

Exhibit K

Land Use

**West End Solar Project
September 2022**

**Prepared for
EE West End Solar LLC**

Prepared by



Tetra Tech, Inc.

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Acronyms and Abbreviations

Applicant	EE West End Solar LLC
ASC	Application for Site Certificate
EFSC	Energy Facility Siting Council
EFU	Exclusive Farm Use
kV	kilovolt
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
O&M	operations and maintenance
OAR	Oregon Administrative Rule
ODFW	Oregon Department of Fish and Wildlife
ORS	Oregon Revised Statutes
Project	West End Solar Project
UCCP	Umatilla County Comprehensive Plan
UCDC	Umatilla County Development Ordinance or Code

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1.0 Introduction

EE West End Solar LLC (Applicant) proposes to construct and operate the West End Solar Project (Project), a solar generating facility and related or supporting facilities in Umatilla County, Oregon. Exhibit K demonstrates that the Project complies with the Energy Facility Siting Council's (EFSC) land use standard in Oregon Administrative Rules (OAR) 345-022-0030, which provides, in part:

OAR 345-022-0030, Land Use

- (1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.*
- (2) The Council shall find that a proposed facility complies with section (1) if:*
 - (a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or*
 - (b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:*
 - (A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);*
 - (B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or*
 - (C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).*
- (3) As used in this rule, the "applicable substantive criteria" are criteria from the affected local government's acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.*

As provided for under OAR 345-022-0030(2)(b), the Applicant has elected to seek an EFSC determination of compliance under Oregon Revised Statutes (ORS) 469.504(1)(b) for the Project and all related and supporting facilities. Exhibit K demonstrates the Project's compliance with the applicable substantive criteria from the Umatilla County Development Ordinance or Code (UCDC) (Umatilla County 2021) and the Umatilla County Comprehensive Plan (UCCP) (Umatilla County 2018). In addition, Exhibit K demonstrates the Project's compliance with the Oregon Department of Land and Conservation administrative rules and goals and any land use statutes directly applicable to the Project. Exhibit K also demonstrates that a "reasons" exception to statewide planning Goal 3, agriculture, is justified under ORS 469.504(2). Finally, Exhibit K provides evidence upon which EFSC may find that the proposed Project meets OAR 345-022-0030.

2.0 EFSC Election – OAR 345-021-0010(1)(k)

OAR 345-021-0010 (1)(k) Information about the proposed facility's compliance with the statewide planning goals adopted by the Land Conservation and Development Commission, providing evidence to support a finding by the Council as required by OAR 345-022-0030. The applicant must state whether the applicant elects to address the Council's land use standard by obtaining local land use approvals under ORS 469.504(1)(a) or by obtaining a Council determination under ORS 469.504(1)(b). An applicant may elect different processes for an energy facility and a related or supporting facility but may not otherwise combine the two processes. Once the applicant has made an election, the applicant may not amend the application to make a different election. In this subsection, "affected local government" means a local government that has land use jurisdiction over any part of the proposed site of the facility. In the application, the applicant must....

The Applicant has elected to address EFSC's land use standard by obtaining a land use determination from EFSC pursuant to ORS 469.504(1)(b) for the Project and all related and supporting facilities.

Upon issuance of an EFSC Site Certificate for the Project, the Applicant will submit conditional use and zoning permit applications to Umatilla County in accordance with UCDC §152.025 and §152.060. After review of the permits, Umatilla County shall issue the permits without further conditions pursuant to ORS 469.401(3).

3.0 Land Use Analysis Area – OAR 345-021-0010(1)(k)(A)

OAR 345-021-0010(1)(k)(A) Include a map showing the comprehensive plan designations and land use zones in the analysis area.

Figure K-1 shows both the Site Boundary and the Analysis Area for this Exhibit. Per OAR 345-021-0010, the Applicant's definition of "study area" and "analysis area" for submitting an Application for Site Certificate (ASC) under the expedited review process shall be based on OAR 345-001-0010.

OAR 345-001-0010(59)(c) defines the study area for land use impacts as the area within the Site Boundary and the area out to 0.5 miles from the Site Boundary.

Figure K-2 provides Umatilla County’s Comprehensive Plan designation of “North/South Ag Region” and “West County Irrigation District,” and Umatilla County’s zoning designation of Exclusive Farm Use (EFU) and EFU-40 in the Analysis Area. All the land within the Site Boundary is zoned EFU and is within the North/South Ag Region comprehensive plan designation (see Figure K-2). The Analysis Area is outside the City of Stanfield’s Urban Growth Boundary.

4.0 Siting and Analysis Approach and Farmland Characteristics

4.1 Siting and Analysis Approach

The Applicant is requesting approval to site a range of technology for photovoltaic energy generation and the associated supporting facilities within a micrositing corridor, which is equivalent to the Site Boundary. The Project Site Boundary is 324 acres. This micrositing flexibility accommodates perpetual changes in photovoltaic and energy storage technologies, offers maximum efficiency in terms of use of space, and provides development flexibility for varying market requirements from potential customers. Exhibit B provides a representative description of components and describes the Project’s maximum footprint of approximately 324 acres in order to address the maximum potential impacts.

There are three existing transmission line rights-of-way that run through and adjacent to the Site Boundary: Bonneville Power Administration’s McNary to Roundup 230-kilovolt (kV) line, PacifiCorp’s Pendleton to Hermiston 69-kV line, and Umatilla Electric Cooperative’s (UEC) 115-kV line (see Figure K-1). All three transmission lines provide interconnection capabilities within or immediately adjacent to the Site Boundary, eliminating the need for a Project transmission line. Although it is anticipated that interconnection will occur at the UEC 115-kV line, the Applicant seeks interconnection micrositing flexibility for all or part of the Project to the UEC, Bonneville Power Administration, and PacifiCorp transmission lines.

Figure C-4 of Exhibit C provides a preliminary site plan for the Project. The layout of the Project has not been finalized and may vary depending on project size, technology, and other constraints. However, for the purpose of analyzing potential impacts to resources, the entire area within the Site Boundary (324 acres) should be considered subject to temporary and/or permanent disturbance.

4.2 Existing Land Use Overview

The Site Boundary is located entirely on private land within Umatilla County’s EFU zone (see Figure K-2) and Umatilla County’s Comprehensive Plan designation of “North/South Ag Region” (see Figure K-2). However, as shown in Figure K-3, the Site Boundary is composed of uncultivated land, the majority of which is considered to be highly disturbed Eastside Grassland habitat. Exhibit P and

Figure P-3 provide more detail on the surveyed habitats and ground cover within the Site Boundary.

The land outside the Site Boundary, within the Analysis Area is almost entirely located in the EFU zone and Umatilla County's Comprehensive Plan designation of "North/South Ag Region" (see Figure K-2). However, a small portion of the Analysis Area (north of the Site Boundary) is within the EFU-40 Zone/West County Irrigation District Comprehensive Plan designation. As shown in Figure K-3, the land immediately north, west, and south of the Site Boundary is primarily composed of cultivated land, while the land the east is uncultivated. There are four property owners within the Analysis Area. The following information summarizes the type of agricultural activities known to occur in the areas surrounding the Site Boundary based on information received from Art Prior, the owner of Windblown Ranch:

- Windblown Ranch
 - Windblown Ranch owns the western half of the Site Boundary as well as the properties immediately west, east, and northeast of the Site Boundary.
 - Windblown Ranch leases its land to Castle Rock Farming LLC. The parcel west of the Site Boundary has been used for cultivation of wheat, grass seed, alfalfa, and most recently for potatoes.
 - The parcels east and northeast of the Site Boundary has historically had no irrigation and was uncultivated. However, recently these parcels have been planted with peas, corn, and potatoes.
- Walchli Farms
 - Walchli Farms owns the parcels immediately north of the eastern half of the Site Boundary.
 - Walchli Farms rotates their crops as most farmers in this area and are known to cultivate wheat, potatoes, corn, and watermelons on their various properties in this area.
- Stanfield Hutterian Brethren
 - Stanfield Hutterian Brethren owns the parcels immediately north and northwest of the western half of the Site Boundary.
 - Stanfield Hutterian Brethren rotates their crops as most farmers in this area and are known to cultivate wheat, potatoes, and corn on their various properties in this area.
- Windy River
 - Windy River owns the parcel immediately south of the Site Boundary.
 - Windy River leases its land to Castle Rock Farming LLC. They are known to cultivate potatoes, wheat, corn, and grass seed on this parcel.

To comply with EFSC's land use standard, the Applicant must demonstrate compliance with both state law and the applicable criteria from the local government's comprehensive plans and land use codes.¹ The applicable local criteria from the UCDC and UCCP are identified and evaluated for compliance in Section 6.0. The applicable state law is identified and evaluated for compliance in Section 7.0 while Section 8.0 demonstrates that an exception to Statewide Planning Goal 3 is justified pursuant to ORS 469.504(2), which provides the controlling criteria for exceptions that are proposed for energy facilities under the jurisdiction of EFSC.

4.3 Farmland Characteristics

To support the responses to the applicable substantive criteria under OAR 660-033-0130(38) (see Section 7.1.2), this section describes the factors that influence whether the land within the Site Boundary and Analysis Area meets the definition of arable land under OAR 660-033-0130(38)(a) and/or meets the definition of high-value farmland under ORS 195.300(10). These factors include:

- The land's soil types and associated soil classifications;
- Whether the land is within a place of use for a permit, certificate, or decree for the use of water for irrigation issued by the Oregon Water Resources Department or is within the boundaries of an irrigation district (as defined under ORS 540.505); and
- Whether the land is located within the Columbia Valley American Viticulture Area, as described in 27 Code of Federal Regulations 9.74 and meets the elevation, aspect, and slope criteria listed under ORS 195.300(10)(f).

The following subsections investigate each of these factors as they apply to the Site Boundary and Analysis Area.

4.3.1 Soil Classifications

The Natural Resources Conservation Service (NRCS) web-based soil survey (NRCS 2019) identifies near-surface soils in the Analysis Area, as noted in Table K-1 and Figure K-4. The NRCS database includes the physical and chemical properties of the soils in the vicinity and the soil map unit distribution. The NRCS assigns land capability classifications to each soil unit to show, in a general way, the suitability of soils for most kinds of field crops. Soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management (NRCS 2019). Soil classifications depend on whether the soils are irrigated. Table K-1 shows NRCS soil classifications within the Analysis Area and Site Boundary. The NRCS provides the following descriptions for each soil class associated with the soils in the Analysis Area (NRCS 2019):

- Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

¹ The Applicant may satisfy EFSC's land use standard by complying with applicable local criteria, by seeking an EFSC determination of compliance with directly applicable statewide land use planning goals, or through the goal exception process.

- Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.
- Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.
- Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.

Table K-1. General Description of Mapped Soil Units in the Site Boundary and Analysis Area

NRCS Soil Unit	Acreage in Analysis Area	Acreage in Site Boundary	Acreage in Tract 1 (percent of total tract area)	Acreage in Tract 2 (percent of total tract area)	NRCS Irrigated Soil Capability Class	NRCS Non-irrigated Soil Capability Class	NRCS Farmland Rating
1B-- Adkins fine sandy loam	1,278.0	235.3	102.5 (63.3%)	132.8 (82%)	Class 2	Class 4	Prime if irrigated
74B-- Quincy fine sand	488.9	87.7	59.5 (36.7%)	29.2 (18%)	Class 4	Class 7	Not prime
75B – Quincy loamy fine sand	17.5	0	0 (0%)	0 (0%)	Class 4	Class 7	Not prime
95B – Taunton fine sandy loam	11.7	0	0 (0%)	0 (0%)	Class 4	Class 6	Prime if irrigated

Table K-1 also provides NRCS farmland classifications: prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Arable lands are defined under OAR 660-033-0130(38) as "land in a tract that is predominantly cultivated, or if not cultivated, predominantly comprised of arable soils." NRCS soil capability classes 1 through 4 are generally considered arable soils (Helms 1992) whereas NRCS soil classes 5 through 8 are generally considered nonarable soils.

The Project Site Boundary consists of two tracts defined by OAR 660-033-0020(14) as "one or more contiguous lots or parcels under the same ownership." Tract 1 (4N29C0000500) is owned by Windblown Solar LLC and Tract 2 (4N29C0000200) is owned by Steven and Wanda Scott, doing business as S&W Properties. Although neither Tract 1 nor Tract 2 contain cultivated land (see Figure K-3), the two tracts are both predominantly composed of arable soils as the majority of each

tract is composed of Soil Map Unit 1B – Adkins fine sandy loam, 0-5 percent slopes which is considered by the NRCS as Class 2 (if irrigated) or Class 4 (if non-irrigated) soils (see Figures K-5 and K-6).

4.3.2 Existing Water Rights and Irrigation District

According to the Oregon Water Resources Department Water Rights Information System, 670.7 acres of place of use ground water rights are located in the Analysis Area, but none are located within the Site Boundary (Figure K-7). Several irrigation districts operate in west Umatilla County. According to the Umatilla County Irrigation District Zoning Map (Umatilla County 2021), the Site Boundary is located outside the Stanfield Irrigation District boundary but portions of the Analysis Area north, west, and south of the Site Boundary are located inside the Stanfield Irrigation District.

Although not mapped by Umatilla County, the East Improvement District is relatively new irrigation district operating in west Umatilla County. According to the legally recorded landowner’s notice of the establishment of the East Improvement District, neither of the Project tracts are included in the district; however, portions of the Analysis Area (outside the Site Boundary) are within the East Improvement District (Umatilla County 2019).

According to the owner of Tract 1, Arthur Prior of Windblown Solar LLC (see landowner letter in Attachment K-1), Tract 1 has not been used for agricultural enterprise or farming and has never had water rights or been irrigated. Mr. Prior explained to the Applicant that the Tract 1 parcel was excluded from his land holdings that were included in the East Improvement District because Tract 1 is site constrained by the existing Bonneville Power Administration and PacifiCorp transmission lines. The existing transmission lines create an obstruction that limits a center pivot irrigation system from covering a full 360-degree circle thus increasing the per-acre cost to irrigate the parcel as infrastructure costs (e.g. hardware, pipes, etc.) are the same for a center pivot irrigation system regardless if the pivot covers the full 360-degree circle or a partial circle. As Mr. Prior/Windblown Ranch has a limited amount of uninterruptable water rights through the East Improvement District, other unobstructed agricultural parcels were prioritized for inclusion in the East Improvement District. Moreover, it would be extremely costly and time consuming to obtain additional irrigation water rights to irrigate this parcel. The expense of that effort, combined with the expense of the irrigation infrastructure, make such a prospect economically infeasible. Additionally, there is a very strong possibility that Windblown Ranch would not be able to acquire the necessary water rights.

The landowners of Tract 2, Steve and Wanda Scott (see landowner letter in Attachment K-2), confirm that their parcel of land has no water rights for irrigation and without irrigation the soils are not good for farming. According to Mr. Scott, their parcel was never considered for inclusion in the East Improvement District and his attempts to obtain an uninterruptable supply of irrigation water for his parcel have not been unsuccessful. Likewise, the prospect of being included in either Stanfield Irrigation District or Hermiston Irrigation District is very unlikely due to the need to go through both state boundary adjustment process (requiring an inclusion petition, public notice, public comment, and approval), and a federal boundary adjustment processes (requiring the U.S. Bureau of Reclamation to conduct a National Environmental Policy Act analysis). Moreover, the

district would need to have excess water available to distribute to those newly included acres, which is far from a certainty. Irrigation water supply must be uninterrupted to successfully raise potatoes and other water intensive crops. Developing water rights, especially uninterrupted water rights, for this parcel would likely be unsuccessful. Furthermore, the Scott's parcel (Tract 2) is obstructed by the existing PacifiCorp transmission line. Similar to Tract 1, this obstruction would limit a center pivot to a partial circle thus increasing the per-acre cost to irrigate the parcel. Therefore, even if the parcel were to secure water rights in the future, due to the obstructions on the Tract 1 parcel, the potential agricultural value of the parcel is reduced by the transmission line obstruction. In the absence of available irrigation water, the Scotts planted dry land wheat on this parcel two separate seasons. However, neither harvest made enough money to cover his costs therefore he has since left the property fallow.

In summary, there are no place of use water rights associated with either Tract 1 or Tract 2 and the potential for acquiring new water rights for either tract is likely infeasible.

4.3.3 High Value Farmland Analysis

Certain lands within the EFU zone are considered high-value farmland. High-value farmland is defined under ORS 195.300(10) and the provisions of this statute potentially applicable to the Analysis Area are summarized below:

- ORS 195.300(10)(a) relies on land in the EFU zone meeting the description of high-value farmland under ORS 215.710 which describes land in a tract² composed predominantly of soils that are irrigated or not irrigated, and classified as prime, unique, Class I, or Class II.
- ORS 195.300(10)(c) relies on the land in the EFU zone being located within a place of use water right, an irrigation district, or a diking district.
- ORS 195.300(10)(f) relies on the land in the EFU zone being located within the boundaries of the Columbia Valley American Viticulture Area (see 27 Code of Federal Regulations Part 9, Subpart C - Approved American Viticultural Areas, Section 9.74 Columbia Valley)—and meeting certain elevation (below 3,000 feet), slope (between zero and 15 percent), and aspect (between 67.5 and 292.5 degrees) criteria.

Whether the land in the Project's two tracts qualifies as high-value farmland per ORS 195.300(10)(a) depends on whether the soils are irrigated or not. The predominant soil type in both tracts in the Site Boundary is 1B – Adkins fine sandy loam, 0-5 percent slopes which is considered by the NRCS as Class 2 (if irrigated) or Class 4 (if non-irrigated) soils (see Figures K-5 and K-6). As neither of the Project tracts are irrigated or have a history of being irrigated, the land in the Site Boundary would not meet the definition of high-value farmland under ORS 195.300(10)(a). Outside the Site Boundary, the 1B soils located in the Analysis Area that overlap with a place of use irrigation water right or irrigation district would be considered Class 2 soils (Figure K-5) and therefore would be considered high-value farmland per ORS 195.300(10)(a).

² "Tract" means one or more contiguous lots or parcels under the same ownership.

These same areas would be considered high-value farmland per ORS 195.300(10)(c) (see Figure K-8). As there are no place of use irrigation rights within the Site Boundary and as the two tracts within the Site Boundary are outside the Stanfield Irrigation District and East Improvement District, the area within the Site Boundary would not qualify as high-value farmland per ORS 195.300(10)(c).

Approximately 1,215 acres, or 67.6 percent, of the Analysis Area is classified as high-value farmland under ORS 195.300(10)(f) because of the location within the designated Columbia Valley American Viticulture Area. While the entirety of the Analysis Area is within the Columbia Valley American Viticultural Area, high-value farmland occurs on a patchy basis throughout the Site Boundary and Analysis Area (see Figure K-8) because only certain areas meet the slope and aspect criteria under ORS 195.300(10)(f). See Table K-2 for the breakdown of high-value farmland acreages in the Analysis Area and Site Boundary.

Table K-2. High-Value Farmland in the Site Boundary and Analysis Area

Land Type	Acres/Percent in Analysis Area	Acres/Percent in Site Boundary
High-value farmland based on place of use water rights, irrigation district, and high-value soils ¹	899/50%	0/0%
High-value farmland based on American Viticulture Area designation and criteria ²	1,215/68%	261/80%
1. High-value farmland designations per ORS 195.300(10)(a) and (c). 2. High-value farmland designations per ORS 195.300(10)(f).		

Pursuant to ORS 469.300(11)(a)(D), a solar photovoltaic power generation facility is an “energy facility” subject to the jurisdiction of EFSC if it is located on i) more than 160 acres of high-value farmland as defined in ORS 195.300, or ii) more than 1,280 acres of land that is either predominantly cultivated, or if not cultivated, predominantly composed of soils that are in capability classes 1 to 4. While analysis in this Exhibit demonstrates that the area within the Project Site Boundary is not cultivated or located on over 1,280 acres of land predominantly composed of Class I through IV soils, over 160 acres of the land within the Site Boundary is considered high-value farmland under ORS 195.300(10)(f). Thus, the Project is an “energy facility” under EFSC’s jurisdiction per ORS 469.300(11)(a)(D).

5.0 EFSC Determination on Land Use – OAR 345-021-0010 (1)(k)(C)

OAR 3450-021-0010(1)(k)(C) If the applicant elects to obtain a Council determination on land use:

(i) Identify the affected local government(s).

Response: The Project and its Analysis Area are entirely within Umatilla County.

(ii) Identify the applicable substantive criteria from the affected local government’s acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and that are in effect on the date the application is submitted and describe how the proposed facility complies with those criteria.

Response: The applicable substantive criteria from Umatilla County are identified and addressed in Sections 6.1 and 6.2.

(iii) Identify all Land Conservation and Development Commission administrative rules, statewide planning goals and land use statutes directly applicable to the facility under ORS 197.646(3) and describe how the proposed facility complies with those rules, goals and statutes.

Response: Pursuant to OAR 660-033-0120, photovoltaic solar power generation facilities must comply with the standards set forth in OAR 660-033-0130(5) and (38). The standards of OAR 660-033-0130(5) are discussed in Section 6.1.1.2 in response to UCDC §152.061. The standards of OAR 660-033-0130(38) are discussed in Section 7.1.2. For a use located within an EFU zone, the “applicable statewide planning goal” is Goal 3, which is the State’s Agricultural Lands goal. See Section 7.2 for a discussion of the Project’s compliance with this goal.

(iv) If the proposed facility might not comply with all applicable substantive criteria, identify the applicable statewide planning goals and describe how the proposed facility complies with those goals.

Response: The Project does not meet the standards under OAR 660-033-0130(38)(g) and (i) as the Project will permanently occupy more than 12 acres of high-value farmland and 20 acres of arable land for the commercial solar energy facility. Thus, the Project requires an exception to Statewide Planning Goal 3 pursuant to ORS 469.504(2) and OAR 345-022-0030(4). The Applicant demonstrates in Section 8.0 that an exception to Statewide Planning Goal 3 is justified.

(v) If the proposed facility might not comply with all applicable substantive criteria or applicable statewide planning goals, describe why an exception to any applicable statewide planning goal is justified, providing evidence to support all findings by the Council required under ORS 469.504(2).

Response: As discussed above, the Project’s solar generation facilities would permanently occupy more than 12 acres of high-value farmland and 20 acres of arable land. Pursuant to OAR 660-033-

0130(38)(g) and (i), siting of the Project’s solar generation facilities requires an exception to Statewide Planning Goal 3. This exception is justified under ORS 469.504(2), which provides the controlling criteria for exceptions that are proposed for energy facilities under the jurisdiction of EFSC. The Applicant demonstrates that an exception to Statewide Planning Goal 3 is justified for the Project in Section 8.0.

6.0 Umatilla County – OAR 345-021-0010 (1)(k)(C)(ii)

This section includes a demonstration of compliance with the applicable substantive criteria from the UCDC (Umatilla County 2021) and UCCP (Umatilla County 2018)

6.1 Compliance with Applicable Substantive Criteria from the Umatilla County Zoning Code/UCDC Criteria

The following UCDC Sections are applicable substantive criteria to the Project’s commercial solar power generation facility as it is a Conditional Use in Umatilla County:

- EFU, UCDC Sections 152.060(FF), 152.061, and 152.063;
- General Provisions, UCDC Sections 152.010, 152.011, 152.015, and 152.017;
- Sign Regulations, UCDC Sections 152.545 through 152.548;
- Off-Street Parking and Loading, UCDC Sections 152.560 through 152.562;
- Conditional Uses and Land Use Decisions, UCDC Sections 152.611 through 152.615.

While the Project’s commercial solar power generation facility could fall under the definition of “commercial utility facilities for the purpose of generating power for public use by sale”, which is a conditional use in the EFU Zone per UCDC Section 152.060(F) and subject to the provisions in UCDC Section 152.617(I)(C), the Applicant has chosen to review the Project under the UCDC provision specific to solar power generation on EFU land under UCDC Section 152.060(FF).

6.1.1 EFU, Exclusive Farm Use Zone

6.1.1.1 UCDC §152.060 CONDITIONAL USES PERMITTED

In an EFU zone the following uses may be permitted conditionally via administrative review (§ 152.769), subject to the requirements of this section, the applicable criteria in § 152.061, §§ 152.610 through 152.615, 152.617 and §§ 152.545 through 152.562. A zoning permit is required following the approval of a conditional use pursuant to § 152.025. Existing uses classified as conditional uses and listed in this section may be expanded subject to administrative review and subject to the requirements listed in OAR 660, Division 033.

(FF) Photovoltaic solar power generation facility as provided in OAR 660-033-0130 (38).

Response: The Project meets the definition of “Photovoltaic solar power generation facility” under OAR 660-033-0130(38) and is therefore a conditional use under UCDC §152.060(FF). OAR 660-033-0130(38)(f) states the following:

“Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances.”

The energy storage system, the Project’s collector substation, switchyard substation, and interconnection equipment (including overhead cables connecting the substations to the existing UEC 115-kV line or other existing transmission line within the Site Boundary) are considered part of the photovoltaic solar power generation facility as the energy storage system is part of the storage equipment and the substation and interconnection equipment is part of the grid integration equipment. This interpretation is consistent with the definition of photovoltaic solar power generation facility in OAR 660-033- 0130(38)(f) and as described in Exhibit B, Section 2. Therefore, the energy storage system and substations (which are within the Site Boundary) are reviewed as part of the photovoltaic solar power generation facility.

The OAR 660-033-0130(38) criteria for conditionally approving the photovoltaic solar power generation facility in the EFU zone are provided in Section 7.1.2.

Under ORS 469.401(3), following issuance of the Site Certificate, the County, upon the Applicant’s submission of the proper application and fee, shall issue the conditional use and zoning permits addressed in the Site Certificate, subject only to the conditions set forth in the Site Certificate and without hearings or other proceedings.

6.1.1.2 UCDC §152.061 STANDARDS FOR ALL CONDITIONAL USES [IN EFU ZONE]

The following limitations shall apply to all conditional uses in an EFU zone. Uses may be approved only where such uses:

- (A) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- (B) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.*

Response: There is no forest use within the Analysis Area or Site Boundary as shown on Figure K-2. Although the Project Site Boundary contains fallow agricultural land and construction and operation of the Project would remove no acres of land that are currently cultivated, active

agricultural uses do occur on lands to the north, south, and west of the Site Boundary (see summary in Section 4.2).

The impact of the Project will not force a significant change in accepted farm practices or significantly increase the cost of farm practices in the Analysis Area, for the following reasons:

- Most of the land within the Site Boundary currently available for agricultural use would be returned to its current status after Project decommissioning.
- Even if the land within the Site Boundary were assumed to be permanently lost to farm use due to siting of permanent Project improvements, the amount of loss would be a de minimis percentage of the total farm use land in Umatilla County—less than 0.02 percent of the 1,353,241 acres of land in farms (USDA 2017). Therefore, the inability to use the land for farm purposes is not significant.
- Project access roads and other facilities will be constructed and maintained by the Applicant such that the cost burden for maintenance does not fall upon the property owners.
- While some increase in traffic is anticipated during construction, Exhibit U demonstrates that the temporary increase in the level of traffic will not significantly impact level of service on local roads. Furthermore, as the Applicant anticipates the Project Site Boundary will be accessed via a new driveway constructed off of S. Edwards Road and construction traffic will access the Site Boundary either via US 395 south to Feedville Road (east) to S. Edwards Road (north) or via US 395 north to S. Edwards Road (north) (see Figure U-2 from Exhibit U), no traffic impacts are anticipated to harvest time activities conducted on the agricultural parcels located north of the Site Boundary. For example, if Walchli Farms uses S. Edwards Road to move harvest equipment from their parcel located immediately north of the Site Boundary to their other properties located north of the Analysis Area, they will be able to use S. Edwards Road without Project related traffic impacts/delays as Project traffic would be using the portion of S. Edwards Road south of the Walchli Farms parcels.
 - Steve and Wanda Scott, owners of Tract 2 in the Site Boundary, have consulted with a member of Walchli Farms (who own parcels immediately north of Tract 2). During their consultations, no concern regarding potential impacts to the Walchli Farm’s operations on adjacent lands from the proposed solar development was identified.
- The agricultural parcels that may experience traffic impacts during harvest time activities are the Windblown Ranch properties and Windy River property which have access points on Feedville Road and off the portion of S. Edwards Road south of the Project driveway. However, both of these properties are leased to Castle Rock Farming LLC. As the Windblown Ranch is a landowner of a portion of the Project’s leased area, coordination with Castle Rock Farming LLC on harvest time activities and construction activities at the Project can easily be facilitated.

- Furthermore, the traffic volumes along Feedville Road, S. Edwards Road, and Canal Road are very low (typically less than 500 vehicles per day per the County's TSP) and harvest activities are very limited in time frame. Per Art Prior, it typically takes 1-3 days per crop circle to harvest potatoes, corn, and wheat. Watermelons have a continuous harvest schedule but results in very low vehicle trip per day.
- A construction traffic management plan will be completed and submitted to the County prior to construction along with the County road use agreement. More detailed information on the timing of construction and anticipated daily vehicle trips will be available after the Project design is refined which will better inform the construction traffic management plan. The Applicant anticipates including the following traffic management plan measures:
 - During the peak construction period, equipment deliveries will be staggered to minimize impacts within the site and on the local road network.
 - Construction worker carpooling will be encouraged.
 - Construction manager will provide construction schedules to adjacent landowners prior to start of construction and will work with adjacent landowners on mitigating any traffic impacts to harvest time activities.
- Therefore, construction traffic will not interfere with harvest time activities such as tractor movement between fields or trucks delivering agricultural products to market.
- The Applicant will sign and record in the deed records for the county a document binding the Project owner and the Project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).
- The Project will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses.
- The Applicant will implement a weed control plan during construction and operation that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control. A draft weed control plan was prepared and incorporated into Exhibit P as Attachment P-4. The Umatilla County Weed Department Supervisor reviewed the draft weed control plan.
- The Project will not affect the application of pesticides or fertilizers using aerial or ground-based methods.
- The Applicant will minimize dust impacts to adjacent properties by implementing fugitive dust abatement measures. Measures include applying water, soil-binding agents, or other dust control techniques as needed to avoid wind-blown soil during construction. The Applicant will provide long-term soil stability by reseeding disturbed areas to reestablish vegetation. At the completion of land-disturbing activities, the site will be revegetated with

an appropriate seed mix. The seed will be applied with mulch to protect the seeds as the grass establishes. Scarifying and reseeding of affected areas will occur after construction has been completed

The measures above are intended to avoid or minimize the impacts of the Project on farming operations in the Analysis Area, and to mitigate for necessary impacts. The Applicant will consult with area landowners during construction and operation of the Project to determine further measures to reduce or avoid any adverse impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

6.1.1.3 UCDC §152.063 DEVELOPMENT STANDARDS

In the EFU zone, the following dimensional and development standards shall apply:

(A) Minimum parcel frontage. A parcel shall have a minimum street or road frontage of 30 feet.

(B) Front yard setbacks. All buildings shall be set back from front property lines and side or rear property lines adjoining county roads, public roads, state highways, or public or private access easements as follows:

(1) At least 30 feet from the property line or easement boundary; or

(2) At least 60 feet from the center line of the road, highway, or easement, whichever is greater.

(C) Side and rear yard setbacks. Except as provided in division (B) above, the following standards shall apply for side and rear yard setbacks:

(1) The minimum yard setback for farm or non-farm dwellings shall be 20 feet.

(2) The minimum yard setback for accessory buildings or structures, for both farm and non-farm uses, shall be five feet, except as otherwise provided in applicable conditions of approval, or as constrained by division (D) below.

(3) Special minimum yard setbacks may be established for an approved conditional use to protect the public health, safety and welfare and to mitigate possible adverse impacts to adjacent land uses.

(D) Distance maintained from aggregate mining operations. A dwelling shall not be located within 500 feet of an existing aggregate mining operation unless the owner of the property of the proposed dwelling:

(E) Stream setback. To permit better light, air, vision, stream pollution control, to protect fish and wildlife areas, and to preserve the natural scenic amenities and vistas along the streams, lakes, and wetlands, and to prevent construction in flood prone areas along streams not mapped as part of the National Flood Insurance Program, the following setbacks shall apply:

(1) All sewage disposal installations such as septic tanks and drainfields shall be set back from the mean water line or mark along all streams, lakes or wetlands a minimum of 100 feet, measured at right angles to the high water line or mark. In those cases, where practical difficulties preclude the location of the facilities at a distance of 100 feet, and the DEQ sanitarian finds that a chosen location will not endanger health, the Planning Director may permit the location of these facilities closer to the stream, lake, or wetland, but in no case closer than 50 feet.

(2) All structures, buildings or similar permanent fixtures shall be set back from the high water line along all streams, lakes or wetlands a minimum of 100 feet measured at right angles to the high water line or mark, except that this setback can be reduced to 20 feet if all of the following criteria are met:

(F) Other development standards. All development shall be subject to the regulations contained in §§ 152.010 through 152.017, §§ 152.545 through 152.562, and to the exceptions standards of §§ 152.570 through 152.577, including but not limited to: vision clearance, signs, off street parking, access, fences, wetland drainage, and maintenance, removal and replacement of riparian vegetation. (Ord. 2005-02, passed 1-5-05)

Response: The site plan included in Figure C-4 of Exhibit C shows how the Project is compliant with County required setbacks. As roads are on both sides of the subject properties the 60 feet setback to the centerline of the road or 30 feet to the property line, whichever is greater, is assumed to apply to Site Boundary frontages along Canal Road and S. Edwards Road. A 5-foot setback is also maintained along the interior parcel boundary between the two project parcels. Per Umatilla County guidance, fencing and underground utility lines are not required to meet a property line or boundary setback. The final site layout will comply with the frontage and yard setbacks required in UCDC §152.063.

The Project Site Boundary is not located near an aggregate mining operation nor is it proposing a residential use; therefore, subpart (D) does not apply. The Project does not propose any septic tanks or drainfields and the Project Site Boundary contains no streams or wetlands and is not located adjacent to any streams or wetlands; therefore, subpart (E) does not apply.

Subpart (F) requires that all developments in the EFU Zone are subject to the regulations contained in §§ 152.010 through 152.017, §§ 152.545 through 152.562, and to the exceptions standards of §§ 152.570 through 152.577. The applicable provisions under UCDC General Provisions (§§ 152.010, 152.011, 152.015, 152.017) are discussed in Section 6.1.2. The sign regulations under UCDC §§ 152.545 through 152.548 are discussed in Section 6.1.3 and the off-street parking and loading provisions under UCDC §§ 152.560 through 152.0562 are discussed in Section 6.1.4. The exceptions standards of §§ 152.570 through 152.577 are not applicable as the Project will not be seeking any of these exceptions.

6.1.2 General Provisions

6.1.2.1 UCDC §152.010 ACCESS TO BUILDINGS; PRIVATE DRIVEWAYS AND EASEMENTS

(A) Every building hereafter erected or moved shall be on a lot that abuts a public street or a recorded easement. All structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking. In commercial and industrial zones, access points shall be minimized. To accomplish this, access shall be limited to one every 200 feet and shall be reviewed during the design review stage or the conditional use hearing. If necessary to accomplish this, driveways may be shared between two lots.

(B) Private driveways and easements that enter onto a public or county road or state or federal highway shall be constructed of at least similar if not the same material as the public or county road or state or federal highway to protect the edge of the road from rapid deterioration. The improvements shall extend at least 25 feet back from the edge of the existing travel lane surface. (Ord. 83-4, passed 5-9-83)

Response: The Project's proposed driveway of S. Edwards Road will conform with this provision of the UCDC.

6.1.2.2 UCDC §152.011 VISION CLEARANCE

Vision clearance areas shall be provided with the following distance establishing the size of the vision clearance area:

(A) In an Agricultural or Residential Zone, the minimum distance shall be 30 feet or, at intersections including an alley, 10 feet;

(B) In all other zones the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet, except when the angle of intersection between streets is less than 30° the distance shall be 25 feet;

(C) The vision clearance area shall not contain any planting, wall, structure, or obstruction of any kind exceeding two and one-half feet in height measured from the grade of the street centerline. (Ord. 83-4, passed 5-9-83)

Response: The Project design will conform with the vision clearance distance of 30 feet as provided under subparts (A) and (C) of UCDC §152.011.

6.1.2.3 UCDC §152.015 FENCES

Fences are allowed in any zone and do not require a zoning permit for construction unless located in a Special Flood Hazard Area. Fences located in a Special Flood Hazard Area require an approved Floodplain Development Permit and Zoning Permit. Fences must meet vision clearance requirements and zoning height limitation for

structures. Fences shall meet all Oregon Uniform Building Code requirements. (Ord. 83-4, passed 5-9-83; Ord. 2010-05, passed 8-3-10; Ord. 2019-03, passed 4-3-2019).

Response: The Project's fence will not be located in a Special Flood Hazard Area and will meet the vision clearance requirements (see Section 6.1.2.2). There is no zoning height limitation for structures in the EFU Zone. The fence will meet all Oregon Uniform Building Code requirements.

6.1.2.4 UCDC §152.017 CONDITIONS FOR DEVELOPMENT PROPOSALS

(A) The proposed use shall not impose an undue burden on the public transportation system. Any increase meeting the definition of significant change in trip generation constitutes an undue burden.

(B) For developments likely to generate a significant increase in trip generation, applicant shall be required to provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding system. The scope of the impact study shall be coordinated with the providers of the transportation facility. Proposals that meet the requirements in §152.019(B) are subject to §152.019(C), Traffic Impact Analysis Requirements.

(C) The applicant or developer may be required to mitigate impacts attributable to the project. Types of mitigation may include such improvements as paving, curbing, bridge improvements, drainage, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways or paths. The determination of impact or effect should be coordinated with the providers of affected transportation facilities.

(D) Dedication of land for roads, transit facilities, sidewalks, bikeways, paths, or accessways may be required where the existing transportation system will be impacted by or is inadequate to handle the additional burden caused by the proposed use. (Ord. 2002-08, passed 8-14-02; Ord. 2012-07, passed 3-13-12)

Response: While some increase in traffic is anticipated during construction, Exhibit U demonstrates that the temporary increase in the level of traffic will not significantly impact level of service on local roads. Traffic generation during operations will be minimal, and most of the time nonexistent as the Project will mostly be operated remotely. Therefore, construction traffic will not impose an undue burden on the public transportation system. See Exhibit U for a discussion of compliance with UCDC § 152.019(B).

6.1.3 Sign Regulations

6.1.3.1 UCDC §152.545 through §152.548

Response: Any signs erected as part of the Project will conform with this provision of the UCDC.

6.1.4 Off-Street Parking and Loading

6.1.4.1 UCDC §152.560 OFF-STREET PARKING REQUIREMENTS

(A) Each use shall provide the following minimum off-street parking spaces. Each parking space shall be a minimum of nine feet wide and 20 feet in length.

(B) Off-street parking requirements.

(10) Industrial uses: one space per 200 square feet of public space, plus one space per employee

(11) Conditional uses: additional spaces may be required by the Hearings Officer in the approval of a conditional use.

(C) Bicycle parking requirements.

(1) Applicability. Bicycle parking spaces are required for new development, or changes of use, under the following conditions:

(a) A site with 10 or more off-street vehicle parking spaces.

(b) All properties zoned RSC or LI that have frontage on Highway 395.

(2) Exemptions. This section does not apply to single-family and duplex housing, home occupations, and agricultural uses.

(3) Standards. A minimum of two bicycle spaces for the first 10 motorized vehicle parking areas is required, plus one additional bicycle space for each additional 10 motorized vehicle parking spaces thereafter.

Response: UCDC §152.560 specifies off-street parking standards for industrial uses, including one space per 200 square feet of public space, plus one space per employee. No parking standard is provided for a commercial power generating facility. During operation, the Applicant anticipates 2 to 5 employees will be periodically onsite for operations and maintenance parking at the operations and maintenance (O&M) enclosure. Applicant will provide a minimum of 5 parking spaces to accommodate the anticipated number of operational employees (see Figure C-4). Per the standards under subpart (C), no bicycle parking is required at the Project as it will have less than 10 off-street vehicle parking spaces.

6.1.4.2 UCDC §152.561 OFF-STREET LOADING REQUIREMENTS

(A) Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.

(B) Merchandise. Off-street parking areas used to fulfill the requirements of this chapter shall not be used for loading and unloading operations except during periods they are not required for parking. (Ord. 83-4, passed 5-9-83).

Response: As the Project does not propose a school and does not use off-street parking, UCDC §152.561 is not applicable to the Project.

6.1.4.3 UCDC §152.562 ADDITIONAL OFF-STREET PARKING AND LOADING REQUIREMENTS

Response: The parking associated with the O&M enclosure will meet the applicable design requirements in UCDC §152.562.

6.1.5 Conditional Uses and Land Use Decisions

6.1.5.1 UCDC §152.611 NEW OR ALTERED CONDITIONAL USES AND LAND USE DECISIONS; CONFORMANCE WITH REQUIREMENTS; PERFORMANCE BONDS.

(A) Conditional uses and land use decisions listed in this chapter may be permitted, enlarged or altered contingent upon appropriate authorization, in accordance with the standards and procedures set forth in this subchapter.

(B) In permitting a new or the alteration of an existing conditional use or land use decision, the designated planning authority may impose conditions, which are considered necessary to protect the best interests of the surrounding area or the county as a whole.

(C) In the case of a use existing prior to the effective date of this chapter and classified in this chapter as a conditional use or land use decision, any change in use or in lot area or an alteration of structure shall conform to the requirements for a conditional use or land use decision.

(D) The County may require an applicant to furnish the County with a performance bond or such other form of assurance that the County deems necessary to guarantee development in accordance with the standards established and conditions attached in granting a conditional use or land use decision. (Ord. 83-4, passed 5-9-83; Ord. 2005-02, passed 1-5-05; Ord. 2011-02, passed 3-17-11).

Response: The Applicant has elected to address EFSC's land use standard by obtaining a land use determination from EFSC pursuant to ORS 469.504(1)(b) for the Project and all related and supporting facilities. Upon issuance of an EFSC Site Certificate for the Project, the Applicant will submit conditional use and zoning permit applications to Umatilla County in accordance with UCDC

§152.025 and §152.060. After review of the permits, Umatilla County shall issue the permits without further conditions pursuant to ORS 469.401(3). In response to OAR 345-022-0050, the Applicant will obtain a bond or letter of credit to restore the Project site to a useful, non-hazardous condition. Exhibit X addresses retirement of the Project.

*6.1.5.1 UCDC §152.612 PROCEDURE FOR TAKING ACTION ON A
CONDITIONAL USE OR LAND USE DECISION APPLICATION.*

Response: Upon issuance of an EFSC Site Certificate for the Project, the Applicant will submit conditional use and zoning permit applications to Umatilla County in accordance with UCDC §152.025 and §152.060. After review of the permits, Umatilla County shall issue the permits without further conditions pursuant to ORS 469.401(3).

*6.1.5.1 UCDC §152.613 TIME LIMIT ON A CONDITIONAL USE PERMIT
AND LAND USE DECISION.*

Response: Upon issuance of an EFSC Site Certificate for the Project, the Applicant will submit conditional use and zoning permit applications to Umatilla County in accordance with UCDC §152.025 and §152.060. After review of the permits, Umatilla County shall issue the permits without further conditions pursuant to ORS 469.401(3).

6.1.5.1 UCDC §152.614 LIMIT ONE APPLICATION

Response: Upon issuance of an EFSC Site Certificate for the Project, the Applicant will submit conditional use and zoning permit applications to Umatilla County in accordance with UCDC §152.025 and §152.060. After review of the permits, Umatilla County shall issue the permits without further conditions pursuant to ORS 469.401(3).

6.1.5.2 UCDC §152.615 ADDITIONAL CONDITIONAL USE PERMIT RESTRICTIONS

In addition to the requirements and criteria listed in this subchapter, the Hearings Officer, Planning Director or the appropriate planning authority may impose the following conditions upon a finding that circumstances warrant such additional restrictions: [list of conditions omitted for brevity]

Response: To the extent any restrictions or conditions of the type listed in Section 152.615 are deemed necessary to mitigate the impacts of the Project, they will be implemented through the EFSC Site Certificate process consistent with ORS 469.401(2).

6.2 Applicable Substantive Criteria from Umatilla County Comprehensive Plan (Policies)

6.2.1 Chapter 6. Agriculture

1. Umatilla County will protect, with Exclusive Farm Use zoning pursuant to ORS 215, lands meeting the definition of farmland in this plan and designated as Agricultural on the Comprehensive Plan Map.

Response: Umatilla County has adopted zoning and allocated lands identified as Agricultural on the Comprehensive Plan Map to the EFU zoning district pursuant to ORS 215. As discussed in Section 6.1 and 7.1.2, the proposed Project meets the applicable substantive criteria of the Umatilla County EFU zone with exception of OAR 660-033-0130(38)(g) and (i) as the Project will permanently occupy more than 12 acres of high-value farmland and 20 acres of arable land for the commercial solar energy facility. Thus, the Project requires an exception to Statewide Planning Goal 3 pursuant to ORS 469.504(2) and OAR 345-022-0030(4). The justification for an exception to Statewide Planning Goal 3 is set forth in Section 8.0.

8. The county shall require appropriate procedures/ standards/policies be met in the Comprehensive Plan and Development Ordinance when reviewing non-farm uses for compatibility with agriculture.

Response: Most but not all comprehensive plan policies are implemented by the UCDC. In the case of these agricultural policies, they are implemented by the regulations of the EFU zone including the substantive criteria of the UCDC discussed above in Section 6.1.1.

6.2.2 Chapter 8. Open Space, Scenic & Historic Areas, and Natural Areas

1. (a) The County shall maintain this resource [Open Space] by limiting development mainly to existing built up areas.

Response: As stated in Chapter 8 of the UCCP, Umatilla County has considerable amounts of open space with less than 5 percent of its 2.06 million acres urbanized. The Project is located approximately 0.5 miles from the Stanfield Urban Growth Boundary. Although the Project will be located on uncultivated agriculturally zoned land, it will not significantly alter the rural character of West Umatilla County as it involves a relatively small are of land compared to the surrounding agricultural landscape and is located near the urbanized corridor along Highway 395 and the cities of Stanfield and Hermiston. Additionally, the Project site contains several transmission lines and therefore is already characterized by utility uses.

The impacts of the Project on scenic, protected and recreational areas are discussed in further detail in Exhibits R, L, and T.

5. (a) The County shall maintain rural agricultural lands, Development shall be of low density to assure retention of upland game habitat,

Response: The general wildlife survey and habitat categorization surveys of the Project site determined that the majority of the Project site is composed of Category 4 or 5 Eastside Grassland habitat which is characterized as highly disturbed habit with high percentage of non-native plant species. Category 4 includes a sagebrush component while Category 5 does not. The Category 3 Shrub-steppe habitat within the Project site was limited to 20 acres. Also, the surveys found no wetlands or stream features. For these reasons, the current conditions at the Project site do not provide optimal habitat for upland game birds. However, construction and operation of the Project will result in permanent loss of habitat, which could displace nesting and foraging birds. However, birds using habitat within the Site Boundary are expected to relocate to other suitable habitat in the greater vicinity of the Project. See Exhibit P for more details regarding the Project's wildlife habitat and species and the Project's planned avoidance and minimization measures and habitat mitigation plan. Given the Project's plan for mitigation of permanent habitat the Project complies with this policy.

Regarding the Project's use of rural agriculturally zoned land in Umatilla County, the Project would develop 0.02 percent of total land in farms in Umatilla County, per the latest U.S. Department of Agriculture Census of Agriculture (USDA 2017). This represents a minimal amount of the County's total farmland.

Given the Project's minimal use of the County's supply of rural agricultural lands and given the minimal impacts to upland game bird habitat, the Project is consistent with this policy.

(b) Land uses should maintain the vegetation along stream banks, fence rows, woodlots, etc. Research ways to reduce harassment and loss of upland game by free roaming dogs and cats.

Response: A survey of the Project site determined there are no stream features or other features that appear to convey water, as further discussed in Exhibit P. There are no characteristics of the Project that would attract or exacerbate the problem of free roaming dogs and cats.

6. (a) Developments or land uses that require drainage, channelization, filling or excessive removal of riparian vegetation in sensitive waterfowl areas should be identified.

Response: The Project does not require drainage, channelization, filling, or excessive removal of riparian vegetation in sensitive waterfowl areas.

8. (a) Setbacks shall be established to protect significant and other wetlands.

Response: A survey of the site determined there are no wetlands identified within the Project Area, as further discussed in Exhibit J.

9. (a) The County shall encourage land use practices which protect and enhance significant wetlands.

Response: A survey of the site determined there are no wetlands identified within the Project Area, as further discussed in Exhibit J.

10. (c) Compatible land use shall maintain the riparian vegetation along streams in the floodplain. Stream bank vegetation shall be maintained along streams outside of the floodplain by utilizing appropriate setbacks.

Response: A survey of the site determined there are no stream features or other features that appear to convey water, as further discussed in Exhibit J.

10. (d) Development or land use that requires channelization, excessive removal of streamside vegetation, alteration of stream banks and filling into stream channels shall be restricted in order to maintain streams integrity.

Response: A survey of the site determined there are no stream features or other features that appear to convey water, as further discussed in Exhibit J.

10. (e) New roads, bridges and access rights-of-way shall be designed to avoid channel capacity, and minimize removal of shoreline vegetation.

Response: A survey of the site determined there are no wetlands, stream features or other features that appear to convey water, as further discussed in Exhibit J. Therefore, the Project will not adversely affect channel capacity.

20. (a) Developments of potentially high visual impacts shall address and mitigate adverse visual effects in their permit application, as outlined in the Development Ordinance standards.

Response: Exhibits L, R, and T provide evidence that the Project will not result in significant adverse visual impacts to protected areas, scenic resources, and recreational resources. Visual impacts are minimized as discussed in Exhibit R. The presence of the Project facilities will be non-natural elements in locations where they are visible. Development of the Project facilities will result in minimal changes to the existing topography, landforms, and land cover.

20. (b) It is the position of the County that the Comprehensive Plan designations and zoning already limit scenic and aesthetic conflicts by limiting land uses or by mitigating conflicts through ordinance criteria. However, to address any specific, potential conflicts, the County shall insure special consideration of the following when reviewing a proposed change of land use:

- (1) Maintaining natural vegetation whenever possible.*
- (2) Landscaping areas where vegetation is removed and erosion might result.*
- (3) Screening unsightly land uses, preferably with natural vegetation or landscaping.*
- (4) Limiting rights-of-way widths and numbers of roads intersecting scenic roadways to the minimum needed to safely and adequately serve the uses to which they connect.*
- (5) Limiting signs in size and design so as not to distract from the attractiveness of the area.*
- (6) Siting Developments to be compatible with surrounding area developments and recognizing the natural characteristics or the location.*

(7) Limiting excavation and filling only to those areas where alteration of the natural terrain is necessary and re-vegetating such areas as soon as possible.

(8) Protection vistas and other views which are important to be recognized because of their limited number and importance to the visual attractiveness of the area.

Response: Exhibit R reviews Project impacts to important scenic resources in Umatilla County. In general, significant impacts on the scenic resources identified in Exhibit R are not anticipated due to the distance from the Project to the respective scenic resources (over 5 miles), intervening topography that blocks views toward the Project from many potential viewing locations within the identified scenic resources, the presence of visual contrast created by existing infrastructure and other landscape modifications, the limited degree of additional contrast created by transmission structures, and the low stature of the proposed solar array (16 feet or less). Conflicts are addressed for a project as part of the substantive criteria applicable to the project. Additionally, the Project does not propose a new transmission line due to the presence of existing transmission lines that cross through or run adjacent to the Site Boundary. The Project will interconnect with one of the three existing transmission lines. Collector lines will generally be underground. Nonetheless, the Project incorporates many of the design guidance elements enumerated in this policy to minimize aesthetic impacts. For example, disturbed areas will be revegetated as soon as practicable following construction to restore the visual quality of the land and to prevent erosion. Project access roads will be reduced to the minimum length needed to develop the Project, and they will be narrowed following construction to a minimum width needed for typical maintenance vehicles. The O&M enclosure will appear similar to existing agricultural structures in the area. Outdoor lighting at the substations and the O&M enclosure will be kept to the minimum required for safety, motion sensors will connect with switches to reduce lighting when an area is not in use, and lighting will be directed downward and inward to prevent off-site glare.

22. The County shall cooperate with state agencies and other historical organizations to preserve historic buildings and sites, cultural areas, and archeological sites and artifacts.

Response: The Project has been designed to avoid significant impacts on historic, cultural, and archaeological resources identified within the Analysis Area. The transmission line historic sites in the Site Boundary have been avoided through Project design, wherein the associated structures of the lines have been avoided. The one identified archaeological resource (historic refuse scatter) will not be avoided, however this impact is not considered a significant impact given the site's National Register of Historic Places ineligibility. In the event that previously undiscovered sites or artifacts are found during construction, the Applicant will coordinate with the State Historic Preservation Office regarding an appropriate course of action to conserve the resource. Avoidance of impacts to cultural or archaeological resources is discussed in Exhibit S.

23. (a) Umatilla County shall encourage and cooperate in developing a detailed county-wide historic site inventory.

Response: Any historic site information developed in the course of Project development shall be made available for inclusion in the Umatilla County historic site inventory.

24. (a) Umatilla County shall protect significant historical and cultural sites from land use activities which diminish their value as historical resources.

Response: As described in Exhibit S, the Site Boundary has been surveyed for historic and cultural resources. Tetra Tech identified a total of three cultural resources within the Analysis Area: one archaeological site and two historic structures (transmission lines). The transmission line historic sites have been avoided through Project design, wherein the associated structures of the lines have been avoided. The one identified archaeological resource (historic refuse scatter) will not be avoided, however this impact is not considered a significant impact given the site's National Register of Historic Places ineligibility.

26. The County shall cooperate with the Tribe, Oregon State Historic Preservation Office, and others involved in concern identifying and protecting Indian cultural areas and archeological sites.

Response: The Applicant has cooperated and consulted with the Confederated Tribes of the Umatilla Indian Reservation and will consult with Oregon State Historic Preservation Office through the ASC process regarding cultural and archaeological resources (see Exhibit S). All identified native American cultural and archaeological sites eligible or potentially eligible for regulatory protection are avoided, as required by applicable standards.

37. The County shall ensure compatible interim uses provided through Development Ordinance standards, and where applicable consider agriculturally designated land as open space for appropriate and eventual resource or energy facilities use.

Response: The Project is an energy facility on agricultural designated land, as encouraged by this policy.

42. (a) Encourage development of alternative sources of energy.

Response: This is an alternative energy project that is consistent with and implements this policy.

6.2.3 Chapter 9. Air, Land, Water Quality

1. Discharges from existing and future developments shall not exceed applicable environmental standards.

Response: The Project will not discharge any pollutants or other regulated materials in exceedance of environmental standards. The Applicant will obtain and comply with a National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharge and shall follow best management practices to minimize discharges and emissions during construction. Once operational, the Project will not discharge pollutants or other materials regulated by environmental law. Waste materials will be managed in compliance with applicable laws and regulations (see Exhibits G and U).

7. Consider cumulative noise impacts and compatibility of future developments, including the adoption of appropriate mitigating requirements of plan updates.

Response: Noise impacts and mitigation are discussed in Exhibit Y, which demonstrates that the Project can be operated to comply with state noise regulations. The Applicant has considered the potential for and is not aware of potential future developments that could give rise to cumulative noise impact issues.

8. Recognize that protection of existing wells has priority over development proposals requiring additional subsurface sewage disposal.

Response: There is no subsurface sewage disposal proposed with this project. The restroom facilities at the O&M enclosure will be provided in the form of portable toilets (see Exhibit B).

6.2.4 Chapter 10. Natural Hazards

1. The County will endeavor, through appropriate regulations and cooperation with applicable governmental agencies, to protect life and property from natural hazards and disasters found to exist in Umatilla County.

Response: The Project is in an area largely free of natural hazards and will incorporate many features protective of life and property (see Exhibit H). Exhibit H demonstrates that the Project can be designed, engineered, and constructed through standard methods of practice (including implementation of the current IBC) to avoid dangers to human safety and the environment in case of a design seismic event. Exhibit E provides the additional permits that will be obtained to demonstrate compliance.

4. Potentially hazardous major developments (e.g. power plants) must address earthquake hazard possibilities.

Response: There are no known or active faults mapped within the Project Site Boundary (see Exhibit H). The risk of seismic hazards to human safety at the proposed Project is considered low (See Exhibit H). The soils in the Site Boundary are not saturated and are generally cohesive in nature. Along with the relatively low seismic event potential, this indicates that the liquefaction of soils within the Site Boundary is considered extremely unlikely. All foundations will be built to applicable engineering standards for earthquake safety. In Exhibit H, the Applicant has demonstrated that the Project can be designed, engineered, and constructed to avoid dangers to human safety and the environment in case of a design seismic event.

6.2.5 Chapter 11. Recreation Needs

1. Encourage and work with local, state, federal agencies and private enterprise to provide recreational areas and opportunities to citizens and visitors to the County.

Response: The Project will not interfere with or have any influence on the ability of the County to implement this policy. The Project is located in a rural area approximately 0.5 miles outside the City of Stanfield's urban growth boundary and Project structures will take up a limited area of land with no major waterways, and does not provide any ideal spaces for recreational areas or opportunities especially in consideration of other areas of the County.

6.2.6 Chapter 12. Economy

1. Encourage diversification within existing and potential resource-based industries.

Response: The existing economic use of Project land will not be significantly impacted by the Project, as the area within the Project Site Boundary contains uncultivated land with no history of Irrigation and no recent history of active agricultural use. Therefore, the Project will be an addition to and diversification of the County economy.

4. Participate in selected economic development programs and projects applicable to the County desired growth.

Response: The Project is outside of all Urban Growth Boundaries. The Project will make economic use of the solar resource of Umatilla County without detriment to other solar projects or natural resource uses. The Project will generate economic growth and jobs within Umatilla County.

7. Cooperate with development oriented entities in promoting advantageous aspects of the area.

Response: The Project will take advantage of Umatilla County's abundant solar energy resources and relatively flat lands.

8. Evaluate economic development proposals upon the following:

Will the proposal:

- a. increase or decrease available [water] supplies?*
- b. improve or degrade [water] qualities?*
- c. balance [water] withdrawal with recharge rates?*
- d. be a beneficial use?*
- e. have sufficient [water] quantities available to meet needs of the proposed project and other existing and reassembly anticipated needs?*
- f. reduce other [water] use opportunities and if so, will the loss be compensated by other equal opportunities?*

Response: The Project will provide economic growth and jobs within Umatilla County; will have no effect on water supplies or quality; and will be a net beneficial use by reducing the need for carbon-intensive energy sources. Exhibit O demonstrates that construction and operation of the Project will not result in significant adverse impacts to water resources. During construction, the Project will require an anticipated maximum of 12.8 million gallons of water. The primary driver of water use during construction is dust control. The Applicant's third-party construction contractor can obtain construction water from the City of Hermiston under an existing municipal water right. During operation, the Project will require very limited amounts of water. The Applicant conservatively assumes that solar modules will be washed twice per year, which will require approximately 1.65 million gallons of water per year. Water will be applied via a tanker truck and

will not have any cleaning solvents in it. Employee sanitation during operations will be provided in the form of a hand-washing station and portable toilets. Drinking water will be purchased in bottles and stored in the O&M enclosure. Water for solar panel washing will be obtained from the City of Hermiston (see Exhibit O, Attachment O-1).

6.2.7 Chapter 14. Public Facilities and Services

1. The county will control land development in a timely, orderly, and efficient manner by requiring that public facilities and services be consistent with established levels of rural needs consistent with the level of service requirements listed on pages J-27 and J-28 of the Technical Report. Those needs are identified as follows:

a. Fire protection shall be provided consistent with Policies 8,9,10.

Response: Policies 8, 9, and 10 respectively call for the formation or expansion of rural fire districts in areas designated for non-resource use; the provision of adequate fire-fighting water supplies for significant new rural developments in coordination with the appropriate fire district; and assistance by the County in locating satellite fire stations. As described in Exhibit U, Umatilla County Fire District #1 provides fire protection services for the Project Site Boundary area. The Applicant will identify access to the Project and its supporting structures, and mutually assist the fire district in the case of a fire. The Project will be equipped with adequate fire protection in accordance to the Oregon Fire Code. The Applicant has contacted Umatilla County Fire District #1 Division (Attachment U-3). The Fire Marshall requested training on safely operating around the solar arrays and energy storage system facility.

b. Police protection shall be provided consistent with Policy 7.

Response: Policy 7 calls for the allocation of county funding to maintain at least the state average of 0.34 officers per 1,000 people. During construction, the Applicant will provide on-site security and develop a relationship with the local sheriff's office to ensure security for the site is met. There would be no new residents to the surrounding communities, therefore not adding an increase demand onto the local sheriff and police forces. Therefore, the Project would not have a significant adverse impact on the ability of the communities to provide law enforcement services.

c. Surface. Water Drainage-Roadside drainage shall be maintained and plans for drainage shall be required in multiple use areas.

Response: Roadside drainage will be maintained on all roads developed or improved for the County, including at locations where Project access roads intersect County roads. The specific requirements for roadside drainage will be determined through the NPDES permit and the associated Erosion and Sedimentation Control Plan that must meet applicable local government erosion and sediment control or stormwater management requirements. The Applicant will coordinate with Umatilla County Public Works to ensure the roadside drainage plans for the Project will meet County specifications.

d. Roads shall be maintained or improved to standards adopted by the County Road Department which are consistent with nationally accepted standards that correlate traffic to desired road conditions.

Response: The Applicant will enter into a road use agreement with Umatilla County to ensure that roads will be maintained or improved to County standards.

2. Require that domestic water and sewage disposal systems for rural areas be provided and maintained at levels appropriate for rural use only. Rural services are not to be developed to support urban uses.

Response: Water supply and sewage disposal plans for the Project are consistent with the rural nature of the site. Once in operation, the Project will not have significant water needs; water for panel cleaning will be applied via a tanker truck and will not have any cleaning solvents in it. Employee sanitation during operations will be provided in the form of a hand-washing station and portable toilets. Drinking water will be purchased in bottles and stored in the O&M enclosure. Construction and operation water will be obtained from municipal water suppliers or from some other permitted source (see Exhibit O) in quantities within the service capacity of those providers and hauled to the Project site.

9. Require adequate water supplies for firefighting as part of significant new developments in rural areas in coordination with the appropriate rural fire district.

Response: The Applicant believes this policy is directed more at occupied development such as residential and commercial buildings. Nonetheless, the Applicant has confirmed the adequacy of fire protection services in Umatilla County as discussed in Exhibit U. Attachment U-3 is a record of correspondence with the Umatilla County Fire District #1. In general, solar projects do not pose a significant fire risk.

19. Where feasible, all utility lines and facilities shall be located on or adjacent to existing public or private rights-of-way so as to avoid dividing existing farm or forest units; and transmission lines should be located within existing corridors as much as possible.

Response: There are no new transmission lines proposed with the Project as it will interconnect to one of the existing transmission lines that cross through or adjacent to the Site Boundary.

6.2.8 Chapter 16. Energy Conservation

1. Encourage rehabilitation /weatherization of older structures and the utilization of locally feasibly renewable energy resources through use of tax and permit incentives.

Response: The Project is a solar energy facility that utilizes locally feasible renewable energy resources, in furtherance of this policy. The Project does not involve the reuse of existing structures that could be considered for rehabilitation or weatherization.

7.0 Directly Applicable Statutes, Goals, and Administrative Rules- OAR 345-021-0010 (1)(k)(C)(iii)

7.1 Directly Applicable Oregon Administrative Rules

7.1.1 OAR 660-033-0130(5)

OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

(5) Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Response: The standards of OAR 660-033-0130(5) are discussed in Section 6.1.1.2 in response to UCDC §152.061

7.1.2 OAR 660-033-0130(38)

OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses

(38) A proposal to site a photovoltaic solar power generation facility shall be subject to the following definitions and provisions:

(a) "Arable land" means land in a tract that is predominantly cultivated or, if not currently cultivated, predominantly comprised of arable soils.

(b) "Arable soils" means soils that are suitable for cultivation as determined by the governing body or its designate based on substantial evidence in the record of a local land use application, but "arable soils" does not include high-value farmland soils described at ORS 195.300(10) unless otherwise stated.

(c) "Dual-use development" means developing the same area of land for both a photovoltaic solar power generation facility and for farm use.

(d) "Nonarable land" means land in a tract that is predominantly not cultivated and predominantly comprised of nonarable soils.

(e) "Nonarable soils" means soils that are not suitable for cultivation. Soils with an NRCS agricultural capability class V–VIII and no history of irrigation shall be considered nonarable in all cases. The governing body or its designate may determine other soils,

including soils with a past history of irrigation, to be nonarable based on substantial evidence in the record of a local land use application.

Response: As described in Section 4.3, the Site Boundary, including the two tracts that make up the Site Boundary, is primarily comprised of arable soils and therefore is considered arable land. There will be no dual-use development.

(f) “Photovoltaic solar power generation facility” includes, but is not limited to, an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. For purposes of applying the acreage standards of this section, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership, regardless of the operating business structure. A photovoltaic solar power generation facility does not include a net metering project established consistent with ORS 757.300 and OAR chapter 860, division 39 or a Feed-in-Tariff project established consistent with ORS 757.365 and OAR chapter 860, division 84.

Response: The solar array and associated facilities meet the definition of “photovoltaic solar power generation facility.” This includes the energy storage system, Project collector substation, switchyard substation, and interconnection equipment (including overhead cables connecting the substations to the existing UEC 115-kV line or other existing transmission line within the Site Boundary), and O&M enclosure. All Project components will be within the fence line of the solar facility (with possible exception of interconnection cables extending over the fence line to the existing UEC 115-kV line). The energy storage system may be integrated into the solar array electrical collection system to store energy consistent with the definition of photovoltaic solar power generation, above, or in a consolidated area near the O&M enclosure, but still within the solar facility fence line. In addition, the 34.5-kV collector lines are also part of the solar facility as they will collect the energy from the solar modules and transfer it to the Project substation.

(g) For high-value farmland described at ORS 195.300(10), a photovoltaic solar power generation facility shall not use, occupy, or cover more than 12 acres unless:

(A) The provisions of paragraph (h)(H) are satisfied; or

(B) A county adopts, and an applicant satisfies, land use provisions authorizing projects subject to a dual-use development plan. Land use provisions adopted by a

county pursuant to this paragraph may not allow a project in excess of 20 acres. Land use provisions adopted by the county must require sufficient assurances that the farm use element of the dual-use development plan is established and maintained so long as the photovoltaic solar power generation facility is operational or components of the facility remain on site. The provisions of this subsection are repealed on January 1, 2022.

Response: As discussed in Section 4.3.3, portions of the Site Boundary area meet the definition of high-value farmland under ORS §195.300(10)(f) The Applicant is not proposing dual use of the area within the Site Boundary and does not meet the requirements of paragraph (h)(H) (see analysis below). As the total area of high-value farmland within the Site Boundary would use, occupy, or cover more than 12 acres, the Applicant seeks a Goal Exception. However, because the Project falls under EFSC's jurisdiction, it is EFSC's statutes and rules that govern the goal exception process, ORS 469.504(2) and OAR 345-022-0030(4), rather than ORS 197.732 (see Section 8.0).

(h) The following criteria must be satisfied in order to approve a photovoltaic solar power generation facility on high-value farmland described at ORS 195.300(10).

(A) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject property not occupied by project components. Negative impacts could include, but are not limited to, the unnecessary construction of roads dividing a field or multiple fields in such a way that creates small or isolated pieces of property that are more difficult to farm, and placing photovoltaic solar power generation facility project components on lands in a manner that could disrupt common and accepted farming practices;

Response: As there are no existing agricultural operations on the subject properties, and no such uses are envisioned within the Site Boundary for the life of the Project, the proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations on the subject properties. As the Site Boundary and micro-siting corridor include the entire extent of both Project parcels, the Project will not create any isolated properties that are difficult to farm nor will it create unnecessary negative impacts on the landowner's future agricultural operations as no current agricultural operations occur on the subject properties and the landowners have no plans to farm the subject properties given the lack of available irrigation water. The Project will not create unnecessary negative impacts on agricultural operations conducted on adjacent properties outside the Site Boundary because:

- The Applicant will sign and record in the deed records for the county a document binding the Project owner and the Project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

- The Project will not limit or impact current or future farm activities on the surrounding land and will not diminish the opportunity for neighboring parcels to expand, purchase, or lease any vacant land available for agricultural uses.
- The Applicant will implement a weed control plan during construction and operation that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control).
- The Project will not affect the application of pesticides or fertilizers using aerial or ground-based methods.

(B) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property. This provision may be satisfied by the submittal and county approval of a soil and erosion control plan prepared by an adequately qualified individual, showing how unnecessary soil erosion will be avoided or remedied. The approved plan shall be attached to the decision as a condition of approval;

Response: Exhibit I addresses soil erosion. Construction would be performed under a NPDES 1200-C permit, including an Oregon Department of Environmental Quality Erosion and Sediment Control Plan, which will also include erosion and sediment control best management practices. The NPDES 1200-C will be prepared and stamped by a licensed engineer in the State of Oregon. After completing construction in an area, the Applicant will monitor the area to evaluate whether construction-related impacts to soils are being adequately addressed by the mitigation procedures described in the Erosion and Sediment Control Plan.

(C) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production. This provision may be satisfied by the submittal and county approval of a plan prepared by an adequately qualified individual, showing how unnecessary soil compaction will be avoided or remedied in a timely manner through deep soil decompaction or other appropriate practices. The approved plan shall be attached to the decision as a condition of approval;

Response: As discussed in Section 4.3.3, portions of the area within the Site Boundary qualify as high-value farmland only under ORS 195.300(10)(f), which relies on the land being located within the boundaries of the Columbia Valley American Viticulture Area and meeting certain elevation (below 3,000 feet), slope (between zero and 15 percent), and aspect (between 67.5 and 292.5 degrees) criteria. The soils within the Site Boundary are not considered high-value soils as the site has no irrigation water. Furthermore, the site is composed of uncultivated land that has no history of being irrigated. Therefore, construction or maintenance activities will not reduce the productivity of soil for crop production as the soil within the Site Boundary currently supports no crop production. Furthermore, the landowners of the two tracts within the Site Boundary support the Project (see Attachments K-1 and K-2) and consider the solar energy generation facility a higher and better use of the land than agriculture considering the lack of available irrigation water. At the

end of the Project's useful life, the site will be restored and all disturbed areas will be regraded and reseeded with native plant seed mixes, as directed by the landowner and as consistent with then-applicable County requirements. The Applicant will loosen the soil in disturbed areas to an appropriate depth to reduce the potential effects of compaction.

(D) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weed species. This provision may be satisfied by the submittal and county approval of a weed control plan prepared by an adequately qualified individual that includes a long-term maintenance agreement. The approved plan shall be attached to the decision as a condition of approval;

Response: As discussed in response to UCDC §152.061 (see Section 6.1.1.2), the Applicant will implement a weed control plan in coordination with Umatilla County that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control.

(E) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);

Response: As discussed in Section 4.3.3, the predominant soil type in both tracts in the Site Boundary is 1B – Adkins fine sandy loam, 0-5 percent slopes which is considered by the NRCS as Class 2 (if irrigated) or Class 4 (if non-irrigated) soils (see Figures K-5 and K-6). Neither tract in the Project Site Boundary is irrigated or has a history of being irrigated. Furthermore, neither tract has water rights or is located within an irrigation district (Figures K-7 and K-8). Therefore, the land in the Site Boundary would not meet the definition of high-value farmland under ORS 195.300(10)(a) and OAR 660-033-0020(8)(a).

(F) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

- (i) Non high-value farmland soils are not available on the subject tract;*
- (ii) Siting the project on non high-value farmland soils present on the subject tract would significantly reduce the project's ability to operate successfully; or*
- (iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non high-value farmland soils; and*

Response: The area within the Site Boundary does not qualify as high value farmland under OAR 660-033-0020(8)(b) as the tracts have no history of growing the specified perennials including nursery stock, berries, fruit, nuts, Christmas trees, or vineyards. The area within the Site Boundary does not include any of the soils listed in OAR 660-033-0020(8)(c)-(e). However, the Project tracts are composed predominantly of arable soils and therefore the Project will be located on arable soils.

As discussed above, the soils in the Site Boundary do not qualify as high-value farmland soils under OAR 660-033-0020(8)(a) because the soils are considered Class 4 or 7 (see Section 4.3.1). Therefore, the Project is located on non-high value farmland soils defined under OAR 660-033-0020(8)(a) through (e).

Regarding the Project's placement on arable soils, the Project meets criteria (ii) under this statute as the only non-arable soils located in the Project Site Boundary (the 74B soils) are laid-out in a long narrow pattern across the Project Site Boundary (Figure K-6) and siting Project infrastructure on only these soils would reduce the Project's ability to operate successfully as the Project's size would be significantly reduced.

(G) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 48 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

Response: No photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the 1-mile study area. Therefore, no further action is necessary.

(H) A photovoltaic solar power generation facility may be sited on more than 12 acres of high-value farmland described in ORS 195.300(10)(f)(C) without taking an exception pursuant to ORS 197.732 and OAR chapter 660, division 4, provided the land:

(i) Is not located within the boundaries of an irrigation district;

Response: As discussed in Section 4.3.2, the Project Site Boundary is not located within the boundaries of an irrigation district.

(ii) Is not at the time of the facility's establishment, and was not at any time during the 20 years immediately preceding the facility's establishment, the place of use of a water right permit, certificate, decree, transfer order or ground water registration authorizing the use of water for the purpose of irrigation;

Response: As discussed in Section 4.3.2, neither of the two parcels that make up the Project Site Boundary have place of use water rights and the Applicant is unaware of any historic place of use water rights on these two parcels. The landowners of each parcel have confirmed this is the case (see Attachments K-1 and K-2).

(iii) Is located within the service area of an electric utility described in ORS 469A.052(2);

Response: The Project is located within the UEC service area. The UEC is considered a small electric utility and therefore not described in ORS 469A.052(2). Therefore, the Project does not meet this criterion.

(iv) Does not exceed the acreage the electric utility reasonably anticipates to be necessary to achieve the applicable renewable portfolio standard described in ORS 469A.052(3); and

Response: As the Project does not meet criteria (iii) above, this provision is not applicable.

(v) Does not qualify as high-value farmland under any other provision of law; or

Response: The Project Area does not qualify as high-value farmland except as it relates to the definition under ORS 195.300(10)(f).

In conclusion, the solar power generation facility qualifies under all of the provisions under OAR 660-033-0130(38)(h)(H) except for subparts (iii) and (iv). Therefore, it does not qualify for the "over 12-acre allowance."

(i) For arable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 20 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on arable land:

Response: As discussed in Section 4.3.1, the area within the Site Boundary is primarily composed of arable soil and therefore qualifies as arable land. As the Project will use more than 20 acres of arable land for a commercial solar energy facility, an exception is being requested pursuant to ORS 469.504(2) and OAR 345-022-0030(4) (see Section 8.0).

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);

Response: As discussed in Section 4.3.3, the predominant soil type in the Site Boundary is 1B – Adkins fine sandy loam, 0-5 percent slopes which is considered by the NRCS as Class 2 (if irrigated) or Class 4 (if non-irrigated) soils (see Figures K-5 and K-6). Neither tract in the Project Site Boundary is irrigated or has a history of being irrigated. Furthermore, neither tract has water rights or is located within an irrigation district (Figures K-7 and K-8). Therefore, based on current conditions, the 1B soils in the Site Boundary would not meet the definition of high-value farmland soils under ORS 195.300(10)(a) and OAR 660-033-0020(8)(a).

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

Response: As stated previously, the area within the Site Boundary does not include any of the soils listed in OAR 660-033-0020(8)(b)-(e) but it is sited on tracts composed predominantly of arable soils.

(i) Nonarable soils are not available on the subject tract;

(ii) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(iii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of nonarable soils;

Response: Figures K-5 and K-6 show that the majority of the soils underlying the Project Site Boundary comprise 1B – Adkins fine sandy loam, which is considered by the NRCS as Class 4 (non-irrigated) arable soils. The other soil type in the Project Site Boundary are the 74B-- Quincy fine sand, which are considered Class 7 (not irrigated) non-arable soils. Nonarable soils (74B soils) are not available on the subject tract in a quantity or configuration that would allow for construction and operation of the Project in a manner that would avoid arable soils.

(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

Response: Although the Project will not use high-value farmland soils described under ORS 195.300(10)(a), the Project will use more than 12 acres of high-value farmland defined under ORS 195.300(10)(f) for a commercial solar energy facility. Therefore, an exception is being requested pursuant to ORS 469.504(2) and OAR 345-022-0030(4) (see Section 8.0).

(D) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(i) If fewer than 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area, no further action is necessary.

(ii) When at least 80 acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities within the study area, the local government or its designate must find that the photovoltaic solar power generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photovoltaic solar power generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights, or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area; and

Response: No photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the 1-mile study area. Therefore, no further action is necessary.

(E) The requirements of OAR 660-033-0130(38)(h)(A), (B), (C) and (D) are satisfied.

Response: The requirements of OAR 660-033-0130(38)(f)(A), (B), (C) and (D) are discussed above.

(j) For nonarable lands, a photovoltaic solar power generation facility shall not use, occupy, or cover more than 320 acres. The governing body or its designate must find that the following criteria are satisfied in order to approve a photovoltaic solar power generation facility on nonarable land:

Response: As discussed above, Figures K-5 and K-6 show that the majority of the soils underlying the Project Site Boundary comprise arable soils. The Site Boundary contains approximately 88 acres of 74B-- Quincy fine sand, which are considered Class 7 soils if not irrigated. As neither tract in the Project Site Boundary is irrigated, has a history of being irrigated, has not water rights, and are outside the boundary of an irrigation district, the 74B soils within the Site Boundary would be considered non-arable soils. Therefore, the Project will not use, occupy, or cover more than 320 acres of nonarable lands and the Project does not require an exception to Statewide Planning Goal 3 based on impacts to nonarable lands. The Applicant's demonstration of compliance with the remainder of OAR 660-033-0130(38)(j) is included directly below.

(A) Except for electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, the project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a);

Response: As stated previously, the Project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(a).

(B) The project is not located on those high-value farmland soils listed in OAR 660-033-0020(8)(b)-(e) or arable soils unless it can be demonstrated that:

(i) Siting the project on nonarable soils present on the subject tract would significantly reduce the project's ability to operate successfully; or

(ii) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract as compared to other possible sites also located on the subject tract, including sites that are comprised of nonarable soils;

Response: The Applicant's responses to OAR 660-033-0130(38)(h)(F) and OAR 660-033-0130(38)(i)(B) demonstrate that the area within the Site Boundary does not include any of the soils listed in OAR 660-033-0020(8)(b)-(e) but it is sited on tracts composed predominantly of arable soils. Nonarable soils are not available on the subject tract in a quantity or configuration that would allow for construction and operation of the solar energy generation facility in a manner that would avoid arable soils.

(C) No more than 12 acres of the project will be sited on high-value farmland soils described at ORS 195.300(10);

(D) No more than 20 acres of the project will be sited on arable soils;

Response: As discussed above, the Project will permanently occupy more than 12 acres of high-value farmland and 20 acres of arable land. Thus, the Project requires an exception to Statewide Planning Goal 3. For projects under EFSC jurisdiction, the standards for approving an exception are set forth in ORS 469.504(2)(c) and an exception is being requested pursuant to ORS 469.504(2) and OAR 345-022-0030(4) (see Section 8.0).

(E) The requirements of OAR 660-033-0130(38)(h)(D) are satisfied;

Response: The requirements of OAR 660-033-0130(38)(h)(D) are discussed above.

(F) If a photovoltaic solar power generation facility is proposed to be developed on lands that contain a Goal 5 resource protected under the county's comprehensive plan, and the plan does not address conflicts between energy facility development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts. If there is no program present to protect the listed Goal 5 resource(s) present in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency(ies) cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures; and

Response: There are no Goal 5 resources in the Project Site Boundary.

(G) If a proposed photovoltaic solar power generation facility is located on lands where, after site specific consultation with an Oregon Department of Fish and Wildlife biologist, it is determined that the potential exists for adverse effects to

state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist's report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant's site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the facility.

Response: Professional biologists conducted site-specific assessment using methodologies reviewed and accepted by Oregon Department of Fish and Wildlife (ODFW). Based on these surveys, it was determined there would be no adverse effects to special status species or Category 1 wildlife habitats. Exhibit Q provides information about state-listed threatened endangered plant and wildlife species that may be affected by the proposed Project as required by OAR 345-022-0070. Exhibit P provides information about the fish and wildlife habitats and species, other than the species addressed in Exhibit Q, that could be affected by the Project. These exhibits also outline the agency consultation that has occurred at various stages of Project development and measures to avoid, reduce and mitigation, as necessary, for impacts.

(k) An exception to the acreage and soil thresholds in subsections (g), (h), (i), and (j) of this section may be taken pursuant to ORS 197.732 and OAR chapter 660, division 4.

Response: As discussed above, the Project will permanently occupy more than 12 acres of high-value farmland and 20 acres of arable land. Thus, the Project requires an exception to Statewide Planning Goal 3. For projects under EFSC jurisdiction, the standards for approving an exception are set forth in ORS 469.504(2)(c) and EFSC's rule (which mirrors the statute), OAR 345-022-0030(4). The justification for an exception to Statewide Planning Goal 3 is set forth in Section 8.0. The Applicant's demonstration of compliance with the remainder of OAR 660-033-0130(38)(g), (h), (i), and (j) are included above.

(l) The county governing body or its designate shall require as a condition of approval for a photovoltaic solar power generation facility, that the project owner sign and record in the deed records for the county a document binding the project owner and the project owner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices as defined in ORS 30.930(2) and (4).

Response: The Applicant understands that EFSC will impose a condition to the site certificate requiring that, before beginning construction of the Project, the certificate holder must record such a document in the deed records of Umatilla County.

(m) Nothing in this section shall prevent a county from requiring a bond or other security from a developer or otherwise imposing on a developer the responsibility for retiring the photovoltaic solar power generation facility.

Response: Exhibit X provides information on retiring the Project and restoring the site. The Applicant understands the implications of the bonding requirements outlined in this criterion.

7.2 Applicable Statewide Planning Goals – OAR 345-021-0010 (1)(k)(C)(iv)

As discussed in Section 5.0, the Project does not meet the standards under OAR 660-033-0130(38)(g) and (i) as the Project will permanently occupy more than 12 acres of high-value farmland and 20 acres of arable land for the commercial solar energy facility.

Because the Project does not comply with all applicable local land use criteria, this section provides analysis, under ORS 469.504(1)(b)(B), on whether the proposed Project “does otherwise comply with the applicable statewide planning goals.” For a use located within an EFU zone, the “applicable statewide planning goal” is Goal 3, which is the State’s Agricultural Lands goal.

Goal 3, Agricultural Lands: “To preserve and maintain agricultural lands.”

Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

Under Goal 3, nonfarm uses are permitted within a farm use zone as provided under ORS 215.283. OAR Chapter 660, Division 33 are the implementing provisions for ORS 215.283 and the purpose of Division 33 is to preserve and maintain agricultural lands as defined by Goal 3 for farm use. As described Section 7.1, the Applicant demonstrates compliance with most of the provisions under OAR Chapter 660, Division 33 that are applicable to a solar power generation facility but does not meet the standards under OAR 660-033-0130(38)(g) and (i). Thus, the Project requires an exception to Statewide Planning Goal 3 pursuant to ORS 469.504(2) and OAR 345-022-0030(4). The justification for an exception to Statewide Planning Goal 3 is set forth in Section 8.0.

The Goal 3 exception does not seek to permanently remove land from agricultural use. Per the terms of the land lease and the requirements of the mandatory conditions OAR 345-025-0006(7) and (8), the land would be returned to agricultural use following retirement and restoration of the Project (see Exhibit X). Furthermore, as discussed in Section 6.1.1.2, the Project will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

8.0 Statewide Planning Goal Exception – OAR 345-021-0010 (1)(k)(C)(v)

As discussed above, the Project’s solar generation facilities would permanently occupy more than 12 acres of high-value farmland and 20 acres of arable land. Pursuant to OAR 660-033-0130(38), siting of the Project’s solar generation facilities requires an exception to Statewide Planning Goal 3. In this section, the Applicant demonstrates that an exception to Statewide Planning Goal 3 is justified for the Project under ORS 469.504(2), which provides the controlling criteria for exceptions that are proposed for energy facilities under the jurisdiction of EFSC.

Per ORS 469.504(2), an exception may be taken on any of three grounds:

- That the land is “physically developed to the extent that the land is no longer available for uses allowed by the applicable goal”;
- That the land “is irrevocably committed ... to uses not allowed by the applicable goal”; or
- That certain standards are met because the facility is compatible with existing adjacent uses and other relevant factors are met; or what is referred to as a “reasons” exception.

The Project Site Boundary is not “physically developed” or “irrevocably committed” within the meaning of the rule. Therefore, the Project’s justification for an exception to Statewide Planning Goal 3 is demonstrated under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c). An exception is warranted to allow a locationally dependent facility that will fulfill important state and county goals by providing renewable energy while minimizing impacts on local farming practices. For purposes of the Goal 3 exception analysis, the Applicant analyzes the acreage within the Site Boundary (324 acres).

8.1 Demonstration that a “Reasons” Exception is Appropriate

ORS 469.504(2)(c)(A); OAR 345-022-0030(4)(c)(A) Reasons justify why the state policy embodied in the applicable goal should not apply;

The state policy embodied in Goal 3 is the preservation and maintenance of agricultural land for farm use. OAR 660-033-0120 allows photovoltaic solar power generation facilities on agricultural land, subject to certain conditions. These conditions limit a photovoltaic solar power generation facility from using more than 12 acres of high value farmland or more than 20 acres of arable soil. Therefore, it is the size of the solar generation facility and not the proposed use that requires an exception be taken. As discussed in Section 6.1.1 and 7.1.2 of this exhibit, the Project will not result in significant adverse impacts on accepted farm practices in the Analysis Area. Moreover, as discussed in Section 6.2.1 of this exhibit, the Project is consistent with the Agricultural policies in the UCCP, which implements the statewide planning goals. Oregon’s Statewide Planning Goals express the state’s policies on land use, which are implemented through the adopted comprehensive plan and the zoning ordinances of the local cities and counties. Statewide Planning Goal 13 encourages local land use plans to consider “as a major determinant the existing and

potential capacity of the renewable energy sources to yield useful energy output” and calls for land conservation and development actions to “whenever possible [...] utilize renewable energy sources” (see Goal 13, planning guideline No. 5). The UCCP is consistent with the Statewide Planning Goals, and UCCP Chapter 16: Energy Conservation, has several policies that mirror the planning and implementation guidelines stated under Statewide Planning Goal 13. Chapter 16 of the UCCP provides the following finding:

1. Escalating cost of depleting nonrenewable energy sources make renewable energy source alternatives (e.g. solar, wind) increasingly more economical, and help conserve existing energy supplies.

In addition to responding to the County’s need for development of renewable energy to conserve existing energy supplies, the Project’s solar energy generation facilities respond to the State’s recently-approved 100 percent Clean Energy Standard (Oregon House Bill 2021 (2021)). Under this new standard, Oregon’s large investor-owned utilities and electricity service suppliers must reduce greenhouse gas emissions associated with electricity sold in Oregon compared to a 2010 baseline – 80 percent emissions reductions by 2030, 90 percent by 2035, and 100 percent by 2040 – effectively requiring emission-free electricity by 2040.

Besides the Project being consistent with and implementing local and state energy policies above, the following reasons justify removing approximately 324 acres from commercial agricultural use within the Project Site Boundary temporarily (long-term lease), consistent with energy policies of importance within the county and across the state and region:

The solar facility is locationally dependent. The solar facility is locationally dependent as it requires not only sufficient solar resource access (i.e. relatively flat site that is unshaded and located in a region with sufficient solar resource), but also access to the regional transmission system for interconnection and delivery into the regional grid and enough land to develop a facility of sufficient scale to be able to cost-effectively interconnect at a transmission-level voltage. The Project site has a significant comparative advantage due to its location as there are two existing transmission line rights-of-way that run southeast to northwest through the Site Boundary: Bonneville Power Administration’s McNary to Roundup 230- kV line and PacifiCorp’s Pendleton to Hermiston 69-kV line. In addition, there is the UEC 115-kV line that parallels the eastern edge of the Site Boundary. All three existing transmission lines provide interconnection capabilities within or immediately adjacent to the Site Boundary, eliminating the need for a Project transmission line. The Project’s proximity to these existing transmission lines provides for immediate access to the existing regional transmission system and allows for delivery into the regional grid. The Project site features enough land to develop a solar facility of sufficient size in order to be economically feasible at the 230, 115, and 69-kV voltage.

The Project site also avoids sensitive environmental features, including Washington ground squirrel habitat, Federal Emergency Management Agency 100-year floodplains, U.S. Fish and Wildlife Service-designated critical habitat, ODFW-designated big game winter ranges, and any National Hydrography Dataset or National Wetland Inventory-mapped wetlands or

waters. Also, the Project would have minimal impact to agricultural lands in Umatilla County as it would be sited on fallow agriculturally zoned land has no irrigation water rights and even if irrigation water rights were obtained, the existing 230-kV and 69-kV transmission lines crossing through the site would block pivot irrigation equipment and thereby making the site less financially valuable for agricultural development. Finally, the Project Site Boundary is located directly off several existing roads providing access to the local and regional transportation network for construction and operations workers.

Given the fact that the site allows for both a technically and economically feasible interconnection to three potential transmission line interconnection points, and given the site meets other locationally dependent factors such as unimpeded solar access, avoidance of environmentally sensitive features, avoidance of cultivated and/or irrigated agricultural lands that have low potential for agricultural development due to existing transmission line obstructions, and access to the existing transportation network, the Project site is uniquely positioned relative to other locations in Umatilla County to maximize generation of solar-powered energy while minimizing cost, environmental impacts, agricultural impacts, and the need for new transmission infrastructure.

Lack of agricultural use and agricultural value. The land within the Project Site Boundary is currently uncultivated and has no recent history of being cultivated. Based on a review of U.S. Geological Survey historic aerial photography including photos from 1952, 1958, 1970, and 1977, some dry land crop cultivation appeared to have occurred in the Site Boundary in the 1950s and 1970s (USGS 2021). According to both Project landowners, dry land farming on these two parcels is not viable (see landowner letters in Attachments K-1 and K-2). Since owning Tract 1, Art Prior of Windblown Solar has conducted no farming on the site. Steve and Wanda Scott did plant dry land wheat on Tract 2 two separate seasons after acquiring the property. However, neither harvest made enough money to cover the costs; therefore, the Scotts have since left the property fallow.

As neither tract is located within an irrigation district or has place of use water rights, irrigated agricultural activities within the Site Boundary are currently not feasible and the potential for securing new water rights or transferring water rights to the Project site is not feasible due to several reasons:

- Tract 1 is one of several parcels in Umatilla County owned by Art Prior of Windblown Ranch. Windblown Ranch has a limited amount of uninterrupted irrigation water rights and has more acres of land than can be irrigated by these existing water rights. In other words, Windblown Ranch has more land than it has irrigation water; therefore, some of its land holdings will remain unirrigated under the Ranch's existing water right allocations, and it would not make sense to move any existing water rights to the subject parcel for the reasons detailed below:
 - Windblown Ranch made the decision to not allocate some of its limited water rights to Tract 1 because the parcel is obstructed by the existing Bonneville Power Administration transmission line and the PacifiCorp

transmission line. These obstructions would limit a center pivot to a partial circle thus increasing the per-acre cost to irrigate the parcel. This is because the infrastructure costs (e.g. hardware, pipes, etc.) are the same for a center pivot irrigation system regardless if the pivot covers a full 360-degree circle or a partial circle. Therefore, due to the obstructions on the Tract 1 parcel, Windblown Ranch has prioritized allocating its limited irrigation water to its other unobstructed agricultural parcels.

- Moreover, it would be extremely costly and time consuming to obtain additional irrigation water rights to irrigate this parcel. The expense of that effort, combined with the expense of the irrigation infrastructure, make such a prospect economically infeasible. Additionally, there is a very strong possibility that Windblown Ranch would not be able to acquire the necessary water rights.
- Tract 2 is owned by Steve and Wanda Scott who have no irrigation water rights for this parcel or for any other agricultural parcels in the Project vicinity. According to Mr. Scott, their parcel was never considered for inclusion in the East Improvement District and his attempts to obtain an uninterrupted supply of irrigation water for his parcel have not been unsuccessful. Likewise, the prospect of being included in either Stanfield Irrigation District or Hermiston Irrigation District is very unlikely due to the need to go through both state boundary adjustment process (requiring an inclusion petition, public notice, public comment, and approval), and a federal boundary adjustment processes (requiring the U.S. Bureau of Reclamation to conduct a NEPA analysis and possibly an ESA consultation). Moreover, the district would need to have excess water available to distribute to those newly included acres, which is far from a certainty. Irrigation water supply must be uninterrupted to successfully raise potatoes and other water intensive crops. Developing water rights, especially uninterrupted water rights, for this parcel would likely be unsuccessful.

As noted by the Governor's Advisory Committee on Energy and Agriculture in the Umatilla Basin, there is growing interest by dryland agricultural entities to diversify income streams with renewable energy development to provide economic buffer against drought and lean years (State of Oregon 2017). In summary, the Project is proposed on unproductive farmland that is site constrained by the existing transmission lines and constructing a solar facility on this site facilitates a higher and better use of the land and concentrates solar development off more productive, unobstructed farmland that has irrigation water rights or access to irrigation district surface water diversions.

Minimal impact to agriculture. After the end of the Project's useful life, the Project site will be restored and made available for other uses. Temporary loss of potential agricultural land (approximately 324 acres) is insignificant when considering the other available agricultural land in Umatilla County, especially unirrigated land. According to the 2017

Census of Agriculture, this is only 0.01 percent of the winter wheat in Umatilla County and less than 0.02 percent of all cultivated land in Umatilla County (USDA 2017).

As discussed in Section 6.1.1.2, the Project would not force a significant change in accepted farm practices or significantly increase the cost of farm practices in the vicinity of the Project. The Project will not necessitate relocating any access routes or farm infrastructure on neighboring properties within the land use Analysis Area and the Applicant will record a Covenant Not to Sue against its Project leasehold interests with regard to generally accepted farming practices on adjacent farmland. Furthermore, as discussed in Section 6.1.1.2, impacts to harvest time activities is not anticipated during project construction or operation. Because the Project will not change farm practices on surrounding lands, the Project will not increase the cost of farm practices on surrounding lands. As the Project is located on land that is not currently cultivated and has no recent history of cultivation, it will not displace agricultural jobs and will not impact ancillary agricultural businesses as there are no ancillary agricultural businesses that support the Project properties.

Local Economic Benefits. According to both Project landowners, farming the Project properties is not feasible without irrigation water (see landowner letters in Attachments K-1 and K-2). As irrigation water is not available (see Section 4.3.2), the Project properties are currently and foreseeable not cultivated and therefore provide no economic benefit to the property owners and no economic benefit to the local agricultural economy (i.e., ancillary agricultural businesses). In contrast, the Project will provide local economic benefits by varying means. The Project will have positive economic and social benefits by bringing in additional revenue to the community by providing full-time jobs, construction jobs, compensation to landowners via commercial contracts including leases, improvements to the local road network, taxes, and community service fees. Because much of Umatilla County is EFU-zoned, these local economic benefits will largely support EFU zoning uses and agricultural uses.

8.2 Evidence that Environmental, Socioeconomic, and Energy Consequences Favor the Exception

ORS 469.504(2)(c)(B); OAR 345-022-0030(4)(c)(B) The significant environmental, economic, social and energy consequences anticipated as a result of the proposed facility have been identified and adverse impacts will be mitigated in accordance with rules of the Council applicable to the siting of the proposed facility;

When considering the environmental, economic, social, and energy consequences, EFSC may take into consideration factors that are also considered under several of EFSC's review standards already.

Environmental. The Project's environmental consequences are discussed primarily in Exhibit I (Soils), Exhibit J (Wetlands), Exhibit L (Protected Areas), Exhibit P (Fish and Wildlife), Exhibit Q (Threatened and Endangered Species), Exhibit R (Scenic Resources),

and Exhibit S (Cultural Resources). These exhibits demonstrate that the Project will not cause significant adverse environmental consequences. The Applicant will mitigate for any unforeseen impacts to wildlife habitat based on habitat categorization, in accordance with ODFW policy (see Exhibit P). The Applicant does not anticipate any significant adverse impacts to soils, wetlands, protected areas, water resources, threatened and endangered species, scenic and aesthetic resources, and historic, cultural, and archaeological resources from the Project. The Project will comply with all anticipated Site Certificate conditions for these resources.

The region has warmed nearly 2 degrees Fahrenheit since 1900 because of increased greenhouse gas emissions (Dalton et al. 2017). This warming includes warmer waters that affect both river and coastal ecosystems, threatening salmon runs and other important marine and freshwater species. Additionally, in eastern Oregon, large mountain areas have been hit by mountain pine beetle infestations, wildfires, or both, causing widespread shifts in forest ecosystems (Dalton et al. 2017). A mission of Oregon's Climate Action Plan (Executive Order 20-04) is to achieve a reduction in greenhouse gas emissions levels to at least 45 percent below 1990 emissions levels by 2035 at least 80 percent below 1990 emissions levels by 2050. One of the measures identified to accomplish this is through supporting clean energy resources. Therefore, the solar energy generation facility may contribute to the reduction of greenhouse gas emissions, which thereby may result in a beneficial environmental impact.

Social. The Project's social consequences will not be adverse. When considering the social consequences, EFSC takes into consideration factors such as access and impact to resources of importance to the public such as protected areas, recreation, cultural resources, and scenic areas. EFSC also takes into consideration impacts to public and community services. Exhibit L demonstrates that the Project will not adversely impact protected areas within the Analysis Area and, similarly, Exhibits R, S, and T demonstrate the same for scenic resources, cultural resources, and recreation, respectively. Exhibit U demonstrates that the solar array will not result in adverse impacts on public or community services such as health care, education, housing, water supply, waste disposal, transportation, or fire and safety.

Economic. When considering the economic consequences, EFSC takes into consideration factors such as (1) any increased burden on public services, (2) benefits to the rural tax base, (3) job creation, and (4) revenue for area landowners. Exhibit U contains a discussion of the potential impacts on public services, including fire, safety, and transportation. It also provides information on job creation during construction and operation. As discussed above, the Project will create jobs and contribute income to Umatilla County. These benefits should be measured against the fact that no agricultural economic activity is being displaced by the solar energy facility. Tract 1 is owned by a landowner who actively farms other parcels in Umatilla County. The Project will supplement this landowner's income with lease payments and without significantly reducing the land base available for farming practices. Exhibit X discusses retirement and restoration of the Project and demonstrates that no burden will be placed on

the area landowners or the County because the Applicant is obligated to retire and restore the site and will have a financial assurance in place to guarantee such work.

Energy Consequences. The Project would provide a reliable renewable source of electricity consistent with state and local goals with no fuel cost and no associated emissions for at least 30 years. As discussed throughout this exhibit, the solar energy facility would not adversely affect any farming operations in the general area. There are no significant adverse economic consequences of constructing and operating the Project, as proposed.

8.3 Compatibility with Adjacent Land Uses

OAR 345-022-0030(4)(c)(C) The proposed facility is compatible with other adjacent uses or will be made compatible through measures designed to reduce adverse impacts.

Adjacent lands to the west, north, and south of the Project Site Boundary are used for farming. The parcels to the west of the Site Boundary are owned by the same landowner as the Project Tract 1 landowner. As described in Section 6.1.1.2, the Project's construction and operation will not limit or negatively impact current or future farm activities and accepted farming practices on the surrounding land nor will it significantly increase the costs of such practices.

As described in Exhibit U, the temporary increase in the level of traffic during construction on the County roads surrounding the Project will not significantly impact level of service on local roads. Construction traffic is not anticipated to interfere with harvest time activities such as tractor movement between fields or trucks delivering agricultural products to market. The Applicant will coordinate with adjacent landowners to minimize and mitigate any traffic impacts to their farming practices during the temporary construction period. Operational traffic will be minimal and will not impact adjacent land uses.

The Applicant will also minimize dust during construction through application of water and other dust control measures and will implement a weed control plan during construction and operation that will reduce the risk of weed infestation in cultivated land and the associated cost to the farmer for weed control. Therefore, the Project is compatible with the adjacent land uses.

9.0 Federal Land Management Plans

9.1 Identification of Applicable Land Management Plans – OAR 3450-021-0010 (1)(k)(D)(i)

OAR 3450-021-0010 (1)(k)(D) If the proposed facility will be located on federal land:

(i) Identify the applicable land management plan adopted by the federal agency with jurisdiction over the federal land.

These provisions do not apply. No portion of the area within the Project Site Boundary is located on federal lands.

10.0 Summary

Based on the foregoing analysis, the Project complies with the applicable substantive criteria for Umatilla County. However, the Applicant demonstrates that a Goal 3 exception is warranted under ORS 469.504(2)(c) and OAR 345-022-0030(4)(c). The Goal 3 exception is warranted to allow a locationally dependent facility that will fulfill important state and county goals by providing renewable energy while minimizing impacts on local farming practices. Accordingly, the information contained in this Exhibit provides EFSC with sufficient information to make a determination that the Facility complies with the land use standard set forth in OAR 345-022-0030.

11.0 References

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Figures

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**Attachment K-1. Landowner Letter from
Arthur Prior of Windblown Solar LLC**

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Attachment K-2. Landowner Letter from Steve and Wanda Scott

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