

WASHINGTON COUNTY, CO
SOLAR POWER PRODUCTION FACILITIES ZONING REGULATIONS

1. PURPOSE AND INTENT

The purpose and intent of these Regulations is to establish standards and review procedures for applications for Solar Power Production Facilities ("SPPFs") in the County, to protect the health, welfare, safety, and quality of life of the general public, to allow for development while protecting existing agricultural resources and rural character, and to ensure compatibility with land uses in the vicinity of a SPPF.

2. APPLICABILITY

- A. These Regulations shall apply to all SPPFs that are proposed, operated, modified, or constructed in the County.
- B. No modification or alteration, excluding regular maintenance and repair, to an existing SPPF shall be allowed without full compliance with these Regulations.
- C. These Regulations shall not apply to small SECS.

3. PERMITS REQUIRED

Any SPPF shall be constructed, reconstructed, or modified in the County with a valid use by special review and building permits issued by the County.

4. DEFINITIONS

ACCESSORY USE

A use subordinate to, and serving, the principal use or structure on the same lot and customarily incidental thereto, including any small solar energy conversion systems which are primarily energy production by the owner of the property where the small solar energy conversion system is located.

GLARE

The effect produced by light or reflection of light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

OWNER

The owner of the SPPF, which shall include the operator and the permittee.

PERIMETER

The boundary lines for project site upon which a SPPF is located.

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PROJECT SITE

The area which includes all facilities associated with SPPF.

SMALL SOLAR ENERGY CONVERSION SYSTEM

A solar energy conversion system which occupies less than seven acres of total land or is mounted on a structure is considered an accessory use. All small SECS require a building permit from the County.

SOLAR ARRAY

A grouping of multiple solar panels with the purpose of collecting or converting solar energy.

SOLAR ENERGY CONVERSION SYSTEM or SECS

A system of solar panels, support structures and associated control, conversion and transmission hardware and lines, including all necessary solar equipment.

SOLAR EQUIPMENT

Materials including a solar panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

SOLAR PANEL

A device that converts sunlight into electricity using either thermal or photovoltaic methods.

SOLAR POWER PRODUCTION FACILITY or SPPF

A solar energy conversion system on an area of land seven acres or more.

SUPPLY CHAIN DISCLOSURE

The public sharing of information about a company's supply chain, revealing where materials originate, who is involved in production, and under what conditions products are made and transported.

TRANSMISSION LINE

A power line carrying or distributing electricity generated by a SPPF to a point of interconnection on to an electrical grid or other electricity collection facility. Transmission line

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does not include transmission lines or other electric facilities built, owned, and operated by public utilities, as defined per C.R.S. § 40-1-103.

5. APPLICATIONS FOR SPPFS

An application for a use by special review permit for an SPPF shall include the following:

- A. Name, address, and telephone number of the applicant and landowner. Authorization executed by landowner for the applicant to apply for the use by special review permit.
- B. Address or other property identification of each proposed facility including existing use and acreage of parcel.
- C. Proof of ownership or right to possession granted by landowner to applicant.
- D. Title commitment for the property subject to the application issued in the previous six months.
- E. A description of the facility and project including the area covered by the solar panels, and the make, model, a picture, and manufacturing specifications with a supply chain disclosure of the major components of the SPPF. The County encourages the use of U.S.-based suppliers for major components. Procurement decisions remain solely with the developer. This preference is nonbinding and shall not be used to rank, score, condition, or deny a permit.
- F. Vertical drawing of all SPPF equipment, showing total height, dimensions, colors, and locations of the SPPF.
- G. A survey prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly show the following:
 1. Property lines, physical dimensions of the site, and the location, dimensions and types of existing structures and uses on the site.
 2. Public roads and access roads.
 3. Adjoining properties within one thousand (1,000) feet of the site including zoning designations or primary use of property and any structure within two thousand (2,000) feet of the site.
 4. The proposed location, elevation, and total height of each structure.
 5. Above- and below-ground utility lines on the project site.

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6. Setback measurements.
 7. All other proposed facilities on the site including transformers, electrical lines, substations, storage or maintenance units, ancillary equipment or structures, transmission lines, and fencing.
 8. Proposed lighting.
- H. A detailed fire control/prevention and emergency response plan detailing the coordination with local emergency response providers including emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions during the period of the use by special review permit, including but not limited to prior to, during construction of the project and throughout operation of the project. The plan shall include the following:
1. Procedures can include using the emergency notification systems, notifying the fire department or district, evacuating personnel, de-energizing equipment, and controlling and extinguishing fire.
 2. Process to hold biannual meetings with fire and emergency services personnel regarding the response plan and any necessary training. All plans must include a requirement for annual meetings and reports from the annual meeting must be provided to the County. If necessary, any updates to the emergency response plan must be submitted by the owner to the local fire district and to the County Planning and Zoning Department.
 3. Training and equipment necessary to respond to any incident or failure of the SPPF, or any portion of the facility. The initial training must be provided to law enforcement, fire, ambulance, and the Washington County Emergency Management Office prior to the commencement of operations at the SPPF. The ongoing training shall be made available to all agencies.
 4. Any emergency response plan, and any amendments must be approved by the closest fire district and emergency responders, including the Washington County Sheriff's Office and Emergency Management Office.
 5. Detail all monitoring activities and procedures for the project site.
- I. A long-term soil and vegetation remediation plan established in collaboration with the Washington County Conservation Districts focused on specific measures for site preparation, selecting revegetation species, soil fertility, proper planting methods and noxious weed management aimed to re-establish ground cover to prevent soil erosion and provide wildlife habitat. The use of gravel as remediation

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is not permitted. Revegetation should focus on using native flora and water-wise flora, as well as, aiming to re-establish ground cover to prevent soil erosion.

- J. A detailed map identifying existing and abandoned domestic and livestock water wells within a $\frac{1}{4}$ mile of the project. A long-term agreement shall be established between the landowner and the applicant to prevent potential contamination of water wells.
- K. A system and property maintenance plan describing continuing SPPF maintenance and property upkeep during project operation including noxious weed control and foliage suppression measures. This plan shall include proposed maintenance of the solar panels, fencing, and the project site including but not limited to the removal of litter, vegetation debris, and other similar materials from the project site and all setbacks required by these Regulations.
- L. A water use plan detailing water source, usage, and storage during construction and operation of the project.
- M. A list of property owners, with their mailing addresses, within one (1) mile of the outer boundaries of the proposed site with proof of certified letter mailings notifying of project proposal.
- N. Utility Interconnection or Crossing. The applicant will provide certification of intent to enter into an interconnection agreement and crossing agreement(s) to or with applicable utilities.
- O. A complaint resolution procedure in accordance with Sec. 12 below.
- P. Reports on the following:
 - 1. Visual impact. This report shall include renderings of the site fully developed and demonstrating any visual impacts from surrounding properties, rights-of-way, and public property. Color photographs of the proposed site accurately depicting the existing conditions shall be included. The study shall also indicate the color treatment of the facility's components, and any visual screening incorporated into the project that is intended to lessen visual prominence.
 - 2. Wildlife Impact Study. A study completed by an independent, qualified wildlife biologist and/or ornithologist should be provided including the following:
 - a. Consult with and provide documentation from the CPW and/or United States Fish and Wildlife Service (USFWS) in regard to best practices and guidelines in the siting, design, and operation of a solar

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- panels and appurtenant facility to protect the natural resources of watersheds, wetlands, and wildlife habitat on site and in the biologically significant surrounding areas.
 - b. The results of any environmental review requested from the Colorado Parks and Wildlife (CPW). This will include a basic analysis of Critical and High Priority Habitats as mapped by the CPW and any minimization and mitigation efforts planned to reduce impacts to those Critical and High Priority Habitats and species.
 - c. Compensatory mitigation will be considered.
 - d. A literature review for threatened and endangered species.
3. Economic Impact Study Required. The study shall include probable financial impact regarding jobs, tax revenue, lease payments and property values at a minimum and average set-backs distances. Business and residential growth potential shall be considered. The study shall include, without limitation, the following:
- a. The amount of property taxes to be generated by the project.
 - b. The amount of sales taxes to be generated by the project.
 - c. The amount of other applicable taxes to be generated by the project.
 - d. The construction dollars to be spent locally.
 - e. The number of construction jobs and estimated construction payroll.
 - f. The number of permanent jobs and estimated continuing payroll.
 - g. The costs associated with the impact on roads or other County infrastructure in the project site.
 - h. The projected effect on property values in the surrounding areas within a 5 mile radius of the project site.
4. Environmental Analysis. In the absence of a required environmental analysis by a state or federal agency which encompasses the entire project area, provide a project impact review and a proposed impact mitigation plan. The project impact review and mitigation plan shall address all of the following:
- a. Flora and noxious weeds on the site.

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- b. Soil erosion and drainage, amount of soil to be displaced, removed or damaged to be coordinated with the local Conservation District.
 - c. Historic, cultural or archaeological resources within project site.
 - 5. Maintenance of Solar Panels. A plan certifying that the solar panels will be maintained and operated in accordance with manufacturer specifications, Owner Environmental Health and Safety Plans, applicable Occupational Health and Safety Administration (OSHA) requirements to ensure the safety of site personnel and the public, and in a manner that reduces fire risks caused by vegetation. Further, the report shall describe any potential environmental impacts from panels, particularly if there are defects in the panels or damage to the panels.
 - 6. Land use and water impacts. This report shall detail potentially impacted wetlands, surface water, including storm water and snow melt, and groundwater resources, and the geology and land use of the site.
 - 7. A map showing local parks, recognized historic or heritage sites.
- Q. Decommissioning and Site Restoration Plan. A decommissioning and site restoration plan shall include:
- 1. The anticipated life of the SPPF;
 - 2. Triggering events for decommissioning and removal;
 - 3. The manner in which the SPPF will be decommissioned, and the site restored including removal of all structures, solar arrays, cabling, electrical components, debris, and foundations, and restoration of roads and driveways, less any fencing or residual minor improvements requested by the landowner;
 - 4. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
 - 5. A soil and vegetation remediation plan established in collaboration with the Washington County Conservation Districts focused on specific measures for site preparation, selecting revegetation species, soil fertility, proper planting methods and noxious weed management aimed to re-establish ground cover to prevent soil erosion and provide wildlife habitat specific for the species that occur in that area or the High Priority Habitat that occurs in that area.

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6. The requirement to enter a road use agreement prior to decommissioning. The road use agreement shall comply with the requirements in Section 8(H)(1) below.
 7. A non-salvage cost estimate for the decommissioning prepared by a professional engineer or contractor with expertise in related decommissioning projects. The County may engage an independent third party to review the costs of decommissioning as submitted by the applicant or owner.
- R. All studies required by other applicable laws and regulations.
- S. An unredacted copy of the equipment manuals.
- T. Deposit. In addition to application and permit fees, the applicant shall deposit with the County an amount estimated to cover the fees and expenses of consultants and experts reasonably necessary to assist the County in reviewing and evaluating permit applications. All fees for such consultants shall be borne by the applicant. The amount of the deposit shall be determined by the County after the initial review of the application for completeness.
1. If at any point during the application review and processing, the County determines the deposit to be insufficient, the County may require the applicant to deposit additional monies with the County.
 2. If the applicant fails to deposit additional funds with the County within fourteen (14) days after receiving notice from the County, the application review process shall cease until the applicant makes the required deposit.
 3. If the applicant does not make the required additional deposit within ninety (90) days of the notice, the applicant shall be deemed withdrawn and any remaining deposit shall be returned to the applicant.
 4. Any deposit amounts which are in excess of actual costs shall be returned to the applicant within ninety (90) days of final decision on the application.
 5. An itemized billing of all expenses shall be provided to the applicant, except for any confidential information or work product.
- U. Sales and Use Tax. Sales and/or use tax will be assessed and will be due upon completion of the project.
- V. Impact Fee. Issuance of any permit under these Regulations shall be conditioned on payment to the County of an impact fee established by the County's fee schedule.

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6. APPLICATION REVIEW PROCESS

- A. Application. All use by special review applications shall be submitted to the County Planning and Zoning Department, which shall review the application for completeness. The application shall not be scheduled for review by the Planning and Zoning Commission or the Board of County Commissioners until it is complete. If the application is incomplete, the applicant will be provided with a written statement detailing the missing information. If the application is complete, the Planning and Zoning Department will forward the application to the Planning and Zoning Commission for review.
- B. Fees. Applicant shall pay the application and permit fees as set by the Board of County Commissioners indicated on the Washington County fee schedule. The County shall notify the application of any required deposit pursuant to these regulations.
- C. Notice. Notice of public hearings before the Planning and Zoning Commission and the Board of County Commissioners shall be provided as follows:
 - 1. Publication. At least ten (10) calendar days prior to a public hearing, a notice shall be published by the Planning and Zoning Department at least one time in a general circulation newspaper within the County. A publisher's affidavit shall be submitted to the Planning and Zoning Department prior to the hearing date to verify the publication of the required notice.
 - 2. Written Notice. At least fourteen (14) calendar days prior to a public hearing, a written notice shall be sent by certified mail with proof of mailing by the applicant to all property owners within the project boundary and adjacent property owners within twenty-five hundred (2,500) feet of the boundary of the project site. The proof of mailing receipts for each letter, a list of property owners notified, and a map illustrating the location of those properties within the required notice area shall be submitted to the Planning and Zoning Department prior to the hearing date.
 - 3. Notices shall contain the following information:
 - a. The name of the applicant;
 - b. A brief description of the application;
 - c. A vicinity map showing the subject properties;

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- d. The date, time and location of the hearing and name of the decision-making body conducting the hearing; and
- e. Notice indicating more complete information about the application is available at the Planning Department and provide the telephone number, address, and an email contact for the Planning Department.

D. Public Hearings.

1. General. No public hearing shall commence, nor testimony taken, until all notice procedures are met. At a hearing to consider an application the reviewing body shall review the data supplied by the applicant, review the findings and recommendations of the Planning and Zoning Department, and take testimony from all interested persons in attendance. The applicant shall offer evidence in support of the application sufficient to enable the reviewing body to consider the matter and make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of the application.
2. Planning Commission. The Planning and Zoning Commission shall hold a public hearing on the application after required notice. After reviewing the Planning and Zoning staff report, if any, and receiving testimony and evidence, the Planning and Zoning Commission shall provide a recommendation to the Board of County Commissioners at the conclusion of the public hearing. Its recommendation shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety, and welfare.
3. Board of County Commissioners. The Board of County Commissioners shall hold a public hearing on the application after required notice. After reviewing the Planning and Zoning Department report and the Planning and Zoning Commission's recommendation and receiving testimony and evidence, the Board of County Commissioners shall render its decision within thirty (30) days after the conclusion of the public hearing. The decision shall set forth the findings of fact together with conditions of approval considered necessary to mitigate impacts and protect the public health, safety, and welfare.
4. Consultants. The County may hire any consultants and/or experts reasonably necessary to assist the County in reviewing and evaluating permit applications. All fees for such consultants shall be borne by the applicant, and the County may require the applicant to pay a deposit for

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those estimated costs prior to the County commencing any review of the application.

7. REVIEW CRITERIA

The following criteria will be used by the Planning and Zoning Commission and the Board of County Commissioners, when reviewing an application for use by special review. Use by special review permit may be granted only if:

- A. The SPPF will generally comply with the County's Master Plan and not unreasonably interfere with the County's development;
- B. The SPPF complies with the regulations and standards for SPPFs;
- C. The SPPF is not detrimental to the public health, safety, and general welfare;
- D. The SPPF will not result in a substantial adverse impact on property in the vicinity of the subject property;
- E. Glare shall not negatively impact surrounding properties, wildlife (including raptor nests and lekking areas), or livestock;
- F. All on and off-site impacts have been satisfactorily mitigated either through agreement, public improvements, site plan requirements or other mitigation measures; and
- G. The application is compliant with all applicable regulations.

8. STANDARDS AND REGULATIONS

- A. SPPFs shall be screened or shall be enclosed by fencing a minimum of eight (8) feet in height. Screening and/or fencing shall be consistent with the surrounding character and utilize landscaping and/or native vegetation strategies to screen the facility from routine view of public rights-of-way or adjacent residential property. When fencing is used, the type and style of fencing shall also reflect any safety concerns specific to the public and adjacent wildlife (gaming fencing with sliding gates without barbed wire along the top).
- B. The perimeter of the project site shall be subject to the following setbacks:
 - 1. Sixty (60) feet from the centerline of any right-of-way of any public, private, or County road, except setbacks shall be one-hundred and fifty (150) feet from the center point of road intersections adjacent to the project site. Traffic signage posted at effected intersections will be at the discretion of Road and Bridge District Supervisor.

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2. Sixty (60) feet from any property line. However, the County may impose a reduced setback if agreed to by the owner of the property on which the subject structure is located.
 3. One thousand (1000) feet from the nearest point of any existing building designed or used for human occupancy or assembly including but not limited to a dwelling, school, child care facility, or church. However, the County may grant a reduced setback if agreed to by the owner of the property in a written waiver on which the subject structure is located.
 4. Setbacks shall not be required along property lines adjacent to other parcels which are part of the SPPF. However, should properties be removed from the system, setbacks must be established along all property lines of those properties remaining within the project which are adjacent to a parcel which has been removed.
- C. Glare resistant panels shall be required for all SPPFs.
- D. Any lighting shall be in accordance with dark sky recommendations by CPW (shielded and downward facing) to contain light within the perimeter to the maximum extent possible with the use of motion sensing detection automation when possible.
- E. SPPF solar equipment shall not exceed a maximum of 20 feet in height as measured from grade at the base of the equipment to its highest point during operation.
- F. The construction and operation of all SPPFs shall be consistent with applicable local, state, and federal regulations, including but not limited to, safety, construction, electrical, communication, and fire requirements.
- G. Construction or maintenance activities shall not result in the unabated introduction or spread of noxious weeds and other undesirable weed species.
- H. Siting and Installation.
1. Road access to project site. Entrances to access roads must be gated and kept locked. The applicant must only use designated traffic routes as approved by the County. Routes shall be chosen to minimize traffic impacts, taking into consideration SPPF related traffic during school bus times, wear and tear on local roads, and impacts on local businesses and agricultural activity. Existing roads shall be used to the extent possible or if new roads are needed, they shall minimize the amount of land used and the adverse environmental impacts. The applicant is responsible for remediation of any damaged roads due to siting and installation of the SPPF.

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Dust and soil erosion will be mitigated by the applicant during construction and operation of the project. If any County roads will be used during construction of a SPPF for the purpose of transporting parts, materials and/or equipment, the applicant shall enter into a road agreement with the County, in a form provided by the County, and shall also include the following:

- a. A map showing which County roads will be used during construction.
 - b. A pre-construction baseline survey of County roads to be used during construction to document their pre-construction condition.
 - c. A mitigation plan to address potential impacts to County roads to be used during construction.
 - d. A legally binding agreement between the applicant and the County that requires the applicant to return any County roads to their pre-construction baseline. The agreement shall describe any anticipated improvements to existing roads, bridges, or other infrastructure, as well as measures which will be taken to restore damaged or disturbed access routes following construction. This plan shall include dust mitigation procedures during construction and operation of the project.
 - e. Estimation of costs of maintenance during construction, or restoration or repairs anticipated as a result of the use of the County road(s).
 - f. To secure the maintenance and restoration of the County roads, applicant shall furnish the County, at applicant's expense and prior to commencement of installation and construction of the project, cash or an irrevocable letter (or letters) of credit in which the County is designated as beneficiary in an amount equal to one hundred fifteen percent (115%) of the estimated costs of maintenance and restoration of the County roads as described in the road agreement provided by the County.
2. Power lines. Power lines between SPPF equipment and any other buildings or structures, including without limitation any on-site substations, shall be completely underground. Power lines for connection to a public utility and transmission poles, towers, and lines may be above ground provided applicant can show that undergrounding these facilities creates an undue burden upon the applicant, which may include excessive costs, safety hazards, or engineering impracticality.

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3. Geotechnical Report. The applicant shall provide written certification that prior to construction a professional engineer licensed in Colorado will complete a geotechnical study that includes the following:
 - a. Soils engineering and engineering geologic characteristics of the site based upon on-site sampling and testing.
 - b. Foundation and design criteria for all proposed structures.
 - c. Slope stability analysis.
 - d. Grading criteria for ground preparation, cuts and fills, and soil compaction.
 - e. Geotechnical impact. This shall at a minimum include an analysis of soils engineering and engineering geologic characteristics of the site based on on-site sampling and testing, foundation design criteria for all proposed structures, slope stability analysis, grading criteria for ground preparation, cuts and fills, and soil compaction.
 4. Certification of Equipment and Appurtenant Facilities. All solar collector facilities shall be reviewed by a registered structural engineer, licensed in Colorado, to confirm their compliance with the applicable State, Federal and local regulations and to conform with good engineering practices. The design shall be sufficient to withstand wind and snow loading for the area.
 5. Certification by Electrical Engineer. The electrical system shall be certified by a registered electrical engineer, licensed in Colorado, to be compliant with the applicable State, Federal and local regulations, and to conform with good engineering practices.
- I. Connection of transmission lines from the SPPF to local distribution lines.
 1. The SPPF shall meet the requirements for interconnection and operation as set forth in the public utility's current service regulations applicable to SPPFs.
 2. Transmission lines and points of connection to local distribution lines shall be combined to the extent feasible. The SPPF shall be connected to existing substations if possible, or if new substations are needed, the number shall

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be minimized. The length of all transmission lines shall be minimized to the greatest extent reasonably feasible, provided that, in general, longer underground lines shall be preferred to shorter above-ground lines. Above-ground transmission lines shall be located adjacent and parallel to existing above-ground transmission lines to the greatest extent feasible. Alternate locations for above-ground transmission lines may be approved upon showing that the location protects view corridors to a greater extent than locating them adjacent and parallel to existing transmission lines.

3. All systems shall comply with all applicable building and electrical codes.
4. Transmission from the project substation to the point of electrical interconnection shall comply with the National Electrical Code.

J. Environmental and Visual Effects.

1. Signage. The owner shall place signage with contact information for the owner and any necessary warning information. No signage is permitted with the project site or on any fencing that is larger than 30 square feet. No signage is permitted within any setback.
2. Colors and surfaces of SPPF. Colors and surface treatment of all SPPF shall minimize visual disruption by using white, beige, off-white, gray, the standard colors of blue or black, or another non-reflective, unobtrusive color. SPPF components shall make use of materials, textures, screening, and landscaping that blend the facility into the natural setting and existing environment to the extent practicable.
3. Ecosystems and animals.
 - a. SPPF may not cause any violations of the Endangered Species Act.
 - b. Impacts by the SPPF on the surrounding properties have been adequately minimized, including but not limited to impacts on wildlife.
4. Visual setbacks. To the extent practical without substantially diminishing their solar source, the SPPF shall be set back from the tops of visually prominent ridgelines and designed and located to minimize adverse visual impact. The SPPF shall not be installed in any location that would substantially detract from or block the view of all, or a portion of, a recognized scenic vista as viewed from any public viewing areas such as public parks, roads, trails, or open space.

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5. Mitigation of pests, including prairie dogs, and noxious weeds shall be completed prior to construction commencing. Continued control of nuisances and hazards created by pests, including prairie dogs, and noxious weeds affecting the project site and neighboring landowners due to SPPF construction and operation must be maintained

K. Operation.

1. Maintenance. The owner of the SPPF shall submit an annual report of operations and maintenance to the County Planning and Zoning Department. All SPPFs must be maintained in operational condition meeting all of the requirements of these Regulations and other permit conditions at all times, subject to reasonable maintenance and repair outages. The owner must comply with the maintenance plan and ensure all solar panels do not cause environmental damage to the underlying property. The project site, all setback areas required by these Regulations, and fencing, must be kept clear of litter, vegetation debris, and other similar materials.
2. Inspections. With a specific need or reasonable cause, such as a complaint, suspected violation, or routine scheduled review, the County has the right to enter the premises with a 24-hour notice and permission from the owner of the SPPF to inspect the SPPF for compliance with these regulations and the terms of the use by special review permit. The County may hire a consultant to assist with any such inspections at a reasonable cost to be charged to the owner of the SPPF.

L. Decommissioning.

1. Updated Decommissioning Plan. The owner shall update the decommissioning plan every five (5) years after approval and provide a copy of the updated plan to the Planning and Zoning Department. If there are no updates to the plan, the operator shall notify in writing the County instead of submitting an updated plan.
2. Security
 - a. Prior to commencement of construction or installation of an approved SPPF, the owner shall submit to the Planning and Zoning Department proof of financial guarantee in an amount of 100% of total decommissioning project cost, provided by a surety bond, letter of credit, or cash, in a form acceptable to the County.

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- b. The amount of the guarantee shall be updated every two (2) years at the rate of 1.5 times CPI (consumer price index) for each year.
 - c. Failure to keep such financial security in full force and effect at all times while the project exists shall constitute a material violation of a special use approval and these regulations and shall subject the owner to all available remedies to the County, including enforcement action, fines, revocation of the special use approval and removal of SPPF.
 - d. The owner shall be responsible for the payment of all attorney fees and other costs incurred by the County in the event the SPPF is not voluntarily removed in accordance with the decommissioning plan and the County must enforce removal.
 - e. The owner shall execute any and all documents (as provided or approved by the County), sufficient to provide the County with a perfected security interest in monies deposited with the County for the purpose of decommissioning any SPPF.
- 3. Abatement and Decommissioning. If the SPPF is not operational or operated for a continuous period of 12 months, it shall be considered abandoned, and the County may direct its owner to decommission it pursuant to this section. The owner shall execute any and all documents sufficient to provide to release the security guarantee to the County for the purpose of decommissioning. If the owner fails to decommission the SPPF as required, the County may contract for its removal and charge the current owner for all additional costs incurred.
- 4. Discontinuation or Abandonment of Project
 - a. Thirty (30) days prior to such time that a SPPF is scheduled to be abandoned or discontinued, the owner shall notify the Planning and Zoning Department by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.
 - b. Within one (1) year of the date of abandonment or discontinuation, the owner shall complete the physical removal of the solar energy project and site restoration. This period may be extended at the request of the owner, upon approval of the Planning Commission.
- 5. Decommissioning of discontinued or abandoned SPPF shall include the following:

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- a. Physical removal of all solar energy equipment and above ground appurtenant structures from the subject property including, but not limited to buildings, machinery, equipment, cabling and connection to transmission lines, equipment shelters, security barriers, electrical components, roads, unless roads need to remain to access buildings retrofitted for another purpose, or the landowner submits a request to the Planning Commission that such roads remain.
- b. Below-grade structures, such as foundations, underground collection cabling, mounting beams, footers, and all other equipment installed with the system shall be removed to a depth of 48 inches; however, these structures may be allowed to remain if a written request is submitted by the landowner and a waiver is granted by the Board of County Commissioners subject to determination that there is no public health or safety issues with allowing the structures to remain.
- c. Compacted soils shall be de-compacted as agreed to by the landowner.
- d. Restoration of the topography of the project site to its preexisting condition, except that any landscaping or grading may remain in the after-condition if a written request is submitted, and a waiver is granted by the Board of County Commissioners subject to a determination that any waiver will not result in nuisance conditions.
- e. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local, state, and federal solid waste disposal regulations.
- f. An executed road use agreement complying with the requirements in Section 8(H)(1) above prior to commencement of decommissioning.

9. LIABILITY INSURANCE AND RESPONSIBILITY FOR COSTS

The owner is required to demonstrate that their liability insurance has a minimum coverage of \$5 million per occurrence and \$10 million aggregate. The insurance shall remain in effect during the permit. In the event a public service such as police, fire, or rescue is required due to the operation, maintenance, or failure of the solar energy system, any cost incurred as a result of said event shall be the sole responsibility of the owner of the SPPF.

10. APPROVAL TIME FRAME AND ABANDONMENT

WASHINGTON COUNTY, CO
SOLAR POWER PRODUCTION FACILITIES ZONING REGULATIONS

The use permit for a SPPF shall be valid for a period of three (3) years from the date of approval. The owner may seek an extension of the approval period from the Board of County Commissioners by demonstrating a need for an extension and filing an application with the County Planning Department. Each renewal application shall be accompanied by the appropriate fee, as established by the Board of County Commissioners. Requested renewals may be in one year, two year, or three year terms. However, no extensions shall extend the approval period beyond six (6) years from the date of the original approval of the use by special review permit. If the owner fails to achieve substantial construction and installation of the facility within the approved period, including any extensions, the approval shall expire and a new application shall be required. The applicant or owner shall be responsible to apply for and obtain any necessary extensions for any building permit issued for the facility.

11. AMENDMENTS

- A. Change in ownership without any other amendments to the permit shall be considered a minor amendment and may be approved administratively by the Board of County Commissioners without a public hearing. Upon transfer or sale, the decommissioning bond shall be maintained at all times, the estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new ownership. Any change in ownership shall be reported to the County within thirty (30) days of the change. Failure to do so may result in revocation or suspension of the use by special review permit.
- B. Any other changes to the permit shall be considered a major amendment and require approval of the County in the same manner as the original permit.

12. COMPLAINT RESOLUTION

- A. The purpose of this section is to provide the public with a mechanism to file a complaint with the SPPF owner and the Planning and Zoning Department and receive a timely response from the SPPF owner regarding an alleged violation. The applicant shall submit procedures which it intends to implement for receiving, acting upon, and resolving complaints or allegations that the SPPF system is not in compliance with these Regulations.

Those procedures, at a minimum, shall:

- 1. Require the system owner to document complaints regarding noncompliance with these regulations from all property owners within the project boundary and up to a two thousand (2,000) feet of the solar equipment.
- 2. Provide current contact information at which the owner can be contacted for the purpose of submitting complaints or allegations of non-compliance.

WASHINGTON COUNTY, CO
SOLAR POWER PRODUCTION FACILITIES ZONING REGULATIONS

3. Require that all such complaints or allegations be submitted in writing, or digitally signed email.
4. As a condition of the SPPF owner acting on the complaint, require that a complainant allow the owner or designated staff, or other authorized personnel such as an engineer, on the property of the complainant for further investigation and testing.
5. Set forth information that must be included in the complaint or allegation.
6. Require that a complaint is acknowledged in writing by the SPPF owner to both the complainant and the Washington County Planning and Zoning Department within five (5) business days of receipt of said complaint.
7. Set forth the number of days, not to exceed thirty (30), or five (5) days if deemed hazardous, in which the owner shall investigate, determine the corrective action necessary, if any, and establish a schedule within which to resolve any and all complaints or allegations, either by way of correction or formal denial of non-compliance.
8. Require the owner to advise the Planning and Zoning Department in writing of the proposed resolution plan of any complaint or allegation of non-compliance within thirty (30) days of its receipt of the same.

13. VIOLATIONS

- A. If there is an allegation violation of the conditions of use by special review permit or these Regulations, or if the approval or the permit was obtained by false representation or issued in error, the Board of County Commissioners may revoke the permit, and/or amend conditions imposed on the permit that are related to the violation. Amendment of the terms and conditions shall include the addition of new conditions and the removal of conditions. The Planning and Zoning Department shall first consider the alleged violation(s) and determine whether there is sufficient evidence that a violation(s) has occurred or is occurring. Upon a determination that sufficient evidence exists, the Planning and Zoning Department shall issue an order to show cause to the alleged violator, directing the alleged violator to appear before the Board of County Commissioners and show why the approval and/or permit should not be revoked or amended. The order to show cause shall set a time and date for hearing on the violation to be held at least fourteen (14) days from the date of the order. The order to show cause shall be personally served, posted on the property subject to the permit, or sent certified mail to the alleged violator and the owner, if different.

WASHINGTON COUNTY, CO
SOLAR POWER PRODUCTION FACILITIES ZONING REGULATIONS

- B. The Board of County Commissioners shall conduct the show cause hearing and the owner may present evidence as to why the County should not revoke the permit or amend the conditions on the permit. The Board of County Commissioners may also hear from individuals directly aggrieved by the alleged violation. No other individuals have the right to be heard at the hearing. The Board of County Commissioners shall determine whether to revoke the permit and/or amend conditions within fourteen (14) days after the conclusion of the hearing. The Board of County Commissioners shall notify the alleged violator and/or owner in writing of its decision.
- C. Nothing herein shall be deemed to limit the County's rights to enforce any violation of its zoning regulations under state law.

RESOLUTION 46-2025

A RESOLUTION OF THE WASHINGTON COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING SOLAR POWER PRODUCTION FACILITIES ZONING REGULATIONS

WHEREAS, Washington County has authority to regulate land use pursuant to C.R.S. §§ 29-20-101 *et seq.* and 30-28-101 *et seq.* and such authority is vested with the Board of County Commissioners;

WHEREAS, the Washington County Planning and Zoning Commission considered the proposed solar power production facilities zoning regulations at a duly noticed public hearing on August 26, 2025; September 2, 2025; and September 9, 2025

WHEREAS, on September 9, 2025, the Washington County Board of County Commissioners held a duly noticed public hearing on the proposed regulations; and

WHEREAS, after considering public testimony received and the recommendation of the Planning Commission, the Board of County Commissioners finds these proposed regulations to be in the best interest of the citizens of Washington County and are necessary for the preservation of public health and safety.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, COLORADO:

Section 1. The Washington County Solar Power Production Facilities Zoning Regulations attached hereto as Exhibit A are hereby adopted.

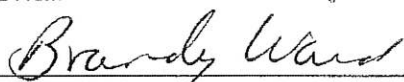
Section 2. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

Section 3. This resolution shall be in full force and effect upon its passage and approval.

APPROVED this 9th day of September, 2025.

BOARD OF COUNTY COMMISSIONERS
OF WASHINGTON COUNTY, COLORADO


Chair


Commissioner



Annie Kuntz
Annie Kuntz, Clerk and Recorder

Scott H. Remy
Commissioner

CHAPTER 311

GOVERNMENT - COUNTY

HOUSE BILL 11-1199

BY REPRESENTATIVE(S) Gardner B., Barker, Hamner, Hulinghorst, Miklosi, Nikkel, Pabon, Priola, Schafer S., Todd;
also SENATOR(S) Bacon, Lundberg, Williams S.

AN ACT

CONCERNING LIMITS ON FEES FOR THE APPROVAL OF THE INSTALLATION OF SOLAR ENERGY DEVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Short title. This act shall be known and may be cited as the "Fair Permit Act".

SECTION 2. 30-28-113 (1) (b) (II), Colorado Revised Statutes, is amended to read:

30-28-113. Regulation of size and use - districts - repeal. (1) (b) (II) A county ~~may~~ SHALL not charge permit, PLAN REVIEW, OR OTHER fees to install an active solar ~~energy~~ ELECTRIC OR SOLAR THERMAL device or system that, in aggregate, ~~are in excess of~~ EXCEED the lesser of the county's actual costs in issuing the permit or five hundred dollars for a residential application or one thousand dollars for a nonresidential application IF THE DEVICE OR SYSTEM PRODUCES FEWER THAN TWO MEGAWATTS OF DIRECT CURRENT ELECTRICITY OR AN EQUIVALENT-SIZED THERMAL ENERGY SYSTEM, OR THAT EXCEED THE COUNTY'S ACTUAL COSTS IN ISSUING THE PERMIT IF THE DEVICE OR SYSTEM PRODUCES AT LEAST TWO MEGAWATTS OF DIRECT CURRENT ELECTRICITY OR AN EQUIVALENT-SIZED THERMAL ENERGY SYSTEM. THE COUNTY SHALL CLEARLY AND INDIVIDUALLY IDENTIFY ALL FEES AND TAXES

SECTION 3. 31-15-602 (4) (b), Colorado Revised Statutes, is amended to read:

31-15-602. Energy-efficient building codes - legislative declaration - definitions - repeal. (4) (b) (I) A municipality ~~may~~ SHALL not charge permit, PLAN REVIEW, OR OTHER fees to install an active solar ~~energy~~ ELECTRIC OR SOLAR THERMAL device or system that, in aggregate, ~~are in excess of~~ EXCEED the lesser of the municipality's actual costs in issuing the permit or five hundred dollars for a residential application or one thousand dollars for a nonresidential application IF THE DEVICE OR SYSTEM PRODUCES FEWER THAN TWO MEGAWATTS OF DIRECT CURRENT ELECTRICITY OR AN EQUIVALENT-SIZED THERMAL ENERGY SYSTEM, OR THAT EXCEED THE MUNICIPALITY'S ACTUAL COSTS IN ISSUING THE PERMIT IF THE DEVICE OR SYSTEM PRODUCES AT LEAST TWO MEGAWATTS OF DIRECT CURRENT ELECTRICITY OR AN EQUIVALENT-SIZED THERMAL ENERGY SYSTEM. THE MUNICIPALITY SHALL CLEARLY AND INDIVIDUALLY IDENTIFY ALL FEES AND TAXES ASSESSED ON AN APPLICATION SUBJECT TO THIS SUBPARAGRAPH (I) ON THE INVOICE. The general assembly hereby finds that there is a statewide need for certainty regarding the fees that can be assessed for permitting ~~an active solar energy device or system~~ SUCH DEVICES OR SYSTEMS, and therefore declares that this paragraph (b) is a matter of statewide concern.

(II) This paragraph (b) is repealed, effective July 1, ~~2011~~ 2018.

SECTION 4. Part 1 of article 48.5 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

24-48.5-113. Limit on solar device fees - repeal. (1) AN AGENCY, INSTITUTION, AUTHORITY, OR POLITICAL SUBDIVISION OF THE STATE SHALL:

(a) NOT CHARGE PERMIT, APPLICATION REVIEW, OR OTHER FEES TO INSTALL AN ACTIVE SOLAR ELECTRIC OR SOLAR THERMAL DEVICE OR SYSTEM THAT, IN AGGREGATE, EXCEED:

(I) THE LESSER OF THE ACTUAL COSTS IN ISSUING THE PERMIT OR REVIEWING THE APPLICATION OR FIVE HUNDRED DOLLARS FOR A RESIDENTIAL APPLICATION OR TWO THOUSAND DOLLARS FOR A NONRESIDENTIAL APPLICATION IF THE DEVICE OR SYSTEM PRODUCES FEWER THAN TWO MEGAWATTS OF DIRECT CURRENT ELECTRICITY OR AN EQUIVALENT-SIZED THERMAL ENERGY SYSTEM; OR

(II) THE ACTUAL COSTS IN ISSUING THE PERMIT IF THE DEVICE OR SYSTEM

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 10, 2011

An Act

SENATE BILL 17-179

BY SENATOR(S) Gardner and Kerr, Fenberg, Fields, Garcia, Guzman, Jones, Kagan, Kefalas, Lundberg, Merrifield, Priola, Todd, Williams A.; also REPRESENTATIVE(S) Herod and Sias, Arndt, Becker K., Benavidez, Esgar, Exum, Gray, Hamner, Hansen, Hooton, Lee, Lontine, McLachlan, Melton, Michaelson Jenet, Mitsch Bush, Pettersen, Rosenthal, Salazar, Singer, Valdez, Weissman, Winter, Young, Duran.

CONCERNING THE LIMITATION ON THE AMOUNT OF FEES THAT CAN BE ASSESSED FOR ALLOWING SOLAR ENERGY DEVICE INSTALLATIONS, AND, IN CONNECTION THEREWITH, EXTENDING THE REPEAL DATE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-48.5-113, amend (1)(a) introductory portion and (2) as follows:

24-48.5-113. Limit on solar device fees - repeal. (1) An agency, institution, authority, or political subdivision of the state shall:

(a) Not charge permit, application review, or ANY other RELATED OR ASSOCIATED fees to install an active solar electric or solar thermal device or system that, in aggregate, exceed:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) This section is repealed, effective ~~July 1, 2018~~ JULY 1, 2025.

SECTION 2. In Colorado Revised Statutes, 30-28-113, amend (1)(b)(II) as follows:

30-28-113. Regulation of size and use - districts - repeal.
(1) (b) (II) A county shall not charge permit, plan review, or ANY other RELATED OR ASSOCIATED fees to install an active solar electric or solar thermal device or system that, in aggregate, exceed the lesser of the county's actual costs in issuing the permit or five hundred dollars for a residential application or one thousand dollars for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized thermal energy system, or that exceed the county's actual costs in issuing the permit if the device or system produces at least two megawatts of direct current electricity or an equivalent-sized thermal energy system. The county shall clearly and individually identify all fees and taxes assessed on an application subject to this subparagraph ~~(II)~~ SUBSECTION (1)(b)(II) on the invoice. The general assembly hereby finds that there is a statewide need for certainty regarding the fees that can be assessed for permitting such devices or systems, and therefore declares that this subparagraph ~~(II)~~ SUBSECTION (1)(b)(II) is a matter of statewide concern. This subparagraph ~~(II)~~ SUBSECTION (1)(b)(II) is repealed, effective ~~July 1, 2018~~ JULY 1, 2025.

SECTION 3. In Colorado Revised Statutes, 31-15-602, amend (4)(b) as follows:

31-15-602. Energy-efficient building codes - legislative declaration - definitions - repeal. (4) (b) (I) A municipality shall not charge permit, plan review, or ANY other RELATED OR ASSOCIATED fees to install an active solar electric or solar thermal device or system that, in aggregate, exceed the lesser of the municipality's actual costs in issuing the permit or five hundred dollars for a residential application or one thousand dollars for a nonresidential application if the device or system produces fewer than two megawatts of direct current electricity or an equivalent-sized thermal energy system, or that exceed the municipality's actual costs in issuing the permit if the device or system produces at least two megawatts of direct current electricity or an equivalent-sized thermal energy system. The municipality shall clearly and individually identify all fees and taxes assessed on an application subject to this subparagraph ~~(I)~~

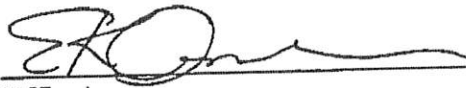
approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



Kevin J. Grantham
PRESIDENT OF
THE SENATE



Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

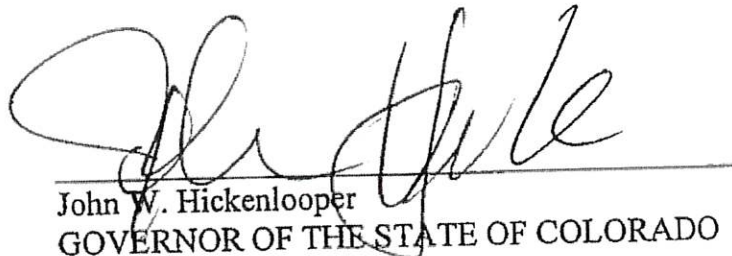


Effie Ameen
SECRETARY OF
THE SENATE



Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED 2:32 PM 4/28/17



John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO

**USE BY SPECIAL REVIEW APPLICATION FOR SOLAR POWER
PRODUCTION FACILITY**

WASHINGTON COUNTY DEPARTMENT OF PLANNING
and ZONING | 150 Ash Ave Akron, CO. 80720
www.washingtoncounty.colorado.gov | 970-345-2701 | FAX 970-345-2702

APPLICATION SUBMITTAL REQUIREMENTS CHECKLIST

_____ Application form. (See attached).

_____ Application fee \$1000

See attached regulations for the following

_____ Project description

_____ Vertical drawing

_____ Survey prepared by a licensed surveyor or engineer

_____ Survey map from Item 11 subsection a - g

_____ Proposed lighting

_____ Fire control and prevention and emergency response plan

_____ Transportation plan

_____ List of property owners with mailing addresses within 1 mile of the outer boundaries of proposed site

_____ Reports on the following:

- a. Visual impact _____
- b. Wildlife impact _____
- c. Geotechnical impact _____
- d. Engineer's report _____
- e. Land use and water impacts _____
- f. An assessment of the impact on the immediate vicinity _____
- g. All studies required by other applicable laws and regulations _____

_____ Safety Standards

_____ Interconnection agreement or letter of intent with interconnecting utility company

_____ Bond (3.5 Million)

_____ Liability Insurance

_____ Decommissioning and Site Restoration Plan

_____ Complaint Resolution Procedures

_____ Road Agreement

_____ Road Access Permit

RA _____

_____ Address Request Application

AD _____

_____ Building Permit

BP _____

**USE BY SPECIAL REVIEW APPLICATION FOR SOLAR POWER
PRODUCTION FACILITY**

WASHINGTON COUNTY DEPARTMENT OF PLANNING
and ZONING | 150 Ash Ave Akron, CO. 80720
www.washingtoncounty.colorado.gov | 970-345-2701 | FAX 970-345-2702

- _____ Building Permit Fees
- _____ Unredacted copy of equipment manuals
- _____ Application Review
- _____ Public Hearings (P&Z date _____) (BOCC date _____)
- _____ Proof of Certified letter mailings (date _____)
- _____ Transfer or Sale (attach additional sheet) date of transaction _____

**USE BY SPECIAL REVIEW APPLICATION FOR SOLAR POWER
PRODUCTION FACILITY**

WASHINGTON COUNTY DEPARTMENT OF PLANNING
and ZONING | 150 Ash Ave Akron, CO. 80720
www.washingtoncounty.colorado.gov | 970-345-2701 | FAX 970-345-2702

The application will be reviewed in accordance with Washington County Solar Power Production Zoning Regulations

Processing Time: 60 Days

SP# _____

If the application qualifies for administrative approval. If 30% or more surrounding property owners express concern, the Board of County Commissioners may conduct a public hearing before rendering a decision.

Application Fee:

If system produces less than 2 megawatts: \$1000 or the lesser of the County's actual costs in issuing

**If system produces at least 2 megawatts: \$1000 or the actual costs in issuing the permit
FEES**

Under 2 megawatts (\$1000 or actual which is less) \$ _____

At least 2 megawatts or more (\$1000 or actual cost/higher amount): \$ _____

Total \$ _____

Solar Power Production Facility or SPPF

A utility on an area of land over one-half acre designated for the purpose of producing photovoltaic electricity with a nameplate capacity of over ½ megawatt (500,000 kilowatts) and includes, but is not limited to, an assembly of solar panels and solar equipment that convert sunlight into electricity and then stores and/or transfers that electricity. Solar Power Production Facilities may include mechanical buildings, transmission lines, and other uses that are typical to a SPPF, however offices and other commercial uses are prohibited.

APPLICANT / AUTHORIZED AGENT (Authorization must be included if there is an Authorized Agent)

Date of Application _____

Name: _____

Company: _____

Phone # _____ Email _____

Street Address: _____

City/State/Zip Code: _____

Property Information (Attach additional sheets if necessary)

**USE BY SPECIAL REVIEW APPLICATION FOR SOLAR POWER
PRODUCTION FACILITY**

WASHINGTON COUNTY DEPARTMENT OF PLANNING
and ZONING | 150 Ash Ave Akron, CO. 80720
www.washingtoncounty.colorado.gov | 970-345-2701 | FAX 970-345-2702

Legal description as defined by the quarter/quarter section (Example: property located in SW1/4 of SW1/4 Section 2, Township 5 North Range 54 West)

Township _____ Range _____ Section _____ ¼Section _____

Current Zoning _____

Approximate location using existing County roads _____

Owner(s) of property(ies)(Attach additional sheets if necessary) _____

Address _____

Phone # _____ Email: _____

I hereby certify that to the best of my knowledge the above information is true and correct.

Signature of Applicant _____ Date _____

Signature of Property Owner _____ Date _____

Attach the following to application: (see attached regulations for requirements of each of the following)

Description of facility and project _____

Vertical drawing

Survey prepared by a licensed surveyor or engineer

Proposed lighting

Fire control and prevention

Preliminary transportation plan

Survey map of federal, state, county and local area

List of property owners and mailing addresses within 1 mile of outer boundaries of proposed site

All required reports from section 11 subsections a - g of regulations

Decommissioning and Site Restoration Plan

Complaint Resolution Procedures

Completed Building Permit (attached)

BUILDING PERMIT APPLICATION
SOLAR POWER PRODUCTION FACILITY (SPPF)
WASHINGTON COUNTY PLANNING & ZONING

150 Ash Ave Akron, CO. 80720

Ph. (970) 345-2701 Fax (970) 345-2702

<https://washingtoncounty.colorado.gov>

Permit Number

BP _____

Date _____

Applicant Name/Developer _____

Address _____

Phone _____

Land Owner _____ Phone _____

Legal Description:

Off of which county road or highway do you have access to your project? _____

FEES

TOTAL VALUE OF COMPLETED PROJECT \$ _____

Health Care Fund: Completed Value x 0.48 x 1.5% use tax \$ _____

Total \$ _____

Signature _____

(Developer)

Date _____

Approved by: _____

(Commissioner Chairman)

Date _____

**ROAD ACCESS PERMIT
WASHINGTON COUNTY ROADS**

150 ASH AVE • AKRON COLORADO • 80720

Phone: 970.345.2701 ext 2 Fax: 970.345.2702

Email planning@co.washington.co.us
www.colorado.gov/washingtoncounty

Permit Number

RA _____

WASHINGTON COUNTY

STATE OF COLORADO

Date _____

Name of Applicant _____
(Name of owner if not applicant)

Address _____
City, St, Zip

Telephone number (s) _____
Phone(1) Phone(2) Fax

Email _____

Is the applicant the property owner _____ or a contractor _____ Other _____

Legal description as defined by the quarter/quarter section (Example: property located in SW 1/4 of SW 1/4 Section 2, Township 5 North Range 54 West)

Township _____ Range _____ Section _____ 1/4 - 1/4 Section _____

Nearest intersection and distance from _____

Reason for Application to access County Road: _____

Drawing or Plans illustrating access (attach to application).

Are there currently any dwellings and/or structures upon the property for which this access permit application is being made? _____ yes _____ no

Signature _____ Date _____
Property owner

REVIEW BY ROAD SUPERVISOR PRIOR TO CONSIDERATION BY THE BOARD (If more space is needed provide on the reverse side of this application)

1. Necessary improvements to be installed such as culverts, attach list:
2. Can access meet existing grade on County Road? _____ yes _____ no
3. Any special conditions which will be required attach list or indicate none:

Road Supervisor Approval: _____ **Date** _____

Approved By: _____ **Date** _____
Commissioner Chairman

**THIS PERMIT ALLOWS ACCESS TO THE AFOREMENTIONED COUNTY ROAD
SUBJECT TO APPLICANT MEETING THE CONDITIONS, IF ANY, OF THE ROAD
SUPERVISOR AS SET FORTH WITHIN THIS PERMIT.**

Fees: \$30.00 for residential / agricultural purposes for graveled access roads

**Additional fees may be imposed for Use by Special Review applications for
commercial, industrial uses**

REQUEST FOR ADDRESS APPLICATION
WASHINGTON COUNTY
150 Ash Ave Akron, CO 80720
Phone (970) 345-2701 ext 2 Fax(970) 345-2702
Email planning@co.washington.co.us
www.colorado.gov/washingtoncounty

Permit Number AD _____

WASHINGTON COUNTY

STATE OF COLORADO

Date _____

Name of Applicant _____
(Name of owner if not applicant)

Address _____

Include Current Mailing Address

City,

St, Zip

Telephone number (s) _____

Phone(1)

Phone(2)

Email

Label diagram with road numbers

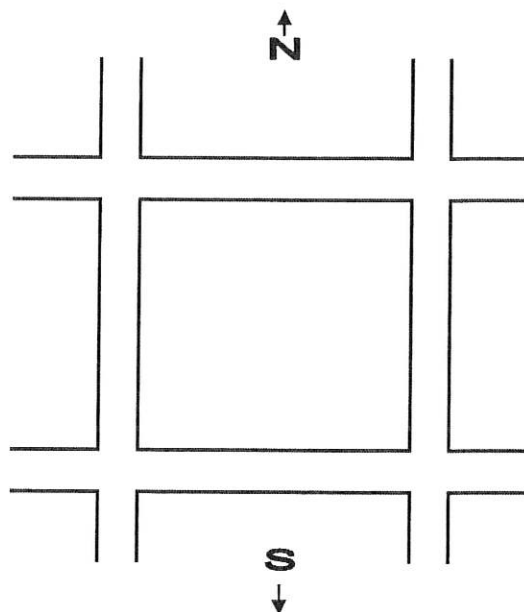
Legal description of property as defined by
the quarter/quarter section (Example:
property located in SW ¼ of SE ¼ of Sec 2,
T5N, R54W)

¼-¼ Section _____

Section: _____

Township: _____

Range: _____



Description of Measurements - on the drawing above show the following information:
Measure the number of feet from nearest intersection to location of access road. Label county road
names, (letters and/or numbers) Show the side of the road on which the structure is located. **
Draw approximate location of access road on the county road above. **

Landowner of Record _____

Mailing Address

City

St

Zip

Signature: _____
Applicant Date

OFFICE USE ONLY

Assigned Address Number: _____

Assigned by Washington County: _____

Date

Map Number (county use) _____

ROAD CUT /RIGHT OF WAY PERMIT

150 Ash Ave Akron, CO 80720
970.345.2701 ext 2 Fax: 970.345.2702
Email planning@co.washington.co.us
<http://co.washington.co.us>

Permit Number

RW _____

WASHINGTON COUNTY

STATE OF COLORADO

Date of Application _____

Name of applicant _____

Address _____

City, St, Zip

Telephone Number _____ Fax _____

Email _____

Property Location:

Township _____ Range _____ Section _____ 1/4Section _____

Nearest intersection and distance from _____

Installation type (cable, gas, water, etc.) _____

Owner of facilities to be installed _____

Address _____

City, St, Zip

Telephone Number _____ Fax _____

Contractor for installation _____

(if different from owner of facilities)

Additional requirements for utilization of county right of way:

- a) All underground utilities cable, pipe, conduit, etc. installation shall be as determined on a case by case basis as either within the traveled portion of the right of way or adjacent to the roadway. In the case of placement adjacent to the traveled portion of the road, placement shall be a minimum of 5 feet from the base of the shoulder adjacent to the traveled portion of the roadway.
- b) In order to determine proper placement, applicant shall supply construction plans to the Board of County Commissioners and the District Road Supervisor with this permit application. **The Board pursuant to C.R.S. 38-5.5-107(1) (b) has retained an engineering firm to review the construction plans for installations.** Any project plans may be submitted to the County's engineering firm within 5 days from the receipt of application. The District Road Supervisor must sign off on all applications prior to submitting the application to the Board of County Commissioners for final approval.
- c) If required, it shall be the responsibility of the County's engineering firm and the appropriate road supervisor to review the proposed construction plans with the engineer for the company and return within 30 days of receipt a detailed report and proposal which the County will utilize in approving the permit. This report shall include an engineered scale final construction plan which the company must follow so as to alleviate right of way disturbances and record exact cable location for future reference. The report may also include a soils analysis to determine whether or not the cable, etc. should be placed within the traveled roadway surface and / or adjacent to the traveled surface. The costs associated with the County's engineering firm report shall be borne by the Construction Company or applicant as they are directly related to the granting of any permit.

- d) Upon receipt of the engineers report as agreed upon by the applicant's engineer and the County's engineer in conjunction with the appropriate Road Supervisor the applicant will then be advised as to any additional conditions the Board may impose in approving the permit.
- e) A pre-construction meeting may be required prior to the Board reviewing the application. The District Road Supervisor, the Construction Company representative and /or engineer and the county engineer (if requested by the county) will meet to determine the final details of the project prior to presentation to the Board (See attached "Pre-construction Meeting".) The Board will take final action of approval within 21 business days after the pre-construction meeting.
- f) In administering the permit during the course of construction, for every 10 miles, or increment thereof, the County reserves the right to inspect the installation with the County Engineer and/or the appropriate Road Supervisor to confirm that the final construction plans are being adhered to and that the permit as approved is being constructed according to the permit and engineering standards. The costs associated with the County's engineer being on site for these inspections shall be borne by the applicant as they are directly related to the administration and / or granting of any permit.
- g) In addition, applicant shall notify the County at least **one week** prior to actual commencement of construction so as to allow scheduling of the on site representative of the County.
- h) All the aforementioned installations shall be buried at least **48 inches** from the surface of the roadway or top soil, if adjacent to the roadway. Manholes, hand holds, cabinets, junction boxes and / or other access ports are not allowed in roadway and must be placed a minimum of 5 feet from the base of the shoulder adjacent to the traveled portion of the roadway. . No obstruction, pedestals, or other access facilities shall be allowed within the flow line of Washington County culverts.
- i) All utilities installed shall be subject to relocation in the event that the traveled portion of the highway is widened, relocated, or the roadway elevation is changed. In that event, applicant agrees to bear the costs of any such relocation due to the aforementioned factors. This permit is revocable and does not assure applicant the continued use of county rights of way in perpetuity. The applicant shall also be responsible for the relocation of any existing utilities currently located within the affected right of way.
- j) Applicant understands and agrees to bore under any and all culverts, and / or other County facilities and all such facilities damaged by applicant shall be replaced to current County standards.
- k) In the event that a county road is cut /trenched, applicant agrees to restore the roadway surface by compaction or other means to the condition of the roadway prior to the cut. To assure the roadway is restored properly, applicant may be asked to provide either an irrevocable Letter of Credit in the amount to be determined based on current restoration costs per linear mile, or fraction thereof, or an escrow amount acceptable to the Board of County Commissioners payable to the County of Washington upon approval of the permit. The Letter of Credit shall issue in favor of Washington County for a period of 12 months past the projected date of project completion as may be approved by the BOCC. Escrow amounts will also be held for a period of 12 months past the projected date of project completion. The appropriate County Road Supervisor shall periodically inspect the restoration and if said roadway cuts have been restored to current county standards, and there has been no degradation within or upon the roadway, the Board shall adopt a resolution releasing the Letter of Credit or escrowed funds. In the event that the County Road Supervisor does not approve any restoration, the applicant will be notified of any deficiencies and given a 10 day period from notification to correct said deficiency. If the roadway has not been restored within the 10 day period, the County will restore the roadway, and seek remuneration of costs incurred from the Letter

of Credit or escrowed funds. Applicant understands that county rights of way are available to all public utilities and private telecommunication providers and that Washington County will not be responsible for contractor installation errors which result in cut cables etc. or subsequent disruptions of service.

- l) (g.) If placed within the public right of way, all installation of electrical transmission or distribution lines within Washington County shall be placed underground as close to the outside edge of the public right of way as is practical.
- m) Applicant understands that county rights of way are available to all public utilities, and private telecommunication providers and that Washington County will not be responsible for contractor installation errors which result in cut cables etc. or subsequent disruptions of service.
- n) In relation to trenching within the traveled portion of the roadway, no trench shall be left open overnight. During construction, warning signs, barricades and lights, all in conformance with the Manual of Uniform Traffic Control Devices (MUTCD), shall be used in areas where trenching operations are taking place. No roads shall be completely closed to traffic unless approved by the Board of County Commissioners. In the event the Board completely closes a road to traffic, applicant agrees to notify the appropriate school districts, fire districts and / or other emergency service providers.
- o) Any person, corporation, governmental entity, quasi-governmental agency, special district, mutual company, or utility corporation, including cable television, who without first having obtained a permit and / or who having made a cut in a public right of way which has settled, has failed, or otherwise has not been repaired to County standards, shall be issued a "Stop Work Order" by the Board of County Commissioners. Upon said issuance, said party shall discontinue any or all future work within the public rights of way in Washington County until such time as the affected rights of way have been restored to County standards and said party has paid the costs of restoration thereof. No further permits shall be issued by the County until the affected roadways have been restored. Washington County may undertake such repairs as are necessary to ensure the safety of the public and bill the responsible party. Under these circumstances, the minimum charge shall be \$300.00, for administrative and legal costs plus costs for labor, materials and usage of County equipment.

Signature of Facilities Owner _____ Date _____

Title _____

Signature of Contractor (if applicable) _____ Date _____

We hereby certify that we have read the above conditions relating to the issuance of this application for right of way, road cut and crossing permit and agree to be bound by same. Both the owner of the facilities and the contractor must sign this application and are deemed by the County to be responsible for meeting the conditions hereunder.

Permit Fees:

1. If the road crossing surface is cut either perpendicular or parallel to the traveled portion of the road, \$300.00 for administrative review and road reconstruction by County after installation by contractor is complete.

2. If the road crossing is bored either perpendicular or parallel to the traveled portion of the road and encased, \$100.00 for administrative review and road reconstruction by County after installation by contractor is complete.

3. In addition there is a per lineal foot charge for administrative review and reconstruction of the road / ditches after installation by contractor is complete.

<u>Ditch Width</u>	<u>Cost per foot</u>
½" to 8"	\$0.14
8+"to 16"	\$0.20
16+" to 24"	\$0.35
24+" to 42"	\$0.60
42+"	\$0.72

Each crossing of any county road shall constitute a separate application and permit fee in addition to the linear footage charge.

In the event that a transmission/pipeline is placed solely within county right of way, permit fees will be required in addition to the linear foot charges for the entire length that said transmission/pipeline is constructed within county right of way. Separate permit and linear foot charges will be required from each beginning and ending point along county right of ways in the event that said transmission/pipeline traverses private property in intervals between the County's right of way.

4. Agricultural Uses Permit Fees:

\$25.00 for non-utility cuts, i.e. agricultural landowners who are required to cut county rights of way to provide utility services for agricultural production upon their own property.

Agricultural non-utility cuts are not subject to pre-construction meetings but must be approved by the appropriate district Road Supervisor prior to approval by the Board of Commissioners.

SUMMARY OF FEES

BORE/CROSS: _____ x \$100.00 = \$ _____
or CUT: _____ x \$300.00 = \$ _____

AGRICULTURAL FEE \$25.00 _____
ADMINISTRATIVE FEE FOR OTHER
CONSTRUCTION OR MINOR REPAIR
\$100.00 _____

TOTAL FEES: \$ _____ Check No _____ Date _____
Received by County

Make checks payable to: Washington County

Date construction plans sent to WC Engineer _____

****Engineering fees will be billed separately**

Engineering Fees may applicable on any project.

Road Supervisor _____ Dist _____ Date _____

Road Supervisor _____ Dist _____ Date _____

Action by Board of County Commissioners:

At the regular County Commissioners meeting held on _____ day of _____, 20____,
the Board took the following action and authorized the Chairman to execute the application as follows:

_____ approved as submitted
Chairman

_____ approved with conditions (see attached)
Chairman

_____ denied (see attached)
Chairman

PRE-CONSTRUCTION MEETING

Date of Meeting_____

The purpose of this meeting is to review the following:

- Location of cable, fiber optics or _____ installation
- Depth of above installation if other than the County standard of 48"
- Number of road cuts or bores
 - Discuss construction at intersections, culverts, etc.
 - Discuss construction at section lines where there is no road currently exists but there is future potential for development
- Discuss and known plans for changes in road structure on roads within the scope of the project
 - Widening, raising or lowering the road, etc.
- Discuss any problems on either side with changes to original plans
- Notification of at least 1 wee prior to construction is required by County. If this is not possible determine when notification will be made to Road Supervisor

Meeting Notes:

Persons Present - (If present via phone - road supervisor please note, otherwise each person initial by your name)

Please print name and initial below:

Road & Bridge District_____Name_____Initial_____

Road & Bridge District_____Name_____Initial_____

County Engineer _____Initial_____

Construction Co Rep _____Initial_____

Other_____Initial_____

Other_____Initial_____

MASTER ROAD USE AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20____ by and between the County of Washington, State of Colorado, hereinafter referred to as the "County", and _____ hereinafter referred to as "Company".

WHEREAS, the Company wishes to construct a wind energy / solar facility and associated equipment in Washington County, hereinafter referred to as the "Project"; and

WHEREAS, completion of the Project shall involve the use of one or more County roads; and

WHEREAS, the Company's employees, affiliates, contractors, subcontractors, workforce and related service companies, and other agents, may utilize equipment and heavy vehicles in a significant number and / or that are recognized as being above existing limits set by the County in weight, height, and / or width on County Roads in connection with the above-described Project; and

WHEREAS, the Company's use of County Roads may cause impacts which require mitigation and repair to ensure the public's continued ability to use the affected County Roads; and

WHEREAS, the powers given to the Board of Commissioners of each county includes the authority to create and maintain county roads (C.R.S. 30-11-107 and other statutory authority); and

WHEREAS, the County wants to ensure the maintenance and safe operation of the Company while using designated County Roads and the Company is agreeable to the provisions set forth herein for such purpose:

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. **PURPOSE OF AGREEMENT.** The purpose of this Agreement is to allow the Company's regulated use of the affected County Roads while protecting the traveling public from damage or dangerous conditions to the roads being used. This Agreement is intended to engage both the County and the Company in an effort to avoid damage to Roads and Appurtenances and to minimize interruptions to the traveling public. The parties acknowledge that this Agreement is entered into in order to address any issues that may arise with the Company's use of the County Roads including but not limited to the following:

a. That a Haul Route shall be agreed to and enforced by the County and the Company.

b. That in the event there is damage from the use of County Roads in the Haul Route for the hauling or moving of goods, equipment, or materials, those parties responsible for such damage are held accountable.

2. **DEFINITIONS OF TERMS USED IN THIS AGREEMENT.** The following definitions shall or may be relevant for this Agreement:

"Appurtenance" means a sidewalk, ditch, or any type of wall, fence guardrail, curb, pavement marking, traffic control device, illumination device or barrier adjacent to or in, along or on a County Road, or any construction, obstruction, erection or any situation, arrangement, or disposition of any earth, rock, tree, or other material or thing adjacent to or in, along, or on a road that is not the traveled portion of the road.

"Company" means _____, and all of its agents, affiliates, employees, contractors, subcontractors, vendors and suppliers

"County Road or Road" means a roadway under the direction, control, and management of the County, including (1) a developed road on which improvements such as grading or surfacing have been made for the purpose of public access and included any Appurtenance, and including any bridge forming part of a County road and any structure incidental to a County or public road, and (2) an undeveloped surveyed road allowance or road plan, including primary, secondary, and secondary un maintained roads as identified on the Washington County Road Map.

"Haul Route" means those roads identified in the map submitted by the Company and agreed to by the County as to those County Roads to be used by the Company to move or haul goods, equipment, and materials used in the Project. The map, attached hereto and identified as Exhibit A, may be updated from time to time by mutual agreement of the parties, and if so updated, shall be attached as a new Exhibit A.

3. **TERM.** This Agreement shall commence upon the date that both parties have signed this Agreement, hereinafter referred to as the "Effective Date". The Company represents that construction of the Project in Washington County shall be completed no later than eighteen (18) months from the date of this agreement. The provisions of this Agreement, the provisions respecting liability and indemnification, to the extent of liabilities may have accrued prior to the termination, and provisions respecting

settlement of accounts, shall remain in full force in accordance with their terms. All applicable County Roads on the Haul Route shall be restored and returned to "Original" (as defined below) or better condition by the completion date set forth in this paragraph.

The County may, at its discretion, extend the completion date and County Road restoration requirement upon good cause shown by the Company. Approval of a request from the Company to extend the completion date shall not be unreasonably withheld by the County.

4. **COUNTY ROAD USE / HAUL ROUTE.** The County shall cooperate with the Company to establish a Haul Route which shall be the designated County Road or Roads used by the Company to move goods, equipment, and materials for the Project. Upon agreement the Haul Route shall be identified on Exhibit A attached hereto and incorporated by reference. Use of the Haul Route by the Company may commence following a pre-inspection of the proposed route and a written report from the Company as to the current condition of the road (which shall serve as the "Original" condition for purposes of this Agreement) and the County expectations. The pre-inspection shall be done by the Company within thirty (30) days before the planned start of construction. The pre-inspection shall include pictures of the current condition of the County Road or Roads prior to use by the Company.

In the event that the Haul Route is to be used by another company, or project, during the term of this agreement, the Company commits to engage in good faith negotiations to reach a multi-company agreement, with the County, to mutually allocate responsibilities and liabilities between the respective Companies or Projects.

The Company shall only use the Haul Route Roads to move / haul goods, equipment, and materials related to the Project using commercial vehicles. The County and the Company agree to cooperate in the installation or placement of speed and other signage along the Haul Route, determined necessary by the County Sheriff and County Road Supervisor. Signage shall be utilized, at the discretion of the Company to designate the Haul Route, designate prohibited roads, and other matters.

5. **REPAIR AND MAINTENANCE OBLIGATIONS.** The Company shall be responsible for all costs and expenses required to repair damages to the County Roads designated on the Haul Route incurred during the Project, unless it can be clearly shown that the damage was not the result of the Project. The determination of road damage shall be made by the County and shall be immediately addressed by the Company. Maintenance obligations of the Company shall include, but not be limited to:

a. The Company shall install signage to control speed, designate the Haul Route, and other aspects of safe driving and road maintenance. The Company may utilize other

signage, at its discretion or request of the Road Supervisor, to designate the Haul Route, designate prohibited roads, and other relevant matters.

- b. When the Project is completed, it is agreed that the Company shall perform or provide for all necessary work and all materials necessary to restore the Haul Route roads to Original or better condition based on the condition of the roads at the time of the pre-inspection. The Company shall not be released from its Performance Guarantee until the County has approved a post construction inspection and approved the final condition of the County Roads located upon the Haul Route with

Such inspection to occur within ten (10) days after the Company notifies the County that the road restoration is complete.

- c. All applicable County Roads on the Haul Route shall be restored and returned to Original or better condition in accordance with the terms of this Agreement and by the completion date set forth in paragraph 3. The County may, at its discretion, extend the completion date and County Road restoration requirement upon a showing of good cause by the Company. If the Company has not commenced the restoration work before the completion date, the County may contract a third party to perform the road restoration. In that event, the County shall pay the reasonable cost of the third party's work from the Performance Guarantee. Notwithstanding the foregoing, the Company shall not be liable under this section if restoration work extends beyond the completion date if such delay was associated with circumstances caused by the County or within the County's control or by weather.

6. **CHANGES IN RESTRICTIONS.** If after commencement of the Project and the use of the Haul Route by the Company, the County reasonably determines that it is necessary to impose further restriction on the Company in the interest of public safety, the County shall consult with the Company to determine the details of such restrictions. Thereafter, the parties shall set forth, in writing, the reasonable specifics of the further restrictions imposed on the Company. The County may also require an increase in the Performance Guarantee if public safety circumstances so require. Restrictions, or changes in restrictions, as to any County Road designated in the Haul Route are set forth in Exhibit B, attached hereto and incorporated herein by reference.

7. **INTERMEDIATE AND EMERGENCY INSPECTIONS.** The County may request immediate emergency inspections when it is determined by the County that a condition exists in the subject County Road or Roads that creates a safety risk to the public. The County may, in emergency situations, and acting reasonably, and without giving any

notice to the Company as required elsewhere in this Agreement, take immediate and all action necessary to complete repairs to the Haul Route Road or Roads, or require that the Company take immediate and all action necessary to complete repairs to the Haul Route Road, or Road, that the County deems necessary for public safety. As to whether an emergency situation exists, which situation could place human life and / or property in danger, shall be determined by the County through mutual consultation between the Washington County Sheriff, the County Commissioner of the subject District, and the Road Supervisor of the subject District. Every effort will be made to notify the Company when an emergency situation arises. The Company shall, provided that the weather and weather-related conditions permit, complete any necessary repairs or repairs which pose a risk to the motoring public within seven (7) business days of being notified by the County of the need for such repairs. The Company acknowledges that the Haul Route may be temporarily closed to Company travel until repairs are completed should the County determine that the condition of the Roads is a safety hazard to vehicles traveling on the Roads.

8. **PERFORMANCE GUARANTEE.** On or before the commencement of construction of the Project, the Company or its designated representative shall deliver to the County a surety bond or letter of credit, hereinafter referred to as the "Performance Guarantee", in the amount equal to \$6,500/mile. Should the Company violate this agreement by failing to repair and maintain the Haul Route County Roads, as agreed herein, the County may draw upon the Performance Guarantee as necessary to restore the County Roads to their original condition. In the event that the Performance Guarantee is not sufficient to cover the cost of repairs, the Company shall be liable to the County for all reasonable and competitively bid costs including reasonable attorney fee and costs incurred by the County in repairing the affected Roads to substantially the same condition they were in at the time of the pre-inspection and recovering the costs of such repairs. The Company shall have a right to receive details of all expenses incurred by the County. The Performance Guarantee shall be returned to the Company, or released, within one (1) week of the final inspection (provided the County is satisfied with the final inspection) and the obligations of the Company have been fulfilled under this Agreement. Failure of the Company to return the County Roads to their original or better condition by the end of the completion date set forth in paragraph 3 above, may also result in the County acting against the Performance Guarantee to the extent necessary to restore the County Roads.

9. **OTHER TERMS AND CONDITIONS.** The following terms and conditions whether set forth above or below, shall apply at all times during the term of this Agreement.

a. The County reserves the right to impose reasonable limitations on the hours during which Company vehicles and equipment may be *moved* on the County Roads covered by this Agreement. The County, acting reasonably, and depending upon the prevailing weather conditions, should the conditions make such use hazardous to the motoring public, or if emergencies warrant such suspension, may choose to temporarily suspend use of the County Roads. In such an event, the County shall use its best efforts to notify the Company verbally prior to taking such action, and to consult with the Company in order to minimize any construction delays to the Project.

b. The Company shall provide, at its sole expense, all equipment, materials and labor required to restore the road surface of the Haul Route Roads in substantially the same condition the Roads were in immediately prior to the use of such Roads.

c. The Company shall be liable at all times for the repair, to the reasonable satisfaction of the County, of any damage to the Roads caused by the Company's' use. Any repairs undertaken shall restore the road surface to substantially the same condition it was in immediately prior to the use of the Road. The Company shall, providing that the weather and weather-related conditions permit, complete any necessary repairs or repairs which pose a risk to the motoring public within seven (7)

Business days of being notified by the County of the need for such repairs. The Company acknowledges that the Haul Route may be temporarily closed to Company travel until repairs are completed should the County determine that the condition of the Roads is a safety hazard to vehicles traveling on the Roads.

d. In the event that the Company fails to complete the repairs required by the County, pursuant to this Agreement, the County may draw upon the Performance Guarantee to effect the repairs in accordance with the provisions of the surety bond or letter of credit. In the event that the Performance Guarantee is not sufficient to cover the cost of repairs, the Company shall be liable to the County for all reasonable and competitively bid costs (including reasonable attorney fees and costs) incurred by the County in repairing the affected Roads to substantially the same condition they were in immediately prior to the use by the Company and recovering the costs of such repairs. The Company shall have a right to receive details of all expenses incurred by the County.

- e. The County may, in emergency situations, and acting reasonably, and without giving any notice to the Company as required elsewhere in this Agreement, take immediate and all action necessary to close a County Road and either complete repairs to the Haul Route Roads that the County deems to be an emergency and necessary for public safety or to require the Company to take immediate action. The Company may also in emergency situations, and acting reasonably, and without first giving any notice to the County as required elsewhere in this Agreement, take immediate action to remove its vehicles and equipment on the Haul Route Roads. The County and the Company shall provide notification to each other of any emergency action taken under this Agreement as soon as is reasonably practicable.
- f. The Company shall indemnify the County against all actions, proceedings, claims, demands and costs suffered by the County to the extent that they are directly or indirectly attributable to damage caused by the Company, its employees, agents, contractors or subcontractors to the Haul Route Roads, but such indemnity shall not apply to the intentional acts or negligence of the County, its employees, agents, contractors or subcontractors. The Company's liability to the County shall be limited to direct damages and shall exclude other liability, including, without limitation, liability for special, indirect, punitive or consequential damages in contract, tort, warranty, strict liability or otherwise. Nothing in this Agreement shall be construed as a waiver to the County's defenses or protection that exist under the Colorado Governmental Immunity Act.
- g. No party shall be deemed to be in default with respect to non-performance if due to strikes, lockouts, fire, storm, acts of God or terrorists, or any other cause (whether similar or dissimilar to those enumerated) beyond its control; but lack of finances shall in no event be deemed to be cause beyond a party's' control.

10. **NOTICES.** All notices required to be given under the terms of this Agreement shall be in writing and may be mailed or electronically transmitted, addressed to the parties as follows:

County: Washington County

Attention: _____ Washington County Road and

Bridge Manager Address:

E-Mail:

Company:

Either party may, from time to time, change its address for service by giving written notice to the other party. Any notice shall be deemed to have been given and received: if delivered personally (including by reputable overnight courier), on the day delivered; if sent by registered mail, on the fourth (4th) business day following the day it was posted; and if electronically transmitted, at the start of the next regular business day. In the case of postal disruptions, or an anticipated postal disruption, all notices to be given under this Agreement shall be electronically transmitted or delivered by hand (including a reputable overnight courier).

11. **ASSIGNMENT.** Except as otherwise provided herein, this Agreement shall not be assigned by either party hereto without the prior written consent of the other party, which consent shall not unreasonably be withheld. Notwithstanding the foregoing, the Company shall be permitted without prior written consent of the County to (a) assign this Agreement to an Affiliate; (b) assign this Agreement to a public utility company; and (c) collaterally assign this Agreement to a financing party of the Company or an Affiliate. "Affiliate" shall mean and refer to any person or entity controlling, controlled by, or under common control with the Company.
12. **WAIVERS.** Failure by either party, at any time, to require strict performance by the other party of any provision of this Agreement will in no way affect the first party's rights hereunder to enforce such provision; nor will any waiver by either party of any breach be held to be a waiver of any succeeding breach or waiver of any other provision. No waiver of any breach of a covenant or provision of this Agreement shall take effect or be binding upon a party unless it is in writing.
13. **SUCCESSORS AND ASSIGNS.** This Agreement shall insure to the benefit of and be binding upon the County and the Company and their respective successors and permitted assigns.
14. **TIME IS OF THE ESSENCE.** Time shall be of the essence of this Agreement.
15. **SEVERABILITY.** If any provisions of this Agreement shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date and year first above written.

Washington County

Commissioner

Commissioner

Commissioner

COMPANY

By: _____

Title: _____