

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: Hummingbird Energy Storage Project

PROJECT FILE NUMBER: CP19-020

PROJECT DESCRIPTION: Conditional Use Permit to allow an energy storage facility in an existing approximately 102,462 square foot industrial building with a new approximately 15,000 square foot substation on a 25.33 gross acre site. The energy storage facility and associated substation would connect to the Metcalf Substation via a 2.5-mile-long, underground transmission line within the Monterey Road public right-of-way. No permanent employees would occupy the building.

PROJECT LOCATION: North of San Ignacio Avenue, approximately 270 feet from San Ignacio Avenue and Las Colinas Lane.

ASSESSORS PARCEL NO.: 706-09-094

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: esVolta, LP (Attn: Rishad Olpadwala), 65 Enterprise – 3rd Floor, Aliso Viejo, CA 92656, (323)-314-8422

FINDING: This Proposed Mitigated Negative Declaration (MND) is included to give notice to interested agencies and the public that the City of San José (City) intends to adopt an MND for this project. This does not mean that the City's decision regarding the project is final. This Proposed MND is subject to modification based on comments received by interested agencies and the public.

An initial study has been prepared by City. On the basis of this study it is determined, pending public review, that the proposed action with the incorporation of the identified mitigation measures will not have a significant effect on the environment.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- C. **AIR QUALITY** - The project would not have a significant impact on this resource; therefore, no mitigation is required.
- D. **BIOLOGICAL RESOURCES.**

Impact BIO-1.1a: Construction activities associated with the proposed project, could result in impacts to Central California Coast steelhead.

MM BIO-1.1a:

Project activities within the banks of Coyote Creek shall occur between June 15 and October 15, when Central California Coast steelhead are not present. The applicant shall submit construction plans for bank work to the Director of Planning, Building, and Code Enforcement prior to any grading or demolition permit. The bank construction plan shall detail the timeline and anticipated starting and ending dates for physical work.

Impact BIO-1.1b: Construction activities associated with the proposed project, such as tree removals, could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

MM BIO-1.1b:

To avoid disturbance of nesting and special-status birds, the project applicant shall schedule activities related to the project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31 (inclusive).

MM BIO-1.2b:

If demolition and construction activities cannot be scheduled between September 1 and January 31 (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified biologist or ornithologist to ensure that no nests shall be disturbed during project implementation. The nesting bird pre-construction survey shall be conducted within the project boundary, including a 300-foot buffer (500-foot for raptors). The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in the area. The pre-construction survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1 through April 30, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive).

MM BIO-1.3b:

If active nests are found, the qualified biologist or ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests will not be disturbed during project construction (which depends upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site). The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No ground disturbing activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.

MM BIO-1.4b:

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

E. CULTURAL RESOURCES

Impact CUL-1: Trenching for the proposed underground transmission line could result in significant impacts to unknown buried archaeological resources.

MM CUL-1.1:

Construction monitoring by a qualified archaeologist shall occur during trenching activities for the underground conductor. Specifically, monitoring shall be conducted for trenching from 6321 San Ignacio Avenue south to Coyote Creek, and for the installation of the two new poles between Monterey Road and the Metcalf Substation. If archaeological deposits or features that appear eligible to the CRHR are identified during monitoring by the qualified archaeologist, all activity shall be temporarily stopped, and an archaeological research design and work plan shall be prepared by a qualified archeologist to facilitate archaeological excavation.

The archaeological research design and work plan shall utilize data recovery methods to reduce impacts on subsurface resources. The plan shall be prepared and submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to restarting any trenching activities. The plan shall contain, at a minimum:

- Identification of the scope of work and range of potential subsurface effects
- Detailed field strategy used to record, recover, or avoid the finds and address research goals
- Analytical methods
- Disposition of the artifacts
- Site records, correspondence, and consultation with Native Americans

A final report verifying completion of the research design and work plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for approval prior to project completion. This report shall contain a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources (as necessary).

- F. ENERGY** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- H. GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS.**

Impact HAZ-1: Project construction activities could result in the accidental release of hazardous materials into the environment.

MM HAZ-1.1: Prior to any site grading, excavation, or construction soils sampling shall occur consistent with a Phase II Environmental Assessment (Phase II ESA). The Phase II ESA shall apply to properties along the transmission alignment as well as in areas where subsurface work will be performed near the PG&E Metcalf Substation and at 6321/6325 San Ignacio Avenue. The Phase II ESA should evaluate potential soil impacts associated with prior agricultural uses, aerial deposited lead, naturally occurring asbestos, and releases from transformer equipment at the Metcalf Substation. The Phase II ESA shall describe methods

for soils testing (i.e. analytical methods, the approximate location, spacing, depth of boring, etc.) and characterization. The Phase II ESA and shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

MM HAZ-1.2: If the Phase II results indicate soil contamination above San Francisco Regional Water Quality Control Board Environmental Screening Levels (ESLs) for construction worker safety and/or commercial/industrial uses, the applicant must obtain regulatory oversight from Santa Clara County Department of Environment Health. Any further investigation and remedial actions must be performed under regulatory oversight to mitigate the contamination and make the site suitable for the proposed transmission line and substation. The Phase II and evidence of regulatory oversight in the form of an email or letter shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

MM HAZ-1.3: Based on the results of the soils testing associated with the soils sampling conducted under the SSP, a Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared by a qualified environmental professional and implemented during project construction activities. The SMP and HSP shall characterize the soil sand establish appropriate management practices for handling impacted soil that may be encountered during construction activities. The SMP shall evaluate potential disposal options if excess soil is generated that will require off-haul and describe methods for segregating impacted and non-impacted soil during excavation activities. The HSP shall establish soil management practices to ensure construction worker safety and the health of future workers and visitors.

If naturally occurring asbestos is identified during soil sampling or if it is determined that it is likely to be encountered during excavation and trenching activities, the SMP and HSP shall include asbestos dust mitigation measures and protocols to perform personnel and perimeter air and dust monitoring to evaluate the effectiveness of dust-control measures.

If groundwater dewatering is to be conducted, the SMP shall describe methods for groundwater extraction. The SMP shall outline protocols for pumping groundwater into appropriate storage containers, as well as sampling and analysis. The SMP shall also establish appropriate disposal options for the groundwater.

The SMP and HSP and evidence of regulatory oversight, if needed based on the findings of the Phase II ESA, shall be provided to the Director of Planning or Director's designee of the City of San José Department of Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

- J. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- K. LAND USE AND PLANNING** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- L. MINERAL RESOURCES**
- M. NOISE.** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

- N. **POPULATION AND HOUSING** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- O. **PUBLIC SERVICES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- P. **RECREATION** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- Q. **TRANSPORTATION** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- R. **TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- S. **UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- T. **WILDFIRE** – The project would not have a significant impact on this resource; therefore, no mitigation is required.
- U. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project would not have a significant impact on this resource; therefore, no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Tuesday, April 7th, 2020** any person may:

1. Review the Proposed Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Proposed MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Proposed MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Rosalynn Hughey, Director
 Planning, Building and Code Enforcement



3/13/2020

Date

Deputy

Kara Hawkins
 Environmental Project Manager

Circulation period: **March 18th, 2020 to April 7th, 2020**