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**County of Napa Staff Report and Draft
Conditions of Approval**



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/18/2019

Agenda Placement:

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: Charlene Gallina, SUPERVISING PLANNER - 299-1355
SUBJECT: Soscol Ferry Solar

RECOMMENDATION

SOSCOL FERRY SOLAR / KIMBAL GRIGGS GILES & THERESA BLODGETT-GILES / USE PERMIT P19-00338

CEQA Status: Consideration and possible adoption of a Mitigated Negative Declaration. According to the proposed Mitigated Negative Declaration, the proposed project would have potentially significant effects on Biological Resources, Cultural Resources, Geology and Soils, Tribal Cultural Resources, unless mitigation measures are adopted. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

Request: The project consists of a request to construct a commercial renewable energy facility on approximately 15 acres of an approximately 22.4-acre parcel located within the Napa Valley Business Park Specific Plan, and consists of two arrays that will generate a total of approximately 2 megawatts (MW) AC (3.0 MW DC) of solar energy for interconnect to PG&E's preexisting electrical distribution system, which exists on-site. The power generated from this facility will be sold to Marin Clean Energy (MCE) through a long-term Power Purchase Agreement (PPA). Electricity generated from the Project is anticipated to power approximately 750 homes per year. The request includes a Variation to the development regulations of the Napa Valley Business Park Specific Plan to: 1) Provide on-site access from a 12 ft. wide gravel access road in lieu of a 20 ft. wide paved driveway; 2) waive all site landscaping requirements; 3) waive street improvement requirements including installation of curb, gutter, sidewalk and frontage landscaping. The 22.4 acre property is located on the south side of Soscol Creek south of Soscol Ferry Road. Access to the site is from a private drive which commences where the access road to Napa Sanitation District's sewage treatment plant intersects with Soscol Ferry Road, approximately ¼ mile west of its intersection with State Route 29, 12, 221. The project site is zoned Industrial Park: Airport Compatibility (IP:AC), Assessor's Parcel Number 057-170-001, Napa.

Staff Recommendation: Adopt the Mitigated Negative Declaration and approve the Use Permit with the proposed conditions of approval.

Staff Contact: Sean Kennings, Contract Planner, (415) 533-2111, or sean@lakassociates.com

Applicant Contact: Aaron Halimi, Renewable Properties; (530) 518-7669

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Soscol Ferry Solar Project based on Findings 1-6 of Attachment A; and
2. Approve Use Permit P19-00338-UP, including a variation to development standards, based on Findings 7-11 of Attachment A and subject to the conditions of approval (Attachment B).

Discussion:

The project consists of a request to construct approximately 15-acres of solar arrays for a commercial renewable energy facility including 7,896 solar modules and 16 string inverters. The request includes a Variation to the development regulations of the Napa Valley Business Park Specific Plan (NVBPSP) to: 1) Provide on-site access from a 12 ft. wide gravel access road in lieu of a 20 ft. wide paved driveway; 2) waive all site landscaping requirements; 3) waive street improvement requirements including installation of curb, gutter, sidewalk and frontage landscaping. The solar panels will be mounted on steel racking systems which will be anchored to the ground using driven steel piers at an overall height of under 8-feet above grade. Single axis tracking technology will be used to allow the panels to move to efficiently track the sun throughout the day thereby maximizing the efficiency of solar collection. The solar panels will generate a total of 2 Megawatts of AC power when fully implemented. The power generated from this facility will be sold to Marin Clean Energy (MCE) through a long-term Power Purchase Agreement (PPA). The project is compatible in design use with other projects located in the NVBPSP and staff supports grant of the use permit. Staff also supports grant of a variation to development standards but does not support waiving curb, gutter and driveway apron street improvement requirements as explained below.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

ENVIRONMENTAL IMPACT

Consideration and possible adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program. According to the proposed Mitigated Negative Declaration, the proposed project would have potentially significant effects on Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources, unless mitigation measures are adopted. In accordance with Section 15073 of the California Environmental Quality Act (CEQA) Guidelines, Napa County submitted the initial proposed IS/MND to the State Clearinghouse for a 30-day review period beginning on November 15, 2019. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Owner: Kimbal Griggs Giles & Theresa Blodgett-Gilles

Applicant/Representative: Aaron Halimi, 2914 Larkin Street, San Francisco, CA 94109; RP Napa Solar 2, LLC, 655 Montgomery Street, Suite 1430, San Francisco, CA 94111

Zoning: IP:AC – Industrial Park: Airport Compatibility

General Plan Designation: Industrial

Application Filed: August 6, 2019;

Resubmittal(s): September 17, 2019;

Application Complete: October 17, 2019

Parcel size: 22.4-acres

Proposed building size: no buildings – solar arrays are proposed on 15 +/- acres of the subject property

Number of employees: n/a – infrequent visits by maintenance staff to clean and manage solar arrays

Hours of operation: solar arrays operate during sunrise to sunset

Parking: n/a

Airport Compatibility: Zones C and D - Common Traffic Zone - area of routine overflight at low elevations. Warehousing, light manufacturing, and ancillary office space uses are compatible with this zone. Although the NVBPSP does not specifically define energy generating facilities in the allowed uses, the maximum height of the solar arrays is eight feet above grade which would be well within the allowed development envelopes compatible with this zone.

Adjacent Zoning / Land Use:

The 22.4-acre property is located on the south side of Suscol Creek south of Soscol Ferry Road. Access to the site is from a private unpaved drive off the access road to Napa Sanitation District's sewage treatment plant intersects with Soscol Ferry Road, approximately ¼ mile west of its intersection with State Route 29, 12, 221. All surrounding land is zoned IP:AC - Industrial Park: Airport Compatibility Combination District or Public Facilities owned by the Napa Sanitation District.

North: IP:AC - Across Soscol Ferry Road to the north is vacant land owned by Napa Sanitation District, and the State Route 29 right of way. North of the main portion of the site, and east of the access corridor is vacant industrial land approved for development of a self-storage facility.

South: IP:AC - South of the project site is vacant industrial land.

East: IP:AC - To the east is also vacant industrial land, but the parcel is approved for development of a warehouse building.

West: IP:AC - Surrounding land uses include Napa Sanitation District treated effluent spray fields located to the

west of the corridor and main property. These lands are designated as Public Facilities.

Parcel History:

The subject property is located within an industrially designated area that originally dates to the early 1970's and was formalized into an industrial park specific plan in 1986. When the property was initially zoned for industrial use, the property was vacant/undeveloped containing grassland habitat with trees. In 1984 the subject property and parcel to the south, which were in common ownership at the time, were rezoned AW – Agricultural Watershed. About the same time a vineyard was planted which is evident in the 1982 aerial photograph. In 1987 the zoning was changed back to industrial to be consistent with 1986 industrial park specific plan. The vineyard on the property to the south was removed at some point between 2007 and 2009 (based on aerial photography) and may have been in separate ownership from the subject property by that time. The vineyard on the subject property remains, and the property owner indicates that it is currently dry farmed, and the vines are near the end of their useful life.

Code Compliance History:

There are no open or pending code violations for the subject site.

Discussion Points:

Design, Layout & Materials – The project includes removing existing dry farmed vineyards and constructing approximately 15 +/- acres of commercial solar energy consisting of 7,896 solar modules and 16 string inverters. These solar arrays are specific in design, materials and overall assembly and differ from recent industrial projects approved and/or constructed within the NVBPSP. Although the NVBPSP does not specifically call out energy generating facilities as an allowable use, it can be approved as an allowable use (similar in character to the uses listed in the Land Use Element) subject to a use permit in the opinion of the Director of PBES. The site is suited for a solar power generation facility given: i) its location within an industrial area; ii) generally flat topography of the site such that views into the site are difficult from the surrounding properties and public roadways; iii) the dense vegetation screening the site from public views; and, iv) its location adjacent to State Route 29, a noise and light generating transportation corridor. As discussed in the applicant's Light and Glare analysis prepared for the proposed project, because the panels rotate on a single access point to follow the sun's trajectory, there would be no single minute during the year where there is potential for glare to be reflected from the panels. Staff can support the design, layout and materials as proposed.

The applicant has requested variations from the required development standards specified in the NVBPSP, including variations to the landscaping, street frontage, and access road standards. Staff can support findings for the landscaping and access variations, but not the street frontage variation as discussed below.

Variations – Street Improvements / Access - Access to the proposed solar arrays is via an existing dirt and gravel driveway located just south of Soscol Ferry Road at the western edge of the project area. The existing driveway is currently only 12' wide, and the applicant is requesting a variation from the NVBPSP standards that require 20' widths for access driveways. The existing concrete bridge was measured at 13' and was tested to withstand appropriate vehicle loads per County Fire Department and Engineering Services Division requirements. No improvements or modifications for the access drive are needed for construction or operation of the project. The project has been reviewed by the County Fire Department and Engineering Services Division and found acceptable as conditioned. Staff can support the variation request to internal access standards.

The project applicant is also requesting a variation for the street frontage improvements required in the NVBPSP. The access driveway to the project site is located at the far northwest corner of the NVBPSP area. Soscol Ferry Road, a public right of way, has no street frontage improvements at the project site. The applicant has asked for a variation to the requirement for sidewalk and gutter improvements because this area of the NVBPSP is adjacent to

mostly unimproved areas or areas outside the NVBPSP. However, staff has noted that the street frontage immediately to the east is consistent with the standards (although the property is undeveloped). Staff does not support the street frontage variation request and has added the condition requiring the improvement to the public right of way.

Variations - Landscaping - The NVBPSP requires landscaping measured from the property line, meeting the required minimum building setback and landscape requirements. The applicant is requesting a variation from the development standard due to the low impact intensity of the proposed project. Although there are 168 trees proposed for removal in the center of the project site, the project area will retain mature vegetation including trees along the access road and Suscol Creek corridor. As included in the applicant's project description, there may be additional plantings, in the form of a Pollinator Program.

Staff believes a variation is warranted as the majority of the project would be located south of Suscol Creek and will be blocked from view along Soscol Ferry Road and areas beyond. Further, the existing vegetation along the access drive and Suscol Creek provides screening and aesthetic value in excess of the minimum code requirement. Staff believes the findings can be met to allow the requested reductions for landscaping and access, but not road frontage improvements (see Attachment A). Although staff supports waiving landscape requirements, draft conditions of approval require removal of downed tree trunks and brush piles to improve the appearance of the site.

Suscol Creek Setbacks - As noted above, the northerly portion of the project area runs along the centerline of the creek which bisects the access road at the western edge of the project area. The project plans depict 150-ft stream setbacks in accordance with the NVBPSP and no improvements are proposed within setbacks. No development shall occur within 150 feet from the top bank of Suscol Creek. Uses within the setback area are limited to habitat restoration/mitigation, landscaping, pedestrian/bicycle improvements, storm-water retention/detention facilities or similar uses that do not adversely affect habitat value, wildlife movement or flood water storage. As discussed above, the applicant is considering a Pollinator Program to revegetate the project site. The proposed project, including the associated 150-ft setbacks, will not cause a substantial adverse impact during construction or operation, and no impacts are expected to this creek.

Agricultural Land Conversion - The majority of project site is designated as Prime Farmland as shown on the 2016 Farmland Mapping and Monitoring Program (FMMP), with the boundaries of the Prime Farmland corresponding generally to the existing vineyard occupying approximately 20 acres. The proposed mitigated negative declaration finds that conversion of this approximately 20 acre vineyard to non-agricultural use is considered a less-than-significant impact because the site has been designated for industrial development since prior to installation of the vineyard, and the County's industrial area is one of the few areas where urban development is permissible in Napa County. Since 1968, with the adoption the first-of-its-kind Agricultural Preserve, Napa County has sought to sustain and develop agricultural land uses within the two agricultural zoning districts that comprise most unincorporated lands. Napa County's General Plans (1975, 1984, and 2008) all have expanded policies promoting agricultural as the highest and best use of land for most unincorporated areas. Working with the cities and town of Napa County, the General Plans of all agencies have been aligned, including the establishment of Urban Limit Lines for most communities that seek to protect agriculture by steering urban development to designated urban areas. Most designated urban areas are located within the cities and town, but there are several unincorporated areas (comprising less than 5% of the total land area) where urban development is directed. These urban areas, which are the only areas where urban development is permissible, are a critical component of the overarching plan to protect agriculture.

Biological Resources - A Biological Constraints Analysis was prepared for this property in August 2019 by Garcia & Associates (GANDA). The proposed project evaluated potentially significant biological resources issues including, sensitive habitats, nesting and migratory birds, and riparian/wetlands areas. As discussed in the applicant's biological resource analysis, as well as a supplemental memo, documenting the site conditions, and further

evaluated in the project Mitigated Negative Declaration (MND), all potential resource impacts would be avoided or mitigated to less than significant levels. The biological constraints analysis report concluded that Special-status wildlife species and migratory birds were evaluated for their potential to occur and be affected by the project. Based on the presence of suitable habitat in the area, three of the 39 special-status wildlife species have the potential to occur in the Project Area: 1) golden eagle (*Aquila chrysaetos*, State fully protected), 2) Swainson's hawk (*Buteo swainsoni*, State threatened), and 3) white-tailed kite (*Elanus leucurus*, State fully protected). Of these three species, Swainson's hawk and white-tailed kite were observed during field surveys. Seventeen special-status plant taxa were evaluated for their potential to occur and be affected by the Project. Of these, none have potential to occur within the Project Area based on absence of suitable habitat. The biological constraint analysis recommends Avoidance and Minimization Measures (AMM) to avoid and minimize impacts to biological resources from the project. As the proposed project does not include new improvements in wetland areas or areas within the 150' setback to Soscol Creek, there would be no impact to wetlands or riparian areas. Approximately 168 trees are proposed for removal to install the solar arrays, but was determined to not result in the loss of significant wildlife or other sensitive habitat. As such, if project construction occurs during the nesting season (February 1 through August 31), implementation of AMMs such as nesting bird surveys prior to the start of construction is recommended. If necessary, seasonal buffers will be implemented to avoid disturbances to occupied nests. With the implementation of the Mitigation Measures, direct impacts to sensitive resources would be reduced to less than significant through pre-construction education and surveys to ensure no nesting or migratory birds are impacted during construction of the project.

Cultural / Tribal Resources - The Project applicant had GANDA conduct a cultural resources evaluation of the site in August 2019, including a site survey on July 18, 2019. Prior to fieldwork, background research included a search of previously conducted cultural resources studies and findings at the Northwest Information Center (NWIC) located at California State University, Sonoma in Rohnert Park, California. GANDA concluded that there is potential for the presence of subsurface archaeological deposits. As a result, the project is considered to be sensitive for cultural resources within the project and surrounding area. The applicant conducted a site visit with representatives of the Yocha Dehe Wintun Nation Tribe on October 21, 2019. As a result of the site visit, the MND includes implementation of mitigation measures for construction worker education. Furthermore, the site is considered to be sensitive for cultural resources, despite the archaeological site being recommended not eligible for listing on the CRHR, so recommended mitigation measures are included in the MND to reduce impacts to historical and/or archaeological resources.

Utility Connections – Typically, projects within the NVBPS area require water services provided by the City of American Canyon and sewer services provided by Napa Sanitation District (NSD). As the project includes no on-site facilities and has no full-time employees there is no requirement for water or sanitary sewer services. Maintenance activities, such as washing the solar arrays, would occur approximately six times a year and would include transporting water on site for cleaning activities.

Decommissioning Plan and Financial Assurance - The applicant has indicated that a Decommissioning Plan is appropriate should the technology become obsolete or if the project is abandoned for other technical or financial reasons. Similar to recently approved solar energy facilities in Napa County, it is within the Planning Commission's authority to require both a Decommissioning Plan and Financial Assurance upon project obsolescence and/or abandonment. The applicant and staff offer the following project specific conditions of approval for the Planning Commission's consideration:

a. A Decommissioning Plan shall be submitted and approved by the Director of PBES prior to the issuance of Building Permits for the proposed American Canyon Solar project. The Decommissioning Plan shall include, but not be limited to the following components: removal of all above and below ground improvements; restoration of the surface grade, placement of topsoil over all removed structures, revegetation and erosion control as deemed necessary by the Director of PBES; a timeframe for improvement removal and site restoration; an engineer's cost estimate for all aspects of the removal and restoration plan; an agreement signed by the property owner and

operator that they take full responsibility to implement the Decommissioning Plan; a plan to comply with all state and federal requirements for reuse, recycling and/or disposal of potentially hazardous waste.

b. Financial Assurance shall be provided to Napa County in a form and amount acceptable to the County to secure the expense of decommissioning and restoring the project site consistent with the approved Decommissioning Plan. Financial Assurance shall be submitted and accepted by Napa County prior to final occupancy/finalizing the Building Permit.

Correspondence - Written correspondence received prior to the issuance of this staff report is attached. Correspondence includes comments received in response to the courtesy notice issued at the onset of project process, tribal representative communications, and a State Department of Fish and Wildlife (DFW) comment letter on the Draft Mitigated Negative Declaration. Staff and the project biologist are reviewing the DFW letter and will provide a response prior to the hearing. DFW is requesting modifications to the mitigation measures concerning raptor nesting, and suggesting that replacement trees be planted for bird nesting.

Consistency with Standards:

All reviewing departments/agencies have found the project as proposed and conditioned to be consistent with their respective requirements and regulations.

Building/Fire Code - The project has been designed to comply with all applicable building and fire codes. Access to the solar arrays will be via the existing gravel driveway and concrete bridge. No improvements are required for the existing access road, but the Fire Marshal does not support waiving curb, gutter and driveway improvements on Soscol Ferry Road.

Engineering Services - Engineering Services finds the project, as conditioned, can be supported. An encroachment permit will be required for the curb, gutter and driveway apron improvements. Engineering Services has included conditions addressing compliance with regulations regarding general standards as well as the requirement to provide street frontage improvements consistent with the NVBPSP. The Engineering Division's support for the on site special purpose roadway (12 ft. gravel road) is contingent upon curb, gutter and driveway improvements being completed within the public right-of-way along Devlin Road. Alternatively, staff would support transferring ownership of the 80 ft. corridor to the adjoining property developer to potentially include the property within the adjoining development resulting in the corridor and public street improvements being constructed to standard.

Environmental Health – The proposed project does not require sanitary sewer of water connections and services. Conditions are required that address businesses generating and/or storing hazardous materials, solid waste, and recyclable materials.

Airport Land Use Compatibility (ALUC) Plan - The application is being referred to the ALUC for a Consistency Determination, which will occur after the Planning Commission hears the item.

Other Agencies – As discussed above, the project does not require sanitary sewer connections or domestic water service, therefore a will-serve letter from the City of American Canyon and a will-serve Napa Sanitation District regarding the provision of and connecting to municipal water and sewer services is not required.

Decision Making Options:

As noted in the Executive Summary Section above, Staff is recommending approval of the project with conditions of approval as described in Option 1 below. Decision making options including the following:

Option 1 – Approve project including Variation 1 for landscaping and site access road, but require public street

improvements (Staff Recommendation)

Discussion - This option would result in construction of the proposed solar project, including granting a variation to NVBPSP standards to landscape and site access, but requiring the applicant to install curb, gutter and driveway improvements on Soscol Ferry Road.

Action Required – Follow proposed action listed in Executive Summary. If conditions of approval are amended, specify conditions to be amended at time motion is made.

Option 2 – Approve project and grant Variation to landscaping, site access and public street Improvements (Applicant Request)

Discussion - This option would result in construction of the proposed solar project, including granting a variation to NVBPSP standards to landscape and site access including waiving installation of curb, gutter and driveway improvements on Soscol Ferry Road.

Action Required – Commission would take tentative motion to approve the project and remand the matter to staff to revise required Variation findings and conditions of approval, including revision of Engineering Division and Fire Marshal requirements.

Option 3 – Approve project but deny Variation.

Discussion - This option would result in approval of the proposed solar project but require installation of perimeter landscaping, improvement of on-site access with paved roads, and installation of all public street frontage improvements including curb, gutter, sidewalk, landscaping and driveway.

Action Required – Commission would take tentative motion to approve the project and remand the matter to staff for preparation of required finding to return to the Commission on specified date.

Option 4 – Deny project

Discussion - In the event the Commission determines that the project does not, or cannot meet the required findings for grant of a use permit, Commissioners should articulate what aspect(s) of the project is in conflict with required findings, and either deny the request or continue the item to allow the applicant an opportunity to redesign the project.

Action Required – Commission would take tentative motion to deny project and remand the matter to staff for preparation of required finding to return to the Commission on specified date.

Option 5 – Continuance

Discussion - The Commission may continue an item to a future hearing date at its own discretion.

SUPPORTING DOCUMENTS

- A . Proposed Findings
- B . Draft Conditions of Approval
- C . Draft Mitigated Negative Declaration
- D . Correspondence - Soscol Ferry Solar

- E . Application Submittal Materials
- F . Biological Assessment
- G . Solar Pollinator Habitat
- H . Glare Impact Study
- I . Phase I Site Assessment
- J . Graphics

Napa County Planning Commission:

Reviewed By:

PLANNING COMMISSION HEARING – DECEMBER 18, 2019
RECOMMENDED CONDITIONS OF APPROVAL

**SOSCOL FERRY SOLAR
USE PERMIT (#P19-00338-UP)
1200 BLOCK OF SOSCOL FERRY ROAD
APN's: #057-170-001**

This Permit encompasses and shall be limited to the project commonly known as the Soscol Ferry Solar Facility, located at the 1200 block of Soscol Ferry Road (APN: 057-170-001). Part I encompasses the Project Scope and general conditions pertaining to statutory and local code references, project monitoring and the process for any future changes or activities. Part II encompasses the ongoing conditions relevant to the operation of the project. Part III encompasses the conditions relevant to construction and the prerequisites for a Final Certificate of Occupancy. It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and the general public to ensure compliance is achieved.

Where conditions are not applicable or relevant to this project, they shall be noted as "Reserved" and, therefore, have been removed.

When modifying a legally established entitlement related to this project, these conditions are not intended to be retroactive or to have any effect on existing vested rights except where specifically indicated.

PART I

1.0 PROJECT SCOPE

This Permit encompasses and shall be limited to::

1.1 A Use Permit for the Soscol Ferry Solar Facility as follows:

1. 15-acres of solar arrays for a commercial renewable energy facility including 7,896 solar modules and 16 string inverters and associated site improvements, including perimeter fencing and electric utility connections.
2. A Variation to the development regulations of the Napa Valley Business Park Specific Plan to:
 - a. Provide on-site access from a 12 ft. wide special purpose gravel access road in lieu of a 20 ft. wide paved driveway;
 - b. Waive all site landscaping requirements;

The Soscol Ferry Solar Facility shall be designed in substantial conformance with the submitted site plan, elevation drawings, and other submittal materials and shall comply with all requirements of the Napa Valley Business Park Specific Plan and Napa County Code (County Code). It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and the general public to ensure compliance is achieved. Any expansion of or change in use or alternative locations for fire suppression or other types of water tanks shall be approved in accordance with the County Code and may be subject to the permit modification process.

2.0 STATUTORY AND CODE SECTION REFERENCES

All references to statutes and code sections shall refer to their successor as those sections or statutes may be subsequently amended from time to time.

3.0 MONITORING COSTS

All Staff costs associated with monitoring compliance with these conditions, previous permit conditions, and project revisions shall be borne by the permittee and/or property owner. Costs associated with conditions of approval and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged to the property owner or permittee. Costs shall be as established by resolution of the Board of Supervisors in accordance with the hourly consulting rate established at the time of the monitoring and shall include maintenance of a \$500 deposit for construction compliance monitoring that shall be retained until issuance of a Final Certificate of Occupancy. Violations of conditions of approval or mitigation measures caused by the permittee's contractors, employees, and/or guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of a compliance deficiency is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the program at the permittee's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if so warranted, to commence revocation proceedings in accordance with the County Code.

PART II

4.0 OPERATIONAL CHARACTERISTICS OF THE PROJECT

Permittee shall comply with the following during operation of the project:

4.1 GROUND WATER MANAGEMENT – WELLS **[RESERVED]**

4.2 AMPLIFIED MUSIC **[RESERVED]**

4.3 TRAFFIC **[RESERVED]**

4.4 PARKING **[RESERVED]**

4.5 TENANCY CHANGE

Any future change of tenancy within the structure shall require administrative review and approval by the PBES Department prior to occupancy. The permittee shall provide the PBES Department with a written profile of the proposed tenant, including name, present address, phone number, description of proposed use, employees, a list of any hazardous materials, and any other information deemed necessary by the PBES Department. The permittee shall also provide a detailed floor plan of the entire structure identifying the location and square footage of all uses within the structure prior to any new tenancy.

Parking based on the use of the tenant/building shall be provided in compliance with the Napa Valley Business Park (NVBP) prior to issuance of a Final Certificate of Occupancy. Parking shall be provided in accordance with the NVBP upon any change of use and/or tenancy, subject to review and approval by the PBES Director. The installation of parking may be deferred until such time as building tenancy requires, subject to review and approval by the PBES Director. Additional landscaping shall be provided in place of any deferred parking spaces.

4.6 BUILDING DIVISION – USE OR OCCUPANCY CHANGES

Please contact the Building Division with any questions regarding the following:

In accordance with the California Building Code (CBC), no change shall be made in the use or occupancy of an existing building unless the building is made to comply with requirements of the current CBC as for a new building.

4.7 FIRE DEPARTMENT – TEMPORARY STRUCTURES

Please contact the Fire Department with any questions regarding the following:

The permittee and/or designee shall obtain a tent permit from the Fire Department for any temporary structures utilized for authorized events allowed per COA No. 1.0 above.

4.8 NAPA COUNTY MOSQUITO ABATEMENT PROGRAM **[RESERVED]**

4.9 GENERAL PROPERTY MAINTENANCE – LIGHTING, LANDSCAPING, PAINTING, OUTDOOR EQUIPMENT STORAGE, MECHANICAL EQUIPMENT, AND TRASH ENCLOSURE AREAS **[RESERVED]**

4.10 NO TEMPORARY SIGNS **[RESERVED]**

4.11 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - OPERATIONAL CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies' requirements. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Engineering Services Division operational conditions as stated in their Memorandum dated December 9, 2019.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify this permit.

4.12 OPERATIONAL MITIGATION MEASURES **[RESERVED]**

4.13 OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT

- a. A Decommissioning Plan shall be submitted and approved by the Director of PBES prior to the issuance of Building Permits for the proposed American Canyon Solar project. The Decommissioning Plan shall include, but not be limited to the following components: removal of all above and below ground improvements; restoration of the surface grade, placement of topsoil over all removed structures, revegetation and erosion control as deemed necessary by the Director of PBES; a timeframe for improvement removal and site restoration; an engineer's cost estimate for all aspects of the removal and restoration plan; an agreement signed by the property owner and operator that they take full responsibility to implement the Decommissioning Plan; a plan to comply with all state and federal requirements for reuse, recycling and/or disposal of potentially hazardous waste.
- b. Financial Assurance shall be provided to Napa County in a form and amount acceptable to the County to secure the expense of decommissioning and restoring the project site consistent with the approved Decommissioning Plan. Financial Assurance shall be submitted and accepted by Napa County prior to final occupancy/finalizing the Building Permit.

4.14 PREVIOUS CONDITIONS **[RESERVED]**.

PART III

5.0 PREREQUISITE FOR ISSUANCE OF PERMITS

5.1 PAYMENT OF FEES

No building, grading or sewage disposal permits shall be issued or other permits authorized until all accrued planning permit processing fees have been paid in full. This includes all fees associated with plan check and building inspections, associated development impact fees established by County Ordinance or Resolution, and the Napa County Affordable Housing Mitigation Fee in accordance with County Code.

6.0 GRADING/DEMOLITION/ENVIRONMENTAL/BUILDING PERMIT/OTHER PERMIT PREREQUISITES

Permittee shall comply with the following with the submittal of a grading, demolition environmental, building and/or other applicable permit applications:

6.1 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - PLAN REVIEW, CONSTRUCTION AND PREOCCUPANCY CONDITIONS

The attached project conditions of approval include all of the following County Divisions, Departments and Agencies' requirements. The permittee shall comply with all applicable building codes, zoning standards, and requirements of County Divisions, Departments and Agencies at the time of submittal and may be subject to change. Without limiting the force of those other requirements which may be applicable, the following are incorporated by reference as enumerated herein:

- a. Engineering Services Division operational conditions as stated in their Memorandum dated December 9, 2019.

The determination as to whether or not the permittee has substantially complied with the requirements of other County Divisions, Departments and Agencies shall be determined by those County Divisions, Departments or Agencies. The inability to substantially comply with the requirements of other County Divisions, Departments and Agencies may result in the need to modify the permit.

6.2 BUILDING DIVISION – GENERAL CONDITIONS

Please contact the Building Division with any questions regarding the following:

- a. A building permit shall be obtained for all construction occurring on the site not otherwise exempt by the CBC or any State or local amendment adopted thereto
- b. If there are any existing structures and/or buildings on the property that will need to be removed to accommodate construction activities, a separate demolition permit shall be required from the Building Division prior to removal. The permittee shall provide a “J” number from the Bay Area Air Quality Management District (BAAQMD) at the time the permittee applies for a demolition permit if applicable.
- c. All areas of newly designed and newly constructed buildings, facilities and or site improvements shall comply with the CBC accessibility requirements, as well as, American with Disabilities Act requirements when applicable. When alterations or additions are made to existing buildings or facilities, an accessible path of travel to the specific area of alteration or addition shall be provided, as required per the CBC.

6.3 LIGHTING – PLAN SUBMITTAL

- a. Two (2) copies of a detailed lighting plan showing the location and specifications for all lighting fixtures to be installed on the property shall be submitted for Planning Division review and approval. All lighting shall comply with the CBC.
- b. All exterior lighting, including landscape lighting, shall be shielded and directed downward; located as low to the ground as possible; the minimum necessary for security, safety, or operations; on timers; and shall incorporate the use of motion detection sensors to the greatest extent practical. All lighting shall be shielded or placed such that it does not shine directly on adjacent properties or impact vehicles on adjacent streets. No flood-lighting or sodium lighting of the building is permitted, including architectural highlighting and spotting. Low-level lighting shall be utilized in parking areas as opposed to elevated high-intensity light standards.

6.4 LANDSCAPING – PLAN SUBMITTAL **[RESERVED]**

6.5 COLORS **[RESERVED]**

6.6 OUTDOOR STORAGE/SCREENING/UTILITIES

Details of outdoor storage areas and structures shall be included on the building and landscape plans. No outdoor storage is permitted as part of this action. Any proposal for outdoor storage and proposed screening is subject to separate review and approval by the PBES Department. New utility lines required for this project shall be placed underground.

6.7 MECHANICAL EQUIPMENT

- a. Roof mounted equipment shall be screened by a parapet wall of equal or greater height than the highest piece of roof mounted equipment or vent. Equipment may be screened by a separate roof screen that is architecturally integrated with the building if screening by a parapet wall is not feasible or is architecturally undesirable. When separate roof screens are used, roof equipment should be organized into major groups screening a smaller number of units rather than multiple areas. The PBES Director may approve exceptions for solar equipment. All screening is subject to review and approval by the PBES Director. Any skylights shall be subject to review and approval by the PBES Director prior to the issuance of building permits.
- b. The term "equipment" includes roof mounted equipment or vents, electrical equipment, gas meter, communication antennas, irrigation valves, storage tanks, or other mechanical equipment. The manner of screening shall be as follows: Communications equipment, including microwave equipment, may remain unscreened if visually integrated with the building design through color, location, and construction; all building mounted equipment, including but not limited to louvers, pipes, overhead doors or service doors, access ladders, downspouts, conduit, and electrical/service boxes, shall be painted consistent with the color scheme of the building.
- c. Ground mounted equipment shall be screened by walls or landscaping to the satisfaction of the PBES Director.
- d. Exterior equipment shall be located, enclosed or muffled so as not to exceed noise thresholds in the County Code.

6.8 TRASH ENCLOSURES **[RESERVED]**

6.9 BICYCLE PARKING **[RESERVED]**

6.10 CONSTRUCTION CRANES

Any crane used in the construction of the phases shall be lighted and have flags for improved visibility from aircraft; no crane shall exceed 80 feet in height without first obtaining the Federal Aviation Administration's express approval.

6.11 AIRCRAFT OVERFLIGHT EASEMENT

Upon building permit submittal, the permittee shall submit verification that an aircraft overflight easement has been recorded on the property that provides for the right of aircraft operation, overflight and related noises, and for the regulation of light emissions, electrical emissions, or the release of substances such as steam or smoke which could interfere with aircraft operations.

6.12 ADDRESSING

All project site addresses shall be determined by the PBES Director, and be reviewed and approved by the United States Post Office. The PBES Director reserves the right to issue or re-issue an appropriate situs address at the time of issuance of any building permit to ensure proper identification and sequencing of numbers. For multi-tenant or multiple structure projects, this includes building permits for later building modifications or tenant improvements.

6.13 HISTORIC RESOURCES **[RESERVED]**

6.14 DEMOLITION ACTIVITIES **[RESERVED]**

6.15 VIEWSHED – EXECUTION OF USE RESTRICTIONS **[RESERVED]**

6.16 PERMIT PREREQUISITE MITIGATION MEASURES

a. General Construction Measures

MM BIO-1. Prior to working on the Project, all Project personnel will attend a preconstruction environmental training to review potential special-status wildlife that could be found in the Project Area and ensure that AMMs for the Project are understood and implemented.

MM BIO-2. Work areas, staging areas, and access roads will be limited to those shown in the final Project description. All heavy equipment, vehicle, and construction activities will be confined to these designated areas.

MM BIO-3. All trash and waste items generated by construction or crew activities will be properly contained and removed from the Project Area.

MM BIO-4. All Project personnel will visually check for animals beneath vehicles and equipment immediately prior to operation. Any pipes, culverts, or other open-ended materials and equipment stored on-site for one or more overnight periods will be inspected for animals prior to moving, burying, or capping to assure that no animals are present within the materials and equipment.

MM BIO-5. To prevent accidental entrapment of wildlife during construction, all excavated holes, ditches, or trenches greater than 1-ft-deep will be covered at the end of each work-day by suitable materials, or escape routes will be constructed. After opening, and before filling such holes, ditches, and trenches will be thoroughly inspected for trapped animals.

MM BIO-6. If a special-status species is discovered in the Project Area, the Project Manager will be contacted. The Project Manager will report the sighting to the appropriate natural resource agency(ies) (e.g., CDFW, USFWS) within 24 hours. The animal will be allowed to move offsite on its own. Special-status species will not be taken or harassed.

MM BIO-7. A copy of all applicable permits and approvals, with associated maps, conditions, and AMMs will be kept on-site at all times. All migratory birds are protected under the Migratory Bird Treaty Act. A number of migratory birds

were observed in the Project Area, and may utilize structures, trees and other vegetation, or pastureland for nesting. All trees and vegetation have the potential to be active nest sites for a number of avian species. Tree and vegetation removal could potentially impact nesting migratory birds if conducted during the nesting season (February 1-August 31).

MM BIO-8. If feasible, Project activities should be scheduled outside of the nesting bird season, in order to avoid impacts to nesting migratory birds of all types.

Monitoring: Prior to the issuance of a grading permit, the project plans shall reflect the implementation of the best management practices (BMPs) for construction activities, including verification to the PBES Department that all Project personnel have attended preconstruction environmental training detailed in MM BIO-1 through BIO-8. If vegetation clearing or other land disturbance is proposed during the bird breeding season (February 15 through August 31), the special-status bird species and other migratory passerines (perching birds) survey shall be submitted to Planning Division staff prior to issuance of the grading permit.

b. Measures for Special-status Birds

MM BIO-9. A nesting bird survey is not required for construction activities that occur outside the nesting season (from September 1 through January 31). In the event that construction activities (e.g., vegetation removal, ground disturbing activities [pile driving, trenching, inverter pad installation, and access road construction], assembly of solar array, other use of heavy equipment, etc.) begin within the nesting bird season, a qualified biologist will conduct preconstruction surveys for nesting birds. In the event that construction starts outside of the nesting season (February 1 – August 31) and continues continuously (as defined as no more than 14 days break between work), then a nesting bird survey is not required at any point throughout construction. Under this scenario, a nesting bird survey is only required if construction ceases for 14 days or longer in a row during the nesting season. For construction activities planned within the nesting season (February 1 to August 31), the nesting bird survey methods and the number of visits recommended are dependent on the construction schedule (i.e., construction starts before July 15 or after July 15) and the species that have the potential to be affected. The first survey scenario (a. below) is specific to Swainson's hawk (but will also cover all other nesting birds), and the second scenario (b. below) is inclusive of all nesting birds.

a. Construction activities planned between April 1 and July 15: Swainson's hawk are migratory raptors that return to their California territories in April. This species has a historic and continued presence in and adjacent to the Project Area. If construction is scheduled to begin between April 1 and July 15, a survey for active Swainson's hawk territories/nests within a 1-mi radius of the Project Area is recommended. This survey includes three visits, with the first occurring in April, which coincides with the species arrival and nest construction. This survey will be used to determine territory occupancy. To confirm territory occupancy and nesting status, a second visit is recommended for the month of May, which coincides with egg laying and incubation. The second survey will be used to determine fledging of young. For reference, incubation lasts up to 35 days, and fledging occurs 44 days after hatching. A third visit will be performed no more than 14 days prior to the start of construction to determine if the young have fledged. During this follow-up survey, all

suitable nesting habitat within and adjacent to the Project Area will be surveyed for active nests of other species.

b. Construction activities planned between February 1 and March 31 or between July 16 and August 31: If construction is scheduled to begin after July 15, a single preconstruction nesting bird survey shall be conducted no more than 14-days prior to the start of Project activities. If, during the nesting season, construction activities begin and then are stopped and remain stopped for 14 days or more, then the single preconstruction nesting bird survey shall be repeated.

MM BIO-10. If an active nest or nests are found, a qualified biologist will determine appropriate avoidance buffers and may monitor associated Project activities. Bird species that may be present, and appropriate avoidance buffers include the following:

- a. Golden eagle – 2,640 ft (0.5 mi);
- b. Swainson's hawk – 1,320 ft (0.25 mi);
- c. White-tailed kite – 500 ft;
- d. Other raptors – species dependent, but generally between 200 and 300 ft; and
- e. Passerines (e.g., sparrow, swallow, robin) and other small birds – species dependent, but range between 50-100 ft.

Monitoring: If construction activity is to occur during the nesting season from March 15 to August 31, the pre-construction survey prepared by a qualified wildlife biologist shall be submitted to Planning Division staff prior to issuance of the grading permit.

c. Measures for Special-Status Plants and Vegetation Communities

MM BIO-11. No known occurrences of special-status plant taxa occur at this time. However, if special status plants are found, the Project Manager will be notified. Individuals will be marked (e.g., with flagging or construction fencing) and avoided during construction activities. Environmental training for construction personnel will include identification and location of on-site special status plants.

Monitoring: Prior to the issuance of a grading permit, the project plans shall reflect the implementation of the best management practices (BMPs) for construction activities, including verification to the PBES Department that all Project personnel have attended preconstruction environmental training including identification and location of on-site special status plants. If special status plants are found during construction activities, the Project Sponsor shall notify the PBES Department. A qualified professional biologist shall mark all individuals plants (e.g., with flagging or construction fencing) and avoid during construction activities.

d. Wetland and Water Feature Measures

MM BIO-12. Complete avoidance of Suscol Creek and associated riparian woodland along the northern boundary of the Project is planned. Plans call for a typical setback of 150 ft (Appendix F), and a minimum setback of 35-45 ft is required, depending on slope (NCBS 2019). The setback from Suscol Creek will be demarcated by fencing, flagging, or other highly visible material.

MM BIO-13. Extreme caution will be exercised when using the access bridge crossing Suscol Creek (Photo 11). When handling and/or storing chemicals (fuel,

hydraulic fluid, etc.) near waterways, all applicable laws/regulations and best management practices (BMPs) will be followed. Appropriate materials will be kept on site to prevent and manage spills. All construction equipment will be well maintained to prevent fuel, lubricants, or other fluid leaks. Equipment, when not in use, will be stored in upland areas outside of the boundaries of the stream-channel or other water bodies.

MM BIO-14. Erosion, sediment, and material stockpile BMPs will be employed between work areas and adjacent wetlands or waterways. No fill or runoff will be allowed to enter wetlands or waterways. Any erosion and sediment control materials (e.g., hay bales, straw wattles, erosion blankets, etc.) will not include micro-filament netting, to avoid entrapment of wildlife. Any straw erosion and sediment control materials will be composed of certified weed free material.

Monitoring: Prior to the issuance of a grading permit, the delineated wetland boundary shall be demarcated on the improvements plans and an erosion control silt fence shall be shown between the edge of the delineated wetland boundary and the road.

e. Cultural Resources

MM CULT-1: Prior to commencing ground disturbing construction activities within the Project area, the Project sponsor shall require all Project personnel attend a preconstruction training conducted by the Yocha Dehe Wintun Nation Tribe to review potential tribal cultural resources that could be found in the Project Area and ensure that permit conditions for the Project are understood and implemented.

Monitoring: Prior to the issuance of a grading permit, the Project Sponsor shall provide verification to PBES Department that preconstruction training for all Project personnel has been conducted by the Yocha Dehe Wintun Nation Tribe.

MM CULT-2: A qualified archaeological monitor and consulting Native American monitor shall be present during all ground-disturbing activity (including but not limited to vegetation clearing/grubbing, piledriving, transformer and inverter pads, trenching, gravel access roads, etc.) for project development. In the event subsurface archaeological materials are encountered, all ground disturbing activities must be suspended within 50-feet of the find. The landowner, project proponent, Napa County Planning Department shall be notified immediately if any such finds until an archaeologist meeting the Secretary of the Interior's (SOI) Professional Qualifications Standards in archaeology can evaluate the finds and recommend appropriate action.

If the resource cannot be avoided, then a data recovery mitigation program shall be developed and implemented. At the discretion the principal archaeologist and in coordination the County, once a sufficient sample of materials has been observed resulting in negative findings, and/or bedrock/paleosols or disturbed soils (i.e. fill) are encountered, monitoring may be reduced to spot-checking or as-needed.

Monitoring: A qualified archaeological monitor and consulting Native American monitor shall be present during all ground-disturbing activity (including but not limited to vegetation clearing/grubbing, piledriving, transformer and inverter pads, trenching, gravel access roads, etc.) for project development. In the event that archeological artifacts or human remains are discovered during construction,

work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

MM CULT-3: In the event of discovery of human remains the following actions promulgated in Public Resources Code 5097.97 and Health and Human Safety Section 7050.5(b) of the California Health and Safety Code shall apply. Upon identification of human remains all excavation or disturbance of the location must be halted in the vicinity of the find, and the County coroner contacted. If the coroner determines the remains are Native American, the coroner shall contact NAHC, which will identify the most likely descended (MLD) person or persons from the deceased Native American. The MLD will provide recommendations regarding the treatment of the remains with appropriate dignity (refer to PRC 5097.94 for complete guidelines).

Monitoring: In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

f. Geology and Soils

MM GEO-1: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a "qualified paleontologist" shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.

If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of

the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the County for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

The Project sponsor shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:

“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”

Monitoring: In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

7.0 PROJECT CONSTRUCTION

Permittee shall comply with the following during project construction:

7.1 SITE IMPROVEMENT

Please contact Engineering Services with any questions regarding the following:

a. GRADING & SPOILS

All grading and spoils generated by construction of the project facilities shall be managed per Engineering Services direction. Alternative locations for spoils are permitted, subject to review and approval by the PBES Director, when such alternative locations do not change the overall concept, and do not conflict with any environmental mitigation measures or conditions of approval.

b. DUST CONTROL

Water and/or dust palliatives shall be applied in sufficient quantities

during grading and other ground disturbing activities on-site to minimize the amount of dust produced. Outdoor construction activities shall not occur when average wind speeds exceed 20 mph.

c. AIR QUALITY

During all construction activities the permittee shall comply with the most current version of BAAQMD Basic Construction Best Management Practices including but not limited to the following, as applicable:

1. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. The BAAQMD's phone number shall also be visible.
2. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, grading areas, and unpaved access roads) two times per day.
3. Cover all haul trucks transporting soil, sand, or other loose material off-site.
4. Remove all visible mud or dirt tracked onto adjacent public roads by using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
5. All vehicle speeds on unpaved roads shall be limited to 15 mph.
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
7. Idling times shall be minimized either by shutting off equipment when not in use or reducing the maximum idling time to five (5) minutes (as required State Regulations). Clear signage shall be provided for construction workers at all access points.
8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Any portable engines greater than 50 horsepower or associated equipment operated within the BAAQMD's jurisdiction shall have either a California Air Resources Board (ARB) registration Portable Equipment Registration Program (PERP) or a BAAQMD permit. For general information regarding the certified visible emissions evaluator or the registration program, visit the ARB FAQ http://www.arb.ca.gov/portable/perp/perpfaq_04-16-15.pdf or the PERP website <http://www.arb.ca.gov/portable/portable.htm>.

d. STORM WATER CONTROL

The permittee shall comply with all construction and post-construction storm water pollution prevention protocols as required by the County Engineering Services Division, and the State Regional Water Quality Control Board.

7.2 ARCHEOLOGICAL FINDING

In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required.

If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

7.3 CONSTRUCTION NOISE

Construction noise shall be minimized to the greatest extent practical and feasible under State and local safety laws, consistent with construction noise levels permitted by the General Plan Community Character Element and the County Noise Ordinance. Construction equipment muffling and hours of operation shall be in compliance with the County Code. Equipment shall be shut down when not in use. Construction equipment shall be staged, loaded, and unloaded on the project site, if at all practicable. If project terrain or access road conditions require construction equipment to be staged, loaded, or unloaded off the project site (such as on a neighboring road or at the base of a hill), such activities only shall occur daily between the hours of 8:00 AM to 5:00 PM.

7.4 OTHER CONSTRUCTION CONDITIONS APPLICABLE TO THE PROJECT PROPOSAL

- a. The permittee shall file a notice with the Federal Aviation Agency 45 days prior to the commencement of construction in accordance with 14 CFR Part 77.9. Documentation that the notice has been filed with the FAA shall be provided to the Director prior to the commencement of any construction activities.
- b. The permittee shall install curb, gutter and a driveway apron along the property frontage adjoining Soscol Ferry Road as set forth in the Engineering Division memo date December 9, 2019.
- c. Tree trunks, downed limbs, brush piles, and agricultural structures and equipment shall be removed from the 80 ft. wide access corridor, and along the western boundary of the site prior to grant of final occupancy.

7.5 CONSTRUCTION MITIGATION MEASURES

The permittee shall comply with the following construction mitigation measures identified in the adopted Initial Study/Mitigated Negative Declaration and Project Revision Statement/Mitigation Monitoring and Reporting Program prepared for the project:

a. General Construction Measures

MM BIO-1. Prior to working on the Project, all Project personnel will attend a preconstruction environmental training to review potential special-status wildlife that could be found in the Project Area and ensure that AMMs for the Project are understood and implemented.

MM BIO-2. Work areas, staging areas, and access roads will be limited to those shown in the final Project description. All heavy equipment, vehicle, and construction activities will be confined to these designated areas.

MM BIO-3. All trash and waste items generated by construction or crew activities will be properly contained and removed from the Project Area.

MM BIO-4. All Project personnel will visually check for animals beneath vehicles and equipment immediately prior to operation. Any pipes, culverts, or other open-ended materials and equipment stored on-site for one or more overnight periods will be inspected for animals prior to moving, burying, or capping to assure that no animals are present within the materials and equipment.

MM BIO-5. To prevent accidental entrapment of wildlife during construction, all excavated holes, ditches, or trenches greater than 1-ft-deep will be covered at the end of each work-day by suitable materials, or escape routes will be constructed. After opening, and before filling such holes, ditches, and trenches will be thoroughly inspected for trapped animals.

MM BIO-6. If a special-status species is discovered in the Project Area, the Project Manager will be contacted. The Project Manager will report the sighting to the appropriate natural resource agency(ies) (e.g., CDFW, USFWS) within 24 hours. The animal will be allowed to move offsite on its own. Special-status species will not be taken or harassed.

MM BIO-7. A copy of all applicable permits and approvals, with associated maps, conditions, and AMMs will be kept on-site at all times. All migratory birds are protected under the Migratory Bird Treaty Act. A number of migratory birds were observed in the Project Area, and may utilize structures, trees and other vegetation, or pastureland for nesting. All trees and vegetation have the potential to be active nest sites for a number of avian species. Tree and vegetation removal could potentially impact nesting migratory birds if conducted during the nesting season (February 1-August 31).

MM BIO-8. If feasible, Project activities should be scheduled outside of the nesting bird season, in order to avoid impacts to nesting migratory birds of all types.

Monitoring: Prior to the issuance of a grading permit, the project plans shall reflect the implementation of the best management practices (BMPs) for construction activities, including verification to the PBES Department that all Project personnel have attended preconstruction environmental training detailed

in MM BIO-1 through BIO-8. If vegetation clearing or other land disturbance is proposed during the bird breeding season (February 15 through August 31), the special-status bird species and other migratory passerines (perching birds) survey shall be submitted to Planning Division staff prior to issuance of the grading permit.

b. Measures for Special-status Birds

MM BIO-9. A nesting bird survey is not required for construction activities that occur outside the nesting season (from September 1 through January 31). In the event that construction activities (e.g., vegetation removal, ground disturbing activities [pile driving, trenching, inverter pad installation, and access road construction], assembly of solar array, other use of heavy equipment, etc.) begin within the nesting bird season, a qualified biologist will conduct preconstruction surveys for nesting birds. In the event that construction starts outside of the nesting season (February 1 – August 31) and continues continuously (as defined as no more than 14 days break between work), then a nesting bird survey is not required at any point throughout construction. Under this scenario, a nesting bird survey is only required if construction ceases for 14 days or longer in a row during the nesting season. For construction activities planned within the nesting season (February 1 to August 31), the nesting bird survey methods and the number of visits recommended are dependent on the construction schedule (i.e., construction starts before July 15 or after July 15) and the species that have the potential to be affected. The first survey scenario (a. below) is specific to Swainson's hawk (but will also cover all other nesting birds), and the second scenario (b. below) is inclusive of all nesting birds.

a. Construction activities planned between April 1 and July 15: Swainson's hawk are migratory raptors that return to their California territories in April. This species has a historic and continued presence in and adjacent to the Project Area. If construction is scheduled to begin between April 1 and July 15, a survey for active Swainson's hawk territories/nests within a 1-mi radius of the Project Area is recommended. This survey includes three visits, with the first occurring in April, which coincides with the species arrival and nest construction. This survey will be used to determine territory occupancy. To confirm territory occupancy and nesting status, a second visit is recommended for the month of May, which coincides with egg laying and incubation. The second survey will be used to determine fledging of young. For reference, incubation lasts up to 35 days, and fledging occurs 44 days after hatching. A third visit will be performed no more than 14 days prior to the start of construction to determine if the young have fledged. During this follow-up survey, all suitable nesting habitat within and adjacent to the Project Area will be surveyed for active nests of other species.

b. Construction activities planned between February 1 and March 31 or between July 16 and August 31: If construction is scheduled to begin after July 15, a single preconstruction nesting bird survey shall be conducted no more than 14-days prior to the start of Project activities. If, during the nesting season, construction activities begin and then are stopped and remain stopped for 14 days or more, then the single preconstruction nesting bird survey shall be repeated.

MM BIO-10. If an active nest or nests are found, a qualified biologist will determine appropriate avoidance buffers and may monitor associated Project activities. Bird species that may be present, and appropriate avoidance buffers include the following:

- a. Golden eagle – 2,640 ft (0.5 mi);
- b. Swainson's hawk – 1,320 ft (0.25 mi);
- c. White-tailed kite – 500 ft;
- d. Other raptors – species dependent, but generally between 200 and 300 ft; and
- e. Passerines (e.g., sparrow, swallow, robin) and other small birds – species dependent, but range between 50-100 ft.

Monitoring: If construction activity is to occur during the nesting season from March 15 to August 31, the pre-construction survey prepared by a qualified wildlife biologist shall be submitted to Planning Division staff prior to issuance of the grading permit.

c. Measures for Special-Status Plants and Vegetation Communities

MM BIO-11. No known occurrences of special-status plant taxa occur at this time. However, if special status plants are found, the Project Manager will be notified. Individuals will be marked (e.g., with flagging or construction fencing) and avoided during construction activities. Environmental training for construction personnel will include identification and location of on-site special status plants.

Monitoring: Prior to the issuance of a grading permit, the project plans shall reflect the implementation of the best management practices (BMPs) for construction activities, including verification to the PBES Department that all Project personnel have attended preconstruction environmental training including identification and location of on-site special status plants. If special status plants are found during construction activities, the Project Sponsor shall notify the PBES Department. A qualified professional biologist shall mark all individuals plants (e.g., with flagging or construction fencing) and avoid during construction activities.

d. Wetland and Water Feature Measures

MM BIO-12. Complete avoidance of Suscol Creek and associated riparian woodland along the northern boundary of the Project is planned. Plans call for a typical setback of 150 ft (Appendix F), and a minimum setback of 35-45 ft is required, depending on slope (NCBS 2019). The setback from Suscol Creek will be demarcated by fencing, flagging, or other highly visible material.

MM BIO-13. Extreme caution will be exercised when using the access bridge crossing Suscol Creek (Photo 11). When handling and/or storing chemicals (fuel, hydraulic fluid, etc.) near waterways, all applicable laws/regulations and best management practices (BMPs) will be followed. Appropriate materials will be kept on site to prevent and manage spills. All construction equipment will be well maintained to prevent fuel, lubricants, or other fluid leaks. Equipment, when not in use, will be stored in upland areas outside of the boundaries of the stream-channel or other water bodies.

MM BIO-14. Erosion, sediment, and material stockpile BMPs will be employed between work areas and adjacent wetlands or waterways. No fill or runoff will be allowed to enter wetlands or waterways. Any erosion and sediment control materials (e.g., hay bales, straw wattles, erosion blankets, etc.) will not include micro-filament netting, to avoid entrapment of wildlife. Any straw erosion and sediment control materials will be composed of certified weed free material.

Monitoring: Prior to the issuance of a grading permit, the delineated wetland boundary shall be demarcated on the improvements plans and an erosion control silt fence shall be shown between the edge of the delineated wetland boundary and the road.

e. Cultural Resources

MM CULT-1: Prior to commencing ground disturbing construction activities within the Project area, the Project sponsor shall require all Project personnel attend a preconstruction training conducted by the Yocha Dehe Wintun Nation Tribe to review potential tribal cultural resources that could be found in the Project Area and ensure that permit conditions for the Project are understood and implemented.

Monitoring: Prior to the issuance of a grading permit, the Project Sponsor shall provide verification to PBES Department that preconstruction training for all Project personnel has been conducted by the Yocha Dehe Wintun Nation Tribe.

MM CULT-2: A qualified archaeological monitor and consulting Native American monitor shall be present during all ground-disturbing activity (including but not limited to vegetation clearing/grubbing, piledriving, transformer and inverter pads, trenching, gravel access roads, etc.) for project development. In the event subsurface archaeological materials are encountered, all ground disturbing activities must be suspended within 50-feet of the find. The landowner, project proponent, Napa County Planning Department shall be notified immediately if any such finds until an archaeologist meeting the Secretary of the Interior's (SOI) Professional Qualifications Standards in archaeology can evaluate the finds and recommend appropriate action.

If the resource cannot be avoided, then a data recovery mitigation program shall be developed and implemented. At the discretion the principal archaeologist and in coordination the County, once a sufficient sample of materials has been observed resulting in negative findings, and/or bedrock/paleosols or disturbed soils (i.e. fill) are encountered, monitoring may be reduced to spot-checking or as-needed.

Monitoring: A qualified archaeological monitor and consulting Native American monitor shall be present during all ground-disturbing activity (including but not limited to vegetation clearing/grubbing, piledriving, transformer and inverter pads, trenching, gravel access roads, etc.) for project development. In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

MM CULT-3: In the event of discovery of human remains the following actions promulgated in Public Resources Code 5097.97 and Health and Human Safety Section 7050.5(b) of the California Health and Safety Code shall apply. Upon

identification of human remains all excavation or disturbance of the location must be halted in the vicinity of the find, and the County coroner contacted. If the coroner determines the remains are Native American, the coroner shall contact NAHC, which will identify the most likely descended (MLD) person or persons from the deceased Native American. The MLD will provide recommendations regarding the treatment of the remains with appropriate dignity (refer to PRC 5097.94 for complete guidelines).

Monitoring: In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

f. Geology and Soils

MM GEO-1: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.

If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the County for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

The Project sponsor shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:

“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted

to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”

Monitoring: In the event that archeological artifacts or human remains are discovered during construction, work shall cease in a 50-foot radius surrounding the area of discovery. The permittee shall contact the PBES Department for further guidance, which will likely include the requirement for the permittee to hire a qualified professional to analyze the artifacts encountered and to determine if additional measures are required. If human remains are encountered during project development, all work in the vicinity must be halted, and the Napa County Coroner informed, so that the Coroner can determine if an investigation of the cause of death is required, and if the remains are of Native American origin. If the remains are of Native American origin, the permittee shall comply with the requirements of Public Resources Code Section 5097.98.

8.0 TEMPORARY CERTIFICATE OF OCCUPANCY – PREREQUISITES

A Temporary Certificate of Occupancy (TCO) may be granted pursuant to the County Code to allow specific limited use of the warehouse and office areas prior to completion of all project improvements. Permittee shall comply with the following before a TCO is granted:

8.1 TEMPORARY OCCUPANCY

All life and safety conditions shall be addressed prior to issuance of a TCO by the County Building Official. TCOs shall not be used for general public occupancy of buildings and shall not exceed the maximum time allowed by the County Code which is 180 days. In special circumstances, Departments and/or Agencies with jurisdiction over the project are authorized as part of the TCO process to require a security deposit or other financial instrument to guarantee completion of unfinished improvements.

9.0 FINAL CERTIFICATE OF OCCUPANCY – PREREQUISITES

Permittee shall comply with the following before a Final Certificate of Occupancy is granted by the County Building Official, which upon granting, authorizes all use permit activities to commence:

9.1 FINAL OCCUPANCY

All project improvements, including compliance with applicable codes, conditions, and requirements of all Departments and Agencies with jurisdiction over the project, shall be completed.

9.2 SIGNS [RESERVED]

- 9.3 **GATE/ENTRY STRUCTURES**
Any gate installed at the project entrance shall be reviewed by the PBES Department and the Fire Department to assure that the design allows large vehicles, such as motorhomes, to turn around if the gate is closed without backing into the public roadway, and that fire suppression access is available at all times. If the gate is part of an entry structure an additional permit shall be required pursuant to the County Code and in accordance with the Napa County Roads and Street Standards. A separate entry structure permit is not required if the entry structure is consistent with entry structure plans submitted, reviewed, and approved as part of this permit approval.
- 9.4 **LANDSCAPING [RESERVED]**
- 9.5 **ROAD OR TRAFFIC IMPROVEMENT REQUIREMENTS [RESERVED]**
- 9.6 **DEMOLITION ACTIVITIES [RESERVED]**
- 9.7 **GRADING SPOILS [RESERVED]**
- 9.8 **MITIGATION MEASURES APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY – See conditions 6.18 & 7.5.**
- 9.9 **OTHER CONDITIONS APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY – See conditions 7.4(b) & (c).**



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Planning, Building & Environmental Services

1195 Third Street, Suite 210
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www.countyofnapa.org

David Morrison
Director

MEMORANDUM

To: John McDowell, Planning	From: Daniel Basore, Engineering
Date: December 9, 2019	Re: Soscol Ferry Solar Engineering Division First Review P19-00338 APN: 057-170-001-000

The Engineering division has reviewed the use permit application P19-00338 for the Soscol Ferry Solar small scale utility project located on assessor's parcel number 057-170-001-000.

Based upon the information provided in the application, Engineering finds the application **complete** and recommends the following conditions of approval:

RECOMMENDED APPROVAL CONDITIONS:

PREREQUISITES FOR ISSUANCE OF PERMITS

1. Any roadway, access driveway, and parking areas, proposed new or reconstructed shall meet the requirements as outlined in the latest edition of the Napa County Road & Street Standards for Special Purpose Way development at the time of use permit approval. At a minimum the road shall be a 10.0' wide travel lane with 4.0' of shoulder consisting of a minimum gravel section of 5' Class II AB.
2. The driveway connection to Soscol Ferry Road shall be improved to meet the P-4 Detail of the 2019 Napa County Road and Street Standards as a variation to the Specific Plan Standards; sidewalk is not required at this time, however a curb, gutter and concrete apron shall be installed per the P-4 Detail. An Encroachment permit from the Public Works department is required to construct the work.
3. All on site civil improvements including but not limited to the excavation, fill, general grading, drainage, curb, gutter, surface drainage, storm drainage, parking and drive isles, shall be constructed according to plans prepared by a registered civil engineer, which will be reviewed and approved by the Engineering Division of the Napa County Planning, Building, and Environmental Services Department (PBES) **prior to the commencement** of any on site land preparation or construction. Plans shall be signed and submitted with the building and/or grading permit documents at the time of permit application. A plan check fee will apply.

4. Grading and drainage improvements shall be constructed according to the current Napa County Road and Street Standards, Chapter 16.28 of the Napa County Code, and Appendix J of the California Building Code.
5. **Prior to issuance of a building permit** the owner shall submit the necessary documents for Erosion Control as determined by the area of disturbance of the proposed development in accordance with the Napa Countywide Stormwater Pollution Prevention program Erosion and Sediment Control Plan Guidance for Applicant and Review Staff dated December 2014.
6. **Prior to issuance of a building permit** the owner shall prepare a Regulated Project Stormwater Control Plan (SCP) in accordance with the latest edition of the BASMAA Post-Construction Manual for review and approval by the Engineering Division in PBES.

PREREQUISITES FOR PERMIT FINAL

7. Driveway improvements as specified in conditions 1 & 2 shall be completed prior to Final of the project.
8. Site shall be completely stabilized to the satisfaction of the County Engineer prior to Final of the project.

Any changes in use may necessitate additional conditions for approval.

If you have any questions regarding the above items, please contact Daniel Basore from Napa County Planning, Building, and Environmental Services Department, Engineering and Conservation Division, at (707)259-8328 or by email at Daniel.Basore@countyofnapa.org