum top point elevations specified below shall not be amended without further review by the Airport Land Use Commission and the Federal Aviation Administration; provided, however, that reduction in structure height or elevation shall not require further review by the Airport Land Use Commission.

Turbine Number	Maximum Feet Above Mean Sea Level (AMSL)
• Turbine 1	2,307
• Turbine 2	2,307
• Turbine 3	2,323
• Turbine 4	2,283

79. Temporary construction equipment used during actual construction of the structures shall not exceed 499 feet in height and a maximum elevation (above mean sea level) not to exceed the above turbine table above, unless separate notice is provided to the Federal Aviation Administration through the Form 7460-1 process.
80. Within five (5) days after construction reaches its greatest height, FAA Form 7460-2 (Part II), Notice of Actual Construction or Alteration, shall be completed by the project proponent or his/her designee and e-filed with the Federal Aviation Administration. (Go to <https://oeaaa.faa.gov> for instructions.) This requirement is also applicable in the event the project is abandoned or a decision is made not to construct the structure.
81. To the maximum extent possible, in compliance with FAA guidelines regarding lighting, mitigation measures shall be incorporated into the project that would minimize light pollution to people on the ground.
82. The applicant/developer shall comply with all rules, laws, ordinances, guidelines, and regulations of the Metropolitan Water District. Prior to issuance of any certificate of occupancy, the applicant/developer shall provide evidence to the satisfaction of the City Engineer that all permits and approvals for water service and wastewater disposal have been obtained.

END