



STRIVING FOR EXCELLENCE

## SUMMARY ACTION MINUTES BOARD OF SUPERVISORS

Regular Meeting  
TUESDAY, APRIL 08, 2014  
Closed Session – 9:00 a.m.  
Regular Meeting – 10:00 a.m.

MERCED COUNTY  
ADMINISTRATION BUILDING  
2222 "M" STREET  
BOARD ROOM, THIRD FLOOR  
MERCED, CALIFORNIA 95340  
(209) 385-7366

JOHN PEDROZO.....DISTRICT 1  
HUBERT "HUB" WALSH, JR.....DISTRICT 2  
LINN DAVIS.....DISTRICT 3  
DEIDRE F. KELSEY.....DISTRICT 4  
CHAIRMAN JERRY O'BANION.....DISTRICT 5

JAMES L. BROWN  
COUNTY EXECUTIVE OFFICER

JAMES N. FINCHER  
COUNTY COUNSEL

*All supporting documentation is available for public review in the Office of the Clerk of the Board of Supervisors located in the County Administration Building, Third Floor, 2222 "M" Street, Merced, California, 95340  
During regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday.*

**The Agenda is available online at [www.co.merced.ca.us](http://www.co.merced.ca.us)**

Any material related to an item on this Agenda submitted to the Clerk after distribution of the Agenda packet is available for public inspection in the Office of the Clerk of the Board

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The Agenda is divided into three sections:

**CONSENT CALENDAR** – These matters include routine financial and administrative action and usually are approved by a single vote.

**SCHEDULED ITEMS** – These items are noticed hearings, work sessions and public hearings.

**REGULAR CALENDAR** – These items include significant policy and administration actions. Immediately after approval of the CONSENT CALENDAR, if the time of the hearing of SCHEDULED ITEMS has not arrived, the REGULAR CALENDAR will be considered.

SCHEDULED ITEMS

9:00 A. M. **THE PUBLIC IS INVITED TO SPEAK ON ANY ITEM ON THE AGENDA- TESTIMONY IS LIMITED TO FIVE MINUTES PER PERSON**

**CLOSED SESSION - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:** It is the intention of the Board to meet in Closed Session concerning Existing Litigation pursuant to Government Code Section 54956.9(d)(1): County of Merced v. Jagmeet Singh, et al., Merced case no. CVM017784.

**CLOSED SESSION:** It is the intention of the Board to meet in Closed Session pursuant to Government Code Section 54957.6 concerning a Conference with County of Merced Staff Negotiators concerning negotiations with: American Federation of State, County and Municipal Employees (AFSCME), Units 4, 5, 6 and 8; United Public Employees (UPE), Unit 3; Merced County Attorney Association (MCAA), Unit 7; Teamsters (Corrections), Unit 2; Merced County Law Enforcement Sergeants, Unit 30; Merced County Deputy Sheriff Association (DSA), Unit 10; Teamsters (Non-Safety Corrections), Unit 12; Merced County Public Safety Services Unit (MCPSSU), Unit 14; and Probation Supervising Employees, Unit 11. Agency Negotiator: Marci Barrera.

**THE BOARD RECESSED AT 9:00 A.M. AND RECONVENED AT 10:00 A.M. WITH SUPERVISOR WALSH NOT PRESENT, AND THE CHAIRMAN ADVISED STAFF WAS GIVEN DIRECTION**

**GOVERNMENT CODE SECTION 54950 COMPLIANCE (LATE AGENDA ITEMS)**

10:00 A. M. **PLEDGE OF ALLEGIANCE**

**PUBLIC OPPORTUNITY TO SPEAK ON ANY MATTER OF PUBLIC INTEREST WITHIN THE BOARD'S JURISDICTION INCLUDING ITEMS ON THE BOARD'S AGENDA, EXCEPT FOR THOSE ITEMS SPECIFICALLY SCHEDULED AS PUBLIC HEARINGS (Testimony limited to five minutes per person)**

**REVIEW BOARD ORDER – SEE PAGE 9**

**PRESENTATIONS**

- 1) University of California Cooperative Extension Centennial Anniversary

2) Volunteer Recognition - 2014 Volunteers nominated by the community:

**District One:** Richard Macchia and Knights of Columbus

**District Two:** Merced Police Volunteers in Police Service and Providence Christian School

**District Three:** Holly Jenkins and Jan & Friends

**District Four:** Emily Ewing and Dot Dame

**District Five:** Ludwig Knoester, Lynnette Gerbi, and Mary Murillo

**APPROVAL OF CONSENT AGENDA CALENDAR (Items #1 - 19)**

**PUBLIC HEARINGS**

**COUNTY COUNSEL - PUBLIC HEARING - FIRST READING OF PROPOSED ORDINANCE**

Introduce and conduct the first reading of an Ordinance entitled "Re-Establishing Vehicle Parking and Other Restrictions and the Attendant Bail Schedule for County Facilities Within Merced County" and add Chapter 11.25 of Title 11 of the Merced County Code (repeals ordinance 1482, 1373, 1310, 1298, 1020)

**RECOMMENDATION:** 1) Waive further reading of proposed ordinance; 2) Open Public Hearing and receive comments; 3) Close Public Hearing; 4) Set a Second Reading and possible adoption for April 22, 2014, at 10 a.m.

**REVIEW BOARD ORDER – SEE PAGE 9**

**COUNTY COUNSEL - PUBLIC HEARING - FIRST READING OF PROPOSED ORDINANCE**

Introduce and conduct the first reading of a proposed Ordinance to amend Ordinance 1780 and amend Chapter 5.78 to Title 5 of the Merced County Code entitled "An Ordinance Setting the Bail Schedule of Parking Penalties for Parking Citations and Vehicle Infractions in Merced County and Affirming the Board of Supervisors' Authority to Authorize Other Law Enforcement Agencies to Enforce Chapter 5.78 of the Merced County Code on County-owned or Controlled Facilities.

**RECOMMENDATION:** 1) Waive further reading of proposed ordinance; 2) Open Public Hearing and receive comments; 3) Close Public Hearing; 4) Set a Second Reading and possible adoption for April 22, 2014, at 10 a.m.

**REVIEW BOARD ORDER – SEE PAGE 10**

**COMMUNITY AND ECONOMIC DEVELOPMENT - PUBLIC HEARING**

To consider the Planning Commission's recommended approval of Conditional Use Permit No. CUP13-009 - Sun Harvest Solar LLC.

**RECOMMENDATION:** 1) Open Public Hearing and receive comments; 2) Close Public Hearing; 3) Adopt the Initial Study/Mitigated Negative Declaration; 4) Approve Conditional Use Permit No. CUP13-009 based on the 11 findings and subject to the 15 conditions of approval and 5 mitigation measures; 5) Approve the Mitigation Monitoring and Reporting Program, and remove the project site from the Williamson Act Agricultural Preserve.

**REVIEW BOARD ORDER – SEE PAGES 10 THROUGH 15**

**REPORTS/BOARD DIRECTION**

County Executive Officer, County Counsel, Board of Supervisors Members

CONSENT CALENDAR (Items # 1-19)

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

Public Works

1. Approve and authorize the Chairman to sign Amendment No. 2 to Contract No. 2007008 with Fagundes Brothers Dairy to extend their agreement for grazing rights to October 31, 2017. (4/5 Vote Required)
2. Set Public Hearing for May 20, 2014, at 10 am. to consider a proposed Ordinance superseding Ordinance 1908 entitled "User Charge Rates for Zones of Benefit" and amending Chapter 5.64 to the Merced County Code, which would establish County Service Area Number One User Rates for the 2014/2015 fiscal year.
3. Adopt Resolution for the Summary Vacation of Park Street located in the Community of Ballico.

**ADOPTED RESOLUTION NO. 2014-34**

Ag Commissioner

4. Approve and authorize the Chairman to sign Renewal Contract No. 2010106 with California Department of Food and Agriculture to provide for European Grapevine Moth pest detection trapping activities; and adopt Resolution.

**ADOPTED RESOLUTION NO. 2014-35**

Community and Economic Development

5. Approve and authorize the Chairman to sign Amendment to MOU (Contract No. 2013133) with the Merced Local Agency Formation Commission (LAFCO) for support services; and to reflect LAFCO decision to contract directly for Executive Officer duties.

Health

6. Approve and authorize the Chairman to sign amendment Contract No. 2003162 with Riggs Ambulance Service, Inc. to extend the contract for ground ambulance services to the Local Emergency Medical Services Agency.

Human Services Agency

7. Approve and authorize the Chairman to sign Amendment Contract No. 2013144 with California Department of Aging for Senior Programs; adopt Resolution; and approve related Budget Transfers. (4/5 Vote Required)

**ADOPTED RESOLUTION NO. 2014-37**

8. Approve and authorize the Chairman to sign Renewal of Interdepartmental Agreement No. 2009297 with Merced County Sheriff for social worker safety and support.
9. Approve and authorize the Chairman to sign Amendment No. 2010079 with Merced County Office of Education - Regional Occupation Program to expand services to include Subsidized Employment and increase the budget; and approve related Budget Transfer. (4/5 Vote Required)

Mental Health

10. Approve and authorize the Chairman to sign Amendment to Interdepartmental Agreement No. 2009168 with Merced County Department of Public Health for Alcohol and Drug HIV services; and approve related budget transfer.
11. Approve and authorize the Chairman to sign Amendment Contract No. 2009130 with B & B El Portal Corporation for the lease of office space located at 3305 and 3313 (Suite B) G Street in Merced, updating the Lessor name and extending the 60 month term to a 77 month term.
12. Approve and authorize the Chairman to sign Amendment Contract No. 2013170 with Aegis medical Systems for outpatient narcotic treatment services, approving the assignment of all terms and conditions to Aegis Treatment Centers.

Fire

13. Approve modification to State Homeland Security Grant Program (SHSGP) for grant years 2011 and 2012; and approve related Budget Transfers. (4/5 Vote Required)

Board Recognition

14. Proclaim support and recognition of California Aviation Day on April 23, 2014; and direct staff to distribute the Proclamation as appropriate.
15. Proclaim April 7 - 13, 2014 as National Public Health Week in Merced County.
16. Authorize plaque for Mount Moriah First Baptist Church in celebration of their 75th anniversary.
17. Authorize Certificates of Recognition for individuals selected by The Greater Merced Chamber of Commerce and Junior Leadership Merced as Graduation Class 10 as follows: Enrique Avila, Emily Cervantes, and Alexis Montoya - Atwater High; Emily Brown, Golden Valley High; Taylor Brown, Elijah Crane, Nou Chi Her, Jenna Hobson, Raquel Jacobo, Christian Ortez, and Amaretta Perkins - Merced High; Judith Castaneda, Rosalinda Mendoza, Veer Singh, Rohin Tumber, and Hannah Valenzuela - Livingston High; Darin Dupont and Kelly Vang - Buhach Colony.
18. Authorize Certificate of Recognition to Eddie Mendes and Jon Kelsey for dedicated service to Merced County Farm Bureau.
19. Authorize Proclamation of March 7, 2014 as Arbor Day in the City of Los Banos.

REGULAR CALENDAR

BOARD ACTION

PUBLIC WORKS

20. Approve and authorize the Chair to sign the License Agreement with Larry Viani to farm property acquired for the Campus Parkway Project located north of State Route 140 east of the Hartley Lateral.

**AUTHORIZED CONTRACT NO. 2014046 AS RECOMMENDED AYES: 1, 3, 4, 5  
NOT PRESENT: 2**

21. Approve the project to replace the Los Banos Veterans Hall commercial kitchen hood; authorize the use of District 5 Special Board Project funds in the amount of \$15,000 combined with Veterans and Community Halls funds in the amount of \$22,497; approve the plans and specifications for the project; authorize Public Works to advertise said plans and specifications for a Public Bid Opening; authorize the Director of Public Works to award a Construction Contract provided said bid is within the established budget; authorize the Chairman to execute said contract upon review of County counsel; direct Public Works to return to the Board with an Informational Item describing all actions taken; and approve the related Budget Transfer.

**AUTHORIZED CONTRACT NO. 2014047 AS RECOMMENDED AYES: 1, 3, 4, 5  
NOT PRESENT: 2**

#### HUMAN SERVICES AGENCY

22. Contract with California Department of Aging for Medicare improvement for patient and Provider Act Program; adopt Resolution; and approve related Budget Transfers. (4/5 Vote Required)

**AUTHORIZED CONTRACT NO. 2014048 AND ADOPTED RESOLUTION NO.  
2014-38 AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

#### HEALTH

23. Approve submission of the Safety Net Integration 2014 Grant Application to Blue Shield of California Foundation for planning and coordinating activities to improve systems-level integration of primary and behavioral health; and return to the Board for contract approval if awarded.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

24. Void Contract No. 2013248 and approve Contract with California Department of Public Health for immunization subvention services; and authorize the Chair to sign standard agreement and associated required forms.

**AUTHORIZED CONTRACT NO. 2014049 AS RECOMMENDED AYES: 1, 3, 4, 5  
NOT PRESENT: 2**

#### MENTAL HEALTH

25. Approve departmental personnel actions to change one Alcohol & Drug Program Manager (Pos 202) to a Mental Health Program Manager; and adopt the Position Allocation Resolution.

**ADOPTED RESOLUTION NO. 2014-36 AS RECOMMENDED AYES: 1, 3, 4, 5  
NOT PRESENT: 2**

#### SHERIFF

26. Approve and authorize the Chair to sign the Inter-Departmental Agreement with Merced County Spring Fair to provide police protection services for the 2014 Spring Fair from April 30 through May 4, 2014.

**AUTHORIZED CONTRACT NO. 2014050 AS RECOMMENDED AYES: 1, 3, 4, 5  
NOT PRESENT: 2**

27. Approve and Authorize the Sheriff to sign Letter of Agreement and supporting documents with the U.S. Department of Justice-Drug Enforcement Administration (DEA) to accept funding in the amount of \$85,000 for the 2014 Domestic Cannabis Eradication and

Suppression Program for the eradication of illegal cannabis in Merced County.

**AUTHORIZED CONTRACT NO. 2014051 AS RECOMMENDED AYES: 1, 3, 4, 5**  
**NOT PRESENT: 2**

28. Approve and authorize a one-time retroactive pay adjustment for 66 pay periods for one Correctional Officer (employee ID 17507) in accordance with Human Resources Rules and Regulations.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

TREASURER

29. Grant Revenue and Reimbursement relief of shortages in the amount of \$120; and grant authority to replenish the amount of \$120.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

SPRING FAIR

30. Request the Board approve cash flow loan to Spring Fair from the General Fund of up to \$600,000 bearing an interest rate equal to the rate earned by the Merced County Treasury with loan repayments made as payments are received from the buyers, prior to October 31, 2014; authorize the Auditor-Controller to utilize \$8,000 of the loan proceeds to increase Spring Fair's change fund for operation of the 2014 Fair; Spring Fair will return the \$8,000 at the close of the fair; approve related Budget Transfer. (4/5 Vote Required)

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

REGISTRAR OF VOTERS

31. Contract with Candy Lopez for election management and training for the Gubernatorial Primary Election.

**AUTHORIZED CONTRACT NO. 2014052 AS RECOMMENDED AYES: 1, 3, 4, 5**  
**NOT PRESENT: 2**

WORKFORCE INVESTMENT

32. Approve the rehire of Ms. Eve Snelling in compliance with the conditions of Government Code section 7522.56, certifying that the appointment is necessary before 180 days has passed to fill a critically needed position effective April 7, 2014.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

AG COMMISSIONER

33. Approve rehire of Mark Smith in compliance with the conditions of Government Code section 7522.56, certifying that the appointment is necessary before 180 days has passed to fill a critically needed position effective April 21, 2014.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

BOARD OF SUPERVISORS

34. Authorize \$1,200 of District One Special Board Project Funds to be forwarded to Cesar Chavez Middle School for start up costs for the Planada Track Team; and approve related Budget Transfer.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

35. Authorize \$2,500 from District Four Special Board Project Funds to be forwarded to the Delhi Community Unity to assist with costs of the Delhi Multi-Cultural Festival.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

36. Authorize \$1,200 of District Four Special Board Project Funds to be forwarded to the Merquin Cemetery District to assist with the costs of paying a consultant for activities related to the annexation of land into the Merquin Cemetery District.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

37. Authorize \$500 of District One Special Board Project funds to be forwarded to the Knights of Columbus #9363 to support the 3rd Annual Kite Festival in the City of Livingston; and approve related Budget Transfer.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

**BOARD APPOINTMENTS**

38. Appoint Jennifer Cargill to serve as Business/Private Sector representative; appoint Mark Hendrickson to serve as Economic Development Organization; and appoint Robert Morris as One Stop Partners/WIB on the Workforce Investment Board.

**APPROVED AS RECOMMENDED AYES: 1, 3, 4, 5 NOT PRESENT: 2**

**BOARD INFORMATION & POSSIBLE ACTION**

**ACCEPTED AND PLACED ON FILE AYES: 1, 3, 4, 5 NOT PRESENT: 2**

39. Merced County Mosquito Abatement District re: Manager's Report for February 2014.

40. Fish and Game Commission re: Notice of proposed regulatory action relative to Section 28.20, Title 14, California Code of Regulations, relating to Pacific halibut sport fishing, which was published in the California Regulatory Notice Register on March 28, 2014.

41. Merced Irrigation District re: Petition for Temporary Urgency Change Under Merced Irrigation District's License 11395 (Application 16186). Attachments on file with Clerk.

**THE BOARD RECESSED TO MEET AS AN IN-HOME SUPPORTIVE SERVICES PUBLIC AUTHORITY AND RECONVENED TO MEET AS A BOARD OF SUPERVISORS**

**THE BOARD ADOPTED RESOLUTIONS IN MEMORY OF LEONARD AUE AND JEAN KOZZI AND ADJOURNED THE MEETING UNTIL TUESDAY, APRIL 22, 2014 AT 10:00 A.M.**



**BOARD ORDERS – SUMMARY ACTION MINUTES – APRIL 8, 2014**

**10:00 A.M. SCHEDULED ITEM**

**2014-04-08 PUBLIC OPPORTUNITY**

Allen Spencer, Merced resident, addresses the Board regarding his complaint concerning the Sheriff's department vehicles parking in a no parking zone, and his request to have a meeting with the Sheriff.

The following speak in support of a raise for the In-Home Supportive Services workers: Greg Barnum, Merced resident and home care provider; Sandra Dooley, Atwater resident and home care provider; Diane Mejia, Merced resident and home care provider; Luis Angel Jimenez, Winton resident and home care provider; Susana Saldana, Merced resident and home care provider; Asifa Sohail, Merced resident and home care provider; Sylvia Peralta, Modesto resident and home care provider; and Mike Losa, Regional Coordinator for UDW Union.

Present: O'Banion, Pedrozo, Davis, Kelsey

Not Present: Walsh

**10:00 A.M. SCHEDULED ITEM**

**2014-04-08 COUNTY COUNSEL – PUBLIC HEARING – FIRST READING**

The time and date previously set for a public hearing to consider the first reading of a proposed Ordinance entitled "Re-Establishing Vehicle Parking and Other Restrictions and the Attendant Bail Schedule for County Facilities Within Merced County" as submitted by County Counsel.

Assistant County Counsel Richard Flores provides staff report and states that this item is the companion to the Public Hearing that follows, and essentially codifies codes for parking within County owned facilities. He states that the County has a contract with the city and part of the contract requires updating fees.

Supervisor Kelsey requests additional information on this item.

County Executive Officer James Brown and County Counsel Fincher provide additional background on this item.

The Chairman opens the public hearing and asks if there is anyone present wishing to speak. No one speaks. The Chairman closes the public hearing.

Following brief discussion and upon motion of Supervisor Pedrozo, seconded by Supervisor Davis, duly carried, the Board waives further reading of the proposed Ordinance and sets a Second Reading and possible adoption of the proposed ordinance for April 22, 2014 at 10 a.m.

Ayes: O'Banion, Pedrozo, Davis, Kelsey

Not Present: Walsh

**10:00 A.M. SCHEDULED ITEM**  
**2014-04-08 COUNTY COUNSEL – PUBLIC HEARING – FIRST READING**

The time and date previously set for a public hearing to consider the first reading of a proposed Ordinance entitled “An Ordinance Setting the Bail Schedule of Parking Penalties for Parking Citations and Vehicle Infractions in Merced County and Affirming the Board of Supervisors Authority to Authorize Other Law Enforcement Agencies to Enforce Chapter 5.78 of the Merced County Code on County Owned or Controlled Facilities” as submitted by County Counsel.

Assistant County Counsel Richard Flores provides a staff report and states that the County does not have jurisdiction of setting the fees in this proposed ordinance.

The Chairman opens the public hearing and asks if there is anyone present wishing to speak.

Concerned citizen states she does not understand this proposed Ordinance and believes the public should be made aware of the proposed Ordinance. She further states that she has been trying to obtain copies of the minutes.

County Counsel James Fincher summarizes the Ordinance and explains that the proposed Ordinance would increase parking fees and violations within the parking lots to be in compliance with the State code. Mr. Fincher states that the complete proposed Ordinance is available in the Clerk’s office, and they were published in the newspaper 10 days prior to the hearing.

The Chairman closes the public hearing.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Davis, duly carried, the Board waives further reading of the proposed Ordinance and sets a Second Reading and possible adoption of the proposed Ordinance for April 22, 2014 at 10 a.m.

Ayes: O’Banion, Pedrozo, Davis, Kelsey

Not Present: Walsh

**10:00 A.M. SCHEDULED ITEM**  
**2014-04-08 COMMUNITY AND ECONOMIC DEVELOPMENT – PUBLIC HEARING**

The time and date previously set for a public hearing to consider the Planning Commission’s recommended approval of Conditional Use Permit No. CUP13-009 – Sun Harvest Solar LLC as submitted by Community and Economic Development.

Community and Economic Development Director Mark Hendrickson provides a staff report and summarizes information regarding the project as outlined on the Board Agenda Item. Mr. Hendrickson states this item is before the Board because only the Board may remove the project site from the Williamson Act Agricultural Preserve and notes that the site is not under Williamson Act contract.

The Chairman opens the public hearing and asks if there is anyone present wishing to speak.

Concerned citizen speaks in opposition to this project and questions how the project site can be removed from the Williamson Act and approve mitigation monitoring, and she questions funding.

The Chairman suggests concerned citizen speak to Community and Economic Development Director Mark Hendrickson.

Community and Economic Development Director Mark Hendrickson responds to concerned citizen's statements and states that this is a solar project on 11 acres of property that is privately owned and within the Williamson Act Preserve but not under contract. He further states that there is no funding involved, but it is required that the Board remove the site from the Williamson Act Preserve prior to project approval.

The Chairman closes the public hearing.

Upon motion of Supervisor Pedrozo, seconded by Supervisor Davis, duly carried, the Board adopts the Initial Study/Mitigated Negative declaration and Conditional use Permit No. CUP13-009 based on the 11 findings and subject to the 15 conditions of approval and 5 mitigation measures as follows:

**Project Findings:**

1. Conditional Use Permit No. CUP13-009 for the Sun Harvest Solar LLC (NDP1) Project proposes to construct a 1.5 megawatt (mw) alternating current (AC) photovoltaic (PV) energy generation facility on 11 acres of two parcels totaling 40 acres.
2. The project site is located on the east side of San Juan Road, 550 feet north of Highway 152 in the Dos Palos area.
3. The project is consistent with the Agricultural land use designation and with the Merced County 2030 General Plan, specifically; the Land Use Element, the Transportation Circulation Element, the Health and Safety Element, the Natural Resources Element, and Agriculture Element.
4. Removal of 11 acres from the Merced County Williamson Act Agricultural Preserve is appropriate as the Sun Harvest Solar Energy Project will not compromise the long-term agricultural capability of the project site and adjacent agricultural lands.
5. With implementation of the CEQA Mitigation Measures and Conditions of Approval, the project will not impact County roads or facilities.
6. The project as conditioned is compatible with adjacent uses, properties and neighborhoods.
7. The public hearing has been adequately noticed and advertised.
8. The Zoning Code allows an energy generation facility in the A-1 (General Agricultural) zone with the review and approval of a Conditional Use Permit.

9. The project is also in compliance with all development standards in the A-1 zone.
10. The proposed use, if operated in compliance with all requirements and conditions, will not be a nuisance or detrimental to the public health, safety, or general welfare.
11. The application and Initial Study was referred to the following county agencies for review: Public Works/Building & Safety Division, Division of Environmental Health, Fire Department, and the Department of Public Works/Roads Division. The application was also referred to Caltrans- District 10, California Department of Fish and Wildlife, Regional Water Quality Control, United States Department of Fish and Wildlife – Los Banos, San Joaquin Valley Air Pollution Control District, Pacific Gas & Electric, Native American Heritage Commission, and property owners within 300 feet of the project site. All comments were adequately addressed in the Staff Report and Initial Study.

#### **Conditions of Approval**

##### Planning and Community Development Department

1. Conditional Use Permit No. CUP13-009 is granted for the construction of a 1.5 megawatt solar photovoltaic electrical generating facility on a 11 acres of two parcels totaling 40 acres located on the east side of San Juan Road, 550 feet north of Highway 152 in the Dos Palos area, in accordance with the approved Plot Plan and Operational Statement.
2. The solar photovoltaic electrical generating facility and project shall be located, developed and operated in a manner described on the approved Plot Plan, Project Description, CEQA Mitigation Measures, Mitigation Monitoring and Reporting Program, and Conditions of Approval of this permit. The operation of this facility shall cease no later than 30 years from the Commercial Operation Date. Any subsequent changes must be made in accordance with Merced County Code section 18.50.
3. All CEQA Mitigation Measures identified in the Mitigation Monitoring and Reporting Program are adopted and incorporated by reference as Project Conditions of Approval.
4. The project shall comply with all applicable public health, safety, and welfare regulations administered by the County of Merced, and in particular the County Fire Department, the Health Department/ Environmental Health Division, the Community and Economic Development Department, and Public Works Department/ Road and Building and Safety Divisions.
5. For the purpose of conditions monitoring, an inspection fee in the amount of **\$648.00** shall be required. This fee shall be paid within 30 days of the approval date. Should additional inspections be required, inspection time shall be billed to the applicant/property owner at the established hourly rate at the time of the inspection. This permit will not be considered valid until the conditions monitoring fee has been paid.

6. Prior to issuance of a building permit, the project applicant must obtain all necessary permits and written authorizations and must demonstrate compliance with all applicable regulations administered by Federal and State agencies.
7. Immediately following the cessation of Project business operations or the abandonment of the Project, the applicant shall reclaim the site to pre-project conditions. Prior to the issuance of the first occupancy permit, the applicant shall place a financial assurance (bond, letter of credit, or similar instrument) dedicated specifically for the project to the benefit of Merced County. The County and Sun Harvest Solar, LLC will determine an appropriate amount for the financial assurance instrument. It is the intent of this requirement that the instrument shall provide sufficient financial assurances for Merced County to decommission the Project and fully restore the property following cessation of business operations or the abandonment of the Project if the applicant does not properly decommission the Project and fund full reclamation.

County Counsel

8. **INDEMNITY AND HOLD HARMLESS AGREEMENT:**

Sun Harvest Solar, LLC has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, County, its Board of Supervisors, officers, employees, agents and assigns from and against any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, writ of mandamus, or otherwise. This duty shall include, but not be limited to, claims, petitions, or the like for bodily injury, property damage, personal injury, contractual damages, writ of mandamus, or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents, commissions, boards, and officers of Sun Harvest Solar, LLC.

Sun Harvest Solar, LLC's liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of Sun Harvest Solar, LLC, its agents, subcontractors, employees, boards, and commissions. The duty shall extend to any allegation, claim of liability, or petition, except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of County. This duty shall arise at the first claim, petition, or allegation of liability against County. Sun Harvest Solar, LLC will on request and at its expense, defend any action or suit or proceeding arising hereunder. This clause and shall not be limited to any and all claims, petitions, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, that may arise during the term of this Agreement but shall also apply to all such claims and the like after the term of this contract, for example, arising from land use and environmental law actions, or meeting notice law actions, brought against the County following Project approval, modification, or denial.

This clause for indemnification shall be interpreted to the broadest extent permitted by law.

Public Works Department/ Roads Division

9. Applicant shall construct a paved rural driveway approach for the proposed access onto San Juan Road or Santa Rita Grade, in accordance with Chapter 7, Driveways, of the Merced County DPW Improvement Standards and Specifications. Said Construction shall require an Encroachment Permit from DPW.

Health Department/ Division of Environmental Health

10. Any hazardous materials stored on-site over threshold quantities (55 gallons, 200 cu. ft. or 500 pounds) requires that a hazardous materials business plan (HMBP) be filed with the Division of Environmental Health. A permit shall be obtained for any portable restrooms provided on the project site.

Public Works Department/ Building and Safety Division

11. Applicant shall submit to the County four (4) sets of complete engineered plans and three (3) sets of calculations (or electronic copies) from a licensed architect or engineer.
12. A soils report shall be submitted from a licensed geotechnical engineer as part of plan submittal.

San Joaquin Valley Air Pollution Control District

13. The applicant shall comply with District Rule 9510 (Indirect Source Review) prior to issuance of a Building Permit. The applicant shall contact the SJVAPCD to determine if the project is subject to any other district rule

California Department of Fish and Wildlife

14. All hollow vertical pipes associated with installation of perimeter fencing and solar mounts shall be capped immediately after installation.

CEQA Mitigation Measures

15. The following is a comprehensive list of CEQA Mitigation Measures applicable to the project and are contained in the Mitigation Monitoring and Reporting Program (MMRP). These measures are incorporated by reference into the Conditions of Approval. The applicant shall be responsible to comply with all Mitigation Measures as referenced herein:

Biological Resources

BIO-1: Mitigate for impacts to Swainson's hawk and nesting birds during construction.

Comment [R1]: Add nesting birds

Cultural Resources

CR-1: Cultural deposits found during ground disturbance requires halt to work and notification to the County.

CR-2: Human remains found during ground disturbance requires halt to work and notification of Merced County.

Geology and Soils

GEO-1: Preparation and submittal of a design level geotechnical report.

Hydrology

HYD-1: Preparation of a Stormwater Pollution Prevention Plan.

Upon motion of Supervisor Kelsey, seconded by Supervisor Davis, duly carried, the Board approves the Mitigation Monitoring and Reporting Program and removes the project site from the Williamson Act Agricultural Preserve.

Ayes: O'Banion, Pedrozo, Davis, Kelsey

Not Present: Walsh