

Final
City of Suisun City
Highway 12 Logistics Center
Environmental Impact Report



Prepared for:



City of Suisun City

AECOM

September 2024

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Highway 12 Logistics Center
Environmental Impact Report



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September 2024

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ACRONYMS AND OTHER ABBREVIATIONS

$\mu\text{g}/\text{m}^3$	micrograms per cubic meter
A-40	Agriculture 40 Acres
ABAG	Association of Bay Area Governments
ADA	American Disabilities Act
AFB	Air Force Base
AFB	Air Force Base
ALUC	Airport Land Use Commission
ALUCP	Airport Land Use Compatibility Plan
Arid West Manual	Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region Version 2.0
BAAQMD	Bay Area Air Quality Management District
BCDC	Bay Conservation and Development Commission
BMPs	best management practices
CalEEMod	California Emissions Estimator Model
CalEPA	California Environmental Protection Agency
CalGEM	California Department of Conservation, Geologic Energy Management Division
CALGreen	California Green Building Standards
CalRecycle	California Integrated Waste Management Board
Caltrans	California Department of Transportation
CAPCOA	California Air Pollution Control Officers Association
CARB	California Air Resources Board
CBC	California Building Standards Code
CCD	Community Character and Design
CCR	California Code of Regulations
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CESA	California Endangered Species Act
City	City of Suisun City
CO ₂ e	carbon dioxide equivalents
CSF	Commercial Services and Fabricating
CWA	Clean Water Act
dB	decibels
DTSC	California Department of Toxic Substances Control
EIR	Environmental Impact Report
ESA	Environmental Site Assessment
EV	electric vehicle
FAR	Federal Aviation Regulations
FAST	Fairfield and Suisun Transit
FEMA	Federal Emergency Management Agency

FSSD	Fairfield-Suisun Sewer District
GHG Handbook	<i>Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity</i>
GHG	greenhouse gas
HASP	Health and Safety Plan
HBC	Helm Biological Consulting
HBG	Huffman-Broadway Group, Inc.
HCP	Solano Multispecies Habitat Conservation Plan
ITE	Institute of Transportation Engineers
ITP	Incidental Take Permit
LAFCO	Local Agency Formation Commission
LEA	local enforcement agency
LID	Low impact development
LOS	Level of Service
MEP	maximum extent practicable
MMRP	mitigation monitoring and reporting program
MSR	Municipal Service Review
MT	metric tons
MTC	Metropolitan Transportation Commission
NOP	Notice of Preparation
NO _x	oxides of nitrogen
NPDES	National Pollutant Discharge Elimination System
OEHHA	Office of Environmental Health Hazard Assessment
OGC	Orderly Growth Committee
PG&E	Pacific Gas & Electric Company
PPA	Priority Production Area
proposed Project	Highway 12 Logistics Center Project
PUD	Planned Unit Development
ROG	Reactive organic gases
RWQCB	Regional Water Quality Control Board
SFPD	Suisun Fire Protection District
SID	Solano Irrigation District
SMPA	Suisun Marsh Protection Act
SMPP	Suisun Marsh Protection Plan
SOI	Sphere of Influence
SolTrans	Solano County Transit
SR	State Route
SWPPP	stormwater pollution prevention plan
SWRCB	State Water Resources Control Board
TDM	Transportation Demand Management
USACE	U.S. Army Corps of Engineers
USFS	U.S. Forest Service
VMT	vehicle miles traveled

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1 INTRODUCTION

The City of Suisun City (City) prepared a Draft environmental impact report (Draft EIR) to evaluate the potential environmental effects of the proposed Highway 12 Logistics Center Project (proposed Project) in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (California Code of Regulations Section 15000 et seq.). As described in the Draft EIR, the proposed Project required a General Plan amendment, annexation, and pre-zoning of approximately 161 acres of land into the City of Suisun City. Approximately 93.4 acres of land would be developed (referred to as the ‘Development Area’) for warehouse and logistic uses, and the remainder would be Managed Open Space. Upon annexation, the proposed Development Area would be zoned Commercial Services & Fabricating (CFS) and the remaining Annexation Area would be zoned Open Space (OS) or would be within roadway rights-of-way. The Commercial Services & Fabricating zoning would accommodate light manufacturing, research and development, warehousing, and accessory office space. The Open Space zoning would allow agriculture, resource protection and restoration, and resource-related recreation. Construction within the Development Area would be developed over time based on market conditions. At full buildout, the Development Area would accommodate six warehouse buildings of approximately 1.28 million square feet collectively, and truck and trailer parking (collectively approximately 2,024 stalls). Four buildings (Buildings A, B/C, D, and E) would be clustered west of Pennsylvania Avenue and north of the railroad line operated by the California Northern Railroad; one building (Building F) would be bounded by Cordelia Road to the south and southeast and by the railroad line operated by the California Northern Railroad to the north. The last building (Building G) is proposed in the area east of Pennsylvania Avenue, adjacent to undeveloped land to the east and south.

1.1 INPUT ON THE DRAFT EIR

To assist the City in determining the focus and scope of analysis for the Draft EIR, pursuant to the provision of Section 15082 of the CEQA Guidelines, the City circulated a Notice of Preparation (NOP) dated April 1, 2021, and reissued the NOP on May 14, 2021, revised for clarity and to provide additional information related to planned sewer service that was not known at the time of the initial NOP release, to government agencies, special service districts, organizations, and individuals with an interest in or jurisdiction over the proposed Project. The NOP is a brief notice sent by the lead agency to inform the public, interested parties, responsible agencies, trustee agencies, and potentially affected federal, state, and local agencies that the lead agency plans to prepare an EIR. The NOP also seeks comments regarding the scope and content of the EIR. The City held a public scoping meeting for the proposed Project on April 13, 2021 to solicit additional input.

The NOP and responses to the NOP are contained in Appendix A of the Draft EIR.

1.2 PUBLIC REVIEW OF THE DRAFT EIR

The Draft EIR (State Clearinghouse Number 2021040016) was received by the State Clearinghouse and circulated for a 45-day public review period from August 31st through October 17th, 2023. The City circulated the document to public agencies, other public and private organizations, property owners, developers, and other interested individuals. Detailed information related to the Highway 12 Logistics Center Project and this EIR are available at City Hall and online at the Project webpage: <https://www.suisun.com/Departments/Development-Services/Suisun-Logistic-Projects>.

In accordance with Section 15088 of the CEQA Guidelines, the City, as the lead agency, has reviewed the comments received on the Draft EIR for the proposed Project and has prepared written responses to all comments received.

In response to comments from the public and public agencies on the Draft EIR, the City has incorporated minor revisions to the text of the Draft EIR into the Final EIR, as shown in Chapter 3, “Errata”. The revisions to the text of the Draft EIR outlined present minor corrections, additions, and revisions initiated by the City based on comments received during the public review period by reviewing agencies and/or the public, as well as minor corrections and clarifications added by the City during preparation of the Final EIR. None of the information added to the Draft EIR altered the significance conclusions. Rather, the new information amplified and clarified the information presented in the Draft EIR. None of the revisions or updates to the Draft EIR’s analyses represents “significant new information” as the term is defined by the CEQA Guidelines Section 15088.5. Thus, recirculation of the Draft EIR is not necessary.

1.3 ORGANIZATION OF FINAL EIR

The City prepared this Final EIR, which includes:

- ▶ A full list of agencies, organizations, and individuals that provided comments on the Draft EIR in Chapter 2 of this Final EIR;
- ▶ A summary of comments and detailed responses to all comments on the Draft EIR in Chapter 2 of this Final EIR; and
- ▶ Minor revisions to the Draft EIR detailed in Chapter 3, “Errata,” of this Final EIR.¹
- ▶ References used in this Final EIR are provided in Chapter 4, “References,” of this Final EIR.

Chapter 2, “Comments and Responses to Comments” of this Final EIR includes the written comments received on the Draft EIR and responses to these comments (as required by the CEQA Guidelines Section 15132). To assist the reader, each response includes a summary of the comment. The range of responses include providing clarification on the Draft EIR, making factual corrections, explaining why certain comments may not warrant further response, or simply acknowledging the comment for consideration by decision makers when the comment does not relate to the adequacy of the EIR for addressing potential adverse physical environmental effects of the proposed Project.

In some instances, responses to comments may warrant modification of the text of the Draft EIR. In those cases, the text of the Draft EIR is revised and the changes compiled in Chapter 3, “Errata” of this Final EIR. The text deletions are shown in ~~strikeout~~ and additions are shown in underline. The revisions summarized in Chapter 3 of this Final EIR do not change any of the impact conclusions presented in the Draft EIR.

¹ Chapter 3, “Errata,” includes only pages of the Draft EIR where revisions have been made, not the entire Draft EIR.

This document and the Draft EIR together constitute the Final EIR that the City Council will consider when it decides whether to approve the proposed Project, an alternative to the proposed Project, to take some other action, or to take no action at all.

1.4 USE OF THE FINAL EIR

The Final EIR allows the public and the City decision makers an opportunity to review revisions to the Draft EIR and the Responses to Comments. The Final EIR serves as the environmental document to inform the City's consideration of the proposed Project, as discussed in the Draft EIR.

As required by Section 15090(a)(1)-(3) of the CEQA Guidelines, a lead agency, in certifying a Final EIR, must make the following three determinations:

1. The Final EIR has been completed in compliance with CEQA.
2. The Final EIR was presented to the decision-making body of the lead agency, and the decision-making body reviewed and considered the information in the Final EIR prior to approving the project.
3. The Final EIR reflects the lead agency's independent judgment and analysis.

CEQA includes what the California Supreme Court has called the "substantive mandate," by which "public agencies [must] refrain from approving projects for which there are feasible alternatives or mitigation measures" that would mitigate or avoid the significant environmental effects of a project as proposed. (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134 (*Mountain Lion*). (See also Pub. Resources Code, § 21002; CEQA Guidelines, §§ 15002[a][3] and 15021[a][2].) As the Court explained, this substantive mandate "is effectuated in [Public Resources Code] section 21081, which requires the adoption of what are commonly known as "CEQA Findings." (*Mountain Lion, supra*, 16 Cal.4th at p. 134.) "Under this provision, a decisionmaking agency is prohibited from approving a project for which significant environmental effects have been identified unless it makes specific findings about alternatives and mitigation measures." (*Ibid.*) The parallel provision in the CEQA Guidelines requiring CEQA Findings is Section 15091.

As required by Section 15091 of the CEQA Guidelines, no public agency shall approve or carry out a project for which an EIR has been certified that identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings (Findings of Fact) for each of those significant effects, accompanied by a brief explanation of the rationale for each finding supported by substantial evidence in the record. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

The Final EIR, once certified with an adopted Mitigation Monitoring and Reporting Program, will impose requirements on the construction and operation of whatever version of the proposed Project, if any, that the City Council chooses to approve.

2 COMMENTS AND RESPONSES TO COMMENTS

This section of the Final EIR contains comment letters received during the public review period for the City of Suisun City (City) Highway 12 Logistics Center (proposed Project) Draft Environmental Impact Report (EIR). In conformance with California Environmental Quality Act (CEQA) Guidelines Section 15088(a), the City has prepared written responses to comments related to potentially adverse environmental effects of the proposed Project, as well as topics raised by commenters that are unrelated to environmental impacts under CEQA.

2.1 COMMENTS ON THE HIGHWAY 12 LOGISTICS CENTER DRAFT EIR

Table 2-1 identifies a label for each comment letter received, the author of the comment letter, and the date of the comment letter.

Table 2-1. Comments Received on the Highway 12 Logistics Center Draft EIR

Letter #	Commenter	Date
A1	California Department of Conservation, Geologic Energy Management Division (CalGEM)	October 6, 2023
A2	California Department of Transportation (Caltrans)	October 16, 2023
A3	Fairfield-Suisun Sewer District (FSSD)	October 17, 2023
A4	Solano County Department of Resource Management – Airport Land Use Commission	October 17, 2023
A5	Solano County, Department of Resources Management, Local Enforcement Agency and Public Works	October 17, 2023
A6	Solano Local Agency Formation Commission	October 16, 2023
A7	Suisun Resource Conservation District	October 17, 2023
A8	California Department of Fish and Wildlife	October 13, 2023
IO1	Adams Broadwell Joseph & Cardozo (on Behalf of Napa/Solano Residents for Responsible Development)	October 17, 2023
IO2	Blum, Collins & Ho, LLP (on Behalf of Golden State Environmental Justice Alliance)	October 17, 2023
IO3	Aleta George	September 28, 2023
IO4	Barbara Pisching	October 10, 2023
IO5	Gabriel Riley	October 15, 2023
IO6	Noah Rumbaoa	October 2, 2023
IO7	Solano County Orderly Growth Committee	October 14, 2023
IO8	Mike Zeiss	October 9, 2023

2.2 COMMENTS AND RESPONSES TO COMMENTS

This section of the Final EIR contains summaries of the comment letters received during the public review period for the Highway 12 Logistics Center Draft EIR and the City’s responses to these comments.

2.2.1 Comment LETTER #A1:

CALIFORNIA DEPARTMENT OF CONSERVATION GEOLOGIC ENERGY MANAGEMENT DIVISION (CALGEM)



California
Department of Conservation
Geologic Energy Management Division

Letter A1

Gavin Newsom, Governor
David Shabazian, Director
715 P Street, MS 1803
Sacramento, CA. 95814
T: (916) 445-5986

10/06/2023

City: Suisun City - Planning Division
Jim Bermudez
701 Civic Center Blvd., Suisun City, CA 94585, USA
jbermudez@suisun.com

Construction Site Well Review (CSWR) ID: 1012891

Assessor Parcel Number(s): 0032020140, 0032020160, 0032020040, 0032020100, 0032020110, 0032010390, 0032190260, 0032190250, 0032190190, 0032190180, 0032190170, 0046010280, 0032190200, 0046010390

Property Owner(s): Jim Bermudez

Project Location Address: Western Boundary of Suisun City Suisun City, California 94585

Project Title: Highway 12 Logistics Center

Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

A1-1

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 10/2/2023. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Solano County, within the boundaries of the following fields:

N/A

Our records indicate there are no known oil or gas wells located within the project boundary as

Page 1

identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

The Division categorically advises against building over, or in any way impeding access to, oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

There are no guarantees a well abandoned in compliance with current Division requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. The Division acknowledges wells plugged and abandoned to the most current Division requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

The Division advises that all wells identified on the development parcel prior to, or during, development activities be tested for liquid and gas leakage. Surveyed locations should be provided to the Division in Latitude and Longitude, NAD 83 decimal format. The Division expects any wells found leaking to be reported to it immediately.

Failure to plug and reabandon the well may result in enforcement action, including an order to perform reabandonment well work, pursuant to PRC § 3208.1, and 3224.

PRC § 3208.1 give the Division the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or

visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

1. The property owner - If the well was plugged and abandoned in conformance with Division requirements at the time of abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
2. The person or entity causing construction over or near the well - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
3. The party or parties responsible for disturbing the integrity of the abandonment - If the well was plugged and abandoned in conformance with Division requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

No well work may be performed on any oil, gas, or geothermal well without written approval from the Division. Well work requiring approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other re-abandonment work. The Division also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. CCR §1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from the Division is required before work can start.

The Division makes the following additional recommendations to the local permitting agency, property owner, and developer:

1. To ensure that present and future property owners are aware of (a) the existence of all wells,

Y
A1-1
Cont.

located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, the Division recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

2. The Division recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Northern district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Should you have any questions, please contact me at (916) 203-7734 or via email at Erwin.Sison@Conservation.ca.gov.

Sincerely,

Erwin Sison
Senior Oil & Gas Engineer (Supervisor)

cc: Jim Bermudez - Plan Checker

RESPONSE TO COMMENT LETTER #A1

Comment A1-1 *Summary of Comment: The comment cites to Public Resources Code Section 3208.1, which sets forth the requirements for oil, gas, and geothermal well abandonment, and notes that, based on a California Department of Conservation Geologic Energy Management Division (CalGEM) records search, there are no known oil, gas, or geothermal wells at the Project Site. The comment letter further summarizes the regulatory requirements related to well abandonment, and notes that if any previously unknown wells are encountered during project-related construction, the applicant is required to notify CalGEM and follow the proper regulatory procedures.*

Response: This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR. The City agrees that there are no known oil, gas, or geothermal wells present at the Project Site. As noted by CalGEM, if the Project is approved, if the Project moves to construction, and if any previously unknown wells were to be encountered during project-related construction, the applicant would be required to notify CalGEM and to follow appropriate regulatory procedures.

2.2.2 Comment LETTER #A2:

CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS)

Letter A2

CALIFORNIA STATE TRANSPORTATION AGENCY

GAVIN NEWSOM, GOVERNOR

California Department of Transportation

DISTRICT 4
OFFICE OF REGIONAL AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660
www.dot.ca.gov



October 16, 2023

SCH #:2021040016
GTS #: 04-SOL-2021-00286
GTS ID: 21679
Co/Rt/Pm: SOL/12/ R4.073

Jim Bermudez, Development Services Director
City of Suisun City
701 Civic Center Boulevard
Suisun City, CA 94585

Re: Highway 12 Logistics Center – Draft Environmental Impact Report (DEIR)

Dear Jim Bermudez:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Highway 12 Logistics Center Project. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system.

A2-1

The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the September 2023 DEIR.

Project Understanding

The project proposes the annexation and rezoning of 161 acres into the City of Suisun City. 93 acres of the land would be developed for 1.28 million square feet of warehouse and logistic use consisting of 2024 truck and trailer stalls while the remainder would be Managed Open Space. This project site is located directly adjacent to State Route (SR)-12.

Project Driveway

The project's Driveway #1 and #2 will need a thorough evaluation for sight distance and allowable offset from the intersection of SR-12/Pennsylvania Avenue.

A2-2

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Transportation Impact

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' Transportation Impact Study Guide ([link](#)).

A2-3

The project Vehicle Miles Traveled (VMT) analysis and significance determination are undertaken in a manner consistent with the City's adopted VMT policy. Per the DEIR, this project is found to have a potentially significant VMT impact. Given the place, type and size of the project, the DEIR includes a robust multimodal Transportation Demand Management (TDM) and monitoring Program to reduce VMT to a less-than-significant level.

Caltrans recommends the following bicycle and pedestrian improvements to help further reduce the project's VMT impact, improve bicycle and pedestrian safety, and enhance multimodal network connectivity:

A2-4

- The construction of high visibility crosswalks and a median pedestrian refuge island at the intersection of SR-12 with Beck Avenue and Chadbourne Road, identified in the District 4 Bike Plan;
- Extending the Class II bike lanes on Cordelia Road, Beck Avenue, and Pennsylvania Avenue to improve the connection between the residential neighborhood north of SR-12, the Suisun Amtrak Park and Ride and Suisun City Waterfront.

Hydrology

A section of SR-12 between McCoy Creek (PM 6.3) on east and Chadbourne Road (PM 2.1) on west is under 100-year floodplain. The project site stretches adjacent south of SR-12 from PM 3.4 thru 4.5 within a 100-year floodplain. The existing ditch running parallel on south of SR-12 and the proposed project area collects and drains roadway runoffs to a low-lying area west of Pennsylvania Avenue. During big flood events, this ditch overflows to a presently low-lying area within Planning Area 1 and 2 of the proposed project. In the Exhibit 3-8 Proposed Drainage Plan, unlined ditch collecting SR-12 runoffs would be culverted along southwest of Pennsylvania Avenue that drains into a Detention Basin in Planning Area 1 regulated by a pump. The proposed grading and improvement under Planning Areas 1 and 2 will have no overflow access to SR-12 corridor and alter existing flood course in the vicinity.

A2-5

Please provide Caltrans with the drainage analysis to confirm that there would not be adverse impacts on the SR-12 drainage system or flood receding time in the project vicinity. Please also provide the determination of Federal Emergency Management Agency (FEMA) approved Based Flood Elevations on the post project conditions.

A2-6

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Construction-Related Impacts

Potential impacts to the State Right-of-Way (ROW) from project-related temporary access points should be analyzed. Mitigation for significant impacts due to construction and noise should be identified. Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, please visit Caltrans Transportation Permits ([link](#)).

A2-7

Prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan (TMP) to reduce construction traffic impacts to the State Transportation Network (STN).

A2-8

Lead Agency

As the Lead Agency, the City of Suisun City is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

A2-9

Equitable Access

If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

A2-10

Encroachment Permit

Please be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' ROW requires a Caltrans-issued encroachment permit. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating Caltrans' ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. Your application package may be emailed to D4Permits@dot.ca.gov.

A2-11

To obtain information about the most current encroachment permit process and to download the permit application, please visit Caltrans Encroachment Permits ([link](#)).

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Jim Bermudez, Development Services Director
October 16, 2023
Page 4

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact John McKenzie, Associate Transportation Planner, via LDR-D4@dot.ca.gov. For future early coordination opportunities or project referrals, please contact LDR-D4@dot.ca.gov.

A2-12

Sincerely,



YUNSHENG LUO
Branch Chief, Local Development Review
Office of Regional and Community Planning

c: State Clearinghouse

"Provide a safe and reliable transportation network that serves all people and respects the environment"

RESPONSE TO COMMENT LETTER #A2

Comment A2-1 *Summary of Comment:* The commenter states that the California Department of Transportation (Caltrans) has reviewed the Draft EIR for the proposed Project to ensure consistency with State planning priorities, and provides a summary of the proposed Project.

Response: The City appreciates the commenter's review of the Draft EIR. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment A2-2 *Summary of Comment:* The commenter states that the Project's driveways (identified as #1 and #2) require an evaluation for sight distance and allowable offset from the intersection of State Route (SR) 12 and Pennsylvania Avenue.

Response: A preliminary sight distance exhibit was previously prepared for initial design review. The required sight distance for each driveway will be incorporated to the final driveway design during the construction documents phase of the Project to ensure minimum standards are met.

Comment A2-3 *Summary of Comment:* The commenter references Senate Bill 743 and Caltrans' related approach to assessing traffic impacts, and notes the Draft EIR vehicle miles traveled (VMT) analysis and significance determination are undertaken in a manner consistent with the City's adopted VMT policy. The commenter goes on to reference the Draft EIR's finding that the VMT impact would be potentially significant, which is reduced to a less-than-significant level with implementation of the mitigation measure for a multimodal Transportation Demand Management and monitoring Program.

Response: The commenter is correct that the VMT analysis detailed in the Draft EIR is tailored to the proposed Project and consistent with the City's adopted VMT analysis methodology and significance thresholds, which are themselves consistent with the guidance that has been published in response to SB 743. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment A2-4 *Summary of Comment:* The commenter recommends two additional bicycle and pedestrian improvements to further reduce the Project's VMT impact: 1, construct high-visibility crosswalks and a median pedestrian refuge island at the intersection of SR 12 with Beck Avenue and Chadbourne Road (noted by the commenter as a project identified in the [Caltrans] District 4 Bike Plan); and 2, extend the Class II bike lanes on Cordelia Road, Beck Avenue, and Pennsylvania Avenue, thereby improving connection between residences north of SR 12 and the Suisun Amtrak Park and Ride and Suisun City Waterfront.

Response: The intersections of each Beck Avenue and Chadbourne Road with SR12 are within the City of Fairfield jurisdiction. Suggested improvements identified by the commenter are outside the scope of the proposed Project but would not be impeded by implementation of the proposed Project. Furthermore, the Fairfield and Suisun City Active Transportation Plans propose the following bikeway projects in the Project area and that would coincide with some of what the commenter has suggested as improvements: Class II facilities on Beck Avenue between SR12

and California Northern Railroad (Fairfield Plan); Class III facilities along Cordelia Road between Beck Avenue and Pennsylvania Avenue (Fairfield Plan); and Cordelia Street between Pennsylvania Avenue and Waterfront Path (Suisun City Plan). Mitigation Measure 4.12-3 of the Draft EIR includes requirements for pedestrian and bicycle facilities and improvements along Project Site frontages and on-site to ensure adequate pedestrian and bicycle facilities serving the Project Site; improvements under Mitigation Measure 4.12-3 include:

- Continuous sidewalks of at least five feet and bicycle facilities of at least four feet at the Project Site frontages along both sides of Cordelia Road and Pennsylvania Avenue.
- High visibility crosswalks at the Pennsylvania Avenue and Cordelia Road/Cordelia Street intersection.
- Adequate pedestrian-scale lighting along Project Site frontages and on-site.
- On-site markings or signage to notify drivers of pedestrians and bicyclists traveling between off-site pedestrian facilities, on-site parking facilities, and bicycle parking facilities and building access points.

Implementation of Mitigation Measure 4.12-3 would improve on-site and Project area pedestrian and bicycle transportation conditions by providing adequate facilities to connect to the existing and future multimodal transportation network. When imposing mitigation, lead agencies must ensure there is a “nexus” and “rough proportionality” between the measure and the significant impacts of the project. (CEQA Guidelines § 15126.4, subd. (a)(4)(A)–(B), citing *Nollan v. Ca. Coastal Commission* (1987) 483 U.S. 825, *Dolan v. City of Tigard* (1994) 512 U.S. 374.). Mitigation Measure 4.12-3 would mitigate the potential impact to a less-than-significant level and no additional mitigation is required. No changes to the Draft EIR are necessary.

Comment A2-5 *Summary of Comment:* The comment states that an existing drainage ditch running south of and parallel to State Route (SR) 12 currently collects SR-12 stormwater runoff and drains to a low-lying area west of Pennsylvania Avenue, and that, during 100-year flood events, this ditch overflows within Planning Areas 1 and 2 at the Project Site. The comment further states that as part of the drainage plan for the proposed Project, this existing unlined ditch collecting SR-12 runoff would be culverted southwest of Pennsylvania Avenue and would discharge into a detention basin in Planning Area 1 regulated by a pump. The comment states that this proposed change to the drainage ditch would result in no place for stormwater runoff from SR-12 to discharge and therefore would result in roadway flooding on SR 12.

Response: The Draft Master Drainage Plan prepared for the proposed Project by Morton & Pitalo in 2021 (attached to the Draft EIR as Appendix D), recognized and discussed the fact that, under existing conditions, Planning Area 1 receives stormwater runoff from several off-site areas north of the Project Site, including SR 12. As discussed on page 4 of Draft EIR Appendix D and as shown in Drainage Plan Figure 3, there are seven existing 24-inch culverts that drain the 35.6-acre subwatershed on the north side of SR 12 and south of James Street. These culverts discharge into the existing ditch along the north side of the Project Site (south of SR 12) and the stormwater runoff then flows eastward and then south through a ditch to a 30-inch culvert underneath

Pennsylvania Avenue, which discharges into Pennsylvania Avenue Creek. This information is also discussed on Draft EIR page 4.8-1 and shown on Draft EIR Exhibit 4.8-1 (page 4.8-3).

The Draft Master Drainage Plan for the proposed Project included hydrologic modeling per Suisun City Engineering Design Standards to determine the necessary sizing for detention basin storage and peak flow rates, including properly re-routing of the off-site drainage from the 35.6-acre subwatershed north of SR 12 and south of James Street. The results of the hydrologic modeling demonstrated that the proposed detention basins are appropriately sized to handle the 100-year storm flow volumes and rates per City standards. However, the Draft Master Drainage Plan noted that modeling results indicated that the existing 30-inch culvert underneath Pennsylvania Avenue or the upstream ditch that drains into the culvert may require an increase in size to ensure that flooding does not occur in Planning Area 1. These details would be finalized with the City when the Final Master Drainage Plan is prepared and submitted for City review and approval, prior to issuance of building permits.

Therefore, the proposed Project would not result in roadway flooding on SR 12, and no changes to the Draft EIR are required.

Comment A2-6 *Summary of Comment:* The comment requests that Caltrans be provided with a drainage analysis to confirm there would not be adverse impacts related to SR 12 roadway flooding from the Project's proposed stormwater drainage system. The comment also requests that Caltrans be provided with FEMA base flood elevations for the post-development condition.

Response: The preliminary drainage analysis information requested by the commenter related to roadway flooding on SR 12 is contained in Draft EIR Appendix D. The FEMA base flood elevations for the post-development condition would be finalized with the City when the Final Master Drainage Plan is prepared and submitted for City review for compliance with City requirements, prior to issuance of building permits. At that time, the requested information related to final drainage design can be provided to Caltrans.

Comment A2-7 *Summary of Comment:* The commenter requests analysis of potential impacts to the State Right-of-Way from project-related temporary access points, as well as mitigation for significant impacts due to construction and noise. The commenter states that project work that requires movement of oversized or excessive load vehicles on State roadways will require a transportation permit that is issued by Caltrans.

Response: The Draft EIR comprehensively analyzes construction and operational noise effects attributable to the Project, including impacts along SR 12, in Section 4.10.3 of the Draft EIR. Impact 4.10-1 addresses short-term construction noise associated with construction equipment and related on-site activities; and Impact 4.10-2 addresses short-term construction noise associated with increased traffic from construction vehicles.

Impact 4.10-1 of the Draft EIR (pages 4.10-31 through 4.10-36) determines that construction equipment could result in temporary, short-term increases in noise levels that could exceed the

applicable City standards. As discussed in the Draft EIR, implementation of Mitigation Measure 4.10-1a would limit the use of construction equipment to daytime hours and impacts from temporary, short-term exposure of sensitive receptors to increased equipment noise from the Project would be reduced. Furthermore, where possible, construction equipment activity would occur in locations away from the edges of the Project Site, at a relatively greater distance from adjacent properties, which would attenuate noise levels by 5 dB or more based on the distance. Properly maintaining the equipment and equipping with noise-reduction intake and exhaust mufflers and engine shrouds; shutting down all motorized equipment when not in use to prevent idling; using available quieter procedures and equipment (e.g., using welding instead of riveting, mixing concrete off-site instead of on-site); and using noise-reducing enclosures around stationary noise-generating equipment (e.g., compressors and generators) and, to the extent feasible and necessary, using acoustic barriers to obstruct the line of sight between noise-sensitive land uses and on-site construction equipment, could further reduce Project construction noise levels by at least 5 to 10 dB. However, there is no additional feasible mitigation, and impacts from on-site construction equipment noise would remain significant and unavoidable.

As detailed in Impact 4.10-2 of the Draft EIR (pages 4.10-31 through 4.10-37) the traffic noise levels of the maximum construction-related traffic volume of 63 vehicles per hour were modeled using the FHWA-RD-77-108 under existing conditions, with and without construction traffic. Additional input data included day/night percentages of autos, medium and heavy trucks, vehicle speeds, ground attenuation factors, and roadway widths. Project-related construction traffic would not cause an increase of more than 0.5 decibel (dB) in short-term traffic noise levels along the roadways surrounding the Project Site. Furthermore, the assumption of 63 trucks is an estimate of trips during a period of peak construction intensity and demonstrates that, even with the peak potential level of traffic along area roadways, there would not be a significant construction traffic noise impact.

Furthermore, the City acknowledges that project work that requires movement of oversized or excessive load vehicles on State roadways would require a transportation permit that is issued by Caltrans. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; this comment is noted and has been provided to the decision-makers for their awareness.

Comment A2-8 *Summary of Comment: The commenter states that, prior to construction, coordination may be required with Caltrans to develop a Transportation Management Plan to reduce construction traffic impacts to the State Transportation Network.*

Response: The City acknowledges that project work that requires movement of oversized or excessive load vehicles on State roadways would require a transportation permit that is issued by Caltrans, and coordination may be required with Caltrans to develop a transportation management plan if project-related activities would require lane closures or would otherwise adversely affect operations on SR 12. The comments related to large vehicles, a transportation permit, and a transportation management plan do not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR. The comment has been provided to decision-makers for their consideration.

Comment A2-9 *Summary of Comment:* The commenter states that as the Lead Agency, the City of Suisun City is responsible for all Project mitigation, including any needed improvements to the State Transportation Network, as well as the Project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring.

Response: The City acknowledges that applicable Project mitigation for potentially significant environmental effects, as well as the Project's fair share contribution and financing are the responsibility of the Project applicant, and that scheduling, implementation responsibilities, and lead agency monitoring are the responsibility of the City. The commenter does not specify what impacts the proposed Project may have on the state highway system, but the Draft EIR comprehensively evaluates all adverse physical environmental effects associated with the proposed Project, and there is no need to evaluate effects to the highway roadways surface itself as a part of the City's environmental review.

Comment A2-10 *Summary of Comment:* The comment states that, if any Caltrans facilities are impacted by the Project, those facilities must meet American Disabilities Act (ADA) Standards after Project completion, and the Project must maintain bicycle and pedestrian access during construction.

Response: The City acknowledges that any Caltrans facilities impacted by the Project would be required to meet ADA standards after Project completion, which would be verified by the City staff. The Draft EIR evaluated pedestrian and bicycle systems, acknowledging that inadequate pedestrian and bicycle facilities and connections to the existing pedestrian and bicycle network and transit stations could expose pedestrian and bicyclists to hazardous conditions as a result of the proposed Project. Furthermore, the Draft EIR described that Suisun City and Fairfield General Plans include policy goals of safe and accessible multimodal system and infrastructure. Therefore, the Draft EIR determined that the Project's impact related to policies promoting pedestrian and bicycle movements would be potentially significant. Mitigation Measure 4.12-3 requires adequate pedestrian and bicycle facilities along Project Site frontages and on-site to improve the pedestrian and bicycle transportation conditions and connect to the existing and future multimodal transportation network.

Comment A2-11 *Summary of Comment:* The commenter states that any permanent work or temporary traffic control that encroaches onto Caltrans' ROW requires a Caltrans-issued encroachment permit.

Response: The City acknowledges that construction work associated with the Project within Caltrans right-of-way would require an encroachment permit and compliance with all permit application and implementation requirements.

Comment A2-12 *Summary of Comment:* The commenter closes the comment letter giving thanks to the City for including Caltrans in the environmental review process, and provides the contact information of the applicable Caltrans Transportation Planner.

Response: The City appreciates the commenter's review of the Draft EIR.

2.2.3 Comment LETTER #A3:

FAIRFIELD-SUISUN SEWER DISTRICT (FSSD)



Letter A3

FAIRFIELD-SUISUN SEWER DISTRICT

1010 CHADBOURNE ROAD • FAIRFIELD, CALIFORNIA 94534 • (707) 429-8930 • WWW.FSSD.COM

10/17/2023

MEMORANDUM

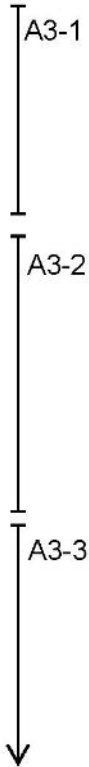
TO: City of Suisun City
ATTN: Jim Bermudez, Development Services Director
FROM: Kyle Broughton
SUBJECT: City of Suisun City Highway 12 Logistics Center Environmental Impact Report Comments

In response to your Notice of Availability of the Draft Environmental Impact Report the subject project, Fairfield-Suisun Sewer District (FSSD) provides the following comments to the Draft Initial Study and Mitigated Negative Declaration dated July 2023.

1. Section 3.2.2 SUPPORTING INFRASTRUCTURE – Wastewater Collection and Treatment

Fairfield-Suisun Sewer District does not annex parcels. FSSD is required to serve parcels within city limits. Revise paragraph accordingly.

It is understood that a combination of public and private wastewater systems will serve the development; this is mentioned in the Draft EIR. The Draft EIR does not mention the proposed condition of privately owned facilities in the public right-of-way (sewer facilities between Planning Areas 2 and 3 to Planning Area 1, for example). Privately owned facilities in the public right-of-way are not typical and special requirements and/or agreements may be required for that proposed condition, including liability for potential sanitary sewer overflows and utility location, or relocation, responsibilities. This should be mentioned in the EIR. In addition, it is understood that the proposed publicly owned (City of Suisun City) offsite force main and gravity sewer in Cordelia Road west of Ledgewood Creek would be in City of Fairfield right-of-way. Special approvals and/or agreements may be required for this proposed configuration. FSSD will not own, operate, or maintain any sewer systems associated with this project upstream of the proposed connection point to the existing FSSD sewer system in the vicinity of the intersection of Cordelia Road and



Beck Avenue. Revise paragraph accordingly to identify limits of proposed ownership and identifying special requirements or agreements may be necessary.

A3-3
Cont.

The last sentence of section mentions a sewer force main attached to the underside of the existing Ledgewood Creek Bridge. That configuration poses engineering (structural, seismic) and environmental (overflows to creek) concerns, and may require special permits with Solano County, Army Corp of Engineers, or others (streambed alterations, etc.). Once the developed parcel(s) and adjacent sections of Cordelia Road are annexed into the City of Suisun City it is not clear what entity will own the existing Ledgewood Creek Bridge, as Ledgewood Creek will delineate City of Fairfield and City of Suisun City limits; and Solano County could quitclaim the bridge. Additionally, the bridge may require modifications or replacement in the future that could affect an attached sewer force main. That said, it may not be prudent to dismiss the alternative of a bore and jack or other trenchless sewer crossing method of Ledgewood Creek in favor of a bridge supported pipe as noted in footnote 4.

A3-4

2. Section 3.4 REQUIRED PROJECT APPROVALS

Fairfield-Suisun Sewer District does not annex parcels. FSSD is required to serve parcels within city limits. FSSD will be involved in approval of proposed sewer facilities. Revise section accordingly.

A3-5

3. Section 4.3.1 ENVIRONMENTAL SETTINGS – Wildlife Populations

Fairfield-Suisun Sewer District does not manage storm drain pipelines or conveyance channels, including streams and creeks (Ledgewood). Revise accordingly.

A3-6

4. Section 4.5.3 ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES – Mitigation Measure 4.5.2

Section mentions Ledgewood Creek sewer crossing. Coordinate this section with FSSD comment number 1 above in final document.

A3-7

5. Section 4.7.3 ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES – Mitigation Measure 4.7-3b, 4th bullet, last sentence

A3-8



- Insert** “and protected to the satisfaction of the utility owner” between the words drawings and in. Y
A3-8
Cont.
6. Section 4.8.2 REGULATORY FRAMEWORK – Open Space, Conservation, and Recreation Element, Program OS 9.2 A A3-9
- Approval of Open Space, Conservation, and Recreation Elements of natural water courses is not Fairfield-Suisun Sewer District's purview. Revise section accordingly to strike mention of FSSD as an approval agency in these matters.
7. Section 4.8.2 REGULATORY FRAMEWORK – Fairfield-Suisun Urban Runoff Management Program and Storm Drainage Systems – Fairfield-Suisun Sewer District A3-10
- The Fairfield-Suisun Urban Runoff Management Program no longer exists and has been succeeded by the Solano Stormwater Alliance. Fairfield-Suisun Sewer District leads the Solano Stormwater Alliance.
- FSSD is not a permittee under its lead responsibilities of the Solano Stormwater Alliance; its responsibilities regarding operation and maintenance of storm drain facilities are limited to the operation and maintenance of existing public stormwater pump stations by special agreement with the cities of Fairfield and Suisun City.
- Revise these sections accordingly. More information can be found at the Solano Stormwater Alliance website at <https://solanostormwater.org/>.
8. Section 4.13.1 WASTEWATER COLLECTION, AND CONVEYANCE, TREATMENT FACILITIES A3-11
- Fairfield-Suisun Sewer District does not annex parcels. FSSD is required to serve parcels within city limits. Revise accordingly.
- Paragraphs 3-7 and Table 4.13.3 are superfluous to service to the proposed development and shall be deleted. The development will not discharge directly to any FSSD sewer mains or pump stations. A3-12
↓

FSSD owns, operates, and maintains existing sewer force mains on the parcels associated with all Planning Areas within the proposed development. These facilities shall be protected in place as noted in previous comments.

Y
A3-12
Cont.

9. Section 4.13.3 ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES –
Wastewater Collection and Conveyance Facilities

A3-13

See Comment No. 1 above regarding sewer infrastructure configuration and ownership limits. All related sections shall be consistent in the final EIR.

Kyle Broughton
Senior Engineer

RESPONSE TO COMMENT LETTER #A3

Comment A3-1 *Summary of Comment:* The commenter states that Fairfield Suisun Sewer District (FSSD) does not annex parcels but is required to serve parcels within the city limits, and requests text in section 3.2.2, under the discussion of ‘Wastewater Collection and Treatment’ of the Draft EIR be revised accordingly.

Response: As requested by the commenter and shown in Final EIR Chapter 3, “Errata,” the text on Draft EIR page 3-22 has been modified to remove the statement that the Project Site would be annexed to FSSD, and state instead that it would be served by the FSSD.

Comment A3-2 *Summary of Comment:* The comment states that the Project proposes privately-owned utilities in public rights-of-way (e.g., sewer facility connections from Planning Areas 2 and 3 to Planning Area 1) which are not typical and, therefore, special requirements and/or agreements may be required for that proposed condition, including liability for potential sanitary sewer overflows and utility location, or relocation, responsibilities.

Response: The City has coordinated with FSSD. FSSD has confirmed capacity to service the Project in its 1/26/22 memo. From its will serve letter:

In response to the City of Suisun City’s request to confirm sewer capacity to serve the development and outline related conditions of approval for the project named above, the Fairfield-Suisun Sewer District (FSSD) requires the following:

1) *At the time of this correspondence, FSSD has sufficient sanitary sewer collection system, pump station and wastewater treatment plant capacity to serve the proposed development. Existing sewer capacity is allotted on a first-come, first-serve basis upon receipt of connection fees. Any sewer capacity deficiencies identified following other connections in the future that may precede the proposed development shall be remedied by the developer prior to connections to impacted sewer facilities.*

2) ...

Requirements 2-8 will be treated as conditions of approval for the Project. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment A3-3 *Summary of Comment:* The comment states that the proposed publicly owned (City of Suisun City) off-site force main and gravity sewer in Cordelia Road west of Ledgewood Creek would be in the City of Fairfield right-of-way; therefore, special approvals and/or agreements may be required for this proposed configuration.

Please see response to comment A3-2. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; the comment is noted.

The comment goes on to state that Fairfield-Suisun Sewer District (FSSD) will not own, operate, or maintain any sewer systems associated with the Project upstream of the proposed connection point to the existing FSSD sewer system in the vicinity of the intersection of Cordelia Road and Beck Avenue, and therefore requests that the text on page 3-22 of the Draft EIR be modified to reflect this fact.

As requested by the commenter and shown in Final EIR Chapter 3, “Errata,” the text on Draft EIR page 3-22 has been modified to remove the statement that sewer facilities upstream of Cordelia Street and Beck Road are owned or operated by FSSD.

Comment A3-4 *Summary of Comment: The comment expresses concerns related to potential structural, seismic, and environmental (overflows to creek) issues associated with the Project’s proposal to attach the new sewer force main to the side of the existing Ledge Creek bridge in order to convey sewer flows from the Project pump station to the west side of the creek, and notes that the pipeline may require special permits from other agencies. The comment further expresses concern that once the Project parcels are annexed into the City of Suisun City, the bridge will serve as the dividing line between the cities of Fairfield and Suisun City and thus it is not clear who would own the bridge. The comment further suggests that the City should consider the alternative of using a jack-and-bore method to install the sewer force main underneath Ledge Creek rather than attaching it to the side of the existing bridge.*

Response: Draft EIR Impact 4.5-1 (pages 4.5-20 and 4.5-21) provides an analysis related to strong seismic ground shaking for all Project-related facilities at the Project Site. As described in detail therein, the proposed Project is required by law to comply with all local and state building codes. The City requires preparation of a geotechnical report with recommendations that must be implemented during Project design and construction. The Project must comply with the California Building Standards Code (CBC), which requires a site-specific seismic hazard analysis, and requires that structures must be designed for prevention of collapse for the maximum level of ground shaking that could reasonably be expected to occur at a site. A preliminary geotechnical engineering report was prepared for the Project Site and the site’s seismic response spectrum was calculated as required by the CBC; this information was summarized in Draft EIR Impact 4.5-1. A final geotechnical report would be prepared prior to preparation of detailed construction plans and prior to building permit application to inform final design and construction. Therefore, the potential damage to the proposed development from strong seismic ground shaking, including suspension of a pipeline from the existing bridge across Ledge Creek, would be addressed through existing standards that require proper design as determined by a licensed engineer. The City would review the Project’s building permit applications for compliance with the CBC and implementation of recommendations in the geotechnical study to address seismic hazards. The Draft EIR properly found that impacts related to strong seismic ground shaking would be less than significant. No changes to the Draft EIR are required.

With regard to jurisdictional boundaries, the precise area annexed into the City of Suisun would be subject to review and approval by the Solano Local Agency Formation Commission (LAFCO). Based on applicable requirements of the Cortese-Knox-Hertzberg Local Government

Reorganization Act of 2000 and LAFCO Standards, it is assumed that the area annexed to the City of Suisun City would abut the existing City of Fairfield city limits, leaving no gap and that there would be no change to the City of Fairfield’s existing jurisdictional boundary.

The comment regarding consideration of the jack-and-bore method to install the sewer force main underneath Ledgewood Creek instead of attaching it to the side of the existing bridge is noted.

Comment A3-5 *Summary of Comment:* The comment states that FSSD does not annex parcels. FSSD is required to serve parcels within city limits, and FSSD would be involved in approval of the Project’s sewer facilities. The comment requests that the text in Section 3.4, “Required Project Approvals,” be modified to reflect this information.

Response: As requested by the commenter and shown in Final EIR Chapter 3, “Errata,” the text on Draft EIR page 3-24 has been modified to remove the statement that FSSD would annex the Project Site.

Comment A3-6 *Summary of Comment:* The comment states that FSSD does not manage storm drain pipelines or conveyance channels, including streams and creeks (e.g., Ledgewood Creek), and requests that the text in Draft EIR Section 4.3.1 related to FSSD management of Ledgewood Creek be revised accordingly.

Response: As requested by the commenter and shown in Final EIR Chapter 3, “Errata,” the text on Draft EIR page 4.3-6 has been modified to remove the statement that FSSD manages Ledgewood Creek for flood control purposes.

Comment A3-7 *Summary of Comment:* The comment states that Mitigation Measure 4.5.2 mentions the Ledgewood Creek sewer crossing and therefore should be coordinated with FSSD Comment 1 (coded here as FSSD-4) related to structural and seismic engineering concerns raised by FSSD for the potential suspension of the sewer pipeline underneath the existing bridge that crosses Ledgewood Creek.

Response: The Draft EIR does not have a mitigation measure labeled Mitigation Measure 4.5.2. Impact 4.5-2 (Draft EIR page 4.5-21), which deals with construction-related erosion, states that the proposed sewer pipelines would either be attached to the side of the existing Cordelia Road bridge crossing over Ledgewood Creek, or a jack-and-bore technique would be used to install the pipeline underneath the creek. With regards to engineering (structural) and seismic issues, please see response to comment A3-4. No change to the Draft EIR is required.

Comment A3-8 *Summary of Comment:* The comment requests that the fourth bullet of Mitigation Measure 4.7-3b be modified to expressly state that any existing buried utility lines “shall be protected to the satisfaction of the utility owner.”

Response: The commenter’s suggested change to Mitigation Measure 4.7-3b is unnecessary because the third and fourth bullet points of this mitigation measure already require industry-standard procedures to locate, mark, and protect buried underground utility lines prior to the start of

construction activities to avoid and protect utilities (i.e., “High-visibility orange exclusionary fencing, or other clearly visible above-ground markers, shall be placed along the pipeline rights-of-way prior to the start of earthmoving activities” and “Any buried utility lines shall be clearly marked in the field and on the construction drawings in advance of any project-related earthmoving activities.” Draft EIR page 4.7-27). In addition, the recommended text has been added to Mitigation Measure 4.7-3a. Please see Chapter 3 of this Final EIR, “Errata,” for more details.

Comment A3-9 *Summary of Comment:* The comment requests that the text for City of Fairfield General Plan Program OS 9.2A (Draft EIR page 4.8-21) be removed from the Draft EIR because the commenter states that FSSD is not involved with natural watercourses.

Response: The text of the City of Fairfield’s General Plan Program OS 9.2A states, “During development review, require all projects to continue to meet the requirements of the Fairfield-Suisun Sewer District.” The quoted text from Fairfield’s General Plan does not expand FSSD jurisdiction. However, as requested by the commenter and shown in Final EIR Chapter 3, “Errata,” the text related to City of Fairfield’s General Plan Program OS 9.2A has been deleted from the Draft EIR.

Comment A3-10 *Summary of Comment:* The comment states that the Fairfield-Suisun Urban Runoff Management Program [FSURMP] no longer exists and has been succeeded by the Solano Stormwater Alliance, which is led by FSSD. The comment further states that FSSD is not a permittee under its lead responsibilities of the Solano Stormwater Alliance; its responsibilities regarding operation and maintenance of storm drain facilities are limited to the operation and maintenance of existing public stormwater pump stations by special agreement with the cities of Fairfield and Suisun City. The comment requests that the appropriate text in Draft EIR Section 4.8.2 be revised accordingly.

Response: The City appreciates this comment submitted by FSSD related to the FSURMP, which was replaced by the Solano Stormwater Alliance in 2022. To reflect this update, information related to the FSURMP in Subsection 4.8.2, “Regulatory Setting,” page 4.8-23 of Draft EIR Section 4.8, “Hydrology and Water Quality,” has been revised as shown in Final EIR Chapter 3, “Errata.”

Comment A3-11 *Summary of Comment:* The commenter states that FSSD does not annex parcels and that FSSD is required to serve parcels within city limits. The comment requests that the text in Section 4.13.1, “Wastewater Collection, Conveyance, and Treatment Facilities,” be modified to reflect this information.

Response: As requested by the commenter and shown in Final EIR Chapter 3, “Errata,” the text on Draft EIR page 4.13-2 has been modified to remove the statement that FSSD would annex the Project Site.

Comment A3-12 *Summary of Comment:* The comment states that the text and Table 4.13-3 on Draft EIR page 4.13-3 related to sewer pump stations are not related to service for the proposed Project and therefore should be deleted. The comment further states that the proposed Project will not

discharge directly to any FSSD sewer mains or pump stations. Furthermore, the comment states that FSSD owns, operates, and maintains existing sewer force mains on the parcels associated with all Planning Areas within the proposed development, and requests that these facilities be protected in place as noted in previous FSSD comments.

Response: As requested by the commenter and shown in Final EIR Chapter 3, “Errata,” most of the text, along with Table 4.13-3 on Draft EIR page 4.13-3 has been deleted. With regard to the FSSD ownership and responsibilities for operation and maintenance of existing sewer force mains on the Project parcels, please see the response to comment A3-8.

Comment A3-13 *Summary of Comment: The comment states that the text regarding FSSD sewer infrastructure in Draft EIR Section 4.13.3 should be revised to be consistent with the previous FSSD comments (coded comment A3-3) regarding ownership of off-site sewer infrastructure.*

Response: As requested by the commenter and shown in Final EIR Chapter 3, “Errata,” the text on Draft EIR page 4.13-10 has been modified to remove the statement that sewer facilities upstream of Cordelia Street and Beck Road are owned or operated by FSSD.

2.2.4 Comment LETTER #A4:

SOLANO COUNTY DEPARTMENT OF RESOURCE MANAGEMENT – AIRPORT LAND USE COMMISSION

TERRY SCHMIDTBAUER
Director

JAMES BEZEK
Assistant Director

ALLAN CALDER
Planning Services Manager

DEPARTMENT OF RESOURCE MANAGEMENT



SOLANO COUNTY

Planning Services Division

Letter A4

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October 17, 2023

Jim Bermudez,
Development Services Director,
Suisun City,
701 Civic Center Boulevard,
Suisun City, CA 94585

Via US mail and email Jbermudez@suisun.com

**Re: Highway 12 Logistics Project, south of Highway 12, west of the railroad tracks
Public Draft Environmental Impact Report (EIR) Comment Letter**

Dear Jim;

On behalf of the Solano County Airport Land Use Commission (ALUC), the following comments are provided in response to the Highway 12 Logistics Project Draft EIR issued by the City of Suisun on August 31, 2023.

A4-1

The project proponent, Buzz Oates Construction, Inc., is proposing to annex and pre-zone 161 acres of the approximately 486-acre Project Site into the City of Suisun City and develop 1.28 million square feet of warehouse and logistics uses on approximately 93 acres. The rest of the annexation area, approximately 388 acres, would be in Managed Open Space. The Project proposes an amendment to the City's General Plan Land Use Diagram so that the proposed development and conservation areas are consistent with the General Plan's Commercial Mixed-Use and Open Space land use designations.

The property is located within Compatibility Zone D of the Travis Air Force Base (Travis AFB) Land Use Compatibility Plan and project development requires an amendment to the City's General Plan; therefore, according to Section of the Aeronautics Act, Solano ALUC review for consistency determination is required. Please submit an application and filing fee in the amount of \$246 to Solano ALUC prior to City Council approval. A copy of the application form is attached.

A4-2

Compatibility Zone D does not restrict densities or intensities of development; however, prohibits hazards to flight such as wildlife attractants, tall objects, visual and electronic forms of communication. In addition, the site is within the five-mile radius of Travis AFB also known as the Outer Perimeter Bird Strike Zone, specifically, approximately 4.7 miles west of the runway. A Wildlife Hazards Analysis report is required in order to evaluate the potential safety hazards including bird strikes and should include a survey and address the level of wildlife movement, hazardous wildlife or bird strike hazards. In terms of hazards to flight, tall objects or visual intrusion items are not proposed; however, the potential wildlife attractants are 3 stormwater detention ponds and added habitat enhancements as part of the proposed Managed Open Space.

SAEED IRAVANI
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Building & Safety

ALLAN CALDER
Program Manager
Planning Services

EDMOND STRICKLAND
Manager
Environmental Health

SARAH PAPPAKOSTAS
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CHARLES BOWERS
Operations Manager
Public Works
Operations

CHRIS DRAKE
Parks Services
Manager
Parks

MISTY KALTREIDER
Water & Natural
Resources Program
Manager

The Public Draft EIR refers to a Wildlife Hazard Assessment report prepared by AECOM and concludes that the potential impacts are less than significant (page 4.7-28) because the storm drain detention basin would drain "quickly" and the new habitat enhancement would not increase the level of wildlife attractants due to offsetting the loss on the project development site. No mitigation measures were proposed.

A4-3

The Public Draft EIR did not specify how the design of the detention ponds would detain or discharge stormwater "quickly" therefore, ALUC staff recommends a mitigation measure that requires the detention ponds be designed to discharge stormwater within a 48-hour period or less consistent with the FAA Advisory Circular 150/5200-33C.

A4-4

In addition, the Public Draft EIR refers to a Wildlife Hazard Assessment prepared by AECOM in 2022. A copy of this report was not included as an attachment. This report should include wildlife surveys, address wildlife movement and potential hazards. Please submit a copy of the report in order to complete the evaluation of potential impacts or hazards to flight.

A4-5

Please feel free to contact me at nferrario@solanocounty.com or 707-784-3170.

Sincerely,



Nedzlene Ferrario, AICP
Principal Planner

Attachments:
Solano ALUC application form and instructions

RESPONSE TO COMMENT LETTER #A4

Comment A4-1 *Summary of Comment: The comment provides a summary of the proposed Project.*

Response: This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; this comment is noted.

Comment A4-2 *Summary of Comment: The comment states that the proposed Project is within Compatibility Zone D of the Travis Air Force Base Land Use Compatibility Plan, which, as the commenter explains, does not restrict density or intensity of development but prohibits hazards to flight. The commenter further notes that Solano County Airport Land Use Commission (ALUC) review for consistency determination is required prior to Project approval by the City Council. The commenter also states that the Project Site is within Outer Perimeter Bird Strike Zone of the Travis Air Force Base, thereby requiring a Wildlife Hazards Analysis report. The commenter stated that the potential wildlife attractants that they note for the project are the “stormwater detention ponds and added habitat enhancements as part of the proposed Managed Open Space.”*

Response: The City is appreciative of the detailed information provided by the commenter, and acknowledges that the Project would be required to demonstrate consistency with ALUCP, as noted in chapter 3, “Project Description,” of the Draft EIR (page 3-4). Section 4.7.1, “Environmental Setting,” of the “Hazards and Hazardous Materials” section of the Draft EIR describes the Project Site as being within both Compatibility Zone D and the Outer Perimeter wildlife hazard zone of the Travis Air Force Base and describes the requirements related to wildlife hazards, consistent with the location described by the commenter.

A Wildlife Hazard Assessment for the proposed Project was performed in 2022 to determine the existing level of wildlife and bird activity within the Project Site and evaluate the potential for wildlife hazards to affect routing operations at the Travis Air Force Base as a result of the proposed Project. A summary of the information provided in the AECOM 2022 Wildlife Hazard Assessment was provided in Draft EIR Impact 4.7-4 on pages 4.7-27 through 4.7-28, and a copy of the AECOM 2022 Wildlife Hazard Assessment is attached to this Final EIR as Appendix A.

Impact 4.7-4 in the “Hazards and Hazardous Materials” section of the Draft EIR (pages 4.7-28 through 4.7-29) evaluates the Project’s potential to create potential safety hazards, including possible bird strikes, in the vicinity of an airport, including the Travis Air Force Base. As detailed within this impact discussion, the proposed Project would not increase aviation-related bird strike hazards because the on-site detention basins would be designed to drain quickly (i.e., detention not retention), and the proposed Managed Open Space habitat would replace existing habitat lost to development at a 1:1 ratio; thus, new waterfowl habitat would not be created. See also response to comment A4-4 with regard to rate of drainage from the detention basins.

As detailed in the Draft EIR, the proposed Project does not conflict with the ALUCP and, as mentioned by the commenter, the City acknowledges that the Project will require a consistency determination related to airport land use compatibility.

Comment A4-3 *Summary of Comment:* The comment refers to the Draft EIR Wildlife Hazard Assessment, and the reason why on-site required drainage features will not increase the level of wildlife attractants.

Response: The summary provided by the commenter is accurate. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; this comment is noted.

Comment A4-4 *Summary of Comment:* The commenter requests a mitigation measure that requires the detention ponds on-site to discharge stormwater within a period of 48 hours or less, consistent with guidance from the Federal Aviation Administration.

Response: This request will be accommodated as part of the Final Drainage Study and detention basin design. In order to ensure detention basins are designed to discharge stormwater within a period of 48 hours or less, Mitigation Measure 4.7-4 has been added to the EIR detailing this requirement, as follows (and also provided in Chapter 3, “Errata,” of this Final EIR:

Mitigation Measure 4.7-4: The applicant shall design all detention basins developed for the proposed Project to discharge within 48 hours or less. This specification for detention basin design will be demonstrated in the Final Drainage Study and reviewed by the City for approval prior to the issuance of a grading permit.

Comment A4-5 *Summary of Comment:* The commenter expresses interest in the Wildlife Hazard Assessment that was prepared for the proposed Project, summarized in the Draft EIR. The commenter notes that this assessment should include wildlife surveys, address wildlife movement and potential hazards.

Response: Consistent with those requirements of the assessment as stated by the commenter, the Wildlife Hazard Assessment employed a comprehensive desktop review of Project background documents, including past site surveys, aerial imagery, and wildlife occurrence databases to identify habitats and species with potential to occur within the survey area, as well as a pedestrian reconnaissance-level survey to document existing habitat types/quality and site conditions. Furthermore, the assessment evaluated the potential of the proposed Project to result in attraction of birds or other wildlife to the Project Site. The assessment determined that the construction and development associated with the proposed Project would not increase above the existing level of activity or presence of birds or other wildlife.

A summary of the information provided in the AECOM 2022 Wildlife Hazard Assessment was provided in Draft EIR Impact 4.7-4 on pages 4.7-27 through 4.7-28, and a copy of the AECOM 2022 Wildlife Hazard Assessment is attached to this Final EIR as **Appendix _____**.

2.2.5 Comment LETTER #A5:

SOLANO COUNTY DEPARTMENT OF RESOURCE MANAGEMENT – LOCAL ENFORCEMENT AGENCY (LEA) & PUBLIC WORKS

Letter A5

TERRY SCHMIDTBAUER
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October 17, 2023

Jim Bermudez, Development Services Director
City of Suisun City
701 Civic Center Boulevard
Suisun City, CA 94585

Via email: jbermudez@suisun.com

RE: City of Suisun City Highway 12 Logistics Center Project Draft Environmental Impact Report

Dear Mr. Bermudez:

Thank you for the opportunity to review the DEIR for the above referenced project and to provide the following comments for your consideration:

Solano County Local Enforcement Agency (LEA) comments:

The Pennsylvania Ave Closed Landfill (Landfill) is regulated by the Solano County Department of Resource Management, Environmental Health Division, acting as the Solano County Local Enforcement Agency (LEA). The Landfill is classified as an unpermitted, pre-regulation disposal site that was operated by the City of Fairfield as a municipal solid waste “dump” in the 1970s until approximately 1982. Due to limited records from that time, the makeup of the waste profile, including the extent of potentially hazardous wastes disposed at the Landfill, is unknown. In addition, the exact boundary and contours of the buried waste are not known. Given the age and unpermitted status of the Landfill, it likely does not have a liner as required for modern day landfills to protect groundwater. Historically, there are no records of landfill gas monitoring having been performed at the Landfill or along the boundary of the site.

After reviewing the DEIR, the LEA has identified the following environmental concerns that have not been adequately addressed in the DEIR:

1. Potential Landfill Gas Migration and Monitoring

DEIR section 4.7, Impact 4.7-3: Exposure of People and the Environment to Existing Hazardous Materials, Including Cortese-listed Sites (Impact 4.7-3) does not adequately address the concerns regarding potential landfill gas migration from the Landfill and shows inconsistencies with the information presented. The Brusca Associates Inc. 2021 Groundwater and Soil Gas Investigation referenced on page 4.7-21 of the DEIR states that “the soil gas samples collected from SG1 and SG2—near the former Pennsylvania Avenue landfill—did contain some VOCs, and fixed gases (such as methane), but the concentrations were below San Francisco Bay RWQCB Environmental Screening Levels (ESLs) for commercial/industrial uses.” The accompanying data in Table 4.7-2, however, does not show methane detections reported for SG1 and SG2 nor does it provide the ESL values for methane. A copy of the Brusca Associates 2021 Investigation was not provided in the references section of the DEIR for further review. No information is provided in the DEIR on how the

A5-1

A5-2

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Parks

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Water & Natural
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Manager

soil gas samples were collected and analyzed. The limited information from the Brusca Associates 2021 Investigation provided in the DEIR does not provide enough information to adequately assess and address the concerns for offsite landfill gas migration.

Y
A5-2
Cont.

Additionally, the landfill gas discussion provided in section 4.7 does not evaluate the state minimum standards (SMS) for landfill gas for closed landfill sites specified in the California Code of Regulations, Title 27 (27 CCR) sections 20921 and 20925. SMS for landfill gas at closed landfills state that the concentration of methane must not exceed 1.25 percent by volume in air within any portion of any on-site structures and the concentration of methane migrating from the disposal site must not exceed 5 percent by volume in air at the disposal site boundary. Any construction activities or habitable buildings proposed within 1,000 ft of the Landfill boundary have significant concerns for landfill gas migration. Building G and a stormwater retention basin are proposed immediately adjacent to the southern boundary of the Landfill and the Building BC and another stormwater retention basin are proposed approximately 75 feet west of the Landfill on the west side of Pennsylvania Ave. The DEIR does not adequately address how the SMS for landfill gas will be evaluated for the proposed developments within 1,000 ft of the Landfill boundary.

A5-3

Mitigation Measure 4.7-3a: Prepare and Implement a Site-Specific Health and Safety Plan (HASP), outlines the requirements for the Project applicant or construction contractor(s) to develop a HASP for the short-term monitoring and reporting of environmental hazards encountered during construction activities at the Project Site. Monitoring and reporting of landfill gas (methane) is not specifically listed as a requirement of the HASP. There is also no mitigation measure provided in section 4.7 which addresses concerns for long-term methane monitoring in permanent habitable structures located within 1,000 ft of the Landfill boundary.

A5-4

Section 4.7 should be amended to provide more comprehensive and detailed information on the soil gas sampling performed and to adequately address the SMS for landfill gas and the concerns for short-term and long-term landfill gas migration and monitoring.

A5-5

2. Potential Exposure of Buried Solid Waste from Construction Activities

Section 3.2.2 of the DEIR describes the proposed supporting on- and off-site infrastructure improvements including excavating a stormwater retention basin along the southern boundary of the Landfill and widening Pennsylvania Ave from a two-lane road to a four-lane road with street frontage improvements along both the east and west side of Pennsylvania Ave as well as the installation of new underground utilities along Pennsylvania Ave. The proposed construction activities located adjacent to the Landfill boundary have the potential to expose buried solid waste.

A5-6

DEIR Section 4.7, Impact 4.7-3 does not address the potential hazards of exposing buried solid waste during construction activities planned immediately adjacent to the Landfill. Section 4.7 should be revised to adequately evaluate the potential exposure of buried solid waste during Project construction.

3. Potential Encroachment on the Landfill Due to Off-site Improvements

Although Section 3.2.2 of the DEIR describes the off-site improvements to Pennsylvania Ave which are proposed within the 70 ft road right-of-way, the DEIR does not include any specific diagrams for the construction of the off-site improvements along Pennsylvania Ave. It is unclear from the information provided if the roadway construction activities will remain entirely within the 70 ft right-of-way or if they have the potential to encroach on neighboring properties.

A5-7

DEIR Section 4.7, Impact 4.7-3 does not address the potential encroachment of construction activities along Pennsylvania Ave onto the Landfill. In accordance with 27 CCR section 21190, any proposed postclosure land use, including temporary construction project sites or roadway utility projects that may encroach upon the Landfill, requires a Postclosure Land Use Plan to be submitted to the LEA for review and approval. Any potential improvement projects for the adjacent road, Pennsylvania Ave, that may impact the Landfill require prior notification to the LEA. The DEIR should be revised to adequately evaluate and address the potential encroachment on the Landfill due to the proposed off-site improvements to Pennsylvania Ave.

Y
A5-7
Cont.

4. Discussion of Alternative 2 – Reduced Footprint Alternative

Per DEIR section 6.4.2, Alternative 2 does not propose development east of Pennsylvania Ave or on the west side of Pennsylvania Ave adjacent to the Landfill. Street frontage improvements would no longer be proposed on the east side of Pennsylvania Ave. It is unclear from the information provided in the DEIR if widening of Pennsylvania Ave is proposed in Alternative 2.

A5-8

Alternative 2 mitigates several of the LEA's concerns regarding potential landfill gas migration and exposure of buried solid waste from development near the Landfill boundary. However, sections 6.4.2 and 6.5 of the DEIR should be revised to clarify if widening of Pennsylvania Ave is proposed and if the roadway construction activities have the potential to encroach on neighboring properties. As stated in LEA comment 3 above, temporary construction project sites or roadway utility projects that may encroach upon the Landfill require a Postclosure Land Use Plan to be submitted to the LEA for review and approval. The DEIR should be amended to adequately evaluate and address any potential encroachment on the Landfill due to any proposed off-site improvements to Pennsylvania Ave under Alternative 2.

A5-9

Solano County Public Works Engineering Division Comments:

The Public Works - Engineering Division has concerns regarding hydrology-water quality and transportation as a result of the proposed facility and has the following comments for consideration:

A5-10

1. Section 4.8 Hydrology Water Quality,

Solano County PW recommends the following be addressed or implemented to address for the following impacts:

A. Impact 4.8-3: Substantially Alter Drainage Patterns or Add Impervious Surfaces Resulting in Increased Erosion or Siltation

- Emergency Response Plan: Develop a plan for responding to unexpected erosion or sedimentation events, including containment and cleanup procedures.
- Installation of Sediment Basins and Silt Traps
- Creating Vegetation and Buffer Zones
- Monitoring and Reporting

B. Impact 4.8-4: Substantially Alter Drainage Patterns or Add Impervious Surfaces that would Exceed Storm Drainage Systems, Result in Increased Flooding, or Impeded or Redirect Flood Flows Solano County PW recommends looking into implementation of:

A5-11

- Low-Impact Development (LID) Practices
- Erosion and Sediment Control Measures
- Floodplain Management Plans
- Monitoring and Maintenance

2. *Section 4.12 "TRANSPORTATION AND CIRCULATION":*

Solano County Public Works has concerns with the transportation and circulation aspects of this project. In general, this concerns includes damage and congestions created by use of this facility. To address these issues, the City should:

- Ensure that frontage roads that serve this facility (Cordelia and Pennsylvania) are annexed as the truck damage to these roads will be extensive and the County should not bear the responsibility for maintenance. This will also serve to prevent cross jurisdictional issues of utilities within the County's right-of-way and allow the City to have oversight for frontage improvements and standards.
- "No trucks" Signage and load limits should be placed on Cordelia Road heading west. Rerouting trucks on Cordelia Road will do a lot of damage if they are not limited.
- Sidewalks and bike lanes should be incorporated into the frontage of the project since these roads carry a moderate amount of pedestrian and bike traffic.

Also, Solano County Public Works is concerned that other large scale projects, impacting traffic on Highway 12, such as the proposed State Delta Water Tunnels project have been taken into consideration for congestion.

Solano County Public Works also has specific comments on the following mitigations:

A. Impact 4.12-1: Near-Term Vehicle-Miles Traveled (VMT)

Solano County Public Works needs more information on strategies for trip reduction and what options will be implemented. Will telecommuting, carpooling and ridesharing programs, public transportation access, bicycle facilities, walking paths, car-sharing services, eco-Friendly incentives, outreach/education, and/or awareness programs or other specific strategies be provided?

B. Impact 4.12-2 Vehicle System, Mitigation Measure 4.12-2: Vehicle Improvements:

Solano County Public Works notes that the Project is currently in the unincorporated area with intention to become incorporated into the City. If incorporated and approved, the City should ensure that the Project minimizes hazardous conditions by providing site plans that include the following on-site and off-site vehicle system improvements

- Driveway access improvements
- On-site circulation improvements
- Off-site vehicle system improvements

To the extent the Project utilizes County maintained roads for entrance/exit, the County will require such site plans prior to building permit issuance.

Other potential mitigations that should be considered are:

- Improve Signage and Markings
- Enhance Visibility
- Trim vegetation or obstacles that may obstruct drivers' views, especially at driveways and intersections
- Improve lighting in the area to enhance visibility during low-light conditions
- Traffic Calming Measures: Implement traffic calming measures such as speed bumps, roundabouts, or other traffic management devices to reduce vehicle speeds for safety
- Grade Separation
- Emergency Response Plan

A5-12

A5-13

A5-14

A5-15

A5-16

A5-17

A5-18

C. *Impact 4.12-4: Pedestrian and Bicycle Systems.*

Solano County PW recommends the following be addressed or implemented to address this impact:

- Use of a "Complete Streets Design" approach for safety and accessibility
- Traffic Calming Measures: Implement traffic calming measures such as speed humps, roundabouts, and raised crosswalks to reduce vehicle speeds and improve safety for pedestrians and cyclists.
- Crosswalk Enhancements: Enhance crosswalks with clear markings, adequate lighting, and pedestrian-activated signals where necessary to improve safety at intersections and crossings.
- Intersection Improvements
- Sidewalk Widening: If possible, widen sidewalks to accommodate increased pedestrian traffic comfortably, reducing the risk of conflicts with other modes of transportation.
- Lighting and Visibility Improvement
- Public Input and Engagement
- Monitoring and Evaluation

Again, thank you for the opportunity to provide comment. If you have questions, please feel free to contact me at 707-784-3157, or tschmidtbauer@solanocounty.com.

Sincerely,



Terry Schmidtbauer
Director

RESPONSE TO COMMENT LETTER #A5

Comment A5-1 *Summary of Comment:* The comment states that the former Pennsylvania Avenue landfill operated as a solid waste “dump” from the 1970s until 1982. The comment further states that due to a lack of records from that time period, the exact nature of the landfill waste is not clearly known, and the exact boundary and contours of the landfill itself are not known with certainty. The comment also states that it is unknown whether the landfill has an impermeable liner to protect groundwater, and that there are no records of landfill gas monitoring ever having been performed. Based on the lack of available information about the landfill as cited in this comment, Solano LEA+PW Comments 2 through 9 request additional analyses in the Draft EIR.

Response: The City understands that the Solano County Department of Resource Management, Environmental Health Division (acting as the Solano County Lead Enforcement Agency [LEA]) is the lead agency with oversight of the off-site former Pennsylvania Avenue landfill. The City also appreciates that the Solano LEA is concerned about several hazards from the former landfill that may affect the proposed Project. Information related to the former landfill is presented in Draft EIR Section 4.7, “Hazards, including Wildfire, and Hazardous Materials,” on pages 4.7-1 through 4.7-3, and in Impact 4.7-3 on pages 4.7-20 through 4.7-25. The former landfill is not part of the Project Site, and the former landfill property is not owned or controlled by the Project applicant. The former landfill boundaries are delineated by existing fencing; thus, there is no reason for the City nor the Project applicant to speculate that additional landfill materials would be encountered by project-related construction outside of the fenced landfill boundaries. If the Solano LEA believes that the fenced landfill boundary is not accurate, this information should be included in a response to the project’s NOP, as required by CEQA Guidelines Section 15082(b)(1)(A). Neither the City nor the Project applicant have the ability to perform an excavation of the off-site landfill either to obtain a characterization of the solid waste or to potentially demarcate new boundaries for the former landfill that are different from the existing landfill boundary fencing, because the landfill property is not owned or controlled by the City or the Project applicant, is not part of the Project Site, and would not be affected in any way by project-related construction or operation. Landfill characterization activities are the responsibility of the landfill property owner. Finally, the soil borings obtained by Brusca and Associates for the Project’s 2021 Soil and Gas Investigation did not encounter evidence of any landfill waste on the Project Site adjacent to the former landfill; only native soil materials were encountered in the borings.

Similarly, the Project applicant is not required to conduct off-site landfill gas monitoring, or to protect groundwater from off-site landfill effects, when (1) the Project applicant neither owns nor controls the landfill property, and (2) there is no evidence that there could be an environmental impact related to the landfill property that could be exacerbated by proposed Project activities. Any necessary characterization of landfill gases or remedies to protect groundwater from leachate from the former landfill would be the responsibility of the landfill property owner. Furthermore, the on-site 2021 Soil and Gas Investigation performed by Brusca and Associates determined that landfill gas migration did not represent a hazard for the proposed Project.

Finally, Draft EIR Mitigation Measure 4.7-3a (pages 4.7-26 and 4.7-27) requires preparation of a site-specific Health and Safety Plan (HASP). Mitigation Measure 4.7-3a states that the HASP must include a requirement that if stained or odiferous soil or groundwater is encountered anywhere on the Project Site during construction, the Project applicant(s) must retain a licensed environmental professional to conduct a Phase II ESA that includes appropriate soil and/or groundwater analysis. Recommendations contained in the Phase II ESA to address any contamination that is found must be implemented before initiating ground-disturbing activities in these areas, and the appropriate local, state, or federal regulatory agencies must be notified. In addition, construction worker training is required before the start of ground-disturbing activities related to the potential to encounter hazardous materials. Therefore, the Draft EIR properly concluded that impacts related to hazardous materials, including the former landfill, would be less than significant, and no changes to the Draft EIR are required.

Comment A5-2 *Summary of Comment:* The comment states that Draft EIR Impact 4.7-3 does not adequately address the Solano LEA’s concerns regarding potential landfill gas migration, and goes on to provide specific details related to the 2021 Soil and Gas Investigation performed by Brusca and Associates with which the commenter disagrees.

Response: The commenter disagrees with the methods used by the independent hazardous materials remediation specialist (Brusca and Associates) who was hired in 2021 to perform a limited Soil and Gas Investigation at the Project Site related to the former off-site landfill. A summary of the information provided in the Brusca and Associates 2021 Soil and Gas Investigation was provided in Draft EIR Impact 4.7-3 on pages 4.7-20 through 4.7-25, and a copy of the Brusca and Associates 2021 Investigation is attached to this Final EIR as Appendix B. As noted above in response to comment Solano LEA+PW-1, the Project applicant neither owns nor controls the off-site landfill property, and therefore is not required or able to perform landfill gas sampling or monitoring; that is the responsibility of the off-site landfill owner. The work performed by Brusca and Associates in the 2021 Soil and Gas Investigation demonstrates that landfill gas migration does not represent a hazard for the proposed Project and therefore further investigation of off-site landfill gas migration is not warranted. As stated in the State CEQA Guidelines Section 15151, Standards for Adequacy of an EIR:

“An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.”

In this instance, there has been a documented good faith effort to evaluate the potential for the off-site landfill to represent a hazard for the proposed Project, the results of sampling were presented in the Brusca and Associates 2021 Soil and Gas Investigation and summarized in the Draft EIR, and there is no evidence to suggest that the former off-site landfill poses a hazard for the proposed Project. Furthermore, Draft EIR Mitigation Measure 4.7-3a (pages 4.7-26 and 4.7-27) requires preparation of a site-specific Health and Safety Plan (HASP). Mitigation Measure

4.7-3a states that the HASP must include a requirement that if stained or odiferous soil or groundwater is encountered anywhere on the Project Site during construction, the Project applicant must retain a licensed environmental professional to conduct a Phase II ESA that includes appropriate soil and/or groundwater analysis. Recommendations contained in the Phase II ESA to address any contamination that is found must be implemented before initiating ground-disturbing activities in these areas, and the appropriate local, state, or federal regulatory agencies must be notified. Therefore, the Draft EIR properly concluded that impacts related to hazardous materials, including the former landfill, would be less than significant, and no changes to the Draft EIR are required. The Brusca and Associates study has been included for additional information as Appendix B to this Final EIR.

Comment A5-3 *Summary of Comment: The comment states that Draft EIR Impact 4.7-3 does not adequately address the Solano LEA's concerns regarding potential landfill gas migration related to Project construction and operation, including State Minimum Standards for closed landfills, and goes on to provide additional specific details related to the 2021 Soil and Gas Investigation performed by Brusca and Associates with which the commenter disagrees.*

Response: Please see response to comment A5-2.

Comment A5-4 *Summary of Comment: The comment states that because Draft EIR Mitigation Measure 4.7-3a (Prepare a Health and Safety Plan) does not include a requirement to implement off-site landfill gas monitoring during Project construction or operation, the mitigation measure is inadequate and should be revised.*

Response: Please see response to comment A5-2.

Comment A5-5 *Summary of Comment: The comment states that the Draft EIR should be revised to provide more comprehensive and detailed information on the landfill gas sampling that was performed, and to adequately address the State Minimum Standards for landfill gas for closed landfill sites and the Solano LEA's concerns for short-term and long-term landfill gas migration and monitoring.*

Response: Please see response to comments A5-1 and A5-2.

Comment A5-6 *Summary of Comment: The comment suggests that future project-related excavation associated with (1) the Project's proposed detention basin south of the former landfill, (2) widening of Pennsylvania Avenue, and (3) new utilities within Pennsylvania Avenue, could encounter buried landfill waste. The comment therefore requests that the EIR be revised to evaluate the potential hazard of encountering buried solid waste from the former landfill during Project construction.*

Response: The soil borings obtained by Brusca and Associates for the 2021 Soil and Gas Investigation at the Project Site did not encounter evidence of any landfill waste; only native soil materials were encountered in the borings. Please see response to comment A5-1. No additional analysis in the EIR related to this issue is required.

Comment A5-7 *Summary of Comment: The comment states that it is unclear whether proposed Pennsylvania Avenue road widening or installation of utilities would be confined to the existing road right-*

of-way or would extend outside of the right-of-way onto neighboring properties, including the former landfill. The comment further notes that any project-related work that would encroach into the former landfill would require a Postclosure Land Use Plan, and requests the EIR be revised to evaluate potential landfill encroachment from roadway widening and utilities.

Response: The proposed widening of Pennsylvania Avenue and the proposed installation of utilities will require an encroachment of 10 feet into the former landfill beyond the existing 60-foot-wide road right-of-way. Please see response to comment A5-1.

Comment A5-8 Summary of Comment: *The comment notes that Alternative 2 does not propose any new development on the east side of Pennsylvania Avenue, but states that it is unclear whether or not widening of Pennsylvania Avenue along the east side near the former landfill is required or not.*

Response: There is no need for additional right-of-way on the east side of Pennsylvania Avenue under Alternative 2 and that the only improvement would be an additional four feet of shoulder east of Pennsylvania under this alternative.

Comment A5-9 Summary of Comment: *The comment suggests that the EIR be revised to clarify whether any project-related improvements under Alternative 2 would encroach on the former landfill, and states that any such encroachment would require a Postclosure Land Use Plan.*

Response: As with the proposed Project, there would be no encroachment on the former landfill under Alternative 2. Please see responses to comments A5-1 through A5-8.

Comment A5-10 Summary of Comment: *The commenter suggests that the following actions should be implemented as mitigation for Impact 4.8-3 (Increased Erosion or Siltation): (1) Develop an Emergency Response Plan for responding to unexpected erosion or sedimentation events, including containment and cleanup procedures; (2) install sediment basins and silt traps; (3) create vegetation and buffer zones; and (4) implement monitoring and reporting.*

Response: Draft EIR Section 4.8, "Hydrology and Water Quality," (pages 4.8-10 through 4.8-28) details the federal, state, and local regulatory requirements and processes related to control of stormwater runoff to reduce erosion and water quality degradation from project-related construction and operation. This information is briefly summarized again in Impact 4.8-1 related to water quality (Draft EIR pages 4.8-29 through 4.8-33) and Impact 4.8-3 related to increased erosion (Draft EIR pages 4.8-34 through 4.8-36). Due to the extensive nature of federal, state, and local regulatory controls that must be implemented, and which are specifically designed to reduce erosion and water quality degradation from stormwater runoff as described in Draft EIR Section 4.8, Impact 4.8-3 was determined to be less than significant. Therefore, no mitigation measures are required. Furthermore, the mitigation measures suggested by the commenter are already required under existing federal, state, and local regulations, as discussed in detail on Draft EIR pages 4.8-10 through 4.8-28.

Comment A5-11 Summary of Comment: *The commenter suggests that the following actions should be implemented as mitigation for Impact 4.8-4 (Exceed Storm Drainage Systems, Result in*

Increased Flooding, or Impede or Redirect Flood Flows): (1) low-impact development (LID) practices, (2) erosion and sediment control measures, (3) floodplain management plans, and (4) monitoring and maintenance.

Response: Please see response to comment A5-10.

Comment A5-12 *Summary of Comment: The comment states the Solano PW has concerns related to damage and congestion created by use of the proposed facility, and to address these concerns the Project should ensure that frontage roads that serve the facility (i.e., Cordelia Road and Pennsylvania Avenue) are annexed because the truck damage to these roads will be extensive and the County should not bear the responsibility for maintenance. The comment states that this would also serve to prevent cross-jurisdictional issues of utilities within the County's right-of-way and allow the City to have oversight for frontage improvements and standards.*

Response: As shown in Exhibit 3-4 of the Draft EIR, the portions of frontage roads Cordelia Road and Pennsylvania Avenue within the existing City of Suisun City Sphere of will be annexed to the City of Suisun City. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR. No changes to the Draft EIR are required.

Comment A5-13 *Summary of Comment: The commenter believes that trucks, if rerouted on Cordelia Road, would do a lot of damage and requests that "No trucks" signage and load limits be placed on Cordelia Road heading west.*

Response: Cordelia Road and Pennsylvania Avenue are within the existing City of Suisun City Sphere of Influence and will be managed and maintained in accordance with City standards. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR. No changes to the Draft EIR are required.

Comment A5-14 *Summary of Comment: The commenter requests that sidewalks and bike lanes be incorporated into the frontage of the Project, noting that these roads carry a moderate amount of pedestrian and bike traffic.*

Response: Section 4.12, "Transportation and Circulation" of the Draft EIR comprehensively evaluated the potential for the Project to impact pedestrian and bicycle systems, including exposing pedestrians and bicyclists to potential hazards. The evaluation detailed in Impact 4.12-4 of the Draft EIR (pages 4.12-19 through 4.12-21) determined that the Project's impact on pedestrians and bicyclists would be potentially significant. Draft EIR Mitigation Measure 4.12-3 requires the Project provide adequate pedestrian and bicycle facilities along Project Site frontages and on-site to improve the pedestrian and bicycle transportation conditions and connect to the existing and future multimodal transportation network. No changes to the Draft EIR are necessary.

Comment A5-15 *Summary of Comment: The commenter noted concern about whether other projects that could have a potential impact on traffic on SR 12 have been taken into consideration for potential congestion effects, specifically noting the State Delta Water Tunnels project.*

Response: Where congestion could lead to an adverse physical environmental impact, such as vehicles backing onto an exit ramp or similar potentially hazardous condition, congestion could be relevant for consideration in an EIR. The social inconvenience of traffic congestion is not an impact under CEQA, and the City does not have data related to construction traffic associated with a future statewide water supply project to factor in the analysis of this logistics center project. However, for the purposes of air quality analysis, and specifically the analysis of toxic air contaminants, the City has used regional travel demand forecasting models, informed by anticipated regional growth, to identify long-term, operational traffic levels. The proposed Project traffic, including details related to anticipated truck traffic, are informed by estimates of future traffic levels, and used to identify air pollutant emissions along major travelways and whether there may be a potentially significant impact related to exiting pollutant emissions concentrations, future traffic levels, and future project-related traffic levels. This analysis is detailed in Section 4.2 of the Draft EIR, “Air Quality” and Section 5.3.2 of the Draft EIR.

Comment A5-16 *Summary of Comment:* The commenter references Impact 4.12-1, “Near-term VMT,” and states that Solano County Public Works needs more information on strategies for trip reduction and which options would be implemented.

Response: Mitigation Measure 4.12-1 of the Draft EIR (page 4.12-14) details the transportation demand management (TDM) plan that would be required of the Project applicant to demonstrate the necessary VMT reductions to achieve 12.6 VMT per employee, which would be 85 percent of the citywide average home-based work VMT per employee. Based on research in the *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* (GHG Handbook), Table 4.12-3 describes feasible measures for the proposed Project’s TDM Plan designed to reduce Project-generated VMT. The TDM measures highlighted in this table are those that were identified to be applicable to the project type, feasible, and quantifiable, to demonstrate that the Project could achieve the necessary 11.3 percent reduction in VMT. However, the measures identified are not comprehensive and the TDM Plan is not limited to such measures. As required by Mitigation Measure 4.12-1, prior to issuance of building permits, the Project applicant shall develop a TDM Plan for the proposed Project, including any anticipated phasing, and shall submit the TDM Plan to the City for review and approval. The plan would be available at that time for Solano County Public Works to review.

Comment A5-17 *Summary of Comment:* The commenter requests that the Project design avoid hazardous conditions related to driveway access, on-site circulation, and off-site transportation facility improvements and notes that if the Project proposes improvements that affect County-maintained roadways, the County will review site plans prior to issuance of building permits.

Response: The Project does not propose any improvements to County roadway rights-of-way. As shown in Exhibit 3-4 of the Draft EIR, the portions of frontage roads Cordelia Road and Pennsylvania Avenue within the existing City of Suisun City Sphere of will be annexed to the City of Suisun City. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR. No changes to the Draft EIR are required.

Comment A5-18 *Summary of Comment:* The commenter notes that the proposed Project could include design and operational features, including improved signage and markings, enhanced visibility, trimming vegetation that could obscure sightlines particularly at driveways and intersections, improved lighting to enhance visibility, traffic-calming measures, grade separation, and an emergency response plan.

Response: Roadway and circulation improvements would be designed in accordance with City standards, which have been developed to avoid introducing any traffic hazardous conditions. As discussed in Impact 4.12-2 (Draft EIR, pages 4.12-16 through 4.12-19), the Draft EIR acknowledges the potential for hazardous conditions and identifies proposed Mitigation Measure 4.12-2 to implement several improvements that would minimize hazardous conditions and successfully mitigate any potential impact of the proposed Project. Improvements include driveway access improvements, on-site circulation improvements, and off-site vehicle system improvements. When imposing mitigation, lead agencies must ensure there is a “nexus” and “rough proportionality” between the measure and the significant impacts of the Project. (CEQA Guidelines § 15126.4, subd. (a)(4)(A)–(B), citing *Nollan v. Ca. Coastal Commission* (1987) 483 U.S. 825, *Dolan v. City of Tigard* (1994) 512 U.S. 374.). Mitigation Measure 4.12-3 would mitigate the potential impact to a less-than-significant level and no additional mitigation is required to address impacts of the proposed Project. No changes to the Draft EIR are necessary.

Comment A5-19 *Summary of Comment:* The commenter references Impact 4.12-4, “Pedestrian and Bicycle Systems,” and recommends additional items be addressed or implemented to address the potential impact. Recommendations included the use of a “Complete Streets Design” approach for safety and accessibility; implementation of traffic calming measures such as speed bumps, roundabouts, and raised crosswalks to reduce vehicle speeds and improve safety for pedestrians and cyclists; enhancing crosswalks with clear markings, adequate lighting, and pedestrian-activated signals where necessary to improve safety at intersection crossings; intersection improvements; widening of sidewalks to accommodate increased pedestrian traffic comfortably, reducing the risks of conflicts with other modes of transportation; lighting and visibility improvements; public input and engagement; monitoring and evaluation.

Response: Impact 4.12-4 of the Draft EIR (page 4.12-27 to 4.12-28) evaluates the potential for the proposed Project to increase pedestrian and bicycle activity and the potential for the Project to be incompatible with existing transportation infrastructure for pedestrians and bicyclists. As such, Mitigation Measure 4.12-3 provides requirements for the Project to provide adequate pedestrian and bicycle facilities along Project Site frontages and on-site to improve the pedestrian and bicycle transportation conditions. Measures include continuous sidewalks of at least five feet and bicycle facilities of at least four feet at the Project Site frontages along both sides of Cordelia Road and Pennsylvania Avenue with even surface pavement, appropriate signage, delineation, and other features to improve the bicycle transportation conditions; high visibility crosswalks at the Pennsylvania and Cordelia Road/Cordelia Street intersection; adequate pedestrian-scale lighting along Project Site frontages and on-site; on-site markings or signage to notify drivers of pedestrians and bicyclists traveling between off-site pedestrian and bicycle facilities or on-site parking facilities and building access points; bicycle parking facilities near the site access points; and signs or physical barriers to prohibit bicyclists from crossing tracks. These measures

provide applicable improvements for the Project Site and frontages to ensure appropriate safety for pedestrians and cyclists accessing the Project Site or surrounding roadways, and are consistent with many of the suggested improvements identified by the commenter, as well as with the City of Suisun requirements and design standards.

To initiate the EIR process, the City issued a Notice of Preparation (NOP) consistent with CEQA Guidelines Section 15060(d) and 15082 on April 1, 2021, and reissued the NOP on May 14, 2021, revised for clarity and to provide additional information related to planned sewer service that was not known at the time of the initial NOP release. The City held a public scoping meeting for the Project on April 13, 2021, at a regular Planning Commission meeting. The release of the NOP initiated the scoping period, which went through June 14, 2021, 30 days after the release of the updated NOP. The NOP was submitted to the State Clearinghouse web portal of the Governor's Office of Planning and Research and was posted on the City's website for public review and to accept comments for a 30-day period through June 14, 2021. In response to the NOP, the City received comments on the scope and content of the EIR. Each topic of interest that relates to a potential adverse physical environmental impact of the proposed Project is addressed in the Draft EIR. The publication of the Draft EIR on August 31st and subsequent public review period provided opportunity for agency and other public review and input to the proposed Project improvements and mitigation measures, including that identified by the commenter. Furthermore, the Final EIR allows the public an opportunity for public review and input. In addition, with regard to the portion of the comment related to monitoring, in accordance with California Public Resources Code Section 21081.6, the Environmental Mitigation Monitoring and Reporting Plan (MMRP) prepared in conjunction with this Final EIR provides for the monitoring of mitigation measures, including Mitigation Measure 4.12-3, as set forth in this Final EIR. The intent of the MMRP is to ensure the effective implementation and enforcement of adopted mitigation measures, as suggested by the commenter.

2.2.6 Comment LETTER #A6:

SOLANO LAND USE LOCAL AGENCY FORMATION COMMISSION

Letter A6



Original via USPS, copy via email

October 16, 2023

Jim Bermudez, Senior Planner
City of Suisun City
701 Civic Center Boulevard
Suisun City CA 94585
jkearns@suisun.com

Subject: Highway 12 Logistics Center Project – Notice of Availability of a Draft Environmental Impact Report

Dear Mr. Bermudez:

Thank you for emailing the Solano Local Agency Formation Commission (LAFCO) the City of Suisun City's (City) Notice of Availability (NOA) of the Draft Environmental Impact Report (DEIR) for the Highway 12 Logistics Center Project (Project) located west of the City's existing city limit lines and partially within the City's Sphere of Influence (SOI).

LAFCO is a responsible agency per the California Environmental Quality Act (CEQA) and CEQA Guidelines (Article 7 15096(d)). As a responsible agency, LAFCO will rely on the City's EIR when considering the boundary changes required for the Project. To be legally adequate, the EIR must include environmental information and analysis needed by responsible agencies such as LAFCO.

The City's EIR will have to provide information relevant to LAFCO's annexation requirements. These requirements are set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) (Government Code Section 56668) and Solano LAFCO's policies, authorized under CKH. Including analyses of LAFCO's annexation requirements will facilitate LAFCO's review and process. Not including analyses of LAFCO's requirements may violate CEQA and will require additional information to be prepared at the LAFCO processing stage. This would likely increase the annexation processing time.

The Project will require LAFCO approval of a reorganization, including concurrent annexations to the City, Solano Irrigation District (SID), and Fairfield Suisun Sewer District (FSSD) and detachments from the Suisun Fire Protection District (SFPD) and the County Service Area. Given that LAFCO's approval is a critical component of the Project's entitlements, the EIR must reference LAFCO's actions in the Project Description, list LAFCO as "Other Public Agency Whose Approval is Required," and evaluate LAFCO's actions and various factors in the environmental document.

A6-1
A6-2
A6-3

Commissioners

Nancy Shopay, Chair • Ron Kott, Vice-Chair • John Vasquez • Mitch Mashburn • Steve Bird

Alternate Commissioners

Robert Guerrero • Alma Hernandez • Wanda Williams

Staff

Rich Seithel, Executive Officer • Christina Love, Deputy Executive Officer • Aaron Norman, Analyst II • Tova Guevara, Office Administrator/Clerk • Tyra Hays, Project Specialist • Mala Subramanian, Lead Legal Counsel

Our eleven comments below will focus on the most relevant factors, including the City's SOI, CKH Factors, and local policies:

Y
A6-3
Cont.

1. The City's SOI

A6-4

A Sphere of Influence is the "plan for the probable physical boundary and service area of a local government agency, as determined by the Commission" (Gov. Code Section 56076). The establishment of this boundary is necessary to determine which governmental agencies can provide services in the most efficient way to the people and property in any given area.

According to LAFCO's records, Suisun City's last updated the Comprehensive Municipal Service Review (MSR) in 2017 and subsequently adopted the current Sphere of Influence. LAFCO law (Govt. Code 56000 et.al) requires that MSR and SOI are reviewed and updated every five years. The MSR is a comprehensive review of the city as a whole and must rely on city master plans and capacity studies. The MSR is a LAFCO document and must be approved and adopted by LAFCO prior to or contemporaneously with any reorganization (annexation).

2. Pre-Application Consideration

A6-5

Prior to any reorganization application submittal, the City should consult with other affected agencies – such as Solano Irrigation District, Suisun Fire District, and Solano County. Consultation with these agencies will be necessary for agreements and actions related to a reorganization – specifically for detachments from the agencies.

Additionally, a comprehensive review and analysis of existing land inventory, development projects, and construction/development rate should be included to complete the findings necessary for approving a reorganization.

A6-6

3. Factors per Government Code (GC) Section 56668

A6-7

LAFCO is required to consider various factors when evaluating a proposal pursuant to GC Section 56668(a-q) (Attachment A). For the EIR to be relied on for the potential reorganization application, it should include discussions regarding all the government code factors that are required findings for approvals for reorganizations. While all factors are important, the following may be of particular interest:

- a) 56668(a): Land area and land use, topography, natural boundaries – Consultant and coordination with Solano County and the Suisun Resource Conservation District is necessary for analysis of this factor. LAFCO will rely on written confirmation from the two agencies for their agreement to impacts on the respective agencies. LAFCO suggests the City should consider limiting the entire project site to the planned annexation areas.
- b) 56668(b): The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services controls in the area and adjacent areas
- c) 56668(c): The effect of the proposed action and alternative actions on adjacent areas- As stated in this Section and others in CKH and the Commission's policies, LAFCO is

A6-8

A6-9

required to consider the effect of the proposed action on adjacent areas. This includes the impact from additional traffic on Highways 12 and 80. LAFCO staff strongly suggest the EIR include traffic impact analysis with emphasis on additional truck traffic impacts at project buildout. The City should also include cumulative traffic impact from buildout of this project in addition to the other known proposed projects.

Y
A6-9
Cont.

Other related traffic impacts that do not seem to be fully discussed is the requested General Plan Amendment to reduce Pennsylvania Ave. and Cordelia Rd. from a four-lane arterial to a two-lane arterial and how that change relates to regional traffic planning between Suisun City and the City of Fairfield. Because both roads traverse boundaries, regional impacts should be stated in the EIR.

A6-10

- d) 56668(e): The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.

A6-11

Section 4.9 – Land Use and Planning, Including Agricultural Resources, Population, and Housing should include mitigation measures to address the loss of prime agricultural lands in the project area should be included for any land that meets the definition of prime agricultural land as defined by Government Code Section 56064 including:

A6-12

- 1) Land that qualifies for a class I or class II rating in the USDA Natural Resources Conservation Service classification if irrigated or has potential to be irrigated.
- 2) Land with a Storie Index rating of between 80 and 100.
- 3) Land that supports livestock with a carrying capacity of one animal per acre.
- 4) Land planted with fruit or nut-bearing trees, vines, bushes or crops with a non-bearing period of less than 5 years with a return of at least \$400 per acre.
- 5) Land that has returned from the production of unprocessed agricultural plant products \$400 per acre for three of the last five years.

4. Local policies

A6-13

The Commission has adopted eleven Standards according to GC Section 56375(g) and other local policies. Any application for reorganization to LAFCO is required to include a detailed analysis of Solano LAFCO 11 Standards (Attachment B). Similar as above, if LAFCO is to rely on the EIR for the reorganization request, the EIR should include analysis of Solano LAFCO's Standards.

- a) Suisun Marsh Protection Plan/Suisun Marsh Preservation Act of 1977 (Preservation Act): The Preservation Act requires local governments and districts (such as LAFCO, Solano County, Suisun Resource Conservation District, the Cities of Fairfield and Suisun City, the San Francisco Bay Conservation and Development Commission and others) with jurisdiction over the Marsh to prepare a Local Protection Program (LPP) for the Marsh consistent with the provisions of the Preservation Act. As part of the EIR, the City should analyze and discuss the proposal's consistency with the City's and LAFCO's LPP. LAFCO's LPP includes the following provisions:
- i. Within the primary management areas, existing land uses will continue.

- ii. Within the upland grasslands/secondary management areas, agricultural uses are consistent with the projection of Marsh, such as grazing, and grain production should be maintained within this area.
- iii. The Commission's Policy urges cities to detach lands within their boundaries located within the Marsh where it is no longer possible to develop such lands for urban uses.
- iv. The Commission's Policy limits special assessments against agricultural and wildlife lands for the provision of public services.
- v. The Commission's Policy prohibits extending SOI's to the Marsh unless there is a need and lands within an agency's SOI shall be designated as permanent open space.
- vi. The Commission's Policy allows for urban utilities and municipal services into the Marsh only to serve existing uses and other uses consistent with the protection of the Marsh, such as agriculture.
- vii. In the Marsh, only existing uses or uses otherwise consistent with the Suisun Marsh Protection Plan should be allowed to use the treatment capacity of the Fairfield Sub-regional Wastewater Treatment Plant (Fairfield Suisun Sewer District).

A6-13
Cont.

5. Project Description

- a) Section 3.2.2 (p3-17) makes a mention of gaining access to the existing railroad spur for proposed on-site uses "where future tenants identify the need" however neither the site design nor the project EIR support such a connection. Specifically, Chapter 4.12 Transportation and Circulation, page 4.12-18, identifies a potentially significant hazard to site circulation created by the spur.

A6-14

Does the Railroad agree that there is "potential access" for the potential reorganization and future use? Have they weighed in on the "potential"? If this "potential" has no support or analysis, it should be removed from the Project Description.

A6-15

We appreciate the opportunity to comment on the City's Project DEIR. We hope you consider our comments to address LAFCO's annexation needs so that the EIR is more useful during the LAFCO decision-making process. Please contact LAFCO staff should you have any questions.

Sincerely,



Rich Seithel
Executive Officer
Solano LAFCO
(707) 439-3897
rseithel@solanolafco.com

Enclosed:

- Attachment A: CKH Factors (GC §56668)
- Attachment B: Solano LAFCO Standards

Attachment A
Government Code 56668: Factors for a Change of Organization

A6-16

Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following :

(a) Population and population density; land area and land use; assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; and the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) (1) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; and probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

(2) "Services," as used in this subdivision, refers to governmental services whether or not the services are services that would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) A regional transportation plan adopted pursuant to Section 65080.

(h) The proposal's consistency with city or county general and specific plans.

(i) The sphere of influence of any local agency that may be applicable to the proposal being reviewed.

(j) The comments of any affected local agency or other public agency.

(k) The ability of the newly formed or receiving entity to provide the services that are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.



(m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

(n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.

(o) Any information relating to existing land use designations.

(p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.

(q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

(Amended by Stats. 2019, Ch. 360, Sec. 2. (AB 1628) Effective January 1, 2020.)

A6-16
Cont.

Attachment B

A6-17

MANDATORY STANDARDS

**STANDARD NO. 1: CONSISTENCY WITH SPHERE OF INFLUENCE
(SOI) BOUNDARIES**

An area proposed for change of organization or reorganization shall be within the affected agency's Sphere of Influence. An application for change of organization or reorganization for lands outside an adopted Sphere of Influence may be considered concurrently with a request for amendment to the Sphere of Influence, at LAFCO's discretion.

Explanation and Discussion

A finding of consistency with adopted Sphere of Influence (SOI) boundaries becomes the first test in evaluating an annexation proposal. Section 56375.5 of the Government Code requires a determination by LAFCO regarding the proposal's consistency with the Spheres of Influence of the affected local agency. In most cases, location within or outside the boundary will determine whether the application should be approved.

The SOI concept provides a rational basis for a determination whether a given agency has the most appropriate interest in providing governmental services to territory in proximity to its boundaries. The SOI boundary is not necessarily intended by law to be coterminous with the area which a given agency may eventually annex and serve. Rather, it should refer to the area which most directly involves the interest of the agency as to future urbanization, the management of resources of concern to the agency, or land use proposals of an essentially non-urban character considered by the County.

LAFCO has adopted separate Guidelines for establishing and amending SOI's. Generally, LAFCO reviews and updates agency SOI's upon completion of city or county general plan updates or amendments separate from specific proposals for change of organization or reorganization. LAFCO retains the discretion as to whether SOI boundary amendments may be heard concurrently with change of organization or reorganization proposals. Minor amendments which have not resulted from general plan amendments may be heard concurrently. LAFCO staff shall advise the Commission at least 60 days in advance of request for such a concurrent hearing; at that time, LAFCO shall make a decision as to the appropriateness of a concurrent hearing.

Required Documentation

This Standard requires that the applicant shall demonstrate that the affected territory is within the Sphere of Influence of the affected agency. This is to be shown on the required mapping submittal in response to Standard No. 7. Sphere of Influence boundary information is available from the affected agency or LAFCO Staff.

STANDARD NO. 2: CHANGE OF ORGANIZATION AND REORGANIZATION TO THE LIMITS OF THE SPHERE OF INFLUENCE (SOI) BOUNDARIES

Annexation to the limits of the SOI boundary shall not be allowed if the proposal includes land designated for open space use by the affected city's general plan for city change of organization or reorganization or County General Plan for district change or organizations or reorganization unless such open space logically relates to existing or future needs of the agency. Open space uses which may be located within agency limits include but are not limited to community and city-wide parks, recreational facilities, permanently protected open space lands, reservoirs, and storm water detention basins.

Explanation and Discussion

The annexation of land by agencies out to their SOI boundaries may be justified under certain circumstances. However, the Sphere of Influence is not necessarily an entitlement to expand jurisdictional limits all the way to the SOI boundary.

In Solano County, cities in conjunction with the County and land trusts have taken on a more active role in permanently protecting open space buffers or green belts around their communities. LAFCO has recognized these efforts in designating "urban open space" lands as part of their SOI. These lands are not intended to be annexed to a city unless the city demonstrates how the open space area is to be protected and maintain by the city and/or other conservation agency as permanent open space or public use.

For the purposes of this Standard, open space is defined as open space per section 56059 of the Cortese-Knox-Hertzberg Act and/or improved recreation lands on adopted plans; it does not include common open space within subdivisions or vacant lands planned for urbanization.

Required Documentation

This Standard applies to any application for annexation that extends to the limits of the SOI boundary and contains lands designated for open space use under the applicable general plan. In such cases, the application shall include an analysis, justification, and/or appropriate mapping demonstration that the open-space lands relate to specific needs of the annexation agency or is an integral part of the project's design. This standard will generally not be applicable to district change or organization or reorganization unless it will result in the conversion or open space lands to urban use.

Proposals which contain lands designated as urban open space to be permanently protected must be accompanied by documentation demonstration how the lands will be permanently protected by the affected agency and/or other conservation agencies.

**STANDARD NO. 3: CONSISTENCY WITH APPROPRIATE CITY
GENERAL PLAN, SPECIFIC PLAN, AREA-WIDE
PLAN AND ZONING ORDINANCE**

A6-17
Cont.

An application for a city change of organization or reorganization which involves the conversion of open space lands to urban use shall be denied by LAFCO if the proposed conversion is not consistent with appropriate city plans (general plans, specific plans, area-wide plans and associated zoning ordinance). The determination of consistency shall be the responsibility of the affected agency, and shall be met by a resolution approved by the agency council certifying that the proposed change of organization or reorganization meets all applicable consistency requirements of State Law, including internal consistency between the agency's adopted plans and the zoning ordinance. In the event that plan consistency is contested, LAFCO shall retain the discretion to determine the consistency question and may require additional environmental information.

Required Documentation

This standard requires that the applicant submit copies of the resolution approved by the city council of an affected city which certifies that the proposed change of organization or reorganization is consistent with the agency's general plan or specific plans, area-wide plans and zoning ordinance.

STANDARD NO. 4: CONSISTENCY WITH THE COUNTY GENERAL PLAN OF PROPOSED CHANGE OF ORGANIZATION OR REORGANIZATION OUTSIDE OF A CITY'S SPHERE OF INFLUENCE BOUNDARY

A6-18

An application for a change of organization or reorganization for lands outside an adopted city Sphere of Influence boundary in unincorporated territory shall be denied by LAFCO if the land use proposed within the affected territory is not consistent with the Solano County General Plan and Zoning Ordinance. A determination of consistency shall be the responsibility of the County, and shall be met by a resolution of the Board of Supervisors certifying that the proposed change or organization or reorganization meets all applicable consistency requirements of State Law, including internal consistency between the County's General Plan and Zoning Ordinance. This Standard shall also be made to apply to proposals for the formation or the incorporation of new agencies within unincorporated territory which lies outside adopted city Sphere of Influence boundaries.

Explanation and Discussion

This Standard is necessary to eliminate potential conflict posed by an agency change of organization or reorganization which is inconsistent with the County General Plan and to provide assurance of General Plan and zoning consistency of proposals for expanding or creating new development areas outside adopted Sphere of Influences.

There no longer is a requirement in State Planning Law that agency and county general plan policies for areas within a city's Sphere of Influence be consistent. Where conflicts exist between an agency and the County, sound planning practices suggest that the agency and County resolve their differences so that the general public is not confused.

Required Documentation

This standard requires that for district changes of organization or reorganizations in unincorporated territory outside cities' Sphere of Influence, the applicant submit copies of the resolution approved by the Board of Supervisors which certifies that the proposed change of organization or reorganization is consistent with the Solano County General Plan and Zoning Regulations.

STANDARD NO. 5: REQUIREMENT FOR PRE-APPROVAL

A6-19

Prior to approval by LAFCO of a city change of organization or reorganization, the affected agency shall have approved, a specific plan, pre-zoning or an equivalent providing similar detail of information on the proposed land use for the affected territory and where the change of organization or reorganization process is clearly described. Prior to approval by LAFCO of a district change of organization or reorganization, the affected agency shall pass a resolution supporting the proposal.

Explanation and Discussion

Government Code Section 56375(a)(6) prohibits LAFCO from imposing "any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements." Section 56375(a) (7), however, does require rezoning as a method to determine future land use, and consequently, to gauge the change of organization or reorganization's impact on service delivery and conversion of open space lands and agency support for the proposal. LAFCO, however, may not specify how or in what manner territory shall be rezoned.

A District change of organization or reorganization does not require pre-zoning. Pre-approval of the proposal shall be demonstrated in a resolution supporting the change of organization or reorganization from the affected agency governing board or a letter of support from the chief administrative officer of the affected agency.

Required Documentation

This standard requires that an application for a city change of organization or reorganization shall be accompanied by copies of the agency's ordinance rezoning the affected territory or a copy of a specific plan or equivalent and resolution of adoption. Applications for district change of organization or reorganization shall be accompanied by a copy of agency's resolution supporting the proposal.

STANDARD NO. 6: EFFECT ON NATURAL RESOURCES

An application for annexation shall describe the amount of land involved, and the land, water, air, and biological resources affected, including topography, slope, geology, soils, natural drainages, vegetative cover, and plant and animal populations. Effects to be covered include those which will be both positive and negative and the means proposed to offset potential negative impact. LAFCO shall certify that provisions of the Solano LAFCO Environmental Guidelines for the Implementation of the California Environmental Quality Act have been complied with.

Explanation and Discussion

This Standard may already be reflected in studies provided as part of a city's adoption of a General Plan and is akin to the analysis of impacts and mitigation measures which ordinarily are revealed in an environmental assessment or environmental impact report.

The State of California Local Guidelines for Implementing the California Environmental Quality Act as currently amended has been adopted by Solano LAFCO Resolution and incorporated by reference as the Solano LAFCO Environmental Guidelines.

Required Documentation

This Standard requires that the applicant submit copies of the environmental documentation adopted or certified by the lead agency and copies of the resolution making the required environmental findings, adopting the Negative Declaration or Certifying the EIR, and making any Statement of Overriding Considerations.

DISCRETIONARY STANDARDS

A6-21

STANDARD NO. 7: ESTABLISHING PROPOSAL BOUNDARIES, MAP AND GEOGRAPHIC DESCRIPTION REQUIREMENTS, OTHER REQUIRED MAP EXHIBITS

Explanation and Discussion

This Standard sets forth guidelines for establishing the boundaries of proposals. The Legislature has delegated the authority to determine the boundary of any proposal to local LAFCOs. The purpose of this Standard is to assure planned, orderly, and efficient patterns of urban growth by when possible, avoid: annexing or detaching portions of parcels, avoid conditions that would make the annexation of adjacent parcels difficult at a later date, and avoid excluding parcels that are necessary to promote efficient patterns of urban growth. Inconsistencies with any of these requirements need to be thoroughly explained and justified.

ESTABLISHING PROPOSAL BOUNDARIES

City Proposals:

Solano LAFCO shall consider the following as factors favorable to approval of a city change of organization or reorganization:

- A. The proposal would not: create islands, irregular, or illogical configuration of city limits.
 - 1) Whether unincorporated territory is an "island," or "entire island," or "entire unincorporated island," or "part of a larger island," or "surrounded," or "substantially surrounded," or "irregular," or "illogical configuration" are determinations to be made by the Commission on a case by case basis, based on the evidence before it at the time those determinations are made.
 - 2) A small island of unincorporated territory that is connected to and an integral or essential part of a large unincorporated island is not an entire island and may not be annexed to a city without a protest proceeding under Government Code section 56375.3(a).
 - 3) A small island of unincorporated territory that is connected to, but not an integral or essential part of a large island, may be determined by the Commission to be an entire island or an entire unincorporated island under Government Code section 56375.3(b).
- B. Cities shall annex entire street sections whenever possible. "Half-width" streets where the city boundary is located on the centerline of the thoroughfare area are not permitted.
 - 1) When streets are used as a boundary for an annexation, the annexation proposal shall be designed to include a continuous section of roadway as far as possible and sufficient in length to provide single-agency jurisdiction for maintenance and law enforcement of the street.

- 2) When a proposal is adjacent to existing short segments of county road(s), annexation of said short segments will be required to provide single-agency jurisdiction for maintenance and law enforcement of the street.

C. Other favorable factors for city annexations:

- 1) The proposal is consistent with development approvals required under Standard No. 5.
- 2) The area will be urban within ten years consistent with the provisions under Standard No. 8.
- 3) The proposal area is adjacent to the city's boundary, within the city's sphere of influence, and adjacent to existing municipal services resulting in a logical extension of city growth.

District Proposals:

Solano LAFCO shall consider the following as factors favorable to approval of a district change of organization or reorganization:

- A. The proposal would not create irregular or illogical configuration of existing district(s) boundaries.
- B. The proposal considers the effect on adjacent incorporated and/or unincorporated communities of interest.
- C. The proposal considers and identifies the financial effects to the subject agency(ies).¹

MAP AND GEOGRAPHIC DESCRIPTION REQUIREMENTS:

LAFCO requires a sound boundary description that is acceptable to the Solano County Surveyor and the California State Board of Equalization. The map and geographic description of the proposal area shall meet the requirements set forth in Attachment A to Standard 7.

OTHER REQUIRED MAP EXHIBITS:

1. A map exhibit showing the relationship of the proposal area to an adjacent city and its sphere of influence.
2. A map exhibit showing the relationship of the proposal area to an adjacent affected special district(s) and their sphere of influence(s).
3. A map exhibit of nearby properties showing lands under Williamson Act contracts.

¹ An example is a proposed detachment from the Solano Irrigation District where the property involved is a party to the indebtedness of Monticello Dam and its irrigation facilities. In such an event, LAFCO shall impose detachment fees in accordance with a formula agreed upon with SID (or other district in a similar situation) to assure equity in meeting financial obligations of the district.

- 4. A map exhibit of the proposal area identifying soil types using the US Department of Agriculture symbols.

STANDARD 7 ATTACHMENT A

SOLANO LAFCO MAP & GEOGRAPHIC DESCRIPTION REQUIREMENTS

GENERAL: LAFCO requires a map and geographic description that is acceptable to the Solano County Surveyor and the California State Board of Equalization (BOE).

WHO CAN PREPARE: Maps and geographic descriptions may be prepared by any person or firm which holds a current and valid State of California license as a Registered Surveyor or Registered Civil Engineer (with a number 33965 or lower).

REVIEW REQUIREMENT: Map and geographic descriptions must be reviewed for form, content, and accuracy. Prior to preparation, please contact LAFCO if the engineer or surveyor has not previously prepared a map and geographic description for LAFCO. All map and geographic descriptions will have to be reviewed and the final must be stamped and signed by the County of Solano Surveyor.

GUIDELINES: All proposed city annexation boundaries should tie into existing city boundary. For district proposals, proposed boundaries should tie into an existing district boundary whenever possible. LAFCO staff can provide information on existing boundaries. The map and geographic description should be in agreement with each other and should independently convey the intended action(s).

COVER SHEET REQUIREMENTS:

- Title
 - "Exhibit A"
 - Project No. (as designated by LAFCO)
 - Project Name (as named by LAFCO)
 - Number of pages by exhibit identified.
- Wet signature and seal: The cover sheet, map, and geographic description must be signed and stamped by either a licensed surveyor or a registered civil engineer holding a license number 33965 or lower.
- Area for County Surveyor's signature, seal, and date.
- Area for LAFCO Executive Officer signature and date approved.
- Include the following statement: "This description and exhibit of the (insert name of project) boundary, it is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for sale of the land described. It is for assessment purposes only."

GEOGRAPHICAL DESCRIPTION REQUIREMENTS:

- Heading with "Exhibit A," project number, project name, number of pages.

- Include township and range, section number(s), or rancho(s).
- The point of beginning must reference a known major geographic position (for city annexations to an existing city boundary, for district proposals to an existing district when possible or to section corners or street centerline intersections when necessary)
- Do not write descriptions in one endless paragraph.
- Do not write descriptions in all capitals.
- Courses called from, along, and to the annexation boundary.
- State all courses required to close the traverse of the project area.
- Express specific parcel description in sectionalized land (e.g., "The SW ¼ of Section 22, T1N, R1W") or by metes and bounds. If by metes and bounds, all courses shall be numbered and listed individually in a consistent clockwise direction.
- For curves, list delta, arc length, chord, and radius, include radial bearings for all points of non-tangency. All elements required.
- Wet signature and seal

MAP REQUIREMENTS:

- Heading with "Exhibit A," project number, project name, number of pages.
- Property description (A portion of the ___¼ of Section___, T. ___N., R. ___E., M.D.M., and/or rancho, and optional: Lot, Tract, Map Name and Recorded Book, and Page)
- City, County, and State
- Month and Year
- No un-necessary data shown on map.
- All data on 8½"x11" Exhibit readable (½" border all around)
- Include a vicinity map and show the location of the project area in relationship to a larger geographic area that includes major streets and highways and other physical features.
- Include a scale and north arrow.
- Show and identify any portion of an existing district boundary in close proximity to the project area.
- Clearly show the point of beginning and it must match the geographic description.
- Line Type (New-solid and most predominant line, road/easements-dashed, others-broken) (all lines in black ink and cannot exceed 1.5 millimeter in width)
- Clearly show all existing streets, roads, and highways with their current names that are within and adjacent to the project area.
- Indicate each township and range, section lines and numbers, or ranchos that are in proximity of the project area.
- All dimensions needed to plot the boundaries must be given on the map of the project area. Each map shall have numbered courses matching the written geographic description. Index tables may be utilized.
- All parcels within the project area that touch the new boundary shall be clearly labeled with the assessor's parcel number. Interior parcels that do not touch the

- boundary need not be identified on the map.
- If more than one map sheet is needed, provide a key map giving the relationship of all sheets. Match lines between adjoining sheets must be used. The geography on adjoining sheets may overlap, the project boundaries must stop at the match lines.
 - Wet signature and seal

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A6-21
Cont.

STANDARD NO. 8: LIKELIHOOD OF SIGNIFICANT GROWTH AND AFFECT ON OTHER INCORPORATED OR UNINCORPORATED TERRITORY

A6-22

Prior to approving an annexation, LAFCO shall make a determination that the proposed conversion of open space lands to urban use is justified by probable urban growth within a 10 year-period of time. A determination on the likelihood of significant growth justifying the conversion shall be based on analysis of local and regional demand for the proposed use.

Explanation and Discussion

To satisfy this standard an applicant is to provide data that supports a determination of the likelihood of significant growth within a 10-year period of time, justifying the conversion of the affected open space lands as defined under the Cortese-Knox-Hertzberg Act as an urban use, and that such conversion will not be detrimental to the development of existing open space lands already within the affected agency's jurisdiction. This Standard in conjunction with the other standards is designed to discourage urban sprawl, to preserve agricultural land resources and to encourage orderly growth boundaries based upon local conditions and circumstances. Under this Standard, the applicant is required.

- a) To provide data supporting the proposed conversion of open space to urban use by analyzing appropriate factors of supply and demand, and the Municipal Service Review where applicable;
- b) To discuss all lands currently within the city's jurisdiction which are intended for, or committed to similar land uses and how the proposal relates to them.
- c) To submit data to explain how the annexation will not significantly inhibit the timely development of existing vacant land currently within the city limits or inhibit the city's ability to meet its infill goals.
- d) To submit data that supports a determination that the conversion of the land to urban use within a 10-year period of time.

In reviewing the demand analysis for a proposed use, the Commission recognizes that it is more difficult to make determinations on long term market absorption rates for multi-family residential, commercial, industrial and mix use (high density residential, commercial and industrial) land use projects than for residential land use projects.

Another basis for analyzing an annexation's compliance with this standard will be the proposal's relationship to the annexing agency's Municipal Service Review (MSR). LAFCO accepted MSRs are required prior to the consideration of annexations to agencies.

Compliance with the annexing agency's Municipal Service Review (MSR) will be based on an analysis of the proposal and its relation to the goals and policies of the agency's MSR including the growth strategy, projected growth and infill goals. LAFCO will consider its resolution of review and comment on the MSR in reviewing a proposal's consistency with the MSR.

Where large-scale and long-term projects are proposed through annexation, LAFCO may consider the likelihood of significant growth over a 10 – 20 year period of time if the project applicant and the city have entered into a development agreement. With respect to the purpose of Cortese-Knox Hertzberg, key provisions and a development agreement would include:

1. Phasing of development over a 10-20 year period in keeping with reasonable analysis of the market for new housing or other urban use consistent with policies of the General Plan.
2. Reasonable phasing to avoid premature conversion of prime agricultural lands to urban use, particularly those prime lands of greatest importance in Solano County as identified under Standard No. 9.
3. Reasonable phasing which will assure agency capability to provide urban services required without negative financial impact upon existing property owners and residents of the agency.

Finally, consideration will also be given to ABAG projections and to the preceding 10 years or more of building permit activity. Consideration will be given to the market conditions in analyzing past building permit activity.

It is on comparative analysis of the market study, the Municipal Service Review, ABAG projections and past building permit activity that a judgment as to the likelihood of significant growth with a ten-year period will be made.

Required Documentation

This standard requires for any applications for a change of organization or reorganization which will convert open space lands to urban use, each application shall include the following documentation.

1. For a change of organization or reorganization where 40 acres or more of commercial or industrial land use is proposed or where 100 acres or more of residential land use is proposed, a market study is required to document this analysis. Substantial inhabited annexations are excluded from the requirement for a market analysis. The market study should:
 - a) Clearly define the market area for the project. The level of detail provided in the market analysis shall be commensurate with the scale and complexity of the proposed development project.
 - b) Identify anticipated demand over the next ten years within the market area and document the assumptions in preparing the demand projections;
 - c) Identify the supply of land which can be put to the same use within the market area that is anticipated to be available within the next ten years; including existing vacant land currently within the city limits; and
 - d) Consistency of the proposal with the city's growth strategy and infill goals contained within the City's Municipal Service Review.
2. For a change of organization or reorganization where less than 40 acres of commercial or industrial land use is proposed or where less than 100 acres of

residential land use is proposed, the proponent shall provide an analysis of likelihood of significant growth based on available information in responding to this standard.

A6-22
Cont.

3. An analysis of consistency of the proposed project with the city's Municipal Service Review.
4. Documentation of the city's building permit activity over the past 10 years.
5. A copy of the development agreement (if applicable).

STANDARD NO. 9: PROTECTION OF PRIME AGRICULTURAL LAND

A6-23

Urban growth shall be guided away from prime agricultural land unless such action would not promote planned, orderly, and efficient development for the agency. Development of existing vacant or non-prime agricultural lands within the agency limits should be encouraged before any proposal is approved for urbanization outside of the agency limits.

Explanation and Discussion

This Standard goes to the heart of the major objective of Cortese-Knox Hertzberg. To make the first sentence of the Standard operative, there has to be a finding as to what "planned, orderly, and effective development" means for each agency.

The second part of the Standard is permissive, in that it encourages rather than mandates the development of vacant or nonprime land already within the agency limits before pushing outward into unincorporated territory.

Maintaining the Integrity of Agricultural Lands

Maintaining the integrity of agricultural lands can only be construed as furthering the purpose of Cortese-Knox Hertzberg to avoid the premature conversion of commercial agricultural lands to urban purposes. LAFCO must evaluate the potential effect of a proposed annexation on neighboring lands in commercial agricultural use to avoid premature pressure for the conversion of such lands to urban use.

Lands included within agricultural preserves under the Williamson Act are to be protected except where land is proposed by the General Plan for eventual urbanization and where the owner had already filed a notice of non-renewal, or where an agency officially protested inclusion of the land under the Williamson Act. In the former situation, the filing of a notice of non-renewal by a landowner starts a ten-year period until the removal is completed, unless findings for cancellation of an agricultural preserve contract are made and penalty tax payments and other requirements for contract cancellation are met. In cases where cancellation of a contract will be required, evidence supporting the cancellation shall be provided to demonstrate that the findings can reasonably be made. In cases where lands were protested for inclusion in an agricultural preserve by an agency, the agency may choose not to succeed to the contract, in which case the agricultural preserve contract will terminate upon annexation.

Encouraging Infill Development

This Cortese-Knox Hertzberg policy calls for "infill" on vacant lands within municipal boundaries before extending further out into agricultural areas. A reasoned assessment of this policy is needed when one or more of the following conditions exist.

1. Where owners of infill property are not willing to sell at a fair market rate.
2. Where too many recorded lots for single-family housing exists in relation to realistic market demands for all housing types.

3. Where available property is too small in an area to accommodate long-term building objectives of the developer.
4. Where surrounding land use may be incompatible.
5. Where surrounding older housing reflects a deteriorating environment.
6. Where established single-family areas object to higher densities often necessary to justify infill investment.

An absolute requirement for infill could have a negative impact through increases in land value and, in effect can retard growth. Conversely, where adequate lands exist to meet reasonable demands of the housing market for the range of housing types required, infill can be achieved.

Evaluation Criteria

In reviewing and evaluating proposals under this Standard, LAFCO will consider the following five criteria:

1. An annexation may be considered to guide development away from prime agricultural land or other productive lands if one of the following two conditions exists.
 - a. It does not contain prime agricultural land as defined under the Cortese-Knox Hertzberg (Government code Section 56064). In determining whether or to what extent land is prime or productive a hierarchy of land classification shall be used based on the following criteria in descending order of importance.
 - 1) Land that qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
 - 2) Land that qualifies for rating 80 through 100 in the Storie Index Rating.
 - 3) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
 - 4) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous given calendar years.
 - 5) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing

Lands, July 1967, developed pursuant to Public Law 46, December 1935.

A6-23
Cont.

Lands which are defined under 1 and 2 above are considered prime agricultural lands and have the greatest importance within Solano County. In reviewing lands identified as prime agriculture, consideration will be given to the economic viability of the property and whether the land can be economically and productively farmed.

- b. The area is wholly or largely surrounded by urban development.
2. If an annexation includes prime agricultural land, the annexation is considered to promote the planned orderly and efficient development of an area if:
 - a. The proposed annexation meets the requirements of Standard No. 8; and
 - b. The proposed annexation either abuts a developed portion of the agency or abuts properties which already are committed to urban development by the extension of streets and other public facilities where service extensions were predicted on adjacent lands within the proposed annexation area being developed to assist in meeting bond obligations or other financial instruments against the property; and
 - c. It can be demonstrated that there are insufficient vacant non-prime lands within the Sphere of Influence planned for the same general purpose because of one or more of the following.
 - (1) Where land is unavailable at a reasonable market rate as determined by competent market analysis.
 - (2) Where insufficient land is currently available for the type of land used proposed, as determined by competent market analysis.
 - (3) Where surrounding land use clearly is incompatible because of the age and condition of structures or mixture of land uses.
 3. Notwithstanding the factors listed above, it is the responsibility of an agency to undertake substantial actions to facilitate and encourage the infill of land within a city's limit so to minimize the need for further annexation. Such actions include, but are not limited to, the following:
 - a. Redevelopment plans and action programs.
 - b. Capital improvement programs.
 - c. Changes in land use policies and regulations.
 - d. Housing programs, including rehabilitations.
 4. Consistency with the city's Municipal Service Review and provisions for guiding future growth away from prime agricultural lands.

5. Annexation shall be prohibited on land under an agricultural preserve contract unless an agency protested the establishment of the contract and the protest was upheld by LAFCO, and/or unless a notice of non-renewal has been filed; evidence that findings supporting cancellation have been made; and the adverse effects of the annexation on the economic integrity of lands in adjoining preserves are can be reasonably mitigated.

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Cont.

Required Documentation

This Standard requires that any application for a change of organization or reorganization containing open-space lands to be converted to an urban use shall provide the following documentation on its impact to prime agricultural land.

1. Documentation as to whether the affected territory contains prime agricultural land as defined under Government Code Section 56064 (evaluation criteria No. 1 above) and/or whether the affected territory is under an agricultural preserve contract.
2. If the affected territory contains prime agricultural land, provide demonstrate compliance with evaluation criteria 2, 3, and 4 above.
3. If the affected territory contains lands under agricultural preserve contract, provide documentation in compliance with evaluation criteria 5 above including a copy of the notice of non-renewal.

STANDARD NO. 10: PROVISION AND COST OF COMMUNITY SERVICES

A6-24

Adequate urban services shall be available to areas proposed for a change of organization or reorganization

Explanation and Discussion

This standard requires that the applicant obtain verifications from the affected agency(ies) that the full range of services required to serve the affected territory can be provided. For city annexations that propose to convert open space lands to urban uses, the proposal shall be consistent with the city's Municipal Service Review.

A "will serve" letter from the manager/director of the affected agency is required for all changes of organization and reorganizations initiated by petition by registered voters or landowners. Where more than one agency is to provide services, a "will serve" letter, the manager/director of the agency shall provide LAFCO with a statement explaining why the agency is unable to do so.

Where open space lands are proposed to be converted to uses other than open space, LAFCO may "initiate and make studies of existing government agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities. In conducting those studies, the commission may ask for land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, and regional agencies and state agencies and departments" (56378)

The Municipal Service Review and if applicable, "will serve" letters(s) are intended to resolve any potential service problems related to an application prior to its submittal to LAFCO. LAFCO will consider both the Municipal Service Review, environmental documentation, other studies (as previously noted), and "will serve" letters(s) (if applicable) in reviewing this standard.

Required Documentation

For proposals initiated by petition, this standard requires that an application of a change of organization or reorganization shall be accompanied by a "will serve" letter or a statement from the affected agency(ies) as follows:

1. If a district change of organization or reorganization, a "will serve" letter from the affected district's director.
2. If a city change of organization or reorganization, a "will serve" letter from the city manager of the affected city and a "will serve" letter from the director of each special district providing services to the affected territory. (i.e. water agencies, sewer districts, recreation district).
3. If a city change of organization or reorganization that includes conversion of open space land to uses other than open space, LAFCO may "initiate and make studies of existing government agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities. In conducting those studies, the commission may ask for land

use information, studies, and plans of cities, counties, districts, including school districts, community college districts, and regional agencies and state agencies and departments” (56378)

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4. When an agency will not issue a “will serve” letter, the agency manager/director shall provide a statement explaining why it is unable to do so.

STANDARD NO. 11: THE AFFECT OF THE PROPOSED ACTION ON ADJACENT AREAS, MUTUAL SOCIAL AND ECONOMIC INTERESTS, AND ON LOCAL GOVERNMENTAL STRUCTURE

A6-25

The application shall describe the effect which the annexation could have on adjacent areas and outside the agency. It shall also describe any social and economic benefits, or detriments, which will accrue to the agency and other affected agencies. The proposal should not be motivated by inter city rivalry, land speculation, or other motivates not in the public interest, and should create no significant negative social or economic effects on the County or neighboring agencies.

Explanation and Discussion

This Standard responds to the Cortese-Knox-Hertzberg factor listed under Section 56668(c). As worded in the law, the factor is somewhat vague and tends to overlap with the purpose of several other Standards, including those pertaining to the protection of agricultural land, meeting needs of the housing market, orderly growth, and the provision of urban services. Consequently, meeting this Standard requires placing in perspective the overall beneficial consequences of a proposal as compared to potential negative impacts, through qualitative analysis.

Examples of mutual social and economic benefits include achieving a balanced housing supply within the community, the provision of commercial areas where existing commercial development does not meet the needs residents, the creation of new employment opportunities to meet the needs of the unemployed or under-employed, protecting sensitive resources, advancing the time when public improvements needed by the larger community may be provided, improvement of levels of service within the community without incurring additional costs or harming other public service providers and protection of communities of regional/national economic and social importance, such as Travis Air Force Base, through the utilization of permanent open space and reserve areas.

These types of benefits may, in a given case, argue for a project as off-setting negative consequences or negative determinations identified in responding to other Discretionary Standards. The written response to this standard provides the opportunity to make a case for a proposal which, based on other standards, might appear to be questionable.

Potential negative impacts upon the County and neighboring agencies will also be considered. Examples include proposals that negatively impact Special District budgets or service provision or proposals that demand Special District services without the provision of adequate funding, threaten major employers, alter current/future military missions or otherwise cause hardship to communities of regional/national economic and social importance.

Required Documentation

In cases where Special Districts might be harmed, either though detachment or annexation, the applicant should work with the Executive Director to identify the affected agencies and work with those agencies to identify and mitigate the impacts. *LAFCO will not normally approve detachments from special districts or annexations that fail to provide for adequate mitigation of the adverse impacts on the district. Where the adverse impact is fiscal,*

adequate mitigation will normally include a permanent, funding source for lost revenues or increased costs to the affected Special District. Where potential impacts on other agencies have been identified, the application may be deemed incomplete or the LAFCo hearing continued, until the applicant has met with the affected agencies and made a good faith effort to reach agreement with those agencies on appropriate mitigation.

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Cont.

This standard requires that an application for a change of organization or reorganization show the inter-relationship and effect of the proposed project on adjacent areas, both within and outside the boundaries of the affected agency, and to weigh the overall beneficial aspects of a proposal as compared to the potential negative impacts. The application shall provide a written response to this standard and all supporting documentation regarding mitigation.

LAFCO Action

If the applicant and the affected agencies have reached agreement on *permanent, annual* mitigation for the impacts to affected agencies, LAFCo will normally include the mitigation measures in its terms and conditions approving the change of organization. If the parties have failed to reach agreement, LAFCo shall hear from both sides and determine an appropriate mitigation, if any, and impose that mitigation to the extent it is within its powers. If the needed mitigation is not within LAFCo's authority and approval would, in the determination of the Commission, seriously impair the District's operation, the Commission may choose to deny the application.

SECTION V. MUNICIPAL SERVICE REVIEW

A6-26

I. PURPOSE

To provide guidance to Solano LAFCO and agencies within its purview in preparing and conducting municipal service reviews (MSR).

II. BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) requires LAFCO to review municipal services. The service review provides LAFCO and agencies within its purview with a tool to comprehensively study existing and future public service conditions and to evaluate organizational options for accommodating growth, preventing urban sprawl while supporting California's anticipated growth, and ensuring that critical services are efficiently and cost-effectively provided. CKH requires all LAFCOs to conduct the MSR prior to updating the spheres of influence (SOI) of the various cities and special districts in the County (Government Code Section 56430). CKH requires an MSR and SOI update every 5 years.

III. FUNCTION OF MUNICIPAL SERVICE REVIEW

Government Code Section 56430 requires LAFCO to conduct MSRs and prepare a written statement of determination with respect to each of the following:

1. **Growth and Population Projections for the Affected Area.** This section reviews projected growth within the existing service boundaries of the city or district and analyzes the city's or district's plans to accommodate future growth.
2. **The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.** A disadvantaged community is defined as one with a median household income of 80 percent or less of the statewide median income.
3. **Present and Planned Capacity of Public Facilities and Adequacy of Public Services Including Infrastructure Needs or Deficiencies.** This section discusses the services provided including the quality and the ability of the city or district to provide those services, and it will include a discussion of capital improvement projects currently underway and projects planned for the future where applicable.
4. **Financial Ability of Agencies to Provide Services.** This section reviews the city's or district's fiscal data and rate structure to determine viability and ability to meet service demands. It also addresses funding for capital improvement projects.
5. **Status of and Opportunities for Shared Facilities.** This section examines efficiencies in service delivery that could include sharing facilities with other agencies to reduce costs by avoiding duplication.
6. **Accountability for Community Service Needs, including Government Structure and Operational Efficiencies.** This section examines the city's or district's current

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government structure, and considers the overall managerial practices. It also examines how well the city or district makes its processes transparent to the public and invites and encourages public participation.

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Cont.

7. Matters Related to Effective or Efficient Service Delivery Required by Commission Policy. This section includes a discussion of any Solano LAFCO policies that may affect the ability of a city or district to provide efficient services.

The MSR process does not require LAFCO to initiate changes of organization based on service reviews; it only requires that LAFCO make determinations regarding the provision of public services per the provisions of Government Code Section 56430. However, LAFCO, local agencies, and the public may subsequently use the determinations to pursue changes to services, local jurisdictions, or spheres of influence. Service Reviews are intended to provide a broad analysis of service provision.

IV. WHEN PREPARED

LAFCO will determine when municipal service reviews are necessary. Generally, reviews will be prepared prior to SOI studies or updates. Service reviews may also be conducted independent of the SOI update based on a number of factors, including but not limited to, concerns of affected agencies, the public or LAFCO; public demand for a service review; public health, safety, or welfare issues; service provision issues associated with areas of growth and/or development.

Minor amendments to SOI, as determined by LAFCO, will not require a municipal service review. An amendment to the SOI of any agency may be processed and acted upon by the Commission if all of the following are met:

- The requested amendment, considered along with all other amendments approved in the last 12 months for the agency in aggregate, are less than 40 acres.
- There are no objections from other agencies that are authorized to provide the services the subject agency provides and whose SOI underlies or is adjacent to the subject territory.
- The Commission finds that the proposed amendment would not significantly interfere with the development of the updated SOI of the agency.

VI. LAFCO REVIEW OF MSR PROCESS

It is LAFCO's policy that cities prepare their MSR absent determinations. Upon review of the data LAFCO may request additional information and will add the determinations.

The MSR should be produced in the following format. A sample Table of Contents is shown below along with the sections that LAFCO will complete.

Table of Contents

Acronyms and Abbreviations

1: Introduction- (Provided by LAFCO)

 1.1 – Role and Responsibility of LAFCO

 1.2 – Purpose of the Municipal Service Review

 1.3 – Uses of the Municipal Service Review

 1.4 – Sphere of Influence

 1.5 – California Environmental Quality Act (CEQA)

2: Executive Summary.....

 2.1 – The Municipal Service Review (Provided by LAFCO)

 2.2 – City Profile

 2.3 – Growth and Population Projections

 2.4 – Disadvantaged Unincorporated Communities.....

 2.5 – Present and Planned Capacity of Public Facilities

 2.6 – Financial Ability to Provide Services

 2.7 – Status and Opportunities for Shared Facilities

 2.8 – Government Structure and Accountability

 2.9 – LAFCO Policies Affecting Service Delivery

3: City Profile.....

4: Growth and Population Projections

5: Disadvantaged Unincorporated Communities

6: Present and Planned Capacity of Public Facilities

 6.1 – Airport (If appropriate).....

 6.2 – Animal Control.....

 6.3 – Fire

 6.4 – Law Enforcement

 6.5 – Parks and Recreation

 6.6 – Public Works.....

 6.7 – Solid Waste.....

 6.8 – Stormwater

 6.9 – Wastewater

 6.10 – Water.....

7: Financial Ability to Provide Services

 7.1 – General Fund.....

 7.2 – Enterprise Funds

 7.3 – Capital Improvements.....

8: Status and Opportunities for Shared Facilities.....

 8.1 – Shared Facilities and Regional Cooperation

 8.2 – Management Efficiencies

9: Government Structure and Accountability

10: LAFCO Policies Affecting Service Delivery

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A6-26
Cont.

11: Summary of Determinations - (Provided by LAFCO).....

- Growth and Population Projections.....
- Disadvantaged Unincorporated Communities
- Present and Planned Capacity of Public Facilities
- Financial Ability to Provide Services
- Status and Opportunities for Shared Facilities
- Government Structure and Accountability
- LAFCO Policies Affecting Service Delivery

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A6-26
Cont.

12: References

SECTION VI. ESSENTIAL REQUIREMENTS OF THE CORTESE-KNOX-HERTZBERG ACT THE LEGISLATURE'S POLICY AND INTENT FOR LAFCO

A6-27

The State Legislature has set forth specific policy direction to LAFCO in carrying out its duties and responsibilities under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Specifically LAFCO is directed to:

- 1) *"Encourage orderly growth and developmentlogical formation and determination of local agency boundaries" (Gov. Code Section 56001)*
- 2) *Encourage and provide for "Planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands" (Section 56300).*
- 3) *"Discouragement of urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances" (Section 56301.)*

In reviewing and approving or disapproving proposals, the legislature has established two priorities for LAFCO (Section 56377):

- 1) *"Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area."*
2. *"Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency shall be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency."*

These policies and priorities are fundamental in their impact on LAFCO's decision process. They give critical dimension to the manner in which individual standards are applied to the factors prescribed by the Cortese-Knox Hertzberg Act.

In addition to the basic policies and priorities discussed above, the Cortese-Knox Hertzberg Act has identified the following factors to be considered in the review of a proposal under Section 56668:

- (a) Population and population density; land area and land use; assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

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- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.
- “Services,” as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
 - (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
 - (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
 - (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
 - (g) A regional transportation plan adopted pursuant to Section 65080.
 - (h) The proposal's consistency with city or county general and specific plans.
 - (i) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
 - (j) The comments of any affected local agency or other public agency.
 - (k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
 - (l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.
 - (m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
 - (n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.
 - (o) Any information relating to existing land use designations.
 - (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

(q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

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A6-27
Cont.

RESPONSE TO COMMENT LETTER #A6

Comment A6-1 *Summary of Comment:* The comment notes that, as a responsible agency, LAFCO will rely on the City's EIR when considering the boundary changes required for the Project. The comment further states that, "To be legally adequate, the EIR must include environmental information and analysis needed by responsible agencies such as LAFCO."

Response: The City appreciates the commenter's review of the Draft EIR. To the extent that LAFCO actions involve any direct or reasonably foreseeable indirect adverse physical environmental effect attributable to the Project, this information is comprehensively detailed in the Draft EIR. The City has tailored the Draft EIR not only to support the City's review and decision making on the proposed Project, but also that of all responsible agencies, including LAFCO. The Draft EIR examines all construction-related and long-term direct and reasonably foreseeable indirect effects associated with development within the area proposed for annexation to the City, along with the physical effects attributable to both on- and off-site infrastructure improvements – both those within the area proposed for annexation and outside of the area proposed for annexation. The analysis presented throughout the Draft EIR is framed by the Project Description (Chapter 3 of the Draft EIR), which details the proposed Project, including annexation (Draft EIR, pages 3-1, 3-6, 3-7, 3-16, 3-22, and 3-24). In addition, this Final EIR Response to Comments chapter provides additional information outside of the realm of environmental impact analysis required under CEQA, but related to LAFCO legislation, standards, policies, and procedures.

Comment A6-2 *Summary of Comment:* The comment requests the City's EIR to provide information relevant to LAFCO's annexation requirements as set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56668) and Solano LAFCO's policies. The comment notes that including analyses of LAFCO's annexation requirements will facilitate LAFCO's review and process, and not including analyses of LAFCO's requirements "may violate CEQA" and will require additional information to be prepared at the LAFCO processing stage.

Response: The City appreciates the commenter's review of the Draft EIR. The Draft EIR presents analysis of all direct and reasonably foreseeable indirect adverse physical environmental effects attributable to the Project, including those effects that are related to annexation. LAFCO requirements that are relevant to the proposed Project are summarized on pages 4.9-5, 4.9-7 and 4.9-8 of the Draft EIR. Additionally, the City has included information beyond environmental analysis required under CEQA in response to the commenter's request. Please see the Response to Comment A6-1 and the Responses to Comments A6-3 through A6-27.

Comment A6-3 *Summary of Comment:* The comment notes that the Project will require LAFCO approval of a reorganization, including concurrent annexations to the City, Solano Irrigation District (SID), and Fairfield Suisun Sewer District (FSSD) and detachments from the Suisun Fire Protection District (SFPD) and the County Service Area. The comment states that since LAFCO's approval is a critical component of the Project's entitlements, "the EIR must reference LAFCO's actions in the Project Description, list LAFCO as an 'Other Public Agency Whose Approval is Required,' and evaluate LAFCO's actions and various factors in the environmental document.

Response: The City appreciates the commenter’s identification of the service boundary related actions required to implement the proposed Project. LAFCO is identified as a responsible agency in Chapter 3 of the Draft EIR, “Project Description,” as requested by the commenter (Draft EIR, page 3-24). The Project Description also identifies the need for annexation into Fairfield-Suisun Sewer District and Solano Irrigation District (SID), and detachments from the Suisun Fire Protection District (SFPD) and the County Service Area (Draft EIR, page 3-24). The Project Description also identifies all physical infrastructure improvements required to serve the proposed development, and the Draft EIR comprehensively reports on all direct and reasonably foreseeable indirect adverse physical environmental effects associated with public infrastructure changes, in addition to construction and operation of the proposed development. Please see also the Response to Comment A6-1.

Comment A6-4 *Summary of Comment:* The comment explains that a Comprehensive Municipal Service Review (MSR) and Sphere of Influence (SOI) Review is required every 5 years, notes that the City’s last MSR and SOI amendment were updated and adopted in 2017, and notes that the MSR is a LAFCO document and must be approved and adopted by LAFCO prior to or contemporaneously with any reorganization (annexation).

Response: The City understands the requirement cited in this comment for a Municipal Service Review, and the City will coordinate this requirement with LAFCO. The City understands the need for LAFCO to approve and adopt a Municipal Service Review prior to or in parallel with consideration of annexation.

Comment A6-5 *Summary of Comment:* The comment suggests that prior to any reorganization application submittal, the City should consult with other affected agencies such as Solano Irrigation District, Suisun Fire District, and Solano County for agreements and actions related to a reorganization; specifically for detachments from the agencies.

Response: The City has been coordinating with other affected agencies as a part of the review, analysis, and reporting on the proposed Project, and will consult with the affected agencies cited by the commenter in relation to the proposed reorganization. In addition, and as noted in the Response to Comment A6-4, the City understands the requirement cited in this comment for a Municipal Service Review, and this analysis and documentation will also require consultation with relevant service agencies.

Comment A6-6 *Summary of Comment:* The comment requests inclusion in the pre-application package of a comprehensive review and analysis of existing land inventory, development projects, and construction/development rate to complete the findings necessary for approving a reorganization.

Response: The City understands the need for additional analysis beyond that which is needed for CEQA review to support LAFCO’s consideration and action relative to the proposed Project, including the commenter’s request for comprehensive review and analysis of the existing land inventory, development projects, and construction/development rate to support LAFCO’s findings. As discussed in Chapter 6 of the Draft EIR, the City examined the potential for an off-site

alternative. However, in part because there is a lack of available properties of a suitable size and location in Suisun City and elsewhere in Solano and Napa counties, the City did not examine an off-site alternative in detail in the Draft EIR. The lack of land inventory for the proposed uses is reflected in a very low vacancy rate for this sector – within Solano and Napa counties, for example, the vacancy rate is less than one percent – the lowest ever recorded by a prominent real estate firm that tracks real estate trends (Colliers Northern California 2023). The City had approximately 104 acres of vacant land with commercial designations with approximately 6 acres of vacant land with an industrial designation during the time of the City’s last General Plan update (City of Suisun City 2010). Between 2010 and 2023, in Solano County, the vacancy rate for industrial building space fell from 13 percent to 3 percent and from 12 percent to 5 percent within Suisun City during the same time period (CoStar 2023). Plan Bay Area 2050 identifies areas north of Cordelia Road and the railroad line operated by the California Northern Railroad within the Project Site as a Priority Production Area (PPA) (ABAG/MTC 2022). PPAs are places for job growth in middle-wage industries like manufacturing, logistics or other trades. Economic Strategies in Plan Bay Area include: “EC6. Retain and invest in key industrial lands. Implement local land use policies to protect key industrial lands, identified as Priority Production Areas, while funding key infrastructure improvements in these areas” (ABAG/MTC 2021).

Comment A6-7 *Summary of Comment:* The comment states that LAFCO is required to consider various factors when evaluating a proposal per California Government Code Section 56668(a–q) (Attachment A to the comment letter). The comment further states that in order for the EIR to be relied on by LAFCO for the potential reorganization application, it should include discussions regarding all the government code factors that are required findings for approvals for reorganizations, several of which are called out in the comment letter.

Response: As mentioned in Response to Comments A6-1 and A6-2, to the extent that LAFCO actions involve any direct or reasonably foreseeable indirect adverse physical environmental effect attributable to the Project, this information is comprehensively detailed in the Draft EIR. The Draft EIR examines all construction-related and long-term direct and reasonably foreseeable indirect effects associated with development within the area proposed for annexation to the City, along with the physical effects attributable to both on- and off-site infrastructure improvements – both those within the area proposed for annexation and outside of the area proposed for annexation. The City also understands that additional analysis and reporting beyond that needed to report on adverse environmental effects of the proposed Project will be required to support LAFCO’s review and action on the proposed Project.

The comment further states that California Government Code Section 56668(a) requires an analysis of land area and land use, topography, and natural boundaries, and therefore LAFCO states that consultation and coordination with Solano County and the Suisun Resource Conservation District is necessary. The comment further states that LAFCO will rely on written confirmation from the two agencies for their agreement to impacts on the respective agencies, and suggests the City should consider limiting the entire Project Site to the planned annexation areas.

Response: The City appreciates this comment. The Draft EIR includes a comprehensive analysis of all potential environmental effects associated with the proposed Project, including those related to land use, topography, and natural boundaries (such as drainage sheds). The City has received comments on the Draft EIR from the Suisun Resource Conservation District and also included direction from the Suisun Resource Conservation District from responses to the City's Notice of Preparation in the Draft EIR. Please see also the Response to Comments on Comment Letter A7. The City has also coordinated with and has received comments from Solano County. Please see the Responses to Comments letters A4 and A5. Regarding the commenter's suggestion that the City should consider limiting the entire Project Site to the planned annexation area, as described in Chapter 3 of the Draft EIR, the Project proposes activities within the areas planned for annexation, as well as portions of the Project Site that are not planned for annexation. As detailed in Chapter 3 of the Draft EIR, outside the area planned for annexation, the proposed land use is limited to Managed Open Space for the 331.7-acre portion of the Project Site south of Cordelia Road and Cordelia Street including biological improvements to what is identified in the Project Description as the Managed Open Space area (e.g., creation of new wetlands) within the context of a Mitigation and Monitoring Plan that will provide compensation for impacts to sensitive habitats and special status species (Draft EIR, pages 3-14 through 3-16).

Comment A6-8 *Summary of Comment:* The comment states that California Government Code Section 56668(b) requires LAFCO to analyze the need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion; and of alternative courses of action on the cost and adequacy of services controls in the area and adjacent areas.

Response: Please see the Response to Comment A6-7. The City understands the need for additional analysis related to community services, cost of services, future demand for public services, and matters related to governance to support LAFCO consideration and action on the proposed Project. As noted throughout the Draft EIR and this Response to Comments document, the Draft EIR comprehensively evaluates construction and operational effects associated with the proposed uses, as well as all of the public services and infrastructure required to serve the proposed uses, including the fact that annexation would be required for implementation of the proposed Project (Draft EIR, pages 3-16 through 3-22, 4.11-4 through 4.11-8, and 4.13-8 through 4.13-14). Regarding alternative courses of action, as with the proposed Project, the Draft EIR identifies impacts of a range of alternatives and presents a comprehensive evaluation of the direct and reasonably foreseeable indirect effects of implementing those alternatives (Draft EIR, pages 6-16 through 6-86).

Comment A6-9 *Summary of Comment:* The comment states that California Government Code Section 56668(c) requires an analysis of the effect of the proposed action and alternative actions on adjacent areas, and that as stated in Section 56668(c) and the Cortese-Knox-Hertzberg Act and the Commission's policies, LAFCO is required to consider the effect of the proposed action on adjacent areas which includes the impact from additional traffic on Highways 12 and 80. Therefore, LAFCO suggests the EIR include a traffic impact analysis with emphasis on

additional truck traffic impacts at Project buildout, and a cumulative traffic impact analysis from buildout of this Project in addition to the other known proposed projects.

Response: Please see the Responses to Comments A6-1 through A6-8. The Draft EIR evaluates impacts wherever they materialize – for air quality, for example, the Draft EIR presents an analysis of criteria air pollutant emissions associated with the proposed Project that is framed by regional air quality attainment planning at the air basin level. The health risk assessment prepared to support the City’s EIR examines potential impacts to existing sensitive receptors within 1,000 feet of the proposed Project Site and Project-related traffic (Draft EIR, Appendix B, page 15 of 726). Noise impacts are analyzed on- and off-site in areas where noise would be perceptible above existing ambient conditions. In summary, the Draft EIR, consistent with this comment, analyzes impacts on adjacent areas. Regarding the comment impacts related to increased traffic, including truck traffic, the Draft EIR includes a comprehensive analysis thereof – both with respect to potential environmental effect (air quality, greenhouse gas emissions, and transportation noise related to increased trips), as well as information on traffic congestion (please see Appendix C to this Final EIR). Where congestion could lead to an adverse physical environmental impact, such as vehicles backing onto an exit ramp or similar potentially hazardous condition, congestion could be relevant for consideration in an EIR. The social inconvenience of traffic congestion is not an impact under CEQA, and the City does not have data related to construction traffic associated with a future statewide water supply project to factor in the analysis of this logistics center project. However, for the purposes of air quality analysis, and specifically the analysis of toxic air contaminants, the City has used regional travel demand forecasting models, informed by anticipated regional growth, to identify long-term, operational traffic levels. The proposed Project traffic, including details related to anticipated truck traffic, are informed by estimates of future traffic levels, and used to identify air pollutant emissions along major travelways and whether there may be a potentially significant impact related to existing pollutant emissions concentrations, future traffic levels, and future project-related traffic levels. This analysis is detailed in Section 4.2 of the Draft EIR, “Air Quality” and Section 5.3.2 of the Draft EIR.

Comment A6-10 *Summary of Comment:* *The comment states that the requested General Plan Amendment to reduce Pennsylvania Avenue and Cordelia Road from a four-lane arterial to a two-lane arterial and how that change relates to regional traffic planning between Suisun City and the City of Fairfield is not fully discussed in the EIR, and because both roads traverse boundaries, regional impacts should be stated in the EIR.*

Response: Pennsylvania Avenue is a north-south street that passes through the northern portion of the Project Site, extending from I-80 to Cordelia Road and Cordelia Street. Pennsylvania Avenue provides one travel lane in each direction south of SR-12 and provides two travel lanes in each direction with a landscaped median north of SR-12. Cordelia Road/Cordelia Street is an east-west street that extends from Main Street in Suisun City to I-680. Cordelia Street is east of Pennsylvania Avenue and Cordelia Road is west of Pennsylvania Avenue. Both Cordelia Road and Cordelia Street provide one travel lane in each direction. The Project does not propose to reduce the number of lanes from existing conditions. For informational purposes, the vehicle miles traveled (VMT) and level of service (LOS) analysis prepared in support of the Project is

provided as Appendix C to this Final EIR; this study evaluates existing and future trips, LOS, and recommended improvements and resulting LOS. The analysis conducted to support the Draft EIR and this Final EIR examines traffic volumes and potential impacts under the proposed Project and proposed improvements to the on- and off-site circulation system. The VMT and LOS analysis prepared to support the Draft EIR does also factor in “background growth” and specifically the Suisun Logistics Center, also proposed within the City of Suisun City. The background growth includes anticipated development in Suisun City, Fairfield, and Solano County. The City agrees with the commenter about the need to evaluate the General Plan amendment related to Pennsylvania Avenue and Cordelia Road, and to factor in cumulative development in this evaluation. The Draft EIR and the appendices to this Final EIR include this evaluation. The City conducted this analysis in the early stages of preparation of the Draft EIR so that the required transportation improvements could be evaluated throughout the Draft EIR – while impacts related to traffic congestion do not generally represent an impact under CEQA, transportation improvements designed to address forecast congestion could have environmental effects (Draft EIR, pages 3-16 and 3-17). The impacts of construction and operation of the transportation infrastructure, as well as all other types of infrastructure required to serve the proposed Project are comprehensively evaluated in the Draft EIR. LOS was analyzed for intersections under the jurisdictions of City of Suisun City and City of Fairfield and using each jurisdiction’s LOS policies. The transportation improvements included as a part of the proposed Project do not require Cordelia Road or Pennsylvania Avenue to be four-lane arterials in the vicinity of the Project Site.

Comment A6-11 *Summary of Comment: The comment states that California Government Code Section 56668(e) requires an analysis of the effect of the proposal on maintaining the physical and economic integrity of agricultural lands.*

Response: Please see the Response to Comment A6-12, below.

Comment A6-12 *Summary of Comment: The comment states that Draft EIR Section 4.9, “Land Use and Planning, Including Agricultural Resources, Population, and Housing,” should include mitigation measures to address the loss of prime agricultural lands in the project area for any land that meets the definition of prime agricultural land as defined by Government Code Section 56064. The comment further provides definitions of the types of land that could meet the definition of “Prime Agricultural Land” under Section 56064.*

Response: As described in Draft EIR Chapter 3, “Project Description,” in Table 3-1 (page 3-9) and shown on Exhibit 3-5 (page 3-8), 69.6 acres of the Project’s 93.4-acre Development Area were previously designated for Commercial Mixed Use in the City’s 2035 General Plan adopted in 2015 and Sphere of Influence amendment adopted in 2017, and the potential loss of agricultural land throughout the City as a result of projected future urban development was analyzed in the City’s adopted General Plan EIR (AECOM 2015, Section 3.1, “Agricultural Resources”). As explained therein, and in the Draft EIR for this project on pages 4.9-9 and 4.9-10, the applicable CEQA Appendix G checklist threshold Section II(a) for the Draft EIR is, “convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California

Resources Agency, to nonagricultural use.” There is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance in Suisun City, including within the City’s Sphere of Influence. The “farmland” at the Project Site is classified by the California Department of Conservation’s Farmland Mapping and Monitoring Program as “Grazing Land” (Draft EIR page 4.9-2). Grazing Land is not considered Important Farmland under CEQA (Public Resources Code Sections 21060.1 and 21095 and CEQA Guidelines Appendix G). Therefore, the proposed Project would not convert Important Farmland to nonagricultural uses and the Draft EIR properly concluded that no impact would occur and no mitigation measures are required (Draft EIR pages 4.9-10 and 4.9-11). The City’s 2035 General Plan EIR (AECOM 2015, Section 3.1, “Agricultural Resources”) reached the same conclusion of “no impact,” for the same reasons, as related to farmland throughout the city.

The City understands that for the proposed annexation, LAFCO requires an evaluation of “prime agricultural land” as defined by California Government Code Section 56064. While the definition of prime farmland under this section of the Government Code is different from farmland as evaluated for impacts under CEQA, there can be some overlap. The analysis requested by the commenter may be required as a part of the annexation process with LAFCO. Prime agricultural land as defined by the Government Code includes undeveloped land (a) that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible; (b) that qualifies for rating 80 through 100 Storie Index Rating; (c) that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003; (d) planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre; (e) that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years. As presented on pages 4.5-7 through 4.5-9 of the Draft EIR, soils within the Project Site and off-site improvement areas include the following with the capability classification and Storie index rating in parentheses Alviso silty clay loam (IV, 37), Sycamore silty clay loam, saline (III, 45), Pescadero silty clay loam, 0% slopes (IV, 35), and Joice muck (VI, 18) (USDA 1977). As described in the Draft EIR, the Project Site is used for grazing and undeveloped open space (Draft EIR, page 3-4). According to the rancher working the Project Site, the site also does not meet criteria c with regard to the number of animal units per acre. In Planning Area 1, west of Pennsylvania Avenue, the occupancy has been one head of cattle per 10 to 12 acres. East of Pennsylvania, the capacity of the land for cattle is limited by homeless encampments, and is less than the occupancy west of Pennsylvania Avenue. South of Cordelia, the occupancy is up to 40 head of cattle over 382 acres (Livaich, pers comm. 2024).

Comment A6-13 *Summary of Comment:* *The comment states that the Commission has adopted 11 standards according to California Government Code Section 56375(g) and other local policies, and that any application for reorganization to LAFCO must include a detailed analysis of Solano*

LAFCO's standards (provided in Attachment B to the comment letter). The comment states that if LAFCO is to rely on the Project's EIR for the reorganization request, the EIR should include an analysis of Solano LAFCO's standards. The comment further states that the Draft EIR should analyze and discuss the Project's consistency with the City's and LAFCO's Suisun Marsh Local Protection Program.

Response: The City appreciates the detail that has been shared in this comment in relation to adopted standards for reorganization and understands that analysis and reporting beyond that in the EIR may be required to support LAFCO consideration. Relative to Standard 1, as noted throughout the Draft EIR, the Project Site and off-site improvement areas are within the City of Suisun City's existing Sphere of Influence. Regarding Standard 2, the Project would not require annexation to the bounds of the City's Sphere of Influence and the Project proposes both development and managed open space. Regarding Standard 3, the proposed Project includes a General Plan Amendment to the City's General Plan Land Use Diagram so that the General Plan's Commercial Mixed Use and Open Space land use designations are consistent with the proposed development and conservation areas (Draft EIR, page 3-6 through 3-8). Regarding Standard 4, there is no proposal involving land outside the City's Sphere of Influence. Regarding Standard 5, the City understands the need for rezoning (Draft EIR, page 3-23). Regarding Standard 6, the Draft EIR comprehensively address potential impacts of the proposed Project related to the land area involved, water, air, topography, slope, geology, soils, natural drainages, vegetative cover, and plant and animal populations (Draft EIR Chapter 3, Sections 4.2, 4.3, 4.5, 4.6, 4.8, Chapter 5, Chapter 6, and Chapter 7). Regarding Standard 7, annexation required for the proposed Project would not create any islands. Regarding Standard 8, utility extensions required to serve the proposed Project would be sized only to serve the needs of the proposed Project, and would not have additional capacity created to serve any other development. The new and expanded infrastructure is designed to meet demands of the proposed Project, and would not create additional utility capacity beyond what would be necessary to serve the proposed Project. The proposed Project would create additional local job opportunities, but the Project's employment opportunities would not be growth inducing in a way that would lead to any significant adverse environmental effect beyond that reported throughout the Draft EIR (Draft EIR, page 7-1 and 7-2). Regarding Standard 9, please see the Response to Comment A6-12. Regarding Standard 10, the proposed Project would require infrastructure and services, as detailed in the Draft EIR (Draft EIR, pages 3-16 through 3-26 and Section 4.13). Regarding Standard 11, the City understands the need for additional analysis and reporting related to social and economic interests to support LAFCO consideration on topics beyond CEQA. Regarding the referenced information related to the Suisun Marsh Protection Plan, all portions of the proposed Project Site that are in the Primary Management Area and Secondary Management Area of the Suisun Marsh Protection Plan south and southeast of Cordelia Road and Cordelia Street are proposed as Managed Open Space as a part of the Project (Draft EIR, page 3-4).

Regarding the commenter's reference to the Suisun Marsh Local Protection Program, the Project does not propose urban development within the Primary and Secondary Management Areas of the Suisun Marsh. The Project proposes to permanently protect land within the Primary and Secondary Management areas. The portions of the Project Site proposed for urban development are in locations where the Solano County General Plan and Suisun City General Plan have

anticipated development. The Solano County General Plan designates the northern portion of the Project Site, generally north of Cordelia Road and the California Northern Railroad, as Urban Industrial. The Project proposes to annex the northern portion of the Project Site to the City of Suisun City, whose General Plan identifies the same area generally identified in the City's General Plan for Commercial Mixed Use. The proposed actions within the Project's Managed Open Space area would involve biological improvements.

Comment A6-14 *Summary of Comment: The comment discusses access to the existing railroad spur for proposed on-site uses, noting the need for clarification of this project component within the project description. The comment further references the Draft EIR Chapter 4.12, "Transportation and Circulation," page 4.12-18, in which the analysis identifies a potentially significant hazard to site circulation created by the railroad spur.*

Response: Draft EIR page 3-17 states, "The Project Site has direct access to an existing rail spur, and the Project applicant will coordinate with the Southern Pacific Railroad, which merged with Union Pacific Railroad in 1996, regarding access to this existing railroad spur for proposed on-site uses where future tenants identify the need for rail access." Mitigation Measure 4.12-2: Vehicle System Improvements (Draft EIR page 4.12-18) requires that at the rail spurs, vehicles would be prohibited from crossing the railroad tracks with the use of signs or physical barriers, and the adjacent parking space would be removed. Therefore, the Draft EIR properly concluded that potentially significant impacts related to hazards from the rail spurs would be reduced to a less-than-significant level.

Comment A6-15 *Summary of Comment: The comment asks whether the railroad agrees that there is "potential access" for the potential reorganization and future use, and states that if this "potential" access has no support from the railroad or analysis in the Draft EIR it should be removed from the Project Description.*

Response: Draft EIR page 3-17 states, "The Project Site has direct access to an existing rail spur, and the Project applicant will coordinate with the Southern Pacific Railroad, which merged with Union Pacific Railroad in 1996, regarding access to this existing railroad spur for proposed on-site uses where future tenants identify the need for rail access." Mitigation Measure 4.12-2: Vehicle System Improvements (Draft EIR page 4.12-18) requires that at the rail spurs, vehicles would be prohibited from crossing the railroad tracks with the use of signs or physical barriers, and the adjacent parking space would be removed. Therefore, the Draft EIR properly concluded that potentially significant impacts related to hazards from the rail spurs would be reduced to a less-than-significant level.

Comment A6-16 *Summary of Comment: This comment consists of Attachment A to the comment letter, which sets forth the requires of California Government Code 56668—factors to be considered in the review of a proposal for reorganization.*

Response: Please see the Response to Comment A6-13. Comment A6-16 is not a comment about the adequacy of the Draft EIR for addressing potential environmental effects of the proposed Project, but is a copy of the factors to be considered for a change of organization, such as the

annexation that is included as a part of the proposed Project and analyzed in the Draft EIR. The language provided in the comment is from Government Code Section 56668 and the factors include topography, natural boundaries, and drainage basins; the proximity to other populated areas; and the likelihood of significant growth in the area and in adjacent areas during the next 10 years. See the Response to A6-7. With respect to topography, natural boundaries, and drainage basins – all of these factors are explicitly addressed to the extent that they relate to any potentially significant impact attributable to the proposed Project. For example, the existing and proposed topography with grading is the subject of the proposed Project’s drainage study, and included as a part of the proposed Project evaluated throughout the Draft EIR. With regard to nearby populated areas, this issue is discussed in detail in Chapter 3 of the Draft EIR, “Project Description,” and considered wherever relevant in the impact analysis. For example, the air pollutant emissions and noise analysis explicitly consider the location of noise-sensitive and air pollutant emissions concentration-sensitive uses in the vicinity of the proposed Project site that could be affected by the proposed Project, and includes feasible mitigation for potentially significant impacts (Draft EIR, pages 4.2-7 through 4.2-42 and 4.10-9 through 4.10-45). With respect to the likelihood of significant growth in the area, the Project Site has been designated for development under the City of Suisun City’s General Plan for more than 20 years, but the area to the south of the Project Site is in the Suisun Marsh and will not develop. To the north, there are relatively small undeveloped areas in the city of Fairfield designated under the City’s Land Use Diagram for Mixed Use and Service Commercial development. The City of Suisun City is not in a position to speculate as to the likelihood of development of these properties. Lands to the west are designated Urban Industrial in Solano County’s General Plan, and similar to the properties to the north, the City of Suisun City is not in a position to speculate as to the likelihood of development of these properties. The referenced section of the Government Code also references the need for community services. As noted throughout the Draft EIR and this Response to Comments document, the Draft EIR comprehensively evaluates construction and operational effects associated with the proposed uses, as well as all of the public services and infrastructure required to serve the proposed uses (Draft EIR, pages 3-16 through 3-22, 4.11-4 through 4.11-8, and 4.13-8 through 4.13-14). The referenced Government Code factors for reorganization also mention the effect of the proposed action and alternative actions on adjacent areas. Just as with the proposed Project, the Draft EIR identifies impacts of a range of alternatives, including impacts on adjacent areas (Draft EIR, pages 6-16 through 6-86). The attachment spelling out considerations for reorganization from Government Code Section 56668 includes an embodied reference also to Government Code Section 56377, which is related to directing development away from prime agricultural lands and encouraging development of existing nonprime land within the jurisdiction or sphere of influence. Please see the Response to Comment A6-6 – there is no such suitable land within the City of Suisun City. The considerations for reorganization from Government Code Section 56668 includes reference to the integrity of agricultural lands – please see the Response to Comment A6-12 and Section 4.9 of the Draft EIR, which comprehensively addresses impacts to agricultural lands (Draft EIR, pages 4.9-9 through 4.9-14). As noted, the Project Site and off-site improvement areas are designated by the Solano County Important Farmland map as Grazing Land and there are no areas proposed for development that are Important Farmland under CEQA, including prime farmland. The considerations for reorganization from Government Code Section 56668

addresses the proposed boundaries – the area proposed for annexation is presented in Chapter 3 of the Draft EIR, “Project Description” and illustrated on Exhibit 3-4. Proposed Annexation Area, but the City understands that the actual area annexed to the City will be subject to the approval of LAFCO and any relevant conditions. With regard to the regional transportation plan, this issue is evaluated in Section 4.9 of the Draft EIR (Draft EIR, pages 4.9-11 through 4.9-13). In addition, the Project Site is identified by the Plan Bay Area 2050 as a Priority Production Area (ABAG 2021). Priority Production Area are places for job growth in middle-wage industries like manufacturing, logistics, or other trades (ABAG 2023). The attachment also mentions general plan consistency – please see the Response to Comment A6-13. In addition, Chapter 2 of the PUD details the Project’s vision and goals, including the Project’s relationship and alignment with the City’s General Plan; this PUD has been provided as Appendix D to this Final EIR. With respect to the part of the attachment related to sphere of influence, the Project Site is within the existing Sphere of Influence of the City of Suisun City. The attachment mentions comments from affected agencies – see Response to Comment A6-7. The attachment mentions the ability to provide services – the approach to providing infrastructure is detailed in the Project Description and the potential environmental effects are evaluated throughout the Draft EIR (Draft EIR, pages 3-16 through 3-22, 4.11-4 through 4.11-8, and 4.13-8 through 4.13-14). The City understands the referenced need to evaluate revenues to support services. The attachment references water supply. Please see Section 4.13 of the Draft EIR (Draft EIR, pages 4.13-11 and 4.13-12). Existing water supply would be sufficient to meet the demands of the proposed Project and existing and planned development in Suisun-Solano Water Authority’s service area in normal, single-dry, and multiple-dry years. The attachment references the regional needs housing assessment – the proposed Project is not a residential project and the Project Site is not a part of the City’s housing sites inventory. The attachment refers to comments from the landowner, voters, and residents – the City has invited comments on the environmental review on multiple occasions, including on the Draft EIR, and has factored all relevant comments into the analysis and reporting. The attachment references existing land use designations – see the Response to Comment A6-10. The attachment references environmental justice – see the Response to Comment IO2-4. The attachment references wildfire risk – see pages 4.7-17 and 4.7-18 – as noted, there are no very high fire hazard severity zones in Solano County. The nearest very high fire hazard severity zone to the Project Site is within the city of Martinez, located approximately 15 miles south of the Project Site in Contra Costa County.

Comment A6-17 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO’s Mandatory Standards Nos. 1 through 3 (consistency with SOI boundaries; change of organization and reorganization to the limits of the SOI boundaries; consistency with appropriate city general plan, specific plan, area-wide plan and zoning ordinance) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16.

Comment A6-18 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO’s Mandatory Standard No. 4 (consistency with the county general plan proposed change of organization or reorganization outside of a city’s sphere of influence boundary) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16.

Comment A6-19 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO's Mandatory Standard No. 5 (requirement for pre-approval) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16. The City understands the LAFCO standards related to rezoning. As detailed in Chapter 3 of the Draft EIR, "Project Description," and throughout the Draft EIR, the City's intent is for the Project Site to be rezoned as Commercial Service and Fabrication (CSF). The Draft EIR comprehensively addresses all potential environmental effects associated with implementing the proposed Project, including rezoning and all LAFCO-related approvals.

Comment A6-20 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO's Mandatory Standard No. 6 (effect on natural resources) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16. The comment is a reproduction of LAFCO Standard 6, Effect on Natural Resources. As noted throughout the Draft EIR and this Response to Comments document, the Draft EIR comprehensively evaluates all direct and reasonably foreseeable impacts of the proposed Project, including all impacts to natural resources. Standard 6 specifically references the amount of land involved in an annexation – that is consistently stated in the Project Description and throughout the Draft EIR as 161 acres, based on the understanding of how LAFCO standards for annexation would apply to this Project Site and portion of the City of Suisun City's Sphere of Influence. Standard 6 references the land, water (Draft EIR Section 4.8, "Hydrology and Water Quality," in particular), air (Draft EIR Section 4.2, "Air Quality," in particular), biological resources (Draft EIR Section 4.3, "Biological Resources," in particular) involved – all topics comprehensively addressed in the Draft EIR. Standard 6 specifically references topography, slope, geology, soils, natural drainages, vegetative cover, and plant and animal populations – each of these topics has complete treatment in the Draft EIR to the extent that each topic relates to an adverse impact associated with the proposed Project. The discussion of "Required Documentation" for Standard 6 notes that the applicant is required to submit copies of the environmental documentation certified by the lead agency and the resolution making the CEQA Findings – these materials will be shared with LAFCO if the City does certify the EIR.

Comment A6-21 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO's Mandatory Standard No. 7 (establishing proposal boundaries, map and geographic description requirements, other required map exhibits) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16. With regard to jurisdictional boundaries, the precise area annexed into the City of Suisun would be subject to review and approval by the Solano Local Agency Formation Commission (LAFCO). Based on applicable requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

and LAFCO Standards, it is assumed that the area annexed to the City of Suisun City would abut the existing City of Fairfield city limits, leaving no gap and that there would be no change to the City of Fairfield's existing jurisdictional boundary.

Comment A6-22 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO's Mandatory Standard No. 8 (likelihood of significant growth and effect on other incorporated or unincorporated territory) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16.

Comment A6-23 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO's Mandatory Standard No. 9 (protection of prime agricultural land) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16.

Comment A6-24 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO's Mandatory Standard No. 10 (provision and cost of community services) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16.

Comment A6-25 *Summary of Comment:* This comment consists of Attachment B to the comment letter, which sets forth LAFCO's Mandatory Standard No. 11 (the effect of the proposed action on adjacent areas, mutual social and economic interests, and on local governmental structure) referenced in comment A6-13.

Response: Please see the Responses to Comment A6-13 and A6-16.

Comment A6-26 *Summary of Comment:* This comment consists of a copy of a portion of LAFCO's Standards and Procedures Manual: Section V, Policies Related to Municipal Service Review.

Response: Please see the Responses to Comment A6-13 and A6-16. The City understands the requirement cited in this comment for a Municipal Service Review, and the City will coordinate this requirement with LAFCO. The City understands the need for LAFCO to approve and adopt a Municipal Service Review prior to or in parallel with consideration of annexation.

Comment A6-27 *Summary of Comment:* This comment consists of a copy of a portion of LAFCO's Standards and Procedures Manual: Section VI, Essential Requirements of the Cortese-Knox-Hertzberg Act, the Legislature's Policy and Intent for LAFCO.

Response: Please see the Responses to Comment A6-13 and A6-16.

2.2.7 Comment LETTER #A7:

SUISUN RESOURCE CONSERVATION DISTRICT

Letter A7



October 17, 2023

Mr. Jim Bermudez
Development Service Director
701 Civic Center Blvd.
Suisun City, CA 94585

Subject: Suisun Resource Conservation District Comments on the Highway 12 Logistics Center Draft Environmental Impact Report

Directors

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Dear Mr. Bermudez,

The Suisun Resource Conservation District (SRCD) is providing this comment letter identifying the inadequacy of the Highway 12 Logistics Center Draft EIR (DEIR), the shortcomings of the effects analysis, and the significant unavoidable environmental impacts to Solano County's natural resources from the proposed Project and its Alternatives.

SRCD encourages Suisun City not to take any further action on this DEIR nor amend the City General Plan, annex the site into City limits, or authorize any future development of this site. The development from this Proposed Project will result in the fill and destruction of greater than 21 acres of vernal pools and alkali seasonal wetland habitats, more than 16 acres of seasonally saturated annual grasslands, and at least 54 acres of adjacent critical upland habitats. The Proposed Project will result in significant and unavoidable impacts to numerous sensitive plants, habitats, and resident and migratory wildlife species which depend on this site for their continued existence.

CEQA Guidelines Section 15126.6 criteria requires the ability of the alternative to avoid or substantially reduce one or more significant environmental effects of the Proposed Project.

- This Proposed Project identifies 17 potential significant and unavoidable impacts to Biological Resources (pages 1-11 to 1-28) within the proposed Project Development Area. To mitigate these significant and unavoidable environmental impacts, the loss of listed and fully protected species, and the damage to their critical habitats, the Project proposes to create a Managed Open Space Mitigation Area.
- The proposed Managed Open Space Mitigation Area (MOSMA) is located within the protected area of the Suisun Marsh. The MOSMA is already protected by state law under the Suisun Marsh

A7-1

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A7-3

A7-4

Preservation Act (SMPA), Section 29002 that states: “the Suisun Marsh represents a unique and irreplaceable resource to the people of the state and nation; that future residential, commercial, and industrial developments could adversely affect the wildlife value of the area; and that it is the policy of the state to preserve and protect resources of this nature for the enjoyment of the current and succeeding generations.”

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A7-4
Cont.

- The MOSMA also is proposed to be located within both the Suisun Marsh Primary and Secondary Management Areas, and that proposed location is inconsistent with the Solano County SMPA Local Protection Program Policy (2018). This Policy states, “development itself should not stimulate urban development by providing services that are a prerequisite for such development.” The creation of the MOSMA in Suisun Marsh clearly violates the Policy, since the “development” is being used to stimulate and enable urban growth in the Project Development Area. Such use of the Suisun Marsh Primary and Secondary Management Areas should not be permitted under the Solano County Local Protection Program Policies.
- The Proposed Project is in direct conflict with the Suisun City General Plan Open Space and Conservation Element, Goal OSC-1: Protect wildlife habitat and movement corridors through the preservation of open space. Paving over 93.4 acres of wetlands, wildlife habitats, and open space to accommodate 6 warehouses totaling 1.28 million square feet and creating 2,024 truck and trailer parking stalls is not protecting wildlife habitat or preserving existing open space.
- A deed restriction or conservation easement for the MOSMA is meaningless because the area is already protected in perpetuity from development under state law (the SMPA). Any such conservation easement would not provide any further protection or conservation benefits to the existing resources or those anticipated being created on the site.
- The MOSMA contains wetland creation actions that will have negative impacts to existing wetlands, uplands, and wildlife habitats on the site. The DEIR is inadequate in not disclosing the impacts to these existing resources from the proposed wetland creation construction activities in the Suisun Marsh. The Proposed Project and mitigation would result in a net loss of open space and wetland and wildlife resources in Solano County and adjacent to the Suisun Marsh.
- Impacts to Biological Resources (Chapter 4.3) lists numerous potential significant and unavoidable impacts, but proposed mitigation measures are only offset at a mitigation ratio of 1:1. Mitigation for the loss and destruction of wetlands, special status, and sensitive species habitats should be offset at a minimum ratio of 3:1. Therefore, the proposed mitigation in the DEIR and the Mitigation and Monitoring Plan is inadequate to address the permanent and temporal loss of Biological Resources from the Proposed Project impacts.
- The creation of functioning vernal pools, alkali seasonal wetlands, and seasonally saturated annual grasslands in areas that currently don’t exist is highly risky and unlikely to be successful. The hope that these artificially created habitats will actually support sensitive target species, such as the Contra Costa Goldfields or the Salt Marsh Harvest

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Mouse, is very uncertain and extremely optimistic at best. The Project proponents already are foreshadowing the failure of their proposed mitigation plan by stating (pages 1-12) "...if success criteria for created wetlands cannot be fully attained with onsite wetland mitigation, the project applicant shall purchase wetland mitigation credits from an approved mitigation bank which services the project site and which support existing populations." Thus, the likelihood of habitat restoration failure is underpinning the proposed Mitigation and Monitoring Plan, and it should not be accepted as adequate.

A7-10
Cont.

- The DEIR has identified significant wetland resources existing on the Proposed Project Development Area. The DEIR Appendix C Biological Resources: Aquatic Resources section states that aquatic resources delineations were completed in 2003, 2004, 2020, and 2022. The 2003 and 2004 resource delineations are nearly 2 decades old and should not be used to determine current wetland resources at the site. In addition, the 2020 and 2022 aquatic resources delineations were completed in the middle of an unprecedented 3-year drought -- 2020 was classified as a "dry" water year (fifth worst in state history), 2021 was the second driest year in state history, and 2022 was classified as a "critical" water year. Determining wetland resources on a site during prolonged drought periods may greatly underestimate wetland resources and minimize the wetland fill mitigation requirements for the Proposed Project. This fact reinforces the need for any proposed mitigation to be at a ratio of greater than 3:1 rather than the proposed 1:1 ratio identified in the proposed Mitigation and Monitoring Plan.

A7-11

- The DEIR has identified significant rare plant species resources on the Proposed Project Development Area. The DEIR Appendix C Biological Resources: Aquatic Resources section states that rare plant surveys were completed in 2000, 2001, 2002, 2005, 2021 and 2022. Similar to the point raised above, the 2000 to 2005 surveys are over 20 years old and should not be used to determine current rare plant species resources at the site. The 2021 and 2022 rare plant species surveys were completed at the end of a 3-year drought (see details in the point above). Determining rare plant resources during prolonged drought periods may greatly underestimate their presence and abundance, thus significantly underestimating the Proposed Project species impacts and mitigation requirements. This fact reinforces the need for proposed mitigation at or above a typical wetland mitigation ratio of 3:1, which is much greater than the 1:1 ratio specified in the proposed Mitigation and Monitoring Plan.

A7-12

SRCD appreciates this opportunity to comment on the Highway 12 Logistics Center DEIR. Unfortunately, the Proposed Project is ill-conceived and contrary to several conservation laws and policies that protect natural resource values of this special region. Suisun City should not take any further action to consider this DEIR, amend the General Plan, annex the site into the City limits, or authorize future development at this site. The DEIR and proposed mitigation are inadequate, and the Proposed Project will have significant unavoidable impacts to Solano County and the wetland and wildlife resources of Suisun Marsh. SRCD cannot support this Project since it will include significant and unavoidable habitat destruction and will result in degradation of wetland and wildlife resources.

A7-13

Sincerely,

A handwritten signature in blue ink that reads "Steven Chappell". The signature is written in a cursive style with a large initial 'S'.

Steven Chappell
Executive Director

cc: SRCD Board of Directors,
Solano County LAFCO

RESPONSE TO COMMENT LETTER #A7

Comment A7-1 *Summary of Comment:* The comment states that the comment letter from the Suisun Resource Conservation District identifies shortcomings of the Draft EIR impact analysis and recognizes that, in the commenter's opinion, there are significant unavoidable environmental effects resulting from the Project.

Response: Comments noted. Responses to individual comments from the Suisun Resource Conservation District are provided in response to comments A7-3 through A7-13.

Comment A7-2 *Summary of Comment:* In its comment, the SRCD encourages Suisun City not to take any further action on the Draft EIR or approvals related to the Project given the Project impacts to habitats, sensitive plants, and resident and migratory wildlife.

Response: The commenter's recommendation regarding the proposed Project is acknowledged. No further response is necessary to address the adequacy of the EIR for addressing environmental impacts of the proposed Project.

Comment A7-3 *Summary of Comment:* The comment cites CEQA Guidelines requiring that there be an alternative that avoids or substantially reduces one or more significant environmental impacts of the Proposed Project.

Response: The Chapter 6 of the Draft EIR details the potential impacts of Alternative 2: Reduced Footprint Alternative, which was designed to reduce the land area affected by development with a focus on reducing potential impacts to biological resources and reducing the number of heavy-duty truck trips and associated air pollutant emissions as compared with the proposed Project. This alternative reduces the severity of many of the biological impacts and eliminates others.

Comment A7-4 *Summary of Comment:* The comment states that the "Proposed Project identifies 17 potential significant and unavoidable impacts to Biological Resources (pages 1-11 to 1-28) within the proposed Project Development Area. To mitigate these significant and unavoidable environmental impacts, the loss of listed and fully protected species, and the damage to their critical habitats, the Project proposes to create a Managed Open Space Mitigation Area." The comment further states that the proposed Managed Open Space area is within the "protected area" of the Suisun Marsh, which is already protected by state law under the Suisun Marsh Preservation Act.

Response: Draft EIR pages 1-11 through 1-28 include portions of Table 1-1 in the Executive Summary that are related to biological resources. Draft EIR Table 1-1 provides a listing of all of the environmental impacts evaluated in the Draft EIR, any recommended mitigation measures, and the significance conclusions before and after mitigation. The Draft EIR does not identify any significant and unavoidable impacts to biological resources. Rather, Draft EIR Table 1-1 (pages 1-11 through 1-28) and Section 4.3, "Biological Resources," (Draft EIR pages 4.3-66 through 4.3-96) identify potentially significant impacts to biological resources, all of which would be reduced to a less-than-significant level after implementation of mitigation.

The Project Site consists of approximately 487 acres of land area. Rather than implementing new urban development throughout the entire Project Site, the proposed Project includes new development on approximately 93.4 acres of the Project Site, most of which was previously designated for Commercial Mixed-Use development in the City's General Plan (adopted in 2015). The remainder of the Project Site would be designated for Managed Open Space to protect existing biological resources. The Managed Open Space area would also serve as a location for new wetlands that would be created to mitigate for impacts from permanent placement of fill material into 16.3 acres of seasonally saturated annual grassland, 14.1 acres of vernal pools, 7.4 acres of alkali seasonal wetlands, and 0.002 acre of perennial brackish marsh within the 93.4-acre Development Area.

The City acknowledges that the Managed Open Space portion of the proposed Project is located within land subject to protection under the Suisun Marsh Protection Act (SMPA) and is subject to both the Suisun Marsh Protection Plan (SMPP) adopted by the San Francisco Bay Conservation and Development Commission (BCDC) in December 1976 and the Solano County Component of the Suisun Marsh Local Protection Program adopted by Solano County in October 2018. The biologically beneficial land uses and activities that will occur in the Managed Open Space Area would be consistent with the SMPA, the SMPP, and the Solano County Component of the Suisun Marsh Local Protection Program, and nothing in the SMPA or the two planning documents disallows such land uses and activities.

Comment A7-5 *Summary of Comment:* The comment states that the Managed Open Space area also is proposed to be located within both the Suisun Marsh Primary and Secondary Management Areas, and that proposed location is inconsistent with the Solano County Suisun Marsh Protection Agency Local Protection Program Policy (2018), which states, "development itself should not stimulate urban development by providing services that are a prerequisite for such development." The creation of the MOSMA in Suisun Marsh clearly violates the Policy, since the "development" is being used to stimulate and enable urban growth in the Project Development Area. Such use of the Suisun Marsh Primary and Secondary Management Areas should not be permitted under the Solano County Local Protection Program Policies.

Response: The commenter has not identified the specific policy from the Solano County Component of the Suisun Marsh Local Protection Program that it purports to quote in its comment. In reviewing that planning document, the City found language similar, but not identical, to the quoted language. The language found by the City appears on page 36 of the Solano County Component of the Suisun Marsh Local Protection Program planning document under the heading, "Utilities, Facilities, and Transportation." The language reads as follows: "Construction of utilities, other public or quasi-public facilities, and transportation systems in the Suisun Marsh can: (1) disrupt the Marsh ecosystem at the time of construction; (2) have lasting effects on wildlife by forming barriers and obstacles to their movement and flight patterns; and (3) stimulate urban development by providing services that are a prerequisite for such development."

By its plan terms, this language applies to "utilities, other public or quasi-public facilities, and transportation systems" and not to "development" generically. Moreover, the language makes observations but does not include any prohibitory language. The language therefore cannot be

characterized as setting any kind of binding policy. Indeed, the language is followed by specific policies intended, among other things, to ensure that new infrastructure such as electrical lines and pipelines do not cause undue harm to the natural resources of the Suisun Marsh.

The City does not agree that the proposed Project would “stimulate urban development by providing services that are a prerequisite for such development.” More specifically, the Project will not “stimulate urban development” within the Primary and Secondary Management Areas of the Suisun Marsh and thus will not cause indirect harm in those Management Areas. Indeed, the Project will permanently protect land within the Primary and Secondary Management areas. The portions of the Project Site proposed for industrial development will occur in areas long planned for such development under both the Solano County General Plan and the City of Suisun City General Plan. The Solano County General Plan designates the northern portion of the Project Site, generally north of Cordelia Road and the California Northern Railroad, as Urban Industrial. The Project proposes to annex the northern portion of the Project Site to the City of Suisun City, whose General Plan identifies the same area for Commercial Mixed Use. The Project will not be growth-inducing within the Suisun Marsh itself, as the General Plan designations and legal protections in place in the Primary and Secondary Management Areas will remain unchanged. The only proposed “development” within the Project’s Managed Open Space area would involve biological improvements, and not the kind of new urban structures that one ordinarily associates with the word “development.” The fact that the applicant will use land within the Primary and Secondary Areas to mitigate for some of the biological resource impacts of the Project does not mean that the “development” within those areas is “stimulating” the Project’s industrial uses. These uses have been desired by Solano County and City of Suisun City for many years. The commenter’s interpretation of the language it quotes (which the City has not been able to find) would have the practical consequence of negating the existing urban General Plan designations whenever a landowner with property adjacent to the Primary or Secondary Area planned for urban uses wants to make biological improvements within the Suisun Marsh.

Comment A7-6 *Summary of Comment: The comment states that the proposed Project is in direct conflict with the Suisun City General Plan Open Space and Conservation Element, Goal OSC-1: Protect wildlife habitat and movement corridors through the preservation of open space. The comment further states that, “[p]aving over 93.4 acres of wetlands, wildlife habitats, and open space to accommodate 6 warehouses totaling 1.28 million square feet and creating 2,024 truck and trailer parking stalls is not protecting wildlife habitat or preserving existing open space.”*

Response: The Project is proposed on 93.4 acres of land within a 487-acre Project Site. Most of the 93.4-acre area proposed for urban development has been designated for Commercial Mixed-Use urban development in the City’s 2015 General Plan and is located directly south of State Route 12, a major east-west highway corridor. The remainder of the Project Site would be designated for Managed Open Space to protect existing biological resources. The Project Site south of Cordelia Road and Cordelia Street is proposed for Managed Open Space and is within management areas identified in the Suisun Marsh Protection Plan. The mitigation measures for the Project include biological improvements to the Managed Open Space (e.g., creation of new wetlands) within the context of a Mitigation and Monitoring Plan that will provide compensation

for impacts to sensitive habitats and special status species. As detailed in response to comment A7-4, the biologically beneficial land uses and activities that will occur in the Managed Open Space Area would be consistent with the Suisun Marsh Protection Plan and the Solano County Component of the Suisun Marsh Local Protection Program, which allows these proposed land uses and activities in the Suisun Marsh Protection Plan area. The portion of the Managed Open Space that would be protected under a conservation easement to serve as area for mitigation under Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b would also be required to be managed in accordance with permit conditions required by applicable state and federal regulatory agencies.

As detailed in Response to Comment A7-4, Draft EIR Table 1-1 provides a listing of all of the environmental impacts evaluated in the Draft EIR, all recommended mitigation measures, and conclusions regarding the significance of the impacts both before and after mitigation. The Draft EIR does not identify any significant and unavoidable impacts to biological resources. All potentially significant biological impacts identified as a result of the Project would be reduced to a less-than-significant level after implementation of mitigation. Notably, in reaching these conclusions, the Draft EIR employed a significance threshold that specifically addressed potential adverse effects on wildlife movement. Under this threshold, a significant effect would occur if the Project would “interfere substantially with the movement of any native resident or migratory wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery site” (Draft EIR, p. 4.3-67). See also the Response to Comment IO1-19.

Comment A7-7 *Summary of Comment: The comment states that a deed restriction or conservation easement for the Managed Open Space area is meaningless because the area is already protected in perpetuity from development under state law (the Suisun Marsh Preservation Act). Therefore, in the opinion of the commenter, any such conservation easement would not provide any further protection or conservation benefits to the existing resources or to those that would be created on the site.*

Response: See the Response To Comment A7-4. The Draft EIR acknowledges that the Managed Open Space portion of the proposed Project is located within the area covered by the SMPA and is protected by the SMPP and the Solano County Component of the Suisun Marsh Local Protection Program. The biologically beneficial land uses and activities that will occur in the Managed Open Space Area would be consistent with the SMPA, the SMPP, and the Solano County Component of the Suisun Marsh Local Protection Program, and nothing in the SMPA or the two planning documents disallows such land uses and activities.

The commenter suggests that, because the Managed Open Space would be located within the SMPP, a deed restriction or conservation easement would be meaningless, as the area is already protected in perpetuity from development under state law. This notion is fundamentally false. The commenter fails both to recognize the limitations of existing protections under the SMPP and to acknowledge the multiple additional environmental benefits that can be accomplished through the use of deed restrictions and conservation easements. Although the SMPP does provide protection from commercial and residential development and provides guidance on how

lands should be preserved and enhanced, the SMPP does not provide funding to implement its policies/goals such as managing agricultural lands to support waterfowl or enhance wildlife habitat. Notably, moreover, the SMPP does allow activities and development that are not compatible with the protection of habitat for the benefit of species that are found within the Project Site. For example, the SMPP allows land uses and activities that may not be compatible with wildlife preservation and management, such as the installation of utilities, natural gas exploration, recreational hiking and biking, recreational fishing, boating, hunting, and the like. A conservation easement designed specifically to preserve and manage the land for wildlife habitat in accordance with Mitigation Measure 4.3-17e provides additional legal protections and funding to implement such protections. The conservation easement will restrict use of the protected area to offset the Project's wetland impacts and impacts to rare plants, and will facilitate the management of the land as wildlife habitat with additional restrictions and funding that the SMPP does not afford. Per Mitigation Measure 4.3-17e, the legal instrument accompanying the conservation easement will include requirements to (i) restrict pedestrian and boating recreation, which can have adverse impacts on wildlife habitat; (ii) provide a sanctuary for waterfowl during hunting season by excluding duck hunting and creating freshwater seasonal wetlands; (iii) provide funding to effectively manage, protect, and enhance rare plants found onsite; (iv) provide funding to clean up trash blown onto the site or illegally dumped before it can enter the waterway; (v) provide funding to minimize homeless encampments from establishing; and (vi) ensure current grazing practices are compatible with preserving and enhancing the wildlife habitat. Furthermore, Mitigation Measure 4.3-17e also requires a deed restriction that prohibits development of and public access to, and public use of the Managed Open Space area.

Comment A7-8 *Summary of Comment:* The comment states that the wetland creation actions associated with the proposed Project will have negative impacts to existing wetlands, uplands, and wildlife habitats on the site, and that the Draft EIR is inadequate because it does not disclose these impacts. The comment further states that, "The proposed Project and mitigation would result in a net loss of open space and wetland and wildlife resources in Solano County and adjacent to the Suisun Marsh."

Response: The Draft EIR biological impact analysis section starting on page 4.3-70 discloses several potential impacts associated with the construction activities required to create wetlands within the Managed Open Space Area that will impact federally listed plants, wildlife, and existing wetlands. The discussion goes on, however, to propose a number of mitigation measures to reduce these potentially significant impacts to less than significant levels. For example, to avoid direct or indirect impacts during construction to wetlands and habitat occupied by Contra Costa goldfields, rare plants, and the saltmarsh harvest mouse and Suisun shrew, the mitigation measures require the installation of orange construction fencing to delineate a non-disturbance buffer from the boundaries of these habitats. In addition, mitigation measures required to reduce and limit the spread of invasive nonnative plant species during construction requires that construction vehicles and equipment be cleaned inside and out before arrival at the Project Site. To avoid impacts to nesting birds during construction of the wetlands, preconstruction nesting bird surveys must be conducted, and buffers established around any active nest discovered. Other mitigation measures to minimize impacts during the construction to create wetlands

include a worker environmental awareness training program and the requirement that a biological monitor be on-site during all work involving vegetation clearing and ground disturbance.

Comment A7-9 *Summary of Comment:* The comment states that Draft EIR Section 4.3, “Biological Resources,” “lists numerous potential significant and unavoidable impacts,” but proposed mitigation measures are only offset at a mitigation ratio of 1:1. The comment suggests that mitigation for the loss and destruction of wetlands, special status, and sensitive species habitats should be offset at a minimum ratio of 3:1. Therefore, the comment states that proposed mitigation in the Draft EIR and the Mitigation and Monitoring Plan is inadequate to address the permanent and temporal loss of biological resources from the proposed Project impacts.

Response: The commenter is incorrect in stating that Draft EIR Section 4.3 identifies “numerous potential significant and unavoidable impacts.” Rather, as noted in the response to Comment A7-4, all impacts to biological resources can be mitigated to less than significant levels. In addition, the commenter has cited no legal authority or biological analysis in support of its recommendation for a three to one mitigation ratio rather than a one-to-one ratio. The law is clear, however, that a one-to-one ratio can fully satisfy CEQA mitigation requirements.

Although Section 15126.4, subdivision (a)(4)(B), of the CEQA Guidelines says that “[t]he mitigation measure must be ‘roughly proportional’ to the impacts of the project,” what this statement really means is that, *at most*, the mitigation for a significant environmental effect must be roughly proportional. While the constitutional principle of “rough proportionality” (see *Dolan v. City of Tigard*, 512 U.S. 374 [1994]) precludes *over-mitigating* impacts, CEQA stops short of always requiring roughly proportional mitigation, though in practice it is often imposed, particularly where the environmental resources at issue, such as wetlands, are also subject to federal or state statutes or regulations that require environmental protection above and beyond what CEQA requires.

“The goal of mitigation measures is not to net out the impact of a proposed project, but to reduce the impact to insignificant levels” (*Save Panoche Valley v. San Benito County* [2013] 217 Cal.App.4th 503, 529). “Mitigation measures need not include precise quantitative performance standards, but they must be at least partially effective, even if they cannot mitigate significant impacts to less than significant levels” (*Sierra Club v. County of Fresno* [2018] 6 Cal.5th 502, 523).

The definition of “mitigation” found in Section 15370 of the CEQA Guidelines includ^{es}, among other things, “[r]ectifying the impact by repairing, rehabilitating, or restoring the impacted environment[,]” “[r]educing or eliminating the impact over time by preservation and maintenance operations during the life of the action[,]” and “[c]ompensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements.”

Though not all mitigation measures, to be valid, need to include performance standards, such standards are necessary where many of the crucial details for a mitigation plan are deferred until after project approval. “Formulation of mitigation measures shall not be deferred until some

future time. The specific details of a mitigation measure, however, may be developed after project approval when it is impractical or infeasible to include those details during the project’s environmental review provided that the agency (1) commits itself to the mitigation, (2) adopts *specific performance standards* the mitigation will achieve, and (3) identifies the type(s) of potential action(s) that can feasibly achieve that performance standard and that will [be] considered, analyzed, and potentially incorporated in the mitigation measure” (CEQA Guidelines Section 15126.4, subd. [a][1][B], italics added).

One common performance standard that is discussed in CEQA case law is “no net loss” of wetland habitat, which is commonly required, in any event, by the United States Army Corps of Engineers under the Clean Water Act. This approach to CEQA mitigation can generally be termed “compensatory,” though it also typically involves the use of conservation easements and the rehabilitation or restoration of former wetlands, along with ongoing maintenance.

In *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603 (*California Native Plant Society*), the court considered the adequacy of a mitigation measure addressed to mitigate for the loss of vernal pools, a kind of wetland, that were supporting two species of shrimp subject to protection under the Endangered Species Act. The measure was mitigation for “the direct loss of 14.1 acres of vernal pool fairy shrimp habitat” and “15.65 acres of vernal pool tadpole shrimp habitat” (*Id.* at p. 610.) The measure “provided that these direct impacts would be mitigated ‘in such a manner that there will be no net loss of habitat (acreage and function) for these species in the Laguna Formation following implementation of the project.’” (*Ibid.*) Under the measure, “the applicant would be required to ‘complete and implement a habitat mitigation and monitoring plan that will compensate for the loss of acreage, function and value of the impacted resources.’” (*Ibid.*) “The plan would have to include ‘[t]arget areas for creation, restoration and preservation,’ ‘[a] complete biological assessment of the existing resources on the target areas,’ ‘[s]pecific creation and restoration plans for each target area,’ and “[p]erformance standards for success that will illustrate that the compensation ratios are met” (*Id.* at pp. 610-611).

In upholding this measure, the court stated that the respondent city “did not defer a determination of whether the Project would have a significant impact on the vernal pool and seasonal wetland habitats or defer the identification of measures calculated to mitigate that impact. Rather, the City determined the impact the Project would have—habitat loss—and identified a specific measure to mitigate that impact—preservation or creation of replacement habitat off site in a specific ratio to the habitat lost as a result of the Project. While it is true the City did not identify any specific proposed mitigation site, there is nothing that required it to do so” (*Id.* at page 622).

Although the measure in *California Native Plant Society* prohibited any net loss of acreage, the measure also addressed the “function and value of the impacted resources.” (*Id.* at p. 610.) Options for mitigating the function and value of the impacted wetland habitat included “creation, restoration and preservation” (*Id.* at pp. 610-611).

In *Endangered Habitats League, Inc. v. County of Orange* [2005] 131 Cal.App.4th 777, 794 (*Endangered Habitats League*), the court, using similar reasoning, upheld a mitigation measure

addressed to the loss of habitat for the California gnatcatcher, a federally protected bird. The measure, the court said, “sets out the possibilities—on-site or off-site preservation of similar habitat at a ratio of at least two to one, or one of several possible habitat loss permits from relevant agencies. We believe this enumeration of alternative mitigation measures saves the provision from improper deferral” (*Ibid*).

The same court also upheld a “mitigation measure for tree loss [that] requires a tree restoration, maintenance, and monitoring plan to be prepared and approved prior to issuing grading permits. It provides the plan must ‘detail’ long-term maintenance and monitoring, include requirements for replanting procedures, and include a contract with a certified arborist for at least 10 years. The arborist must make reports throughout the year and must be given decision-making power over tree care and maintenance. We find these standards sufficient” (*Id.* at p. 795).

In *Rialto Citizens for Responsible Growth v. City of Rialto* [2012] 208 Cal App.4th 899, 943, 946, the court upheld a mitigation measure addressing impacts to rare plants located on land identified for development. The measure allowed for “plant salvage and transportation plan to avoid, relocate or minimize impacts on these species.” The governing performance standard required the successful establishment of at least 80 percent of transplanted plants. Notable here is the fact that the measure was sufficient though its performance standard stopped short of requiring “no net loss” of the adversely affected plants.

In *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal App.4th 1018, 1038 (*ECOS*), the court was clear that adequate mitigation under CEQA, as well as under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), need not always require acre-for-acre mitigation. In that case, the court upheld under both CEQA and CESA a Habitat Conservation Plan approved not only under CESA but also under the federal Endangered Species Act (16 U.S.C. § 1531 et seq.). The Conservation Plan required the purchase of a half-acre for habitat reserves for every acre of new development. The court explained the overall workings of the Conservation Plan as follows:

Under the plan, the Natomas Basin Conservancy (Conservancy), a nonprofit organization, will manage the habitat and monitor the health and welfare of the species, including the hawks and the snakes. The centerpiece of the plan is the purchase of one-half acre for habitat reserves for every acre that is developed, irrespective of the habitat quality of the land developed. The land acquisitions for reserves will be funded with mitigation fees paid by developers. The Conservancy will dedicate 50 percent of the 8,750 acres of reserve land to rice cultivation that serves as habitat for the snakes, 25 percent to managed marsh habitat for the snakes, and the remaining 25 percent in upland habitat for foraging opportunities for the hawks. *The Conservation Plan provides multiple justifications for the 0.5:1 ratio: “(1) the reserves will provide higher quality habitat than the lands to be developed, especially given that the reserves will be managed for the covered species; (2) much of the land to be developed is of limited value as habitat but will be assessed as if it were of value; (3) the reserves will provide permanent habitat for the covered species; (4) the [Conservation*

Plan] provides monitoring and adaptive management to protect the species; and (5) the reserves will be large and biologically viable.”

(142 Cal.App.4th at p. 1025, italics added.)

The referenced 0.5 to 1 mitigation ratio was intended not only to satisfy CEQA’s mitigation requirements, but also to satisfy the CESA requirement that the impacts of any “take” of an endangered or threatened species be “minimized and fully mitigated” in a manner that is “roughly proportional in extent to the impact of the authorized taking on the species” (*Ibid.*, quoting Fish & G. Code, § 2081, subd. [b][2]).

As the lengthy quotation above makes clear, among the reasons why a ratio of half an acre to one acre was permissible under both CEQA and CESA were that “much of the land to be developed is of limited value as habitat” and that “the reserves will provide higher quality habitat than the lands to be developed.”

The court rejected the petitioner’s argument that a minimum one to one ratio was required by CEQA. The court explained that “[t]he Conservation Plan in fact mitigates for the impacts on covered species in a variety of ways beyond the purchase of a half acre for every acre developed. The reserves purchased with the mitigation fees will be *maintained* as habitat in perpetuity. Moreover, the Conservancy is mandated by the Conservation Plan to *manage* rice farms, which might otherwise disappear from the Natomas Basin. The preconstruction surveys, preservation of land adjacent to Fisherman’s Lake, avoidance of development in the one-mile hawk zone, and *planting of nest trees* are all part of the integrated mitigation plan designed to compensate for the incidental take of any covered plants and animals.” (142 Cal^App.4th at p. 1039, italics added.) The court thus emphasized that the Conservation Plan would improve the biological conditions of the land to be preserved through an integrated approach that include active maintenance, management, and enhancement of the land.

The court made similar points in upholding the mitigation ratio against an attack under CESA:

We have described at some length the impressive avoidance, minimization, and mitigation features of the Conservation Plan, including the purchase of reserve lands to be developed and maintained as high quality habitat, adaptive management, adjustments because of recovery plan adoption, and extensive compliance and biological effectiveness monitoring. The Department's findings that the entire Conservation Plan minimized and fully mitigated the impacts of the taking are further supported by the scientific assessment of the Natomas Basin in that several covered species do not occur in the basin or their use of the basin is low and sporadic, the basin constitutes an insignificant portion of most of the species’ ranges, and habitat remains available within and outside the basin to satisfy species’ essential behavioral needs (*Id.* at p. 1043).

As the preceding detailed discussion of CEQA case law makes clear, there is abundant judicial authority for mitigation approaches that use tools such as conservation, management, enhancement, restoration, and recreation – separately or in combination – in order to achieve

roughly proportional mitigation for lost or damaged biological resources. These are the very tools used in *the Preliminary Mitigation and Monitoring Plan* prepared by biological resource consultants working for the Project applicant. The operative performance standard is “no net loss of habitat *quality*.” This approach is not only biologically legitimate; but it also functions within the parameters of the constitutional principles and CEQA case law described at length above.

Comment A7-10 *Summary of Comment: The comment suggests that the creation of functioning vernal pools, alkali seasonal wetlands, and seasonally saturated annual grasslands in areas where they currently don't exist is unlikely to be successful, and the notion that these created habitats will support sensitive species such as Contra Costa Goldfields or the Salt Marsh Harvest Mouse is uncertain. The comment suggests that the Project proponents foreshadow the failure of their proposed mitigation plan by stating (pages 1-12) "...if success criteria for created wetlands cannot be fully attained with onsite wetland mitigation, the project applicant shall purchase wetland mitigation credits from an approved mitigation bank which serves the project site and which support existing populations." The commenter states that "the likelihood of habitat restoration failure is underpinning the proposed Mitigation and Monitoring Plan, and it should not be accepted as adequate."*

Response: The commenter is correct that creating wetlands in areas that do not support or have not historically supported wetlands can sometimes be difficult, but that is not the case for this Project. Functioning vernal pools, alkali seasonal wetlands, and seasonally saturated annual grasslands do exist within close proximity to the areas where wetland creation is proposed, and these wetlands do support sensitive plant species and salt marsh harvest mouse. To ensure, to the maximum extent possible, that the success criteria for created wetlands are met, the created wetlands will be located in upland areas on the same soil type, watershed, and general topography as these functioning wetlands. This is a common concept that has been accepted by the regulatory agencies with jurisdiction over wetlands (including the USACE, USFWS, CDFW and RWQCB) and has proven to be effective. For example, in Solano County, the agency-approved North Suisun Mitigation Bank successfully created vernal pools in upland habitat where soils and topography supported adjacent vernal pools. In addition, a residential development project in Vacaville called the North Development Village project (USACE Permit # 1999-00429N, USFWS BO# 1-1-99-F-0184, RWQCB WDID# 5A48CR00016, CDFW Notification No. 1600-2004-0207-R2) successfully created seasonal wetlands and vernal pools on uplands where soils and topography supported adjacent seasonal wetlands and vernal pools.

The inclusion of success criteria, far from being an implied recognition of the likelihood of failure, is a common requirement to ensure that success is achieved and to provide empirical bases for measuring progress towards success. Permitting agencies such as the USACE and RWQCB commonly require that “Adaptive Management” measures, sometimes referred to as contingency measures, be included in Mitigation and Monitoring Plans. These measures are intended to ensure that success criteria and performance standards are met. Listing an adaptive management measure, such as the measures referenced by the commenter on page 1-12, is not an admission that the creation of wetlands is predicted to fail. Such measures are included so that if, for some unforeseen reason, the success criteria for the wetlands are not initially achieved

as expected, additional steps can be taken to respond to the unexpected or unforeseen factors. Courts in CEQA cases have recognized the legal validity and practicality associated with adaptive management, which is a good and sound scientific practice. For example, in *Environmental Council of Sacramento v. City of Sacramento* (2006) 142 Cal'App.4th 1018, 1026, in which the court upheld a habitat conservation plan and its mitigation components under both CEQA and the California Endangered Species Act (Fish & G. Code, § 2050 et seq.), the court explained the benefits of adaptive management as follows:

The Conservation Plan is not static, nor is it confined to its initial assumptions. Cognizant that many factors might change during the 50-year life of the Conservation Plan, the public agencies designed an adaptive management program. In other words, both compliance monitoring and biological effectiveness monitoring may reveal ineffective management of the reserves or that the assumptions upon which the Conservation Plan was predicated have not held true over time. [Citation.] The Conservancy can respond to the deficiencies revealed by monitoring or periodic reviews. If unable to protect the species with these measures, the plan can be amended or revised, or the permits can be suspended or revoked.

Comment A7-11 *Summary of Comment:* *The comment states that Draft EIR Appendix C Biological Resources: Aquatic Resources section states that aquatic resources delineations were completed in 2003, 2004, 2020, and 2022. The comment further states that the 2003 and 2004 resource delineations are too old and therefore should not be used to determine current wetland resources at the site, and the 2020 and 2022 delineations are not relevant because California experienced a drought during those years. Therefore, the comment states that the Draft EIR has underestimated the Project's wetland impacts, resulting in inadequate wetland mitigation, and requiring mitigation at a ratio of three-to-one rather than one-to-one.*

Response: This region of California experiences periodic droughts, and during these droughts, wetlands may not become inundated or saturated for several years. Wetland hydrology determinations provided in the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual, and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region Version 2.0 dated September 2008 (Arid West Manual) are based on numerous indicators, many of which were designed to be used during dry periods when the direct observation of surface water or a shallow water table is not possible. However, some wetlands may lack any of the listed hydrology indicators, particularly during the long dry season or in a dry year. When hydrology conditions are “naturally problematic” such as during a drought year, the Arid West Manual provides a number of approaches that can be used to determine whether wetland hydrology is present on sites where indicators of hydrophytic vegetation and hydric soil are present, but hydrology indicators may be lacking due to normal variations in rainfall.

The aquatic resource delineation report referenced in the Draft EIR was prepared by the Huffman-Broadway Group, Inc. (HBG) and dated August 2021. HBG's investigation focused on identifying and mapping aquatic resources meeting the then-current broad definitions of wetlands and other waters of the U.S. under Section 404 of the Clean Water Act and navigable waters under Section 10 of the Rivers and Harbors Act of 1899. (In May 2023, the United States Supreme Court articulated a narrower definition of waters of the U.S. in *Sackett v.*

Environmental Protection Agency, 598 U.S. 651, 143 S.Ct. 1322 [2023]). Wetlands were identified and delineated using the US Army Corps of Engineers 1987 Wetland Delineation Manual, and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region Version 2.0 (Arid West Manual). The Arid West Manual was followed when determining the presence or absence of wetland vegetation, hydric soil, and hydrology indicators. Due to fundamentally changing rain patterns and the previous two years (2020 & 2021) of below average rainfall, hydrology conditions were considered “naturally problematic” and the “Difficult Wetland Situations in the Arid West” procedures for wetlands that periodically lack indicators of wetland hydrology were followed. In accordance with these procedures, if (i) wetland hydrology indicators appear to be absent on a site that has hydrophytic vegetation and hydric soils, (ii) there is no evidence of hydrologic manipulation (e.g., no drainage ditches, dams, levees, water diversions, etc.), and (iii) the region has been affected by drought, then the area should be identified as a wetland. HBG followed this procedure and included areas that met the hydrophytic vegetation and hydric soil indicators, but lacked wetland hydrology indicators, as “wetlands.” HBG conducted field work in summer of 2020, and winter and spring of 2021; the USACE conducted a site visit in October of 2021 and issued a Preliminary Jurisdictional Determination on February 1, 2023.

These procedures, by which areas that lacked wetland hydrology but did have hydrophytic vegetation and hydric soils were mapped as “wetlands,” ensured the wetland area was not underestimated and that the Draft EIR both adequately evaluated the Project’s wetland impacts and properly formulated mitigation measures in light of that evaluation.

Comment A7-12 *Summary of Comment: The comment states that the surveys used to identify rare plant species within the proposed Development Area are either too old or were conducted during drought years, and therefore are invalid. Therefore, the comment states that the Draft EIR has underestimated the Project’s impacts to rare plant species, resulting in inadequate mitigation, and requiring mitigation at a ratio of three-to-one rather than one-to-one.*

Response: Contrary to the commenter’s suggestion, there was nothing wrong with using both survey results from drought years and much earlier survey results from much wetter years. Indeed, the use of survey data from a combination of different years with different rainfall conditions increased the accuracy of the overall conclusions reached from the multiple surveys. The rare plant surveys conducted in 2021 and 2022 utilized CDFW’s plant survey protocols identified in “Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities” dated March 20, 2018. CDFW’s plant survey protocols do not distinguish between above, average, or below average (i.e., drought) rainfall years. The protocol requires preparation prior to the actual survey being conducted. Preparation includes compiling relevant botanical information, consulting with the CDFW’s California Natural Diversity Data Base and Biogeographic Information and Observation System, and identifying vegetation and habitat types and reference sites prior to conducting field work. As part of the preparation, the 2021 and 2022 plant survey compiled relevant botanical information that included the rare plant surveys conducted in 2000-2002 and 2005 by Vollmar Consulting. The 2022 plant survey results showed that the distribution and abundance of special-status plants in the Project area was reduced when compared to the 2000-2002 and 2005 surveys. This was likely due to the 2021-2022 wet season

having below average rainfall, concentrated early in the season, resulting in a shorter growing season and reduced abundance of native forbs than in years with a more typical rainfall pattern of heavy rains in December and January. The plant surveys conducted by Vollmar Consulting in 2000-2002 and 2005 were conducted during average and above average rainfall years¹. Based on the understanding that the 2021 and 2022 surveys were conducted during low rainfall years, the Draft EIR impacts analysis used the data collected from 2021 and 2022 and included the population numbers and occupied habitat areas provided by the plant surveys conducted in 2000-2002 and 2005 by Vollmar Consulting. The inclusion of plant survey data collected by Vollmar Consulting, and of new data collected during the 2022 plant survey, ensured that the rare plant survey data presented in the Draft EIR were not underestimated and that the Project's rare plant impact and mitigation measures were adequately evaluated in this Draft EIR.

It should also be noted that CDFW, as trustee agency under CEQA Guidelines section 15386, provided expertise in reviewing and commenting on the Draft EIR in a letter dated October 13, 2023. In that letter, CDFW provided extensive and detailed comments on a number of biological issues but did not raise any concern that the protocol rare plant surveys referenced in the Draft EIR might be too old or invalid because they were conducted during drought years.

Comment A7-13 *Summary of Comment:* *The comment states that the proposed Project is “ill conceived and contrary to several conservation laws and policies that protect natural resources of this special region.” The comment expresses opposition to the Project and requests that it not be adopted by the City. The comment further states that the Draft EIR and proposed mitigation are inadequate, and that the proposed Project will have “significant unavoidable impacts to Solano County and the wetland and wildlife resources of Suisun Marsh.” Finally, the comment states that SRCD does not support the Project because “it will include significant and unavoidable habitat destruction and will result in degradation of wetland and wildlife resources.”*

Response: The City notes the facts that the Suisun Resource Conservation District is opposed to the proposed Project and that the District urges the City of Suisun City not to take any further action related to the Draft EIR or any elements of the proposed Project. No further response is necessary.

As described in responses to comments A7-1 through A7-9, the Draft EIR does not identify any significant and unavoidable impacts related to biological resources. For the reasons stated in responses to comments A7-1 through A7-12, the Draft EIR provides a thorough and adequate analysis of potential Project impacts, the recommended mitigation measures would reduce all impacts to biological resources to a less-than-significant level as identified in Draft EIR Section 4.3, “Biological Resources,” and no changes to the Draft EIR are required.

¹ Using rainfall data from 1971-2000, the Fairfield WETS Station calculated the average rainfall as 23.28 inches with a 30 percent chance rainfall would be less than 18.42 inches or greater than 26.90 inches. Total rainfall during 2000 was recorded at 27.44 inches, 2001 at 27.18 inches, 2002 at 25.51 inches, and 2005 at 36.31 inches.

2.2.8 Comment Letter #A8:

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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State of California - Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

Letter A8

GA VIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

October 13, 2023

Oct 13 2023

SfATE CLEARINGHOUSE

Jim Bermudez, Development Services Director
City of Suisun City
701 Civic Center Boulevard
Suisun City, CA 94585
JBermudez@Suisun.com

Subject: Highway 12 Logistics Center, Draft Environmental Impact Report,
SCH No.2021040016, City of Suisun City, Solano County

Dear Mr. Bermudez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from the City of Suisun City (City) for the Highway 12 Logistics Center Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the draft EIR to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project. CDFW previously provided comments in response to the Notice of Preparation for the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Buzz Oates Construction, Inc.

Objective: Rezone and annex approximately 161 acres of the 487-acre Project site into the City. Develop approximately 93.4 acres of land for warehouse and logistic uses, including six warehouse buildings totaling 1.26 million square feet and appurtenant truck

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Conserving California's Wildlife Since 1870

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A8-2

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and trailer parking, stormwater facilities, water, wastewater, electricity, natural gas, and telecommunications utilities. Rezone approximately 393.2-acre to Managed Open Space and manage this land to protect existing habitat and mitigate development impacts.

A8-2
Cont.

Location: The proposed Project is located primarily in unincorporated land in Solano County; however, approximately 4.5 acres of the Project is in the City of Suisun City. The Project is bordered by State Route 12 to the north, a drainage channel and warehouse development to the west, the Union Pacific Railroad to the east, and Suisun Marsh to the south. The approximate centroid of the Project is at the intersection of Cordelia Road, Cordelia Street, and Pennsylvania Avenue at 38.235822 °N, - 122.053554 °W (NAD 83).

REGULATORY REQUIREMENTS

A8-3

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA either during construction or over the life of the Project. **The Project has potential to impact Swainson's hawk (*Buteo swainsoni*), CESA listed as threatened species. Thank you for including a mitigation measure to avoid impacts to nesting Swainson's hawks, and please see the below comment regarding loss of foraging habitat for this species. The Project also has potential to impact salt marsh harvest mouse (*Reithrodontomys raviventris*), CESA listed as endangered species; Sacramento River winter-run Evolutionarily Significant Unit (ESU) of Chinook salmon (*Oncorhynchus tshawytscha*), CESA listed as endangered ESU; Central Valley spring-run ESU of Chinook salmon, CESA listed as threatened ESU; California black rail (*Laterallus jamaicensis coturniculus*), CESA listed as threatened species; tricolored blackbird (*Agelaius tricolor*), CESA listed as threatened species; and Crotch bumble bee (*Bombus crotchii*), a candidate for listing as endangered under CESA. Thank you for including mitigation measures to avoid impacts to the above species.** Issuance of an ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain an ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC).

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The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with CESA.

A8-4
Cont.

Lake and Streambed Alteration

A8-5

An LSA Notification, pursuant to Fish and Game Code section 1600 et seq., is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. **As described in the draft EIR (page 4.3-89), the Project would build a stormwater outfall culvert that may impact a slough channel. If this outfall impacts the slough, an LSA Notification pursuant to Fish and Game Code section 1602 would be required, as further described below.** CDFW would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Fully Protected Species

A8-6

Fully Protected species, such as California black rail, also CESA listed as threatened species, and salt-marsh harvest mouse, also CESA listed as endangered species, as described above, may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515) except for: 1) collecting these species for necessary scientific research, including efforts to recover fully protected species; 2) relocation of the bird species for the protection of livestock; 3) if they are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan, or 4) certain infrastructure projects pursuant to Fish and Game Code section 2081.15, subdivision (a).

Raptors and Other Nesting Birds

A8-7

CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

COMMENTS AND RECOMMENDATIONS

A8-8

CDFW offers the comments and recommendations below to assist the City in

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adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below and in **Attachment 1**, CDFW concludes that an EIR is appropriate for the Project.

A8-8
Cont.

I. Mitigation Measure Related Impact Shortcomings

A8-9

MANDATORY FINDINGS OF SIGNIFICANCE: Does the Project have the potential to threaten to eliminate a plant or animal community, or substantially reduce the number or restrict range of a rare or endangered plant or animal?

AND

Would the Project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

AND

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Habitat Mitigation Land, draft EIR pages 4.3-70, 73, 74, 76, 79, 92, and 94.

Issue: The draft EIR includes Mitigation Measure 4.3-17e, Implement Mitigation and Monitoring Plan. Mitigation Measure 4.3-17e states that "the Mitigation and Monitoring Plan shall include a site protection instrument (e.g., deed restriction or conservation easement[s]) that will restrict use of the proposed Managed Open Space area of the Project Site to offset impacts to wetlands and impacts to rare plants" (draft EIR page 4.3-94). As described below, deed restrictions and open space easements provide a lesser degree of certainty than conservation easements that wetlands and special-status species will be protected in perpetuity. If a site protection instrument that is not a conservation easement is used, Mitigation Measure 4.3-17e may not be effective in mitigating the Project's effect on special-status fish and wildlife resources.

Specific impacts, why they may occur and be potentially significant: The Project would result in a loss of individuals of the federally listed as endangered Contra Costa goldfields (*Lasthenia conjugens*) (draft EIR page 4.3-70), foraging habitat for CESA listed as threatened Swainson's hawk (draft EIR page 4.3-79), and an estimated 12 individual alkali milk-vetch (*Astragalus tener* var. *tener*) plants (draft EIR page 4.3-73), an estimated 465 individual saline clover (*Trifolium hydrophilum*) plants (draft EIR page 4.3-74), and an unquantified number of long-styled sand spurrey (*Spergularia*

A8-10

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macrotheca var. *longistyla*) plants (draft EIR page 4.3-76), as well as the loss of both occupied and suitable habitat for these species (draft EIR page 4.3-73, 74, and 76). Alkali milk-vetch, saline clover, and long-styled sand spurrey all have a California Rare Plant Rank (CRPR) of 1B.2 (CNPS 2023). Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most plants that are ranked 1B have declined significantly over the last century (CNPS 2023). The plants discussed above have the additional threat rank of 0.2, indicating that 20 to 80 percent of their occurrences are threatened (CNPS 2023). Contra Costa goldfields, Swainson’s hawk, and the other above plants are considered threatened, endangered, or rare species, respectively, pursuant to CEQA Guidelines section 15380, and lack of permanent protection of mitigation land as further described below may result in a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a), due to a substantial reduction in the numbers or restriction of the ranges of these species.

A8-10
Cont.

The Project would result in permanent loss of wetlands due to placement of fill material into 16.3 acres of Seasonally Saturated Annual Grassland; 14.1 acres of Vernal Pools; 7.4 acres of Alkali Seasonal Wetlands; and 0.002 acres of Perennial Brackish Marsh and may result in hydrological alterations to wetlands during the creation of mitigation wetlands (draft EIR page 4.3-92). As described in the draft EIR, this is a potentially significant impact to wetlands (draft EIR page 4.3-92) and lack of permanent protection of mitigation land as further described below would result in a potentially significant impact to wetlands.

A8-11

The wetlands described above are not categorized into natural communities in the draft EIR; however, they are likely to contain natural communities considered sensitive by CDFW, including Fremont’s goldfields (*Lasthenia fremontii*) – downingia (*Downingia bicornuta*) vernal pools alliance, including Fremont’s goldfields (*Lasthenia fremontii*) – Downingia (*Downingia bicornuta*) vernal pools alliance, VegCAMP CaCode (VC) 42.007.00, smooth goldfields (*Lasthenia glaberrima*) – pale spike rush (*Eleocharis macrostachya*) vernal pool bottoms alliance (VC 44.140.00), Fremont’s goldfields (*Lasthenia fremontii*) – salt grass (*Distichlis spicata*) alkaline vernal pools alliance (44.119.00), or undescribed special stands where Contra Costa goldfields are the dominant plant species (CDFW 2023b). These natural communities have a NatureServe rank of G2S2, indicating that they are at high risk of extinction and elimination at both a global and subnational level due to restricted range, few populations or occurrences, steep declines, severe threats, or other factors (CDFW 2023b). While the draft EIR does not identify mitigation for sensitive natural communities, it is reasonably expected that wetland restoration and conservation of existing wetlands as described in the draft EIR would result in restoration of these sensitive natural communities. If sensitive natural communities would be impacted and there is a lack of permanent protection of mitigation land as further described below, the Project would result in potentially significant impacts to sensitive natural communities.

A8-12

A8-13

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The losses above would be mitigated in part through perpetual conservation of a portion of the Project site designated as the Managed Open Space area (draft EIR page 4.3-94). As the mitigation for these impacts depends in part on the perpetual conservation of the Managed Open Space area, *CDFW strongly recommends modifying Mitigation Measure 4.3-17e to strike the reference to a deed restriction and to specify using a conservation easement.*

A8-13
Cont.

Conservation easements provide relatively greater certainty that long-term management of mitigation lands consistent with conservation purposes can be assured, compared to any other currently available mechanism. Conservation easements created under Civil Code section 815 et seq. enjoy special protections in condemnation proceedings. Under the Code of Civil Procedure provisions relating to condemnation actions, a conservation easement qualifies as "property appropriated to public use" and can only be condemned as provided in section 1240.055. (Code Civ. Proc., § 1240.055, subd. (a)(3), (b)). The person seeking to condemn the land must give notice to the holder of the conservation easement, describing the property to be condemned and the public use that the property will be used for, and informing the easement holder that they have the opportunity to submit written comments. (Code Civ. Proc., § 1240.055, subd. (c)(1)). The easement holder in turn is required to notify the public entity that required or funded the purchase of the conservation easement and notify the person seeking to condemn the land of any public entities that are involved. (Code Civ. Proc., § 1240.055, subd. (c)(2)). Both the easement holder and the public entity may submit comments on the proposed condemnation, including identifying conflicts between the potential use and the terms of the conservation easement. (Code Civ. Proc., § 1240.055, subd. (c)(3)). The person seeking to condemn the property must respond to those comments. (Code Civ. Proc., § 1240.055, subd. (d)). Both the easement holder and any notified public entities have the right to appear and be heard at the court hearing related to the necessity of the condemnation. Importantly, should the condemnation continue, the conservation easement holder is identified by statute as the owner of a property interest that is entitled to compensation. (Code Civ., Proc., § 1240.055, subd. (g)). These protections are not available for the other types of instruments discussed below.

A8-14

Any person trying to acquire property appropriated to public use through eminent domain can only do so if the proposed use supporting the eminent domain proceeding will not unreasonably interfere with or impair the existing public use, or if that person can show a more necessary public use. (Code Civ. Proc., §§ 1240.501, 1240.610). In the case of an argument regarding a "more necessary public use," the Code of Civil Procedure creates a hierarchy of uses dependent on the governmental entity that required the conservation easement to be placed. For example, property appropriated to public use by the state (which would include conservation easements for mitigation purposes) are presumed to be a more necessary public use than any other uses the property might be put to by another person. (Code. Civ. Proc., § 1240.640, subd. (b)). In some circumstances, a conservation easement can automatically be considered the

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best and most necessary public use, which would greatly hinder the ability of any person to condemn the easement. (See Code Civ. Proc, §§ 1240.670, 1240.680). Additionally, if condemnation proceedings continue to move forward, the parties involved may be required to agree on the terms and conditions of use of the easement property. (Code Civ. Proc., §§ 1240.530, 1240.630).

In contrast, deed restrictions, also known as restrictive covenants, can be freely amended or terminated and are not guaranteed to bind subsequent owners of the property (or "run with the land") (Civ. Code, § 1461). Under California law, only certain types of covenants run with the land. (Civ. Code, § 1461). As a general principle, only the benefit of a covenant runs with the land, while the burden (for example a restriction or promise not to do an act) does not. More specifically, according to statute covenants that run with the land only include: (1) covenants that benefit the land that is transferred, for example mineral rights, warranties of title, or a right of first refusal; (2) covenants between owners of two properties that the covenantor will refrain from acts on his land for the benefit of the land of the covenantee; (3) covenants by a landlord related to acts on adjoining or nearby properties that are for the benefit of the tenant; and (4) environmental covenants that are necessary for health and safety concerns due to the presence of hazardous substances. (Civ. Code, §§ 1462, 1468, 1469, 1471).

Furthermore, restrictive covenants lack statutory protections that apply to conservation easements, in particular those related to condemnation proceedings and the limitations on who can hold or manage the protected habitat. In addition, deed restrictions are more easily amended or terminated than conservation easements. Finally, should a restrictive covenant be challenged in court, it would be construed in favor of free use of the land, not in favor of conservation purposes.

The Open-Space Easement Act does provide procedures for termination of an open-space easement through abandonment. (Gov. Code, §§ 51090, 51093). The underlying landowner can petition the local government for abandonment of an open-space easement, and the local government can approve that abandonment if it makes certain findings. (Gov. Code, § 51093, subd. (a)). Specifically, it must find that none of the public purposes listed above that would support the initial approval of an open-space easement would be served by keeping the land as open space; that abandonment is not inconsistent with the purposes of the Open-Space Easement Act; that abandonment is consistent with the applicable general plan; and that abandonment is necessary to avoid substantial financial hardship to the landowner. (Id.).

Recommended Mitigation Measure: To reduce potential for the several impacts to special-status fish and wildlife resources described above to less-than-significant, CDFW strongly recommends replacing Mitigation Measure 4.3-17e with the below mitigation measure, which removes reference to an unspecified site protection

A8-14
Cont.

A8-15

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instrument or deed restriction, leaving a conservation easement as the legal tool used to protect mitigation values in perpetuity.

A8-15
Cont.

Mitigation Measure 4.3-17e (Implement Mitigation and Monitoring Plan): To compensate for loss of wetlands and impacts to rare plant populations, the Project applicant shall implement an Agency-approved Mitigation and Monitoring Plan. A draft Mitigation and Monitoring Plan for the proposed Managed Open Space portion of the Project Site (Appendix C, Attachment 7), has been prepared in accordance with the Subpart J – Compensatory Mitigation for Losses of Aquatic Resources outlined in the State Water Resources Control Board Procedures, and in accordance with the State Water Resources Control Board Implementation Guidance dated April 2020. The referenced Mitigation and Monitoring plan may be modified based on recommendations from the U.S. Army Corps of Engineers (USACE), USFWS, and the Regional Water Quality Control Board (RWQCB) during the permitting process. In summary, the Mitigation and Monitoring Plan shall:

- Establish within the Managed Open Space a minimum of 16.33 acres of Seasonally Saturated Annual Grassland; 14.09 acres of Vernal Pools; 7.42 acres of Alkali Seasonal Wetlands; and 0.002 acre of Perennial Brackish Marsh;
- Provide financial assurances to ensure a high level of confidence that the Mitigation and Monitoring Plan will be successfully completed, in accordance with applicable performance standards;
- Design ecological performance standards to assess whether the Mitigation and Monitoring Plan is achieving the overall objectives, so that it can be objectively evaluated to determine if it is developing into the desired resource type, providing the expected conditions or function, and attaining any other applicable metrics such as acres, percent cover of native plants, structural patch richness, control of invasive plants, water depth etc.;
- Monitor the site for a minimum of 10 years to determine if the Mitigation and Monitoring Plan is meeting the performance standards; and
- Assess the potential effects of changing weather patterns that are currently occurring, and that may occur due to climate change in the foreseeable future and how these changes may impact the long-term viability of the constructed wetlands. The purpose of this assessment is to locate and design the wetlands to avoid and minimize impacts from climate change and to develop adaptive management measures into the Mitigation and Monitoring Plan specifically to minimize these potential effects.



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The Mitigation and Monitoring Plan shall include a conservation easement[s] that will restrict use of the proposed Managed Open Space area of the Project Site to offset impacts to wetlands and impacts to rare plants and shall include a long-term endowment funded by the proposed Project to manage the entire 393.2-acre Managed Open Space area in perpetuity and in accordance with the Mitigation and Monitoring Plans' Long-Term Management Plan (see Property Analysis Record in the Mitigation and Monitoring Plan, in Appendix C).

A8-15
Cont.

MANDATORY FINDINGS OF SIGNIFICANCE: Does the Project have the potential to threaten to eliminate a plant or animal community, or substantially reduce the number or restrict range of a rare or endangered plant or animal?

A8-16

COMMENT 2: Swainson's hawk, draft EIR pages 4.3-2, and 79

Issue: The Project would impact Swainson's hawk foraging habitat, however much of the proposed compensatory mitigation habitat is already protected from development.

Specific impacts, why they may occur and be potentially significant: The draft EIR proposes to preserve 205.4 acres of Swainson's hawk foraging habitat in the Managed Open Space area to mitigate the loss of 92.0 acres of Swainson's hawk foraging habitat (draft EIR page 4.3-79). The majority of this proposed mitigation land is within the Suisun Marsh Preservation Act area (draft EIR page 4.3-2), in which only extremely limited development is permitted. As this land is already protected from the overwhelming majority of development, further preserving the land would not be effective mitigation for Swainson's hawk foraging habitat. Approximately 61.5 acres of Managed Open Space area would be outside the Suisun Marsh Preservation Act area (draft EIR page 4.3-2); however, it is not clear how much of this area is suitable foraging habitat.

The breeding population of Swainson's hawks in California has declined by an estimated 91 percent since 1900 and the species continues to be threatened by on-going and cumulative loss of foraging habitat (CDFW 2016). The California Natural Diversity Database (CNDDDB) includes seven occurrences of Swainson's hawk within 5 miles of the Project, with the nearest occurrence approximately 1.4 miles west of the Project (CNDDDB 2023, draft EIR page 4.3-79). Therefore, reduction of Swainson's hawk foraging habitat would be a potentially significant impact.

A8-17

The Project site is within the draft Solano Multispecies Habitat Conservation Plan (Solano HCP) Valley Floor Grassland Conservation Area, and according to the draft Solano HCP Mitigation Measure SH 2 for Swainson's hawk, Valley Floor Grassland Foraging habitat should be mitigated at a ratio of 1:1 (see Section 6.4.8 and Figure 4-21 of the draft Solano HCP at: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>).

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Recommended Mitigation Measure: To reduce potential for impacts to Swainson’s hawk foraging habitat to less-than-significant, CDFW strongly recommends replacing Mitigation Measure 4.3-8a with the below mitigation measure, which removes reference to additional Swainson’s hawk foraging habitat mitigation being required by CDFW and specifies additional off-site mitigation.

A8-19

Mitigation Measure 4.3-9c (Preserve Swainson’s Hawk Foraging Habitat): To offset impacts to 92.0 acres of Swainson’s hawk foraging habitat, the Project applicant shall provide habitat preservation at a location that will provide foraging habitat value to Swainson’s hawks consistent with CDFW guidance as set forth in the 1994 Staff Report Regarding Mitigation for Impacts to Swainson’s Hawks in the Central Valley of California. CDFW 1994 guidance provides that mitigation lands should be provided if an active nest is located within a 10-mile radius of the Project Site, mitigation habitat value shall be equal to or higher than what currently occurs on the Project Site, and at a minimum of 1:1 ratio.

The Project will determine the amount of Swainson’s hawk foraging habitat within the Managed Open Space area that is outside of the Suisun Marsh Preservation Act area. This area shall be preserved and protected in perpetuity by a conservation easement. To reach the minimum 1:1 compensation acreage for Swainson’s hawk foraging habitat, the Project applicant shall purchase mitigation credits from an approved Swainson’s hawk mitigation bank which services the Project Site or preserve suitable foraging habitat off-site at an approved CDFW location using a conservation easement. Land area protected by Swainson’s hawk foraging habitat mitigation credit purchase or other habitat preserved on-site and off-site shall be outside the Suisun Marsh Preservation Act area and shall not total less than 92.0 acres.

Furthermore, the Project proposes that the preserved 205.39 acres of Swainson’s hawk foraging habitat would be enhanced by grazing the Managed Open Space area to control the buildup of thatch.

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or the USFWS?

A8-20

COMMENT 3: Burrowing owl (*Athene cunicularia*), draft EIR pages 4.3-80 and 81

Issue: The draft EIR includes Mitigation Measure 4.3-9b, Avoid Impacts to Occupied Burrows. Mitigation Measure 4.3-9b specifies that burrows occupied by burrowing owls will be avoided by a non-disturbance buffer to be determined in consultation with CDFW (draft EIR page 4.3-81). It further states that during the non-breeding season, if an occupied burrow may be impacted even with implementation of non-disturbance buffers,

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a burrowing owl burrow exclusion plan likely including habitat mitigation may be prepared and implemented according to the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012) (draft EIR page 4.3-81).

A8-20
Cont.

However, Mitigation Measure 4.3-9b does not require habitat mitigation for impacts to unoccupied burrows used by breeding burrowing owls within the last three years. The draft Solano HCP, prepared by the Solano County Water Agency, stipulates that any nest site occupied by owls within the last three years is considered a known nest site and impacts to known nests sites require mitigation (see: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>, Section 6-Mitigation Measures, Pages 6-70 and 6-71) (Solano County Water Agency 2014).

Burrowing owls may use the Project site for breeding. Suitable breeding habitat for burrowing owl appears to exist on the Project site (draft EIR page 4.3-80). Despite being characterized in the draft EIR as “off the site adjacent to Cordelia Road” (draft EIR page 4.3-80), there is a CNDDDB occurrence of two adult burrowing owls observed during the breeding season located “east of South Pennsylvania Avenue, between Cordelia Street and Highway 12, south of Fairfield and west of Suisun City” (CDFW 2023a). This location as described in CNDDDB appears to be within the Project site.

A8-21

Specific impacts, why they may occur and be potentially significant: The Project may result in a permanent loss of burrowing owl breeding sites in Solano County. Burrowing owls are philopatric, meaning they show strong fidelity to their nest site and territory from year to year, especially where resident. Burrowing owl is a California Species of Special Concern because the species' population viability and survival are adversely affected by risk factors such as precipitous declines from habitat loss, fragmentation, and degradation; evictions from breeding sites without habitat mitigation; wind turbine mortality; human disturbance; and eradication of California ground squirrels resulting in a loss of suitable burrows required by burrowing owls for breeding, protection from predators, and shelter (Shuford and Gardali 2008; *Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, CDFW Statewide Burrowing Owl Coordinator Esther Burkett, May 13, 2022). Preliminary analyses of regional patterns for breeding populations of burrowing owls have detected declines both locally in their central and southern coastal breeding areas, and statewide where the species has experienced breeding range retraction (*Department of Fish and Game Staff Report on Burrowing Owl Mitigation* (2012); personal communication, Esther Burkett, May 13, 2022). Based on the foregoing, if an unoccupied burrow used by breeding burrowing owls within the last three years occurs on the Project site and is removed, Project impacts to burrowing owl would be potentially significant.

A8-22

Recommended Mitigation Measures: To reduce potential impacts to burrowing owl to less-than-significant, CDFW recommends including the below mitigation measures.

A8-23

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Mitigation Measure 4.3-9c (Burrowing Owl Burrow Mitigation): If the Project would impact an unoccupied breeding burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for breeding), or an occupied burrow (where a non-breeding owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.

A8-23
Cont.

Impacts to each burrowing owl unoccupied breeding site shall be mitigated by permanent preservation of two burrowing owl occupied breeding sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-breeding evicted owl sites except two burrowing owl occupied non-breeding (i.e., wintering) sites shall be preserved. Note that the draft Solano HCP states that burrowing owl burrows shall be mitigated at a 1:1 ratio, however due to the likely further decline of burrowing owl since the Habitat Conservation Plan (HCP) was drafted, a 2:1 ratio is appropriate.

The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or "take" which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid "take." Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW's written acceptance of the eviction plan.

A8-24

Mitigation Measure 4.3-9d (Cap Pipe and Hose): To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

A8-25

II. Project Description Related Impact Shortcoming

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?

A8-26

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AND

Would the Project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

A8-26
Cont.

COMMENT 4: LSA Agreement for Stream Impacts, draft EIR page 4.3-89

Issue: The draft EIR states that construction associated with a stormwater outfall culvert "may impact 0.002 acres of a slough channel categorized as a perennial brackish marsh" (draft EIR page 4.3-89). However, the Mitigated Negative Declaration does not include a mitigation measure requiring LSA Notification and compliance with the LSA Agreement, if issued.

Specific impacts, why they may occur and evidence impact would be potentially significant: The Project may result in impacts to perennial brackish marsh wetlands in a slough channel tributary to Suisun Slough. The "perennial brackish marsh" may be one of several natural communities considered sensitive by CDFW, including salt marsh bulrush (*Bolboschoenus maritimus*) marshes alliance (VC 52.112.00), alkali heath (*Frankenia salina*) marshes alliance (VC 52.500.00), or alkali weed (*Cressa truxillensis*) - salt grass (*Distichlis spicata*) playas and sinks alliance (VC 46.100.00) (CNPS 2023).

A8-27

Wetlands, including the sensitive natural communities described above, are of critical importance to protecting and conserving the biotic and abiotic integrity of an entire watershed. More than 90 percent of California's historic wetlands have been lost to development and other human activity. Wetlands are a critical natural resource that protect and improve water quality and provide habitat for fish and wildlife. Absent the LSA Agreement which would include measures to avoid and minimize impacts to streams, hydrologically connected habitat, wetlands, and associated species, impacts to the slough and associated riparian habitat, sensitive natural community, or wetlands would be potentially significant.

Recommended Mitigation Measure: To reduce potential impacts to the slough containing perennial brackish marsh wetlands and potentially sensitive natural community to less-than-significant and comply with Fish and Game Code section 1600 et seq., CDFW recommends including the mitigation measure below.

A8-28

Mitigation Measure 4.3-17f (Lake and Streambed Alteration Notification): The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using the Environmental Permit Information Management System (see: <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>) for Project activities affecting lakes or streams, associated riparian or otherwise hydrologically connected habitat, and any connected wetlands, and shall comply with the LSA Agreement, if issued.

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ENVIRONMENTAL DATA

A8-29

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be filled out and submitted online at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

A8-30

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

A8-31

CDFW appreciates the opportunity to comment on the draft EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alex Single, Environmental Scientist, at (707) 799-4210 or Alex.Single@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov or (707) 210-4415.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2021040016)

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ATTACHMENT 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
MM 4.3-8a	<p><i>Preserve Swainson's Hawk Foraging Habitat:</i> To offset impacts to 92.0 acres of Swainson's hawk foraging habitat, the Project applicant shall provide habitat preservation at a location that will provide foraging habitat value to Swainson's hawks consistent with CDFW guidance as set forth in the 1994 Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California. CDFW 1994 guidance provides that mitigation lands should be provided if an active nest is located within a 10-mile radius of the Project Site, mitigation habitat value shall be equal to or higher than what currently occurs on the Project Site, and at a minimum of 1:1 ratio.</p> <p>The Project will determine the amount of Swainson's hawk foraging habitat within the Managed Open Space area that is outside of the Suisun Marsh Preservation Act area. This area shall be preserved and protected in perpetuity by a conservation easement. To reach the minimum 1:1 compensation acreage for Swainson's hawk foraging habitat, the Project applicant shall purchase mitigation credits from an approved Swainson's hawk mitigation bank which services the Project Site, preserve suitable foraging habitat off-site at an approved CDFW location using a conservation easement, or use another conservation method approved by CDFW. A total of 92.0 acres of on-site and off-site Swainson's hawk foraging habitat, both outside of the Suisun Marsh Preservation Act area, shall be protected in perpetuity by a conservation easement.</p> <p>Furthermore, the Project proposes that the preserved 205.39 acres of Swainson's hawk foraging habitat would be enhanced by grazing the Managed Open Space area to control the buildup of thatch.</p>	Prior to Ground Disturbance	Project Applicant
MM 4.3-9c	<p><i>Burrowing Owl Burrow Mitigation:</i> If the Project would impact an unoccupied breeding burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for breeding), or an occupied</p>	Prior to Ground Disturbance and for	Project Applicant

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	<p>burrow (where a non-breeding owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.</p> <p>Impacts to each burrowing owl unoccupied breeding site shall be mitigated by permanent preservation of two burrowing owl occupied breeding sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-breeding evicted owl sites except two burrowing owl occupied non-breeding (i.e., wintering) sites shall be preserved. Note that the draft Solano HCP states that burrowing owl burrows shall be mitigated at a 1:1 ratio, however due to the likely further decline of burrowing owl since the HCP was drafted, a 2:1 ratio is appropriate.</p> <p>The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.</p> <p>Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.” Habitat compensation shall be provided for any evicted owl as described above and the Project shall obtain CDFW’s written acceptance of the eviction plan.</p>	<p>Duration of Construction</p>	
<p>MM 4.3-9d</p>	<p><i>Cap Pipe and Hose:</i> To prevent burrowing owls from sheltering or nesting in exposed material; all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each workday and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.</p>	<p>For Duration of Construction</p>	<p>Project Applicant and Construction Contractors</p>

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<p>MM 4.3-17e</p>	<p><i>Implement Mitigation and Monitoring Plan</i>): To compensate for loss of wetlands and impacts to rare plant populations, the Project applicant shall implement an Agency-approved Mitigation and Monitoring Plan. A draft Mitigation and Monitoring Plan for the proposed Managed Open Space portion of the Project Site (Appendix C, Attachment 7), has been prepared in accordance with the Subpart J – Compensatory Mitigation for Losses of Aquatic Resources outlined in the State Water Resources Control Board Procedures, and in accordance with the State Water Resources Control Board Implementation Guidance dated April 2020. The referenced Mitigation and Monitoring plan may be modified based on recommendations from the USACE, USFWS, and RWQCB during the permitting process. In summary, the Mitigation and Monitoring Plan shall:</p> <ul style="list-style-type: none"> • Establish within the Managed Open Space a minimum of 16.33 acres of Seasonally Saturated Annual Grassland; 14.09 acres of Vernal Pools; 7.42 acres of Alkali Seasonal Wetlands; and 0.002 acre of Perennial Brackish Marsh; • Provide financial assurances to ensure a high level of confidence that the Mitigation and Monitoring Plan will be successfully completed, in accordance with applicable performance standards; • Design ecological performance standards to assess whether the Mitigation and Monitoring Plan is achieving the overall objectives, so that it can be objectively evaluated to determine if it is developing into the desired resource type, providing the expected conditions or function, and attaining any other applicable metrics such as acres, percent cover of native plants, structural patch richness, control of invasive plants, water depth etc.; • Monitor the site for a minimum of 10 years to determine if the Mitigation and Monitoring Plan is meeting the performance standards; and • Assess the potential effects of changing weather patterns that are currently occurring, and that may occur due to climate change in the foreseeable future and how these changes may impact the long-term viability of the constructed wetlands. The purpose of this assessment is to locate and design the wetlands to avoid and minimize impacts from climate change and to develop adaptive management measures into the Mitigation and Monitoring Plan specifically to minimize these potential effects. 	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>
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	<p>The Mitigation and Monitoring Plan shall include a conservation easement[s] that will restrict use of the proposed Managed Open Space area of the Project Site to offset impacts to wetlands and impacts to rare plants and shall include a long-term endowment funded by the proposed Project to manage the entire 393.2-acre Managed Open Space area in perpetuity and in accordance with the Mitigation and Monitoring Plans' Long-Term Management Plan (see Property Analysis Record in the Mitigation and Monitoring Plan, in Appendix C).</p>		
<p>MM 4.3-17f</p>	<p><i>Mitigation Measure 4.3-17f (Lake and Streambed Alteration Notification):</i> The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using the Environmental Permit Information Management System (see: https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS) for Project activities affecting lakes or streams, associated riparian or otherwise hydrologically connected habitat, and any connected wetlands, and shall comply with the LSA Agreement, if issued.</p>	<p>Prior to Ground Disturbance</p>	<p>Project Applicant</p>

RESPONSE TO COMMENT LETTER #A8

Comment A8-1 *Summary of Comment:* The commenter, California Department of Fish and Wildlife, CDFW, summarizes its role in commenting on the Draft EIR as a Trustee Agency under CEQA on issues related to fish, plant, and wildlife resources. They also clarified their role as a Responsible Agency should the Project require authorization under CESA, the Native Plant Protection Act, the agency's Lake and Streambed Alteration Program, or other provisions of the Fish and Game Code.

Response: CDFW's statements regarding its role as both a Trustee and possibly Responsible Agency under CEQA are noted. No further response is necessary.

Comment A8-2 *Summary of Comment:* The comment summarizes CDFW's understanding of the location and nature of the Proposed Project.

Response: Comment noted. CDFW has correctly understood the nature of the proposed Project.

Comment A8-3 *Summary of Comment:* CDFW lists species listed under CESA that could be impacted by the Proposed Project (Swainson's Hawk, salt marsh harvest mouse, several listed species of salmonids, California black rail, tricolored blackbird, and Crotch bumble bee), and acknowledges that the Draft EIR provides mitigation measures to avoid impacts to these species. CDFW indicates that, if impacts to these listed species result, significant modification to the Project and mitigation measures may be required to obtain a necessary Incidental Take Permit (ITP) from the agency.

Response: CDFW's comments regarding the possible need for an ITP under CESA are noted. If the Project were to result in the "take" of species listed under CESA, significant modification of the Project or implementation of mitigation measures may be required to obtain an ITP from CDFW. No further response is necessary.

Comment A8-4 *Summary of Comment:* CDFW comments that a Mandatory Finding of Significance is required if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species, and that impacts must be avoided or mitigated to less than significant levels unless the Lead Agency makes Findings of Overriding Considerations. CDFW also states that a Finding of Overriding Considerations does not eliminate the applicant's obligation to comply with CESA.

Response: CDFW's comments regarding the possible need for a Mandatory Finding of Significance or Finding of Overriding Considerations are noted. Under CEQA Guidelines Section 15065, subdivision (a), a mandatory finding of significance is required where a proposed project would substantially reduce the number or restrict the range of an endangered, rare, or threatened species. The commenter is correct that, where such an impact exists and cannot be feasibly mitigated to a less than significant level, a statement of overriding considerations would be necessary before an agency decisionmaker could approve a proposed project with such an impact. Here, however, no mandatory finding is necessary, as the Draft EIR has not concluded that the Project will substantially reduce the number or restrict the range of an endangered, rare,

or threatened species. Although the Project Site supports, or has the potential to support, a number of species listed as either endangered or threatened, the recommended mitigation measures will reduce impacts to those species such that there will neither be substantial reductions in the numbers of individuals of such species nor substantial restrictions of the ranges of the species.

Comment A8-5 *Summary of Comment:* CDFW indicates that LSA Notification is required for Projects affecting lakes, streams, or associated riparian habitat, and indicates that the project requirement to construct a stormwater outfall within a slough channel may require an LSA Notification if this outfall impacts the slough.

Response: The City acknowledges that if a stormwater outfall were to be constructed within the subject slough channel, an LSA Notification for the outfall would be required. Please see also the Response to Comment A8-28.

Comment A8-6 *Summary of Comment:* CDFW states that Fully Protected Species (for this Project including California black rail and salt marsh harvest mouse) may not be taken or possessed at any time except in certain limited circumstances.

Response: The City understands the restrictions related to Fully Protected Species such as California black rail and salt marsh harvest mouse. The Draft EIR summarizes required protections associated with Fully Protected Species on page 4.3-58 of Section 4.3.2, Regulatory Framework. No take of California black rail, salt marsh harvest mouse, or other Fully Protected Species such as white-tailed kite will result from the Project.

Comment A8-7 *Summary of Comment:* CDFW indicates that, based on several Fish and Game Code Sections, it has jurisdiction over actions that may result in the disturbance or destruction of active nests or the unauthorized take of birds, and that that migratory birds are also protected under the Migratory Bird Treaty Act.

Response: The City acknowledges the prohibitions contained in Fish and Game Code sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird), and under the federal Migratory Bird Treaty Act. Although these laws do not give CDFW direct permitting authority over all activities that could affect birds or their nests, the City assumes that CDFW's law enforcement authority extends to violations of these statutes. The Draft EIR summarizes federal regulations protecting bird population on page 4.3-54 and state regulations on page 4.3-58 of Section 4.3.2, Regulatory Framework. The Draft EIR also includes mitigation measures intended to protect nesting birds. Mitigation Measures 4.3-14a and 4.3-14b provide that, if construction activity is to be conducted during the nesting season of migratory birds (February 1 to August 31), preconstruction surveys for active bird nests must be conducted and that any active nests must be protected through the establishment of protective buffer zones. Mitigation Measure 4.3-11 ensures that these preconstruction surveys and protections extend to special status species for which specific mitigation measures are not included elsewhere in the Draft

EIR, including loggerhead shrike, Suisun song sparrow, grasshopper sparrow, and tricolored blackbird nesting colonies.

Comment A8-8 *Summary of Comment: As the Project requires avoidance of significant impacts on biological resources and implementation of mitigation measures, CDFW agrees that an EIR is the appropriate document necessary to comply with CEQA.*

Response: Comment noted. No further response is necessary.

Comment A8-9 *Summary of Comment: The comment points out that the draft EIR includes Mitigation Measure 4.3-17e, Implement Mitigation and Monitoring Plan, which states that "the Mitigation and Monitoring Plan shall include a site protection instrument (e.g., deed restriction or conservation easement[s]) that will restrict use of the proposed Managed Open Space area of the Project Site to offset impacts to wetlands and impacts to rare plants" (Draft EIR page 4.3-94). CDFW points out that deed restrictions and open space easements provide a lesser degree of certainty than conservation easements that wetlands and special-status species will be protected in perpetuity. If a site protection instrument that is not a conservation easement is used, Mitigation Measure 4.3-17e may not be effective in mitigating the Project's effect on special-status fish and wildlife resources.*

Response: In response to CDFW's comment, the last paragraph of Mitigation Measure 4.3-17e has been revised to specify that a conservation easement would serve as the site protection instrument to provide mitigation commensurate with the impacts identified in section 4.3 of the Draft EIR and addressed through Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b, and that a deed restriction would be placed on the remainder of the Managed Open Space area to prohibit development of and public access to, and public use of the entire Managed Open Space area. The last paragraph of Mitigation Measure 4.3-17e has been revised as shown in Chapter 3, "Errata," of this Final EIR and provided here:

Mitigation Measure 4.3-17e: ... The Mitigation and Monitoring Plan shall include a conservation easement as the site protection instrument (~~e.g., deed restriction or conservation easement[s]~~) that will restrict use of the proposed Managed Open Space area of the Project Site in accordance with the acreages and ratios set forth by Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b to offset impacts to wetlands and impacts to rare plants and shall include a long-term endowment funded by the proposed Project; the balance of the Managed Open Space area shall be protected through a deed restriction that prohibits development of and public access to, and public use of the Managed Open Space area. The combination of these preservation tools shall manage the Managed Open Space area in perpetuity and in accordance with the Mitigation and Monitoring Plan's Long-Term Management Plan (see Property Analysis Record in the Mitigation and Monitoring Plan, in Appendix C).

Comment A8-10 *Summary of Comment: In the comment, CDFW summarizes identified impacts to special status species resulting from the Project, stating that the Project would result in a loss of individuals*

of the federally listed as endangered Contra Costa goldfields (draft EIR page 4.3-70), foraging habitat for CESA listed as threatened Swainson's hawk (Draft EIR page 4.3-79), an estimated 12 individual alkali milk-vetch plants (Draft EIR page 4.3-73), an estimated 465 individual saline clover plants (Draft EIR page 4.3-74), and an unquantified number of long-styled sand spurrey plants (Draft EIR page 4.3-76), as well as the loss of both occupied and suitable habitat for these species (Draft EIR page 4.3-73, 74, and 76). CDFW states that a lack of permanent protection of mitigation land may result in a mandatory finding of significance pursuant to CEQA Guidelines section 15065, subdivision (a), due to a substantial reduction in the numbers or restriction of the ranges of these species.

Response: The City disagrees with the commenter's statement that Mitigation Measure 4.3-17e in its original form would have resulted in the need to make a mandatory finding of significance under CEQA Guidelines Section 15065, subdivision (a). Even so, as noted in the Response to Comment A8-9, Mitigation Measure 4.3-17e has been modified so that the Mitigation Monitoring and Reporting Plan requires a conservation easement as the permanent protection instrument for the portion of the Managed Open Space area required to provide compensatory mitigation in accordance with the acreages and ratios set forth by Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b, and a deed restriction for the remainder of the Managed Space area that is not managed according to the provision of a conservation easement or easements. Refer to Response to Comment A8-9 for the modified language.

Comment A8-11 *Summary of Comment: The comment summarizes identified wetland impacts, stating that "the Project would result in permanent loss of wetlands due to placement of fill material into 16.3 acres of Seasonally Saturated Annual Grassland; 14.1 acres of Vernal Pools; 7.4 acres of Alkali Seasonal Wetlands; and 0.002 acres of Perennial Brackish Marsh and may result in hydrological alterations to wetlands during the creation of mitigation wetlands (draft EIR page 4.3-92). As described in the draft EIR, this is a potentially significant impact to wetlands (draft EIR page 4.3-92) and lack of permanent protection of mitigation land as further described below would result in a potentially significant impact to wetlands."*

Response: Mitigation Measure 4.3-17e has been modified so that the Mitigation and Monitoring Plan requires a conservation easement as the permanent protection instrument for the portion of the Managed Open Space area required to provide compensatory mitigation in accordance with the acreages and ratios set forth by Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b, and a deed restriction for the remainder of the Managed Space area that is not managed according to the provision of a conservation easement or easements. Refer to Response to Comment A8-9 for the modified language.

Comment A8-12 *Summary of Comment: The comment indicates that the wetlands described in the Draft EIR are not categorized into natural communities, and that they are likely to contain natural communities considered by CDFW to be sensitive.*

Response: The Helm Biological Consulting (HBC) plant survey report referenced in the Draft EIR titled *2022 Protocol-Level Special-Status Native Plant Surveys at the Highway 12 Logistics Center*

Project, Solano County California, dated March 2023, determined that some of the vernal pool habitats on-site could be classified as a *Downingia pulchella – Cressa truxillensis* association, under the *Lasthenia fremontii – Distichlis spicata* alliance, and that other vernal pool habitats fit better in the *Lasthenia glaberrima –Pleuropogon californicus* association or the *Lasthenia glaberrima Trifolium variegatum* association, both under the *Lasthenia glaberrima* alliance (Sawyer *et al.* 2009). Both the *Lasthenia fremontii – Distichlis spicata* alliance and the *Lasthenia glaberrima* alliance have a global and State rarity ranking of 2 (G2 and S2) and, therefore, are considered sensitive natural communities to CDFW. As correctly stated in CDFW’s comment A8-13 below, it is reasonably expected that wetland restoration and the conservation of existing wetlands, as described in the Mitigation and Monitoring Plan required in the Draft EIR Mitigation Measure 4.3-17e, would result in the restoration of the sensitive natural community referenced in the HBC report and mitigation sufficient to reduce impacts to these habitats to less-than-significant levels.

Comment A8-13 *Summary of Comment:* CDFW indicates that it is reasonably expected that wetland restoration and conservation of existing wetlands, as described in the Mitigation and Monitoring Plan required in the Draft EIR Mitigation Measure 4.3-17e, would result in the restoration of the natural communities listed in Comment A8-12. CDFW points out that if there is a lack of permanent protection of mitigation land, the Project would result in potentially significant impacts to sensitive natural communities.

Response: Mitigation Measure 4.3-17e has been modified so that the Mitigation and Monitoring Plan requires a conservation easement as the permanent protection instrument for the portion of the Managed Open Space area required to provide compensatory mitigation in accordance with the acreages and ratios set forth by Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b, and a deed restriction for the remainder of the Managed Space area that is not managed according to the provision of a conservation easement or easements. Refer to Response to Comment A8-9 for the modified language.

Comment A8-14 *Summary of Comment:* The comment summarizes a variety of reasons why CDFW believes that conservation easements provide greater certainty than deed restrictions that long-term management of mitigation lands can be assured.

Response: Mitigation Measure 4.3-17e has been modified so that the Mitigation and Monitoring Plan requires a conservation easement as the permanent protection instrument for the portion of the Managed Open Space area required to provide compensatory mitigation in accordance with the acreages and ratios set forth by Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b, and a deed restriction for the remainder of the Managed Space area that is not managed according to the provision of a conservation easement or easements. Refer to Response to Comment A8-9 for the modified language.

Comment A8-15 *Summary of Comment:* To reduce potential for the several impacts to special-status fish and wildlife resources to less-than-significant, CDFW strongly recommends replacing Mitigation Measure 4.3-17e with alternative wording for the mitigation measure, which removes reference to an unspecified site protection instrument or deed restriction, leaving a conservation easement

as the legal tool used to protect mitigation values in perpetuity. CDFW's recommended new mitigation measure removed reference to a deed restriction and replaced it with a conservation easement.

Response: The last paragraph of Mitigation Measure 4.3-17e has been revised to require a conservation easement as the site protection instrument for the portion of the Managed Open Space area required to provide compensatory mitigation in accordance with the acreages and ratios set forth by Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b, and a deed restriction for the remainder of the Managed Space area that is not managed according to the provision of a conservation easement or easements. Refer to Response to Comment A8-9.

Comment A8-16 *Summary of Comment:* CDFW points out that the Draft EIR proposes to preserve 205.4 acres of Swainson's hawk foraging habitat in the Managed Open Space area to mitigate the loss of 92 acres of Swainson's hawk foraging habitat (Draft EIR page 4.3-2). The agency indicates that much of the area proposed to compensate for impacts to Swainson's hawk foraging habitat is already protected from development as it is within the Suisun Marsh Preservation Act area (Draft EIR page 4.3-2). CDFW contends that further protecting land that is already protected would not be effective mitigation. The comment notes that proposed compensation habitat includes 61.5 acres of onsite Managed Open Space not included in the Suisun Marsh Preservation Act area, but that it is unknown whether this is suitable Swainson's hawk foraging habitat.

Response: The City disagrees with CDFW's suggestion that, because the Managed Open Space would be located within the Suisun Marsh Protection Plan jurisdiction, a conservation easement would not be biologically effective. The comment fails both to recognize the limitations of existing protections under the Suisun Marsh Protection Plan and to acknowledge the multiple additional environmental benefits that can be accomplished through the use of conservation easements. Although the Suisun Marsh Protection Plan does provide protection from commercial and residential development and provides guidance on how lands should be preserved and enhanced, the Suisun Marsh Protection Plan does not provide funding to implement its policies/goals such as managing agricultural lands to support waterfowl or enhance wildlife habitat. Notably, moreover, the Suisun Marsh Protection Plan does allow activities and development that are not compatible with the protection of habitat for the benefit of Swainson's hawk. For example, the Suisun Marsh Protection Plan allows land uses and activities such as the installation of utilities, natural gas exploration, recreational hiking and biking, recreational fishing, boating, hunting, and the like. A conservation easement with an endowment designed specifically to preserve and manage the land for wildlife habitat, including Swainson's hawk foraging habitat, will provide the protected area with additional protections and funding to implement such protections the Suisun Marsh Protection Plan does not afford. The conservation easement (i) will restrict recreation/public access, which can have adverse impacts on Swainson's hawk foraging and nesting activities; (ii) will ensure the foraging habitat is protected in perpetuity and not converted to a habitat type (e.g. perennial wetland, tidal wetland, pond, etc.) not suitable for Swainson's hawk foraging; and (iii) will ensure that current grazing practices are compatible with preserving and enhancing the wildlife habitat for a number of species including Swainson's hawk foraging.

A deed restriction is required for portions of the Managed Open Space area not required for compensatory mitigation that prohibits development, as well as public access and activities that could have adverse effects.

See also Response to Comment A7-9, which explains why habitat preservation or conservation, particularly when combined with management and/or enhancement, is a legitimate and recognized form of CEQA mitigation.

Comment A8-17 *Summary of Comment: CDFW comments that reduction of Swainson's hawk foraging habitat would be a potentially significant impact given that Swainson's hawk breeding populations in California have declined by 91 percent since 1900, the species continues to be threatened by loss of foraging habitat, and the fact that seven occurrences of Swainson's hawk are known to occur within 5 miles of the Project (with the nearest being 1.4 miles to the west of the Project Site).*

Response: The Draft EIR acknowledges that impacts to Swainson's hawk foraging habitat are potentially significant and warrant implementation of mitigation measures to reduce impacts to levels of insignificance. However, CDFW's statement that Swainson's hawk breeding populations in California have declined by 91 percent ignores CDFW's own data showing that the number of breeding pairs in California has grown rapidly in recent years. Furnas et al (2022) demonstrated that after steep declines in the population between the 1970s and the early 2000s, California's Swainson's hawk summering population grew between 2005 and 2018 at the rapid rate of 13.9 percent per year. These authors estimated the total Statewide population at 18,810 breeding pairs in 2018, which is within the range of the historical baseline population of 17,136 pairs estimated by Bloom in 1979 (Bloom 1979). Despite an overall increasing summer range population of Swainson's Hawks in California, the researchers in Furnas (2022) study "recommend caution with respect to conservation planning for the species in the state," suggesting that "the stability of recovery remains unclear."

CDFW indicates that seven occurrences of Swainson's hawk are known to occur within 5 miles of the Project (with the nearest being 1.4 miles to the west of the site). The Draft EIR uses the same data to make the statement on page 4.3-79 that "there are 20 records of Swainson's hawk in the CNDDDB within 10 miles of the Project Site, including 5 that are within 3 miles. The closest record of nesting Swainson's hawk to the Project Site is of a nest discovered in the summer of 2022 by an HBG wildlife biologist near Chadbourne Road and Courage Drive, a location that is approximately 1.4 miles west of the Project Site." These breeding records within 10 miles of the proposed Project supports the finding in the Draft EIR for this impact to be potentially significant and the inclusion of recommend Mitigation Measure 4.3-8a to compensate for Swainson's hawk foraging habitat.

Comment A8-18 *Summary of Comment: The comment indicates that the Project Site is within the Solano Multispecies Habitat Conservation Plan (HCP) Valley Floor Grassland Conservation Area where loss of foraging habitat should be mitigated at a ratio of 1:1.*

Response: The comment that mitigation for the loss of Swainson's Hawk foraging habitat should be at a ratio of 1:1 is noted. The Draft EIR proposes mitigation for loss of Swainson's hawk foraging habitat as set forth in the 1994 Staff Report Regarding Mitigation for Impacts to Swainson's

Hawks in the Central Valley of California, which provides guidance that mitigation lands should be provided if an active nest is located within a 10-mile radius of the Project Site, mitigation habitat value shall be equal to or higher than what currently occurs on the Project Site, and at a minimum of 1:1 ratio. Consistent with this guidance, Mitigation Measure 4.3-8 includes detailed language requiring a 1:1 compensation for Swainson's hawk foraging habitat, and, should additional Swainson's hawk foraging habitat mitigation area be required by the 1194 CDFW guidance, the requirement for the Project applicant to purchase mitigation credits from an approved Swainson's hawk mitigation bank or preserve suitable foraging habitat off-site at an approved CDFW location so as to satisfy the additional CDFW requirement to offset the permanent loss of foraging habitat.

Comment A8-19 *Summary of Comment: To reduce potential for impacts to Swainson's hawk foraging habitat to less than significant levels, CDFW recommends replacing Mitigation Measure 4.3-8a with alternative wording for the mitigation measure, which removes reference to additional Swainson's hawk foraging habitat mitigation being recommended by CDFW and suggests additional off-site mitigation. CDFW's recommended new mitigation measure reads as follows:*

Mitigation Measure 4.3-9c (Preserve Swainson's Hawk Foraging Habitat): *To offset impacts to 92.0 acres of Swainson's hawk foraging habitat, the Project applicant shall provide habitat preservation at a location that will provide foraging habitat value to Swainson's hawks consistent with CDFW guidance as set forth in the 1994 Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California. CDFW 1994 guidance provides that mitigation lands should be provided if an active nest is located within a 10-mile radius of the Project Site, mitigation habitat value shall be equal to or higher than what currently occurs on the Project Site, and at a minimum of 1: 1 ratio.*

The Project will determine the amount of Swainson's hawk foraging habitat within the Managed Open Space area that is outside of the Suisun Marsh Preservation Act area. This area shall be preserved and protected in perpetuity by a conservation easement. To reach the minimum 1:1 compensation acreage for Swainson's hawk foraging habitat, the Project applicant shall purchase mitigation credits from an approved Swainson's hawk mitigation bank which services the Project Site or preserve suitable foraging habitat off-site at an approved CDFW location using a conservation easement. Land area protected by Swainson's hawk foraging habitat mitigation credit purchase or other habitat preserved on-site and off-site shall be outside the Suisun Marsh Preservation Act area and shall not total less than 92.0 acres.

Furthermore, the Project proposes that the preserved 205.39 acres of Swainson's hawk foraging habitat would be enhanced by grazing the Managed Open Space area to control the buildup of thatch.

Response: As discussed in Response to Comment A8-16, although much of the Managed Open Space is within the SMPP and protected from certain developments, a site protection instrument (i.e.,

conservation easement) with an endowment designed specifically to preserve and manage the land for wildlife habitat, including Swainson's hawk foraging habitat, will provide the protected area with additional protections and funding to implement such protections and offset impacts to Swainson's hawk foraging habitat. For these reasons, Mitigation Measure 4.3-8a as set forth in the Draft EIR adequately mitigates impacts to Swainson's hawk foraging habitat to a level of less than significant. Even so, the City has made minor wording modifications to the measure, as shown in underline for new text in response to this comment. The revised Mitigation Measure 4.3-8a is provided in Chapter 3, "Errata," to this Final EIR to read as follows:

Mitigation Measure 4.3-8a: To offset impacts to 92.0 acres of Swainson's hawk foraging habitat, the Project applicant shall provide habitat preservation at a location that will provide foraging habitat value to Swainson's hawks consistent with CDFW guidance as set forth in the 1994 Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California. CDFW 1994 guidance provides that mitigation lands should be provided if an active nest is located within a 10-mile radius of the Project Site, mitigation habitat value shall be equal to or higher than what currently occurs on the Project Site, and at a minimum of 1:1 ratio. Currently, the Project proposes 393.2 acres of Managed Open Space area, of which 205.4 acres consists of annual grasslands and seasonal wetlands considered suitable foraging habitat, shall be preserved and protected in perpetuity. Acreage required to provide a 1:1 compensation acreage for Swainson's hawk foraging habitat would be protected through a conservation easement; a deed restriction would be placed on the remainder of the Managed Open Space area that prohibits development of, any resource extraction within, and public access to, and public use of the Managed Open Space area under the Project. Furthermore, the Project proposes that the preserved Swainson's hawk foraging habitat would be enhanced by grazing the Managed Open Space area to control the buildup of thatch.

If additional Swainson's hawk foraging habitat mitigation is required by the 1994 CDFW guidance, the Project applicant shall purchase mitigation credits from an approved Swainson's hawk mitigation bank which services the Project Site, or preserve suitable foraging habitat off-site at an approved CDFW location so as to satisfy the additional CDFW requirement to offset the permanent loss of foraging habitat.

Comment A8-20 *Summary of Comment:* CDFW recognizes that Mitigation Measures 4.3-9b correctly requires avoidance of burrows occupied by burrowing owls with non-disturbance buffers and possible implementation of a burrowing owl exclusion plan during non-breeding periods likely include habitat mitigation. However, CDFW points out that the mitigation measure does not require habitat mitigation for impacts to unoccupied burrows used by breeding burrowing owl within the last three years. CDFW indicates that the draft Solano HCP stipulates that any nest site occupied by burrowing owls within the last three years is considered a known nest site that would require mitigation.

Response: Comment noted. The City acknowledges that an unoccupied burrow used by breeding burrowing owls within the last three years would be considered as a known nest site that would require mitigation if impacted by the Project, as stipulated in the draft Solano HCP. The last known record of burrowing owl either on or in the immediate vicinity of the Project Site was a record from the CNDDDB in 2006 (see Response to Comment A8-21). Various wildlife biologists from several different firms (including HBG) have extensively surveyed the site over the last 20 years, and no burrowing owls have been sighted, aside from the 2006 CNDDDB record. There have been no occupied burrows on the Project Site over the last three years, so mitigation for impacts to a currently unoccupied burrow as mentioned in the comment will not be necessary. The City's focus on actual on-the-ground conditions is consistent with the legal principle that existing conditions are generally the proper baseline for environmental impact assessment (CEQA Guidelines, § 15125, subd. [a][1]). "An existing conditions baseline shall not include hypothetical conditions[.]" (*Id.*, subd. [a][3]).

The City notes, moreover, that the draft Solano HCP remains unapproved and lacks the force of law. Under CEQA case law, draft regulatory plans need not to be considered (*Chaparral Greens v. City of Chula Vista* [1996] 50 Cal.App.4th 1134, 1145, fn. 7).

Comment A8-21 *Summary of Comment:* The comment acknowledges statements in the Draft EIR (page 4.3-80) that suitable breeding habitat for burrowing owl appears to exist on the Project Site (Draft EIR page 4.3-80). In addition, CDFW indicates that a CNDDDB sighting for burrowing owl characterized in the Draft EIR as "off the site adjacent to Cordelia Road" (Draft EIR page 4.3-80), were of two adult burrowing owls observed during the breeding season located "east of South Pennsylvania Avenue, between Cordelia Street and Highway 12, south of Fairfield and west of Suisun City" which CDFW states appears to be within the Project Site. Therefore, the Project may result in a permanent loss of a burrowing owl breeding site in Solano County.

Response: CDFW highlights a CNDDDB record of two burrowing owls observed during the breeding season located (as per the CNDDDB) "east of South Pennsylvania Avenue, between Cordelia Street and Highway 12, south of Fairfield and west of Suisun City," which does sound like it could encompass the Project Site. The CNDDDB information also points out that the specific location was "surrounded by suburban development to the north and east, pastureland and light industrial to the west and pastureland and estuary to the south," which would describe a location at the eastern end of the annexation area that is to be included in the area of Managed Open Space as part of the Project. The lat/long coordinates provided as part of the CNDDDB record indeed places this sighting within the Managed Open Space area. The date these owls were observed was February 6, 2006, which is very early in the nesting season, and there is no guarantee that this burrowing owl pair remained at this burrow to nest. In any event, regardless of precise location of this sighting or whether or not nesting actually occurred, it was a record of the species from 2006, not within the last three years. The Cordelia Road location mentioned in the 2006 environmental studies conducted at the site and in the Draft EIR refers to a number of burrowing owls sighted at the junction of Cordelia Road and Orehr Road in 1987, a location that is adjacent to the westernmost edge of the proposed Managed Open Space.

There have been no occupied burrows on the Project Site over the last three years, so mitigation for impacts to a currently unoccupied burrow as mentioned in the comment will not be necessary (See Response to Comment A8-20 for a discussion of relevant legal principles).

Comment A8-22 *Summary of Comment:* The comment summarizes aspects of burrowing owl ecology including strong fidelity to nest sites and territories, the species' status as a Species of Special Concern due to a variety of described factors, and population declines in various part of California. CDFW states that "if an unoccupied burrow used by breeding burrowing owls within the last three years occurs on the Project Site and is removed, Project impacts to burrowing owl would be potentially significant."

Response: See the Response to Comment A8-20 and A8-21. The last known record of burrowing owl either on or in the immediate vicinity of the Project Site was a record from the CNDDDB in 2006. Various wildlife biologists from several different firms (including HBG) have extensively surveyed the site over the last 20 years, and no burrowing owls have been sighted, aside from the 2006 record. There have been no occupied burrows on the Project Site over the last three years, so mitigation for impacts to a currently unoccupied burrow as mentioned in the comment will not be necessary.

Comment A8-23 *Summary of Comment:* To reduce potential for impacts to burrowing owl to less than significant levels, CDFW recommends including the following mitigation measure:

Mitigation Measure 4.3-9c (Burrowing Owl Burrow Mitigation): If the Project would impact an unoccupied breeding burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for breeding), or an occupied burrow (where a non-breeding owl would be evicted as described below), the following habitat mitigation shall be implemented prior to Project construction.

Impacts to each burrowing owl unoccupied breeding site shall be mitigated by permanent preservation of two burrowing owl occupied breeding sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-breeding evicted owl sites except two burrowing owl occupied non-breeding (i.e., wintering) sites shall be preserved. Note that the draft Solano HCP states that burrowing owl burrows shall be mitigated at a 1:1 ratio, however due to the likely further decline of burrowing owl since the Habitat Conservation Plan (HCP) was drafted, a 2:1 ratio is appropriate.

The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

Response: The City has added language to Mitigation Measure 4.3-9b in order to incorporate concepts from CDFW's proposed new mitigation measure 4.3-9c. This new language maintains a 1:1 ratio in lieu of the 2:1 ratio recommended by CDFW. Notably, the draft Solano HCP recommends burrowing owl mitigation at a 1:1 ratio and CDFW's own guidelines (CDFW 2012) did not

provide a minimum habitat replacement recommendation, preferring to assign such measures on a case-by-case basis. Many portions of the Project Site are wetlands that do not generally support burrowing owl or significant colonies of California ground squirrels, and no burrowing owls have been sighted since 2006 despite extensive searching. Under these circumstances, a mitigation ratio greater than 1:1 appears not to be warranted.

Mitigation Measure 4.3-9a (Preconstruction Burrowing Owl Nesting Survey) requires preconstruction surveys for burrowing owls, and if a burrowing owl were found to be present within a development area prior to construction, implementation of Mitigation Measure 4.3-9b (Avoid Impacts to Occupied Burrows) would reduce the impact to levels of insignificance. Mitigation Measure 4.3-9b acknowledges that if a burrowing owl is found and non-disturbance buffers are not enough to avoid impacts, it may be necessary to implement a Burrowing Owl Exclusion plan in accordance with CDFW guidelines, and that implementation of such a plan would likely require habitat mitigation, as suggested in CDFW's proposed new Mitigation Measure 4.3-9c. Note that if mitigation for impacts to an occupied burrow was necessary as part of a Burrowing Owl Exclusion Plan, such mitigation could be provided onsite within the Managed Open Space east of the Project development, where burrowing owl has been documented in the past (i.e., most recently in 2006). Revisions to Mitigation Measure 4.3-9b are provided in Chapter 3, "Errata," to this Final EIR and now reads as follows (with deletions shown in ~~strikeout~~ and new text shown in underline):

Mitigation Measure 4.3-9b: If preconstruction surveys determine that burrowing owls occupy the Project Site during the non-breeding season (September 1 to January 31), occupied burrows shall be avoided by establishing a no-disturbance buffer zone in consultation with CDFW. During the non-breeding season, if a qualified raptor biologist determines in consultation with CDFW that an occupied burrow(s) may be impacted even with implementation of non-disturbance buffers, the Project applicant shall consult CDFW to determine if a passive relocation effort and implementation of a Burrowing Owl Exclusion Plan prepared in accordance with the CDFW guidelines (CDFG 2012) is appropriate to avoid impacts. Implementation of such a Burrowing Owl Exclusion Plan would likely require habitat mitigation consistent with the requirements of the 2012 CDFW Staff Report.

If burrowing owls are found to be present on the Project Site or off-site improvement areas during the breeding season (February 1 to August 31), the Project applicant shall consult CDFW and implement the ~~CDFW recommended~~ avoidance protocol recommended in the 2012 CDFG guidance (CDFG 2012) whereby occupied burrows will be avoided with a no-disturbance buffer during the breeding season.

At a minimum, impacts to each burrowing owl unoccupied breeding site (i.e., a burrow known to have been used in the past three years for breeding) shall be mitigated by creating one artificial burrow for every burrow impacted (1:1 ratio) in a location within the Managed Open Space area situated within a minimum of

6.5 acres of foraging habitat like the foraging habitat impacted. The same requirements (a 1:1 ratio) shall apply for impacts to non-breeding evicted burrowing owl sites. As an alternative, with the approval of CDFW, burrowing owl mitigation credits may be purchased at a CDFW approved mitigation bank.

Comment A8-24 *Summary of Comment:* The comment explains that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure for the following reasons. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or "take" which is prohibited under Fish and Game Code section 3503.5. The comment states that it is CDFW's position that all possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid "take," that habitat compensation shall be provided for any evicted owl as described in Comments A8-20 through A8-23, and that the Project shall obtain CDFW's written acceptance of the eviction plan.

Response: Comment noted. If eviction of burrowing owls is required, the City will require the applicant to attempt in good faith to consult with CDFW to ensure the plan is prepared pursuant to CDFW guidelines. The eviction plan would include, at a minimum, mitigation measures to preserve burrowing owl foraging habitat at a 1:1 ratio within a 250-foot radius of any burrow that required an eviction. Such mitigation could be provided onsite within the Managed Open Space east of the Project Development Area, where burrowing owl has been documented in the past (i.e., most recently in 2006).

Comment A8-25 *Summary of Comment:* CDFW recommends an additional mitigation measure to mitigate potential impacts to burrowing owl, as follows:

Mitigation Measure 4.3-9d (Cap Pipe and Hose): To prevent burrowing owls from sheltering or nesting in exposed material, all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project Site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

Response: CDFW's new mitigation measure 4.3-9d has been incorporated as Mitigation Measure 4.3-9c and is shown in Chapter 3, "Errata," to this Final EIR.

Comment A8-26 *Summary of Comment:* CDFW indicates that the Draft EIR states that construction associated with a stormwater outfall culvert "may impact 0.002 acres of a slough channel categorized as a perennial brackish marsh" (Draft EIR page 4.3-89). However, the Mitigated Negative Declaration does not include a mitigation measure requiring LSA Notification and compliance with the LSA Agreement.

Response: The City acknowledges that if a stormwater outfall were to be constructed within the subject slough channel, an LSA Notification for the outfall would be required. Please see also the Response to Comment A8-28.

Comment A8-27 *Summary of Comment:* CDFW indicates that the Project may result in impacts to perennial brackish marsh wetlands in a slough channel tributary to Suisun Slough. The comment states that "perennial brackish marsh" may be one of several natural communities considered sensitive by CDFW, including salt marsh bulrush (*Bolboschoenus maritimus*) marshes alliance (VC 52.112.00), alkali heath (*Frankenia salina*) marshes alliance (VC 52.500.00), or alkali weed (*Cressa truxillensis*) - salt grass (*Distichlis spicata*) playas and sinks alliance (VC 46.100.00) (CNPS 2023). The comment describes why wetlands and the mentioned natural communities are of critical importance to the biotic and abiotic integrity of the entire watershed. The comment states that, absent the LSA Agreement, which would include measures to avoid and minimize impacts to streams, hydrologically connected habitat, wetlands, and associated species, impacts to the slough and associated riparian habitat, sensitive natural community, or wetlands would be potentially significant.

Response: The City acknowledges that if a stormwater outfall were to be constructed within the subject slough channel, an LSA Notification for the outfall would be required. Please see also the Response to Comment A8-28.

Comment A8-28 *Summary of Comment:* CDFW recommends an additional mitigation measure to reduce potential impacts to the slough containing perennial brackish marsh wetlands and potentially sensitive natural communities to less than significant and to comply with Fish and Game Code section 1600 et seq. CDFW recommends including the following mitigation measure:

Mitigation Measure 4.3-17f (Lake and Streambed Alteration Notification): The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using the Environmental Permit Information Management System (see: <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>) for Project activities affecting lakes or streams, associated riparian or otherwise hydrologically connected habitat, and any connected wetlands, and shall comply with the LSA Agreement, if issued.

Response: The City acknowledges if a stormwater outfall were to be constructed within the subject slough channel containing the perennial brackish marsh wetlands, an LSA Notification for the outfall would be required. The applicant also acknowledges that Fish and Game Code Section 1600 et seq. requires any entity to notify CDFW before beginning any activity that may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake. The mitigation measure CDFW recommended suggests that, if hydrologically connected habitat and any connected wetlands are impacted, notification pursuant to FGC 1600 is required, even if the impact is not within the bed, channel, or bank of any river, stream, or lake and/or does not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake regardless. The City is unaware of any basis in law for such an expansive

interpretation of the language of Fish and Game Code section 1602. To address CDFW's comment and comply with FGC 1600 et seq. the following Mitigation Measure 4.3-17f has been incorporated into Chapter 3, "Errata," of this Final EIR:

Mitigation Measure 4.3-17f (Lake and Streambed Alteration Notification):

The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using the Environmental Permit Information Management System (see: <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>) for Project activities that may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake, and shall comply with the LSA Agreement, if issued.

Comment A8-29 *Summary of Comment:* CDFW indicates that any special-status species and natural communities detected during Project surveys must be reported to the CNDDDB as required by CEQA.

Response: Comment noted. All special status species and sensitive natural communities encountered on the Project Site have been or will be reported to the CNDDDB.

Comment A8-30 *Summary of Comment:* The comment states that the Project, as proposed, would have an impact on fish and/or wildlife and, as such, an assessment of environmental document filing fees is necessary.

Response: Comment noted. The applicant has indicated to the City that, if the City Council approves the proposed Project, the applicant intends to pay all legally necessary fees to CDFW associated with the City's submission of a Notice of Determination to the County Clerk and/or State Clearinghouse.

Comment A8-31 *Summary of Comment:* The comment notes that CDFW appreciates the opportunity to comment on the Draft EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Response: Comment noted.

2.2.9 Comment LETTER #IO1:

ADAMS BROADWELL JOSEPH & CARDOZO (ON BEHALF OF NAPA/SOLANO RESIDENTS FOR RESPONSIBLE DEVELOPMENT)

Letter IO1

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Re: Comments on the Draft Environmental Impact Report for the Highway 12 Logistics Center (SCH No. 2021040016)

We are writing on behalf of Napa/Solano Residents for Responsible Development (“Napa/Solano Residents”) to comment on the Draft Environmental Impact Report (“DEIR”) prepared by the City of Suisun City (“the City”) for the Highway 12 Logistics Center Project (SCH Number 2021040016) (“Project”) proposed by Buzz Oates Construction, Inc. (“Applicant”).

The Project is proposing to annex and pre-zone 161 acres of the approximately 486-acre Project Site into the City of Suisun City and develop 1.28 million square feet (“sf”) of warehouse and logistics uses on approximately 93 acres (referred to as the “Development Area”).¹ At full buildout, the Development Area would accommodate six warehouse buildings.² Four buildings (Buildings A, B/C, D, and E) would be clustered west of Pennsylvania Avenue and north of the railroad line operated by the California Northern Railroad; one building (Building F) would

¹ DEIR, pg. 3-9.

² *Id.* at pg. 1-2.

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be bounded by Cordelia Road to the south and southeast and by the railroad line operated by the California Northern Railroad to the north.³ The last building (Building G) is proposed in the area east of Pennsylvania Avenue, adjacent to undeveloped land to the east and south.⁴ Pennsylvania Avenue Creek runs along the eastern perimeter of the Development Area proposed for Building G.⁵ The proposed Project would also include construction and operation of on- and off-site infrastructure improvements, including stormwater facilities, and water, wastewater, electricity, natural gas, and telecommunications utilities to serve demand resulting from the Project.⁶

The DEIR fails to comply with CEQA's basic requirement to act as an "informational document." It lacks meaningful details in critical areas, such as transportation impacts and the Project's cumulative impacts, without which the public and decisionmakers cannot adequately assess the Project's significant impacts. Because of the DEIR's shortcomings, it is deficient as a matter of law because it fails to properly disclose and mitigate the Project's potentially significant impacts. The DEIR also lacks substantial evidence to support the City's conclusions regarding the Project's impacts and proposed mitigation. These deficiencies render the document inadequate for purposes of compliance with CEQA.

We reviewed the DEIR, technical appendices, and reference documents with the assistance of our expert consultant Norman Marshall, whose comments and qualifications are included as Exhibit A. The City must address and respond to these comments separately and fully.⁷

I. STATEMENT OF INTEREST

Napa/Solano Residents is an unincorporated association of individuals and labor organizations that may be adversely affected by the potential environmental impacts associated with Project development. Napa/Solano Residents includes members of the International Brotherhood of Electrical Workers Local 180, Plumbers & Steamfitters Local 343, Sheet Metal Workers Local 104, Sprinkler Fitters Local 483, District Council of Ironworkers and their members and their

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ 14 Cal. Code Regs. ("CCR") §§ 15088(a), (c).

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families, and other individuals that live and/or work in the Suisun City and Solano County.

Napa/Solano Residents supports the development of sustainable commercial and industrial centers where properly analyzed and carefully planned to minimize impacts on public health and the environment. Logistics centers like the Project should avoid adverse impacts to air quality, biological resources, transportation, and public health, and should take all feasible steps to ensure unavoidable impacts are mitigated to the maximum extent feasible. Only by maintaining the highest standards can commercial and industrial development truly be sustainable.

The individual members of Napa/Solano Residents and the members of the affiliated labor organizations live, work, recreate and raise their families in and around Suisun City and Solano County. They would be directly affected by the Project's environmental and health and safety impacts. Individual members may also work constructing the Project itself. They would be the first in line to be exposed to any health and safety hazards which may be present on the Project site. They each have a personal interest in protecting the Project area from unnecessary, adverse environmental and public health impacts.

Napa/Solano Residents and its members also have an interest in enforcing environmental laws that encourage sustainable development and ensure a safe working environment for the members they represent. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for industry to expand in Suisun City and Solano County, and by making it less desirable for businesses to locate and people to live and recreate in the County, including the Project vicinity. Continued environmental degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduces future employment opportunities.

Finally, Napa/Solano Residents is concerned with projects that can result in serious environmental harm without providing countervailing economic benefits. CEQA provides a balancing process whereby economic benefits are weighed against significant impacts to the environment.⁸ It is in this spirit we offer these comments.

⁸ Pub. Resources Code § 21081(a)(3); *Citizens for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 171.

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II. LEGAL BACKGROUND

CEQA requires public agencies to analyze the potential environmental impacts of their proposed actions in an EIR.⁹ “The foremost principle under CEQA is that the Legislature intended the act to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.”¹⁰

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CEQA has two primary purposes. First, CEQA is designed to inform decisionmakers and the public about the potential significant environmental effects of a project.¹¹ “Its purpose is to inform the public and its responsible officials of the environmental consequences of their decisions before they are made. Thus, the EIR ‘protects not only the environment but also informed self-government.’”¹² The EIR has been described as “an environmental ‘alarm bell’ whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return.”¹³ As the CEQA Guidelines explain, “[t]he EIR serves not only to protect the environment but also to demonstrate to the public that it is being protected.”¹⁴

Second, CEQA requires public agencies to avoid or reduce environmental damage when “feasible” by requiring consideration of environmentally superior alternatives and adoption of all feasible mitigation measures.¹⁵ The EIR serves to provide agencies and the public with information about the environmental impacts of a proposed project and to “identify ways that environmental damage can be avoided or significantly reduced.”¹⁶ If the project will have a significant effect on the

⁹ PRC § 21100.

¹⁰ *Laurel Heights Improvement Assn. v. Regents of Univ. of Cal* (“*Laurel Heights I*”) (1988) 47 Cal.3d 376, 390 (internal quotations omitted).

¹¹ Pub. Resources Code § 21061; CEQA Guidelines §§ 15002(a)(1); 15003(b)-(e); *Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 517 (“[T]he basic purpose of an EIR is to provide public agencies and the public in general with detailed information about the effect [that] a proposed project is likely to have on the environment; to list ways in which the significant effects of such a project might be minimized; and to indicate alternatives to such a project.”).

¹² *Citizens of Goleta Valley*, 52 Cal.3d at p. 564 (quoting *Laurel Heights I*, 47 Cal.3d at 392).

¹³ *County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 810; see also *Berkeley Keep Jets Over the Bay v. Bd. of Port Comm’rs.* (2001) 91 Cal.App.4th 1344, 1354 (“*Berkeley Jets*”) (purpose of EIR is to inform the public and officials of environmental consequences of their decisions *before* they are made).

¹⁴ CEQA Guidelines § 15003(b).

¹⁵ *Id.* § 15002(a)(2), (3); see also *Berkeley Jets*, 91 Cal.App.4th at 1354; *Citizens of Goleta Valley*, 52 Cal.3d at p. 564.

¹⁶ CEQA Guidelines § 15002(a)(2).

environment, the agency may approve the project only if it finds that it has “eliminated or substantially lessened all significant effects on the environment” to the greatest extent feasible and that any unavoidable significant effects on the environment are “acceptable due to overriding concerns.”¹⁷

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While courts review an EIR using an “abuse of discretion” standard, “the reviewing court is not to uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.”¹⁸ As the courts have explained, a prejudicial abuse of discretion occurs “if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process.”¹⁹ “The ultimate inquiry, as case law and the CEQA guidelines make clear, is whether the EIR includes enough detail to enable who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.”²⁰

III. THE DEIR LACKS AN ACCURATE, COMPLETE AND STABLE PROJECT DESCRIPTION

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The DEIR does not meet CEQA’s requirements because it fails to include an accurate, complete and stable description of the Project, rendering the DEIR’s impact analysis inadequate. California courts have repeatedly held that “an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.”²¹ CEQA requires that a project be described with enough

¹⁷ PRC § 21081(a)(3), (b); CCR §§ 15090(a), 15091(a), 15092(b)(2)(A), (B); *Covington v. Great Basin Unified Air Pollution Control Dist.* (2019) 43 Cal.App.5th 867, 883.

¹⁸ *Berkeley Jets*, 91 Cal.App.4th at p. 1355 (emphasis added) (quoting *Laurel Heights I*, 47 Cal.3d at 391, 409, fn. 12).

¹⁹ *Berkeley Jets*, 91 Cal.App.4th at p. 1355; see also *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus* (1994) 27 Cal.App.4th 713, 722 (error is prejudicial if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process); *Galante Vineyards*, 60 Cal.App.4th at p. 1117 (decision to approve a project is a nullity if based upon an EIR that does not provide decision-makers and the public with information about the project as required by CEQA); *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 946 (prejudicial abuse of discretion results where agency fails to comply with information disclosure provisions of CEQA).

²⁰ *Sierra Club*, 6 Cal.5th at p. 516 (quoting *Laurel Heights I*, 47 Cal.3d at 405).

²¹ *Stopthemillenniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 17; *Communities for a Better Environment v. City of Richmond* (“*CBE v. City of Richmond*”) (2010) 184 Cal.App.4th 70, 85–89; *County of Inyo v. City of Los Angeles* (3d Dist. 1977) 71 Cal.App.3d 185, 193.

particularity that its impacts can be assessed.²² Without a complete, stable and accurate project description, the environmental analysis under CEQA is impermissibly limited, thus minimizing the project's impacts and undermining meaningful public review.²³

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The DEIR does not provide a complete and finite description of the Project, as it lacks basic details about the Project's proposed operations. The Executive Summary states that it will be used for "warehouse and logistics uses"²⁴ but nowhere in the Project Description does the City clarify what the Project will be used for. It is imperative for the City to provide a comprehensive breakdown of the intended functionalities and activities of the Project. Specifics such as the type of warehousing activities, the types of goods to be stored or handled, days and hours of expected operations, and number of expected employees are necessary to accurately assess the potential environmental impacts of the Project.

There are various types of warehouses, each with distinct environmental implications. For example, emissions modeling from CalEEMod uses different inputs and will yield different results depending on the type of warehouse usage. The CalEEMod User Guide specifies 79 different land use subtypes²⁵ for development projects "because each has an established trip rate, which is critical for mobile source calculations."²⁶ Indeed, the Guide includes detailed descriptions of several types of warehouse uses, including "Refrigerated Warehouse-No Rail" "Refrigerated Warehouse-Rail" "Unrefrigerated Warehouse-No Rail" and "Unrefrigerated Warehouse-Rail."²⁷ Each warehouse type involves different model inputs and will result in different emissions projections, but the Project description provides no detail on which one of these categories would be appropriate. Without a precise understanding of the basic operational details of the Project, it is impossible to properly evaluate the Project's potential environmental impacts.

²² CEQA Guidelines § 15124; see *Laurel Heights Improvement Assn. v. Regents of the Univ. of Cal.* (1988) 47 Cal.3d 376, 192–193; see also *El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal.App.4th 1591, 1597 ("An accurate and complete project description is necessary to fully evaluate the project's potential environmental effects.")

²³ *Id.*

²⁴ DEIR, pg. 1-2.

²⁵ As the User Guide explains, "these land use types are further subdivided into 79 land use subtypes that are primarily based on land use classifications from the Institute of Transportation Engineers (ITE)." CalEEMod User Guide, Version 2022.1, pg. 21.

²⁶ CalEEMod User Guide, Version 2022.1, pg. 10.

²⁷ *Id.* at pg. 24.

By failing to specify the Project's expected operational and logistical activities, the City is depriving decisionmakers and the public of the ability to accurately and thoroughly assess the Project's environmental effects. Therefore, the City prepare a revised DEIR with a project description that clearly describes the Project's operational details.

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IV. THE DEIR FAILS TO DISCLOSE, ANALYZE AND MITIGATE POTENTIALLY SIGNIFICANT IMPACTS

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An EIR must fully disclose all potentially significant impacts of a Project and implement all feasible mitigation to reduce those impacts to less than significant levels. The lead agency's significance determination with regard to each impact must be supported by accurate scientific and factual data.²⁸ An agency cannot conclude that an impact is less than significant unless it produces rigorous analysis and concrete substantial evidence justifying the finding.²⁹

Moreover, the failure to provide information required by CEQA is a failure to proceed in the manner required by CEQA.³⁰ Challenges to an agency's failure to proceed in the manner required by CEQA, such as the failure to address a subject required to be covered in an EIR or to disclose information about a project's environmental effects or alternatives, are subject to a less deferential standard than challenges to an agency's factual conclusions.³¹ In reviewing challenges to an agency's approval of an EIR based on a lack of substantial evidence, the court will 'determine de novo whether the agency has employed the correct procedures, scrupulously enforcing all legislatively mandated CEQA requirements.'³²

Even when the substantial evidence standard is applicable to agency decisions to certify an EIR and approve a project, reviewing courts will not 'uncritically rely on every study or analysis presented by a project proponent in support of its position. A clearly inadequate or unsupported study is entitled to no judicial deference.'³³

²⁸ 14 CCR § 15064(b).

²⁹ *Kings Cty. Farm Bur. v. Hanford* (1990) 221 Cal.App.3d 692, 732.

³⁰ *Sierra Club v. State Bd. Of Forestry* (1994) 7 Cal.4th 1215, 1236.

³¹ *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 435.

³² *Id., Madera Oversight Coal., Inc. v. County of Madera* (2011) 199 Cal. App. 4th 48, 102.

³³ *Berkeley Jets*, 91 Cal.App.4th at 1355.

A. The DEIR Fails To Disclose Or Adequately Analyze Transportation Impacts.

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1. The DEIR Lacks Substantial Evidence To Support Its VMT And Trip Reduction Estimates

The DEIR concludes that the transportation impacts of the Project will be less than significant with mitigation. However, the transportation impacts analysis is flawed in numerous ways, most notably with respect to the Project's vehicle miles traveled ("VMT") impacts. In addition, the DEIR's faulty and unsupported conclusions with respect to VMT reduction and trip generation completely undermine the DEIR's air quality and GHG analyses, which rely heavily on those same factors.

As an initial matter, Mr. Marshall explains how the model used to support the DEIR's VMT analysis likely underestimates Project VMT ³⁴

Next, Mr. Marshall explains how the DEIR overestimates VMT reductions that can be achieved via measures in a Transportation Demand Management ("TDM") Plan. The DEIR states that by incorporating Mitigation Measure 4.12-1, which calls for a TDM Plan, transportation impacts will be mitigated from potentially significant to less than significant.³⁵ Specifically, the DEIR asserts that incorporating several TDM measures can decrease Project VMT by 11.3%, thus reducing the Project's VMT impacts to a less than significant level.³⁶ However, as Mr. Marshall's comments show, this conclusion is not supported by substantial evidence. Mr. Marshall's comments provide evidence of actual transit patterns that undermines the DEIR's assumptions. For instance, he points out that the DEIR's asserted 4% VMT reduction from Commute Trip Reduction Marketing and Ridesharing programs does not consider employees who may be unable to participate due to factors such as weekend shifts or job-related driving requirements.³⁷ He also emphasizes that the DEIR lacks evidence supporting the assumption that employees will have access to high-quality transit options, especially given the limited and infrequent local transit services.³⁸ Additionally, Mr. Marshall questions the validity of the projected 2.5% VMT reduction for end-of-trip

³⁴ *Id.* at pg. 2.

³⁶ DEIR, pg. 1-44.

³⁶ *Id.*, pg. 4.12-17.

³⁷ Marshall Comments, pg. 3.

³⁸ *Id.* at pg.4.

bicycle facilities, citing the low bicycle trip share to the Project site.³⁹ Mr. Marshall's comments provide evidence that the VMT reductions claimed in the DEIR are unrealistic, and demonstrate that the DEIR's conclusions with respect to VMT impacts are not supported by substantial evidence.

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Additionally, Mr. Marshall highlights several inconsistencies and unsupported assumptions in the DEIR's VMT analysis when compared to the air quality analysis. For example, the Project's air quality analysis in Appendix B assumes that the TDM Plan will result in a 15% reduction in passenger vehicle travel.⁴⁰ However, Mr. Marshall notes that this 15% reduction is higher than the previously claimed—and, as discussed above, infeasible—rate of 11.3% stated in the main body of the DEIR.⁴¹ Further, he emphasizes that the analysis in Appendix B lacks critical documentation of underlying assumptions concerning average trip lengths and operational days, which are essential for accurate emission estimates, including greenhouse gas (GHG) emissions.⁴² For example, the purported daily passenger VMT for the Project is 21,609 and project annual passenger VMT is 4,962,395. This implies 230 operating days which conflicts with the assumption in Appendix B that the Project would operate seven days a week, given that the air quality analysis assumes the same number of trips on Saturdays and Sundays as on weekdays.⁴³

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Finally, the DEIR does not adequately disclose or support the Project's trip generation rate. The DEIR sets forth a daily trip count of 2,310 based on the Project's proposed 1.28 million square feet, which, as Mr. Marshall calculates based on the Project's proposed 1.28 million sf, results in a rate of 1.8 trips per 1000 square feet per day.⁴⁴ However, the DEIR lacks substantial evidence to support the use of this trip rate, especially considering the undefined nature of the project's potential tenants and operations. Referencing the Institute of Transportation Engineers (ITE) Trip Generation Manual ("ITE Manual"), Mr. Marshall highlights that the applied trip generation rate in the DEIR is significantly lower than the rates for similar warehouse categories, such as the Parcel Hub Warehouse and the Fulfillment Center Warehouse with Sorting.⁴⁵ Moreover, the trip rate is less than

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³⁹ *Id.*

⁴⁰ *Id.* at pg. 6; *see* DEIR, Appendix B, pg. 76.

⁴¹ Marshall Comments, pg. 6.

⁴² *Id.*

⁴³ *Id.* at pg. 3.

⁴⁴ *Id.* at pg. 5.

⁴⁵ *Id.*

the rate set forth in the ITE Manual for refrigerated warehouses, even though refrigerated uses are assumed in the DEIR's air quality analysis.⁴⁶ To address the uncertainty surrounding the Project's trip generation, Mr. Marshall recommends either the application of a significantly higher and more conservative trip generation rate or, as an alternative, obtaining a certified condition of approval stipulating that the actual trip generation will not exceed the number assumed in the DEIR.⁴⁷

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For all of the foregoing reasons, the DEIR's VMT analysis is not based on substantial evidence, and the City must prepare a revised DEIR with a proper and supported VMT analysis.

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2. The DEIR's Transportation Analysis Includes An Improperly Deferred Mitigation Measure

IO1-12

The CEQA Guidelines dictate that mitigation measures cannot be deferred until some future time.⁴⁸ Only if it is impractical or infeasible to include specific details about a mitigation measure during the project's environmental review can the agency put off developing the mitigation measure.⁴⁹ Even then, the agency must: (1) commit itself to the mitigation, (2) adopt specific performance standards the mitigation will achieve, and (3) identify the type(s) of potential action(s) that can feasibly achieve that performance standard and that will be considered, analyzed, and potentially incorporated in the mitigation measure.⁵⁰

Despite this Guideline, the DEIR provides a mitigation measure that inexplicably defers specifics and details. Specifically, to reduce the Project's transportation impacts to less than significant, the DEIR proposes Mitigation Measure 4.12-1, which calls for the development of a TDM Plan. The DEIR states:

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Prior to issuance of building permits, the Project applicant *shall develop* a TDM Plan for the proposed Project, including any anticipated phasing, and shall submit the TDM Plan to the City for review and approval. The TDM Plan *shall identify* trip reduction strategies, as well as mechanisms for funding and overseeing the delivery of trip reduction programs and strategies. The TDM Plan

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ CEQA Guidelines, § 15126.4(a)(1)(B).

⁴⁹ *Id.*

⁵⁰ *Id.*

shall be designed to achieve the trip reduction, as required to reduce the commute trip VMT per employee from 14.2 to 12.6, consistent with an 11.3-percent reduction. The analysis prepared to support the TDM Plan *shall demonstrate* that the selected reduction measures will achieve the necessary VMT reduction.⁵¹

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By claiming the TDM Plan “shall” do and be certain things, the City is explicitly putting off developing the details of the TDM plan to the future. This deferral starkly contradicts the CEQA Guidelines’ directive, which make clear that the formulation of mitigation measures should not be delayed unless it is infeasible or impractical to include the specific details during the project’s environmental review. The DEIR fails to provide any reason why it is infeasible or impractical to incorporate the specific details of the TDM Plan in the mitigation measures at this stage of environmental review.

In light of these concerns, it is imperative that the City addresses the deficiencies in the mitigation measure by committing to specific and definite VMT mitigation measures providing a more detailed and comprehensive mitigation measure or demonstrating why it is impractical or infeasible to do so at this stage.

B. The DEIR fails to Adequately Analyze the Project’s Cumulative Impacts

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An EIR must evaluate a cumulative impact if the project’s incremental effect combined with the effects of other projects is “cumulatively considerable.”⁵² This determination is based on an assessment of the project’s incremental impacts “viewed in connection with the effects of past project, the effects of other current projects, and the effects of probable future projects.”⁵³ Proper cumulative impact analysis is vital because “the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered

⁵¹ DEIR, pg. 1-44 (emphases added).

⁵² CEQA Guidelines § 15130(a).

⁵³ *Id.*, §§ 15065(a)(3), 15355(b).

individually, but assume threatening dimensions when considered collectively with other sources with which they interact.”⁵⁴

The CEQA Guidelines set forth two methods for satisfying the cumulative impacts analysis requirement: the list of projects approach and the summary of projections approach.⁵⁵ Under the latter, an adequate discussion of cumulative impacts requires “[a] summary of projections contained in an adopted local, regional or statewide plan, or related planning document, that describes or evaluates conditions contributing to the cumulative effect.”⁵⁶ Examples of plans include: a general plan, regional transportation plan, or plans for the reduction of greenhouse gas emissions.⁵⁷ A summary of projections may also be contained in an adopted or certified prior environmental document for such a plan.⁵⁸

Use of a planning document does not preclude challenge to the accuracy or sufficiency of the cumulative impacts analysis.⁵⁹ Indeed, the summary of projections method may be inadequate if the projections are outdated or inaccurate.⁶⁰ For example, in *Bakersfield Citizens for Loc. Control v. City of Bakersfield*, an EIR’s cumulative impact analysis was deemed inadequate since the planning document relied upon did not account for a project like the one proposed.⁶¹ In that case, a citizens group challenged the city’s approval of two proposed retail shopping centers.⁶² The EIR’s cumulative impacts analysis relied on a summary of projections contained in an approved planning document.⁶³ But the court held that because “[b]oth of the shopping center projects required amendment of the general plan,” “the addition of large regional shopping centers . . . [were] not accounted for in the projections.”⁶⁴ Thus, the court found the EIR’s cumulative impacts analysis “underinclusive and misleading.”⁶⁵

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⁵⁴ *Communities for a Better Environment v. California Resources Agency* (2002) 103 Cal.App.4th 98, 114.

⁵⁵ CEQA Guidelines, § 15130(b)(1) and (2).

⁵⁶ CEQA Guidelines, § 15130(b)(2).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Bakersfield Citizens for Loc. Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1217.

⁶⁰ 1 Kostka & Zischke, *Practice Under the Cal. Environmental Quality Act* (Cont.Ed.Bar 2004) § 13.44, p. 13-53; *Bakersfield*, 124 Cal.App.4th at 1217.

⁶¹ *Bakersfield*, 124 Cal.App.4th at 1217.

⁶² *Id.* at 1193.

⁶³ *Id.* at 1217.

⁶⁴ *Id.*

⁶⁵ *Id.*

Here, the DEIR purports to “primarily” use the summary of projections approach, informed by the City of Suisun City General Plan and City of Fairfield General Plan.⁶⁶ The Suisun City General Plan currently includes a Land Use Diagram that lays out the region’s land use designations.⁶⁷ As the DEIR states:

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The project site northern portion of the Development Area is zoned by Solano County as Exclusive Agriculture 40 Acres (A-40). The Project proposes to pre-zone and annex approximately 161 acres of land (referred to as the ‘Annexation Area’) into the City of Suisun City. The Project proposes an amendment to the City’s General Plan Land Use Diagram so that the General Plan’s Commercial Mixed Use and Open Space land use designations are consistent with the proposed Development Area and Managed Open Space area proposed as a part of the Project.⁶⁸

The City thus admits that the current Suisun General Plan reflects a land use designation of Agriculture and Open Space where the Project, a commercial warehouse, would be built. Indeed, it is that very reason they are seeking an amendment of the General Plan to accommodate this project. Nevertheless, the City is choosing to rely on this General Plan’s projections for its cumulative impact analysis. Doing so resulted in an “underinclusive and misleading” cumulative impact analysis.⁶⁹ The Suisun General Plan never contemplated a huge warehouse being built in the spaces deemed Agriculture and Open Space and has no provisions for rezoning or the construction of a large warehouse. Therefore, the City makes precisely the same error rejected by the *Bakersfield Citizens* court by relying on a planning document that did not account for a project like this one. By relying on an “outdated and inaccurate” plan, the DEIR’s cumulative impacts analysis is thus insufficient under CEQA.⁷⁰

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The CEQA Guidelines dictate that where the summary of projections approach is not used, there instead must be “a list of past, present, and probable future projects producing related or cumulative impacts...”⁷¹ While the DEIR claims to “primarily” use the summary of projections approach, it is unclear whether it

⁶⁶ DEIR, pg. 5-1.
⁶⁷ See City of Suisun City General Plan, pg. 3-6.
⁶⁸ DEIR, pg. 4.9-11.
⁶⁹ See *Bakersfield*, 124 Cal.App.4th at 1217.
⁷⁰ See *id.*
⁷¹ CEQA Guidelines, § 15130(b)(1)(A).

uses the list of projects method when it's not using the summary of projections approach. The DEIR states:

More focused consideration of Project-specific cumulative projects also taken into consideration, as appropriate to inform the cumulative context in this EIR, include contemplation of development of the adjacent light industrial/warehousing area in the City of Fairfield and in the County that would occur west of the proposed Project site, as well as consideration of the proposed Suisun Logistics Center in unincorporated Solano County within the eastern boundary of the City of Suisun City Sphere of Influence.”⁷²

Evidently, the DEIR does not provide a list of projects. Rather, the DEIR only purports to consider one additional project, the Suisun Logistics Center. Additionally, the DEIR's brief mention of the nearby light industrial/warehousing area lacks the specificity required under the list of projects approach, as it fails to specify any particular developments or projects. Consequently, the DEIR's mention of a single project and vague references to neighboring uses does not adequately fulfill the requisite standards for the list of projects approach, undermining the integrity of the cumulative impacts analysis. Thus, to the extent the City is relying on the list approach, its cumulative impact analysis is inadequate.

V. THE CITY MAY NOT MAKE THE REQUIRED FINDINGS FOR THE PROJECT'S ANNEXATION

The Project will require that the City annex the proposed Project Site, which is currently unincorporated Solano County land within the Suisun City sphere of influence. The Project proposes a General Plan amendment and “pre-zoning” in advance of the annexation process. Annexation will also require findings by the City to support its annexation application. As discussed above, the DEIR fails to disclose, analyze or effectively mitigate the Project's potentially significant impacts on air quality, and transportation. These impacts also create inconsistencies with the General Plan polices which the DEIR fails to disclose or address. As a result of these inconsistencies, the City is unable to make the necessary findings to support the approvals required for annexation by the City of the Project site.

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⁷² DEIR, pg. 5-1.

A. As A Preliminary Matter, The City Cannot Make The Requisite Findings For A General Plan Amendment

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In order for an annexation to be approved, it must be consistent with the General Plan.⁷³ If the applicant determines that the proposed annexation will be inconsistent with the General Plan, they must apply for a General Plan amendment before applying for an annexation.⁷⁴ The planning commission and city council review General Plan amendments to assess their consistency with the stated goals and policies of the General Plan and any relevant specific plans.⁷⁵

Here, the City cannot find that the Project complies with and is consistent with applicable General Plan policies. Our analysis of the DEIR reflected in these comments show that the Project fails to comply with several key policies in the General Plan, including the following:

- Goal T-3: Manage travel demand in order to reduce up-front and ongoing cost of transportation infrastructure, enhance local mobility, improve air quality, and improve the local quality of life.
- Policy T3.2: The City will encourage new developments and public facility investments designed to minimize vehicle trips and vehicle miles traveled.
- Policy T3.4: The City's analytical methods, review requirements, impact fees, and investments will be designed and implemented, in part, to reduce VMT by Suisun City residents and to local commercial and employment uses.⁷⁶

As explained in detail above, the DEIR's VMT analysis is unsupported by substantial evidence and does not comply with CEQA. Because the Project will not minimize vehicle trips or reduce VMT by Suisun City residents, the City cannot make the required finding of consistency with the General Plan's stated goals and policies.

⁷³ Suisun City Municipal Code § 17.56.010.

⁷⁴ *Id.*

⁷⁵ *Id.* at § 17.56.040–17.56.060.

⁷⁶ City of Suisun City General Plan, pg. 4-24.

B. The City Cannot Meet Findings Necessary For City Approval Of An Annexation Application

IO1-19

Only after the General Plan amendment application and a prezone application is deemed complete may the applicant formally file an annexation application with the planning department.⁷⁷ The planning commission will review the application and must make specific findings as to the adequacy of the environmental determination and consistency with the general plan.⁷⁸ Similarly, the city council will then hear the application and must certify the final environmental documents as adequate and complete and find the proposal consistent with the General Plan by resolution.⁷⁹

The City cannot meet the required findings as the DEIR is inadequate as a CEQA document and the Project is inconsistent with the General Plan. As discussed above, the DEIR fails to properly disclose, analyze, and mitigate the Project's significant environmental impacts. Additionally, the Project does not meet specific stated goals and policies of the General Plan. Therefore, the City cannot make the findings necessary for approval of its annexation application.

VI. CONCLUSION

For the reasons discussed above, the DEIR for the Project is wholly inadequate under CEQA. It must be thoroughly revised to provide legally adequate analysis of, and mitigation for, all of the Project's potentially significant impacts. These revisions will necessarily require that the DEIR be recirculated for additional public review. Until the DEIR has been revised and recirculated, as described herein, the County may not lawfully approve the Project.

IO1-20

Thank you for your attention to these comments. Please include them in the record of proceedings for the Project.

Sincerely,



Ariana Abedifard

Attachment
AA:acp

⁷⁷ Suisun City Municipal Code § 17.64.010.

⁷⁸ *Id.* at § 17.64.070.

⁷⁹ *Id.* at § 17.64.110.

EXHIBIT A



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Thetford Center VT 05075
Norman Marshall, President
(802) 356-2969
nmarshall@smartmobility.com

October 17, 2023

Ariana Abedifard
Adams Broadwell Joseph & Cardozo
601 Gateway Boulevard, Suite 1000
South San Francisco, CA 94080

Subject: Highway 12 Logistics Center

Dear Ms. Abedifard,

I have reviewed vehicle miles traveled (VMT) impacts, trip generation and greenhouse gas (GHG) impacts of the City of Suisun City Draft Environmental Impact Report for the Highway 12 Logistics Center ("DEIR"). I make the following findings:

- 1) The DEIR documents that VMT calculated for the project exceeds the City's VMT threshold.
- 2) It is likely that the actual VMT from this project would be even higher because the DEIR documents that an alternative project with office jobs would result in lower VMT per worker than the proposed project, and the model used to estimate VMT is incapable of making this distinction.
- 3) The 11.3% VMT mitigation claimed in the DEIR is unrealistic because the specific reductions claimed for individual mitigation measures are inconsistent with the project's location.
- 4) The DEIR fails to justify the trip generation rate used, and project trip generation would likely be higher than assumed. Given the large uncertainty in the project's trip generation, the applicant should take one of two paths -either a) applying a significantly higher and more conservative trip generation rate, or b) requesting as a condition of approval that trip generation will not exceed the number assumed in the EIR, and this be certified prior to beginning construction.
- 5) DEIR Appendix B omits critical assumptions about average trip lengths and days of operation that underly emission estimates including GHG. These assumptions must be documented in the DEIR. Project emissions likely would be higher than estimated.

IO1-21
IO1-22

Significant VMT impact

The DEIR states:

Based on the model runs, the cumulative citywide average home-based work daily VMT per employee is 13.7, and thus the 85 percent citywide average threshold is 11.7. The proposed Project is expected to result in 12.9 home-based work daily VMT per employee, which is 1.2 VMT greater than the threshold. (DEIR, p. 5-23)

IO1-23

The DEIR includes evidence that project VMT would most likely be even higher. The DEIR states that Alternative 3 with predominantly office jobs instead of the warehouse jobs in the proposed project: “would have the potential to decrease commute-related VMT and associated criteria air pollutant emissions by approximately 30 percent, assuming single-occupant vehicular trips only.” (DEIR p. 6-26) The City of Fairfield Model used to calculate project VMT is incapable of making this distinction between commute VMT for different types of jobs, and instead calculates average VMT for all jobs. Therefore, the 30 percent difference documented in the DEIR between office commute lengths and warehouse commute lengths means the model overestimates commute lengths for office jobs and underestimates average commute lengths for the warehouse jobs in the proposed project. It then follows that the model underestimates project commute VMT.

The DEIR Exaggerates VMT Reduction From the Mitigation Program

The DEIR argues that the excess VMT can be eliminated through mitigation. However, the mitigation included in the DEIR is insufficient to mitigate the project’s excess VMT. The DEIR states:

IO1-24

Mitigation Measure 4.12-1: Transportation Demand Management (TDM) Plan. Prior to issuance of building permits, the Project applicant shall develop a TDM Plan for the proposed Project, including any anticipated phasing, and shall submit the TDM Plan to the City for review and approval. The TDM Plan shall identify trip reduction strategies, as well as mechanisms for funding and overseeing the delivery of trip reduction programs and strategies. The TDM Plan shall be designed to achieve the trip reduction, as required to reduce the commute trip VMT per employee from 14.2 to 12.6, consistent with an 11.3-percent reduction. The analysis prepared to support the TDM Plan shall demonstrate that the selected reduction measures will achieve the necessary VMT reduction.

Based on research in the *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* (GHG Handbook), Table 4.12-3 describes feasible measures for the Project’s TDM Plan aimed to reduce Project-generated trips. The GHG Handbook calculates maximum VMT reduction based on a project’s land use type and locational context. The proposed Project is considered a commercial project type in a suburban setting. A 11.3-percent reduction is potentially achievable with implementation of the measures listed below. (DEIR, p. 1-44)

The DEIR claims these reductions from different TDM measures:

- Commute Trip Reduction Marketing 4.00%,
- Ridesharing program 4.00%
- Subsidized or Discounted Transit Program – Work Trips Only 0.84%,
- End-of-Trip Bicycle Facilities 2.50%, and
- Employer-Sponsored Vanpool 3.76%. (DEIR, p. 1-44 – 1.46)

The *Handbook* specifies that the 4% values for the first two elements listed above are maximum values that should be reduced because “employees who might not be able to participate could include those who work nighttime hours when transit and rideshare services are not available or employees who are required to drive to work as part of their job duties.” The DEIR provides no evidence that employees will work shifts that will allow them to commute by transit and/or ridesharing. In fact, as shown in Figure 1, the DEIR air quality analysis shows the project as generating the same number of trips on Saturdays and Sundays as on weekdays.

Figure 1: DEIR Assumes Seven-Day Operation (DEIR Appendix B p. 337 of 726)

Highway 12 Logistics Center Construction Phase 3 + Ops Bldgs D - G Detailed Report, 8/29/2023

5.9. Operational Mobile Sources

5.9.1. Unmitigated

Land Use Type	Trips/Weekday	Trips/Saturday	Trips/Sunday	Trips/Year	VM/Weekday	VM/Saturday	VM/Sunday	VM/Year
Refrigerated Warehouse-No Rail	1,069	1,069	1,069	390,245	19,156	19,156	19,156	6,992,015
Parking Lot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
User Defined Recreational	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Non-Asphalt Surfaces	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

5.9.2. Mitigated

Land Use Type	Trips/Weekday	Trips/Saturday	Trips/Sunday	Trips/Year	VM/Weekday	VM/Saturday	VM/Sunday	VM/Year
Refrigerated Warehouse-No Rail	1,069	1,069	1,069	390,245	19,156	19,156	19,156	6,992,015
Parking Lot	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
User Defined Recreational	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other Non-Asphalt Surfaces	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

The *Handbook* excerpt implicitly assumes that high-quality transit will be an option for most workers, an assumption that does not apply to the project location. The DEIR documents that no local transit service operates more frequently than every 30 minutes during peak periods. (DEIR, p. 4.12-1, p. 4-12-2 – 4-12.3), but 15-minute headways are considered the minimum service level for high-quality transit attractive to commuters. Weekday evening service is very limited. Saturday service is provided only between 9 a.m. and 5 p.m. on Saturdays – impossible for commuters – and there is no Sunday service at all. In U.S. Census data, only 0.3% of commutes to the project Census Tract today are made by transit.¹

IO1-25

Furthermore, the best transit service available to the project site would be to and from locations in Suisun City and the City of Fairfield that represent relatively short commutes relative to the average auto commute distances. Therefore, an additional 1% transit mode share would translate into much less than a 1% decrease in VMT.

The DEIR fails to provide any evidence that taking the maximum 4% VMT reductions for Commute Trip Reduction Marketing and Ridesharing program, totaling an 8% reduction, is valid for this project in this location.

IO1-26

Taking a 2.5% reduction for end-of-trip bicycle facilities (bike parking, bike lockers, showers, and personal showers) is also inappropriate for the project site. The GHG Reduction Formula in the *Handbook* requires estimates of bike and auto trip lengths, and the existing bicycle trip share. Average bike commute trip lengths to this location would be much shorter than average auto commute trip lengths which limits potential VMT reduction. Census data show that the existing bike commute mode share to the project Tract is only 0.2%. The DEIR fails to provide any evidence that taking a 2.5% VMT reduction for end-of-trip bicycle facilities is valid for this project in this location.

IO1-27

Vanpools could be important in reducing VMT, but this would require a major commitment by the employers to make work schedules consistent with the vanpool operations and to subsidize the vanpools.

IO1-28

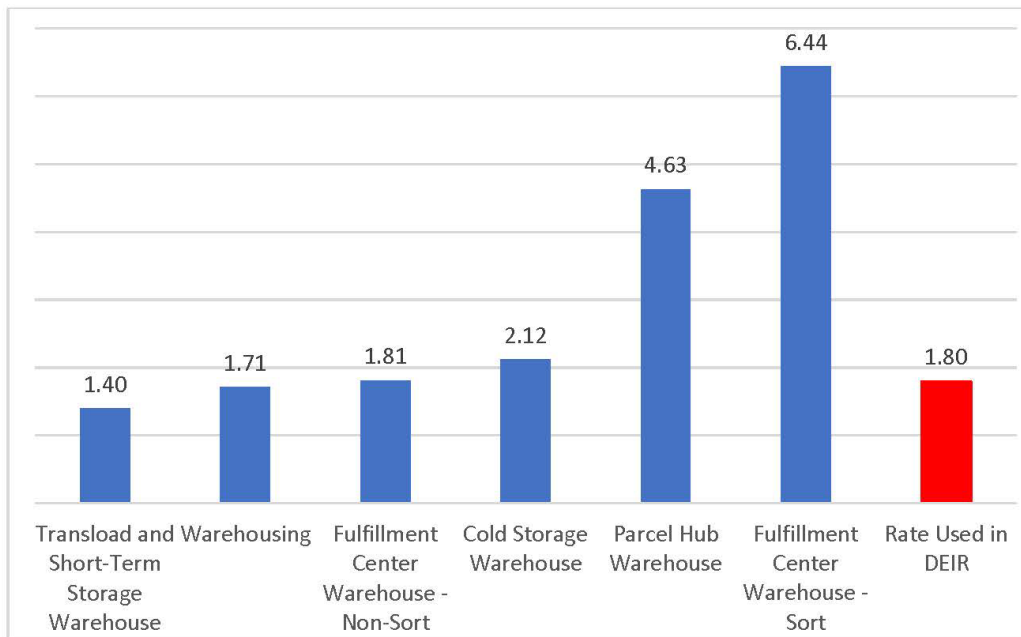
¹ American Community Survey 2012-2016 (the most recent data published).

Project Trip Generation Would Likely Be Higher Than Assumed

The project includes 1.28 million square feet. (DEIR, p. 3-10) The tenants have not been identified, and the nature of the operations are unknown at this time. The DEIR states that this would produce 2,310 trips per day. (DEIR p. 6-4) This is a rate of 1.8 trips per 1000 square feet per day. The DEIR fails to justify use of this trip rate.

The Institute of Transportation Engineers (“ITE”) *Trip Generation* manual. *Trip Generation* includes different warehouse categories. As shown in the figure below, the trip generation rate applied in the DEIR is much lower than rates for some other warehouse categories.

Figure 2: Trip Generation Rates for Different Warehouse Categories (Trips Per 1000 Square Feet per Day)



As shown in Figure 1 in an earlier section of this letter, the DEIR air quality CalEEMod analysis applied the category “Refrigerated Warehouse – No Rail.” Therefore, at minimum, the DEIR should use the Trip Generation rate of 2.12 for “Cold Storage Warehouse” rather than the lower value of 1.80 that was used.

The Parcel Hub Warehouse trip generation rate is 2.6 times the rate used in the DEIR, and the Fulfillment Center Warehouse with Sorting rate is 3.6 times the rate used in the DEIR.

Given the large uncertainty in the project’s trip generation, the applicant should take one of two paths - either a) applying a significantly higher and more conservative trip generation rate, or b) requesting as a condition of approval that trip generation will not exceed the number assumed in the EIR, and this be certified prior to beginning construction.

Project VMT and GHG Emissions Could Be Much Higher Than Assumed

As discussed above, the DEIR likely underestimates project VMT and overestimates VMT mitigation. The air quality analysis assumes even more VMT mitigation than stated in the main body of the DEIR:

Mitigated passenger vehicle emissions assumes 15% reduction in passenger vehicle travel as a result of TDM Plan (Mitigation Measure 4.6-1g to Implement Transportation MM 4.12-1. (DEIR, Appendix B, p. 76 of 726)

15% is higher than the unrealistically high value of 11.3% given in the body of the DEIR documented above, and no evidence is given for such a high rate.

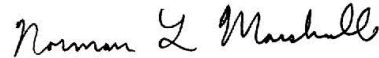
DEIR Appendix B omits critical assumptions about average trip lengths and days of operation that underly emission estimates including GHG. These assumptions must be documented in the DEIR.

Appendix B does include some VMT numbers that allow calculation of some of the missing information (p. 80 of 726):

- Project daily passenger VMT is 21,609 and project annual passenger VMT is 4,962,395. This implies 230 operating days. This is inconsistent with the DEIR information provided above that the proposed project would operate seven days a week.
- The average passenger vehicle trip length is 7.92 miles. This value is not explained or supported.

The underlying assumptions about truck trip lengths and VMT are even less well documented in the DEIR. I was unable to find them anywhere either in the main body of the DEIR or in Appendix B.

Sincerely,



Norman L. Marshall

IO1-30

IO1-31

Resume

NORMAN L. MARSHALL, PRESIDENT

nmarshall@smartmobility.com

EDUCATION:

Master of Science in Engineering Sciences, Dartmouth College, Hanover, NH, 1982
Bachelor of Science in Mathematics, Worcester Polytechnic Institute, Worcester, MA, 1977

PROFESSIONAL EXPERIENCE: (33 Years, 19 at Smart Mobility, Inc.)

Norm Marshall helped found Smart Mobility, Inc. in 2001. Prior to this, he was at RSG for 14 years where he developed a national practice in travel demand modeling. He specializes in analyzing the relationships between the built environment and travel behavior and doing planning that coordinates multi-modal transportation with land use and community needs.

Regional Land Use/Transportation Scenario Planning

Portland Area Comprehensive Transportation System (PACTS) – the Portland Maine Metropolitan Planning Organization. Updating regional travel demand model with new data (including AirSage), adding a truck model, and multiclass assignment including differentiation between cash toll and transponder payments.

Loudoun County Virginia Dynamic Traffic Assignment – Enhanced subarea travel demand model to include Dynamic Traffic Assignment (Cube). Model being used to better understand impacts of roadway expansion on induced travel.

Vermont Agency of Transportation-Enhanced statewide travel demand model to evaluate travel impacts of closures and delays resulting from severe storm events. Model uses innovate Monte Carlo simulations process to account for combinations of failures.

California Air Resources Board – Led team including the University of California in \$250k project that reviewed the ability of the new generation of regional activity-based models and land use models to accurately account for greenhouse gas emissions from alternative scenarios including more compact walkable land use and roadway pricing. This work included hands-on testing of the most complex travel demand models in use in the U.S. today.

Climate Plan (California statewide) – Assisted large coalition of groups in reviewing and participating in the target setting process required by Senate Bill 375 and administered by the California Air Resources Board to reduce future greenhouse gas emissions through land use measures and other regional initiatives.

Chittenden County (2060 Land use and Transportation Vision Burlington Vermont region) – led extensive public visioning project as part of MPO's long-range transportation plan update.

Flagstaff Metropolitan Planning Organization – Implemented walk, transit and bike models within regional travel demand model. The bike model includes skimming bike networks including on-road and off-road bicycle facilities with a bike level of service established for each segment.

Chicago Metropolis Plan and Chicago Metropolis Freight Plan (6-county region)— developed alternative transportation scenarios, made enhancements in the regional travel demand model, and used the enhanced

IO1-32

model to evaluate alternative scenarios including development of alternative regional transit concepts. Developed multi-class assignment model and used it to analyze freight alternatives including congestion pricing and other peak shifting strategies.

Municipal Planning

City of Grand Rapids – Michigan Street Corridor – developed peak period subarea model including non-motorized trips based on urban form. Model is being used to develop traffic volumes for several alternatives that are being additionally analyzed using the City’s Synchro model

City of Omaha - Modified regional travel demand model to properly account for non-motorized trips, transit trips and shorter auto trips that would result from more compact mixed-use development. Scenarios with different roadway, transit, and land use alternatives were modeled.

City of Dublin (Columbus region) – Modified regional travel demand model to properly account for non-motorized trips and shorter auto trips that would result from more compact mixed-use development. The model was applied in analyses for a new downtown to be constructed in the Bridge Street corridor on both sides of an historic village center.

City of Portland, Maine – Implemented model improvements that better account for non-motorized trips and interactions between land use and transportation and applied the enhanced model to two subarea studies.

City of Honolulu – Kaka’ako Transit Oriented Development (TOD) – applied regional travel demand model in estimating impacts of proposed TOD including estimating internal trip capture.

City of Burlington (Vermont) Transportation Plan – Led team that developing Transportation Plan focused on supporting increased population and employment without increases in traffic by focusing investments and policies on transit, walking, biking and Transportation Demand Management.

Transit Planning

Regional Transportation Authority (Chicago) and Chicago Metropolis 2020 – evaluated alternative 2020 and 2030 system-wide transit scenarios including deterioration and enhance/expand under alternative land use and energy pricing assumptions in support of initiatives for increased public funding.

Capital Metropolitan Transportation Authority (Austin, TX) Transit Vision – analyzed the regional effects of implementing the transit vision in concert with an aggressive transit-oriented development plan developed by Calthorpe Associates. Transit vision includes commuter rail and BRT.

Bus Rapid Transit for Northern Virginia HOT Lanes (Breakthrough Technologies, Inc and Environmental Defense.) – analyzed alternative Bus Rapid Transit (BRT) strategies for proposed privately-developing High Occupancy Toll lanes on I-95 and I-495 (Capital Beltway) including different service alternatives (point-to-point services, trunk lines intersecting connecting routes at in-line stations, and hybrid).

Roadway Corridor Planning

I-30 Little Rock Arkansas – Developed enhanced version of regional travel demand model that integrates TransCAD with open source Dynamic Traffic Assignment (DTA) software, and used to model I-30 alternatives. Freeway bottlenecks are modeled much more accurately than in the base TransCAD model.

South Evacuation Lifeline (SELL) – In work for the South Carolina Coastal Conservation League, used Dynamic Travel Assignment (DTA) to estimate evaluation times with different transportation alternatives in coastal South Carolina including a new proposed freeway.

Hudson River Crossing Study (Capital District Transportation Committee and NYSDOT) – Analyzing long term capacity needs for Hudson River bridges which a special focus on the I-90 Patroon Island Bridge where a microsimulation VISSIM model was developed and applied.

PUBLICATIONS AND PRESENTATIONS (partial list)

DTA Love: Co-leader of workshop on Dynamic Traffic Assignment at the June 2019 Transportation Research Board Planning Applications Conference.

Forecasting the Impossible: The Status Quo of Estimating Traffic Flows with Static Traffic Assignment and the Future of Dynamic Traffic Assignment. *Research in Transportation Business and Management* 2018.

Assessing Freeway Expansion Projects with Regional Dynamic Traffic Assignment. Presented at the August 2018 Transportation Research Board Tools of the Trade Conference on Transportation Planning for Small and Medium Sized Communities.

Vermont Statewide Resilience Modeling. With Joseph Segale, James Sullivan and Roy Schiff. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

Assessing Freeway Expansion Projects with Regional Dynamic Traffic Assignment. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

Pre-Destination Choice Walk Mode Choice Modeling. Presented at the May 2017 Transportation Research Board Planning Applications Conference.

A Statistical Model of Regional Traffic Congestion in the United States, presented at the 2016 Annual Meeting of the Transportation Research Board.

MEMBERSHIPS/AFFILIATIONS

Associate Member, Transportation Research Board (TRB)

Member and Co-Leader Project for Transportation Modeling Reform, Congress for the New Urbanism (CNU)

RESPONSE TO COMMENT LETTER #IO1

Comment IO 1-1 *Summary of Comment:* The comment states that comments are provided on behalf of Napa/Solano Residents for Responsible Development (“Napa/Solano Residents”), and provides a brief summary of the proposed Project.

Response: This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment IO 1-2 *Summary of Comment:* The comment states that the Draft EIR lacks “meaningful details” related to transportation impacts and the Project's cumulative impacts, and therefore the Draft EIR is deficient as a matter of law because it fails to properly disclose and mitigate the Project's potentially significant impacts. The comment further states that the Draft EIR also lacks substantial evidence to support the City's conclusions regarding the Project's impacts and proposed mitigation.

Response: Specific responses to comments submitted on behalf of Napa/Solano Residents are provided in Responses to Comments IO 1-5 through IO 1-33. The Draft EIR: (1) contains a thorough and complete analysis of the Project’s potential impacts on the environment, (2) properly discloses and mitigates for the Project’s potentially significant impacts, and (3) provides substantial evidence to support the City's conclusions regarding the Project's impacts and proposed mitigation measures. Therefore, no material changes to the Draft EIR are required. The City has prepared minor clarifications to the Draft EIR, which are detailed in Chapter 3 of this Final EIR, “Errata.”

Comment IO 1-3 *Summary of Comment:* The comment states the law firm of Adams, Broadwell, Joseph & Cardozo retained the services of Norman Marshall as a consultant to review and comment on the Draft EIR, and states that the City must “address and respond to these comments separately and fully” citing to the State CEQA Guidelines Sections 15088(a) and 15088(c).

Response: CEQA Guidelines Section 15088(c) requires that written responses to comments must describe only “...the disposition of significant environmental issues raised (e.g., revisions to the proposed project to mitigate anticipated impacts or objections).” Furthermore, “[T]he level of detail contained in the response ... may correspond to the level of detail provided in the comment (i.e., responses to general comments may be general).” Specific responses to comments submitted on behalf of Napa/Solano Residents are provided in Responses to Comments IO 1-6 through IO 1-33.

Comment IO 1-4 *Summary of Comment:* The comment states that Napa/Solano Residents is composed of members of local labor unions. The comment also states that logistics centers like the Project should avoid adverse impacts to air quality, biological resources, transportation, and public health, and should take all feasible steps to ensure unavoidable impacts are mitigated to the maximum extent feasible. The comment further states that Napa/Solano Residents would be directly affected by the Project's environmental and health and safety impacts and that individual members may also work constructing the Project itself and therefore could be exposed to the Project’s construction hazards.

Response: This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment IO 1-5 *Summary of Comment:* The comment summarizes requirements of an EIR under CEQA, noting the intent of CEQA, as established through Public Resources Code Section 21100 and case law, as cited in the comment. The comment highlights code and case law to summarize the intent of CEQA, two primary purposes of CEQA, being to inform decisionmakers and to avoid or reduce environmental demand when “feasible,” and the standard of review by the courts of EIRs under CEQA.

Response: This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment IO 1-6 *Summary of Comment:* The comment states that the Draft EIR does not provide a complete and finite description of the Project because it lacks basic details about the Project's proposed operations. The comment further states that although the Executive Summary states that the Project will be used for "warehouse and logistics uses," the Draft EIR Project Description does not provide a comprehensive breakdown of the intended functionalities and activities of the Project, because specifics such as the type of warehousing activities, the types of goods to be stored or handled, days and hours of expected operations, and number of expected employees are necessary to accurately assess the potential environmental impacts of the Project. The comment further references the CalEEMod model and the 79 different land use subtypes available in that model, including four warehouse subtypes, noting that the project description does not inform which land use subtype is most appropriate to use and that, without this information, “it is impossible to properly evaluate the Project’s potential environmental impacts.”

Response: The Project Description provides a comprehensive understanding of the proposed Project’s location, project objectives, construction approach and phasing, proposed design features including development area acreage and building square footage, onsite and off-site supporting infrastructure, parking and circulation, and on-site managed open space, and a summary of the intended uses of the EIR, consistent with those requirements detailed in CEQA Guidelines Section 15124. As stated in CEQA Guidelines Section 15124, “[t]he description of the project shall contain the following information but should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.” (See also *Dry Creek Citizens Coalition v. County of Tulare* (1999) 70 Cal.App.4th 20, 28-33 [court rejects argument that project description for a proposed surface mining expansion project lacked sufficient details: “[a] general description of a project element can be provided earlier in the process than a detailed engineering plan and is more amenable to modification to reflect environmental concerns”; “engineered drawings may well supply “extensive detail beyond that needed for evaluation and review of the environmental impact” in violation of Guidelines section 15124”].)

For the purposes of analysis, the Draft EIR analyzed potential environmental impacts based on reasonable assumptions and expert opinion with regard to proposed operations and based upon what would be a ‘most-intensive-case’ scenario of operations pertaining to a given

environmental resource; assumptions used to inform impact analyses were consistent across all resource areas of the Draft EIR, as applicable. For example, and with regard to the CalEEMod land use options, for the purposes of air quality and greenhouse gas impacts, the Draft EIR considered both refrigerated and non-refrigerated warehousing to evaluate the greatest potential for the generation of operational greenhouse gas emissions from on-site land use operations if 100 percent of the proposed operations were tenanted as requiring refrigeration. The air quality and greenhouse gas impact analysis also used the conservative assumptions that operations would occur 24 hours per day, and would require on-site operational equipment for the purposes of goods movement, regardless of the specifics of the types of goods. Furthermore, Project-specific inputs were used to inform additional emissions estimates for proposed on-site operational equipment. However, the emissions quantification for the proposed Project mobile source emissions, specifically identified by the commenter as a key variable in the selected CalEEMod land use types, was conducted outside of the CalEEMod model using Project-specific inputs for operational truck trips, employee trips, on-site idling, and the use of Transportation Refrigeration Units en-route and on-site, based on the conservative assumption of 100 percent cold storage for future operations, as detailed on page 4.2-17 of the Draft EIR and shown in Appendix B to the Draft EIR. Similarly, for the purposes of estimating vehicle miles traveled associated with operational trucks serving the site, the Fulfillment Center Warehouse land use category (land use code 155) was selected given the proposed zoning, Project Description, the applicant's draft Planned Unit Development, and the preliminary design, including the size of the proposed Project, which is within the ITE study sample size range. The High-Cube Transload and Short-Term Storage Warehouse (land use code 154) was also considered; however, land use 155 was selected as it resulted in a more conservative trip rate and trip generation. With regard to the estimated number of employees, this was informed by both the ITE trip rate for the Fulfillment Center Warehouse land use category and the employee estimate of the Economic Impact Analysis conducted by Economic and Planning Systems, Inc., in support of the proposed Project. The evaluation contained within the Draft EIR and used to determine potential environmental impacts and necessary mitigation measures was based upon best available information, expert opinion, and reasonable assumptions for what would be considered the 'worst-case' or conservative analysis.

The EIR took this very conservative approach even though ““CEQA does not require an agency to assume an unlikely worst-case scenario in its environmental analysis.”” (*East Oakland Stadium Alliance v. City of Oakland* (2023) 89 Cal.App.5th 1226, 1252 (*East Oakland*), quoting *High Sierra Rural Alliance v. County of Plumas* (2018) 29 Cal.App.5th 102, 126 (*High Sierra*).) Rather, impact analysis in an EIR should focus on what is reasonably foreseeable based on substantial evidence. (*East Oakland, supra*, at p. 1252, citing *Save the El Dorado Canal v. El Dorado Irrigation District* (2022) 75 Cal.App.5th 239, 264; see also *High Sierra, supra*, at p. 122 [“the record discloses substantial evidence in support of the County's population growth and property development estimates].)

As a practical matter, lead agencies are required to consider and analyze the land uses proposed by project applicants even though such applicants typically do not know the identities of their future tenants during the environmental review process. Indeed, lead agencies have no rights or obligations under CEQA to insist on the identification of such potential future tenants. In

Maintain Our Desert Environment v. Town of Apple Valley (2004) 124 Cal.App.4th 430, 444, the court rejected the notion that “CEQA compliance required the identification of the project end user[.]” The court explained that “[s]o long as the project is approved, CEQA has no concern about who uses it. If CEQA compliance required the identification of the project end user, a new EIR would need to be considered every time property was sold or a different tenant moved into a building, regardless of the use to which the property was to be put. In addition to the problems listed above, such a requirement also violates the standard of efficiency required by CEQA.”

Here, the applicant is unlikely to line up leases with any tenants until after LAFCO has approved the requested annexation and the project-specific entitlements granted by the City become effective and operative. At that time, the applicant will be in a position to find tenants who are able to operate under the applicable General Plan and zoning designations and the terms of the project-specific entitlements, which include a Planned Unit Development, Site Plan / Architectural Review, Tentative Parcel Map, Use Permit, and Development Agreement. (See Draft EIR, pp. 3-23 – 3-24.) In writing an EIR and granting the approvals needed for a proposed project, a city or county should not tie the applicant’s hands too much with respect to the types of potential future tenants that will be acceptable. What matters is what is allowed under the General Plan and zoning designations and the project-specific entitlements with their CEQA mitigation measures and conditions of approval. Here, the project-specific entitlements for the Project will significantly limit the range of options facing the Project applicant and potential future tenants. In particular, the mitigation obligations will be very stringent and, from a would-be tenant’s standpoint, substantially more onerous than what would be required in existing warehouse space within existing buildings approved years earlier, when there were relatively fewer environmental standards. In light of all of these legal principles and practical considerations, the City, with applicant input, made reasonable assumptions about categories of tenants that are likely or unlikely in the current marketplace to lease space in the Project once it is up and running. The EIR’s trip generation rate reflects what, based on substantial evidence, appear to be reasonably foreseeable project activities and uses, and tends to err on the side of creating a set of reasonable worst-case assumptions.

Comment IO 1-7 *Summary of Comment:* *The comment introduces the commenter’s assertion that the Draft EIR “fails to disclose, analyze, and mitigation potentially significant impacts.” The comment describes requirements under CEQA regarding responsibilities of a lead agency regarding the disclosure of potential significant impacts and inclusion of substantial evidence to justify a finding of less than significant. The comment goes on to note procedural requirements in the case of a challenge to an EIR. Within these statements, the comment introduces several cases that have established requirements and best practices under CEQA.*

Response: This comment generally summarizes requirements under CEQA in the words of the commenter and does not identify any new environmental impacts that were not adequately addressed or any other types of deficiencies in the Draft EIR analysis. Refer to Response to Comments IO 1-8 through IO 1-16 for more detailed comments provided by the commenter under this Comment IO 1-7 header.

Comment IO 1-8 *Summary of Comment:* The comment asserts that the Draft EIR's conclusion that transportation-related impacts of the proposed Project would be less than significant with mitigation is flawed, primarily as it relates to what the comment describes as an underestimate of the Project's vehicle miles traveled (VMT) and overestimate of the VMT reductions achievable through the proposed Transportation Demand Management (TDM) Plan, as provided in Mitigation Measure 4.12-1. Specifically, the comment references the Draft EIR (page 4.12-17) conclusion that the proposed TDM Plan mitigation measure could decrease Project VMT by 11.3 percent, thereby reducing the Project's VMT to a less than significant level and asserts that this conclusion is not supported by substantial evidence and goes on to provide what the commenter states is evidence that "undermines the DEIR's assumptions." The evidence cited in the comment is from a review conducted by Norman L. Marshall of Smart Mobility and provided as Exhibit A to Comment Letter IO1. Mr. Marshall's letter reasons that because the DEIR states that Alternative 3 with predominantly office jobs instead of the warehouse jobs in the proposed Project: "would have the potential to decrease commute-related VMT and associated criteria air pollutant emissions by approximately 30 percent, assuming single-occupant vehicular trips only" (Draft EIR page 6-26), and because the model used to calculate Project VMT is incapable of making this distinction between commute VMT for different types of jobs, the 30 percent difference documented in the Draft EIR between office commute lengths and warehouse commute lengths means the model overestimates commute lengths for office jobs and underestimates average commute lengths for the warehouse jobs in the proposed Project, and therefore the Draft EIR model must underestimate Project commute VMT. Mr. Marshall's letter also reasons that the Draft EIR overestimates VMT reductions that can be achieved through measures in a Transportation Demand Management Plan because the VMT reduction estimates do not account for actual transit patterns or bicycle trip share to the Project Site, including that the Draft EIR provides no evidence that employees will work shifts that will allow them to commute by transit and/or ridesharing. The comment notes that the stated flaws in the VMT analysis also result in unsupported conclusions in the Draft EIR's air quality and greenhouse gas (GHG) analyses.

Response: The VMT estimates are based on quantitative analysis using the City of Fairfield travel demand model, which includes the City of Fairfield and City of Suisun City. The model was developed and validated to 2019 pre-pandemic conditions, using Caltrans and Federal Highway Administration model validation standards. Specifically, the VMT analysis for the proposed Project found that the average worker commute distance would be 14.2 miles per employee per day, or 7.1 miles per one-way trip. As the commenter noted, this is an average trip distance based on the aforementioned modeling and industry best practice; some trips would reasonably be shorter and others longer than this distance. Chapter 6 of the Draft EIR explains that Alternative 3 would result in a similar number of jobs as the proposed Project but would include a greater proportion of office space and that the office space provided would specifically "focus on providing local employment opportunities for local residents that are currently commuting to other cities for employment" (Draft EIR page 6-15). This focus on local employment, particularly for those that must travel outside of the local area to find employment, is the key factor that would drive a reduction in commute VMT relative to that modeled for the proposed Project. For example, even a local resident coming from the farthest, easternmost part of the

City to the Project Site would travel at most about 5.5 miles each way, which is a distance that is approximately 22 percent shorter than the average 7.1 miles each way as estimated by the VMT modeling. Acknowledging that this is a conservative (high) estimate of the longest distance traveled by a local employee, even greater VMT reductions could be achieved by other local residents filling employment opportunities afforded by Alternative 3.

VMT reductions are based on research from the California Air Pollution Control Officers Association (CAPCOA). The mitigation measure identifies the maximum VMT reduction possible given the characteristics of the site and most feasible measures that would be included in a TDM based on current technologies and regional transportation programs and infrastructure. As shown in Table 4.12-3 of the Draft EIR, the VMT reduction achieved through implementation of a TDM program would be approximately 14.3 percent, exceeding the necessary additional 11.3 percent required to reduce VMT to a less-than-significant level. The intent of Mitigation Measure 4.12-1 is to provide the framework and necessary review at the time that detailed operations are available to ensure that the necessary VMT reductions are achieved and that Project operations do not result in a significant VMT impact. TDM monitoring and reporting is also required as a part of Mitigation Measure 4.12-1 to ensure that the Project meets the VMT threshold and identify additional VMT reduction opportunities if the threshold is not met. The inclusion of a performance standard and monitoring, far from implying that the threshold would not be met, is a common requirement to ensure that success is achieved and to provide an empirical basis for measuring progress towards success. Monitoring against a VMT performance standard is often used by lead agencies. The City's approach in the Draft EIR is designed to ensure that the performance standards are met. This approach is used so that if, for some unforeseen reason, the VMT performance standard is not initially achieved as expected, additional steps can be taken to respond to the unexpected or unforeseen factors. (See also Response to Comment IO 1-13 below.)

Furthermore, as defined in CEQA Guidelines Section 15384, "substantial evidence" means "enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the Project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence." Substantial evidence includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." As detailed above, the VMT analysis and quantification of potential VMT reductions were conducted in accordance with industry standards and best practices, and the mitigation measure was written in order to ensure appropriate monitoring, enforcement.

Comment IO 1-9 *Summary of Comment:* The comment summarizes its consultant's assertions that there are inconsistencies and unasserted assumptions within the Draft EIR's VMT analysis, as compared to that of the air quality analysis. Specifically, the comment references the Draft EIR Appendix B page 76, noting that it assumes the TDM Plan will result in a 15 percent reduction in

passenger vehicle travel, and compares this to what the commenter states is an incongruous statement in the main body of the Draft EIR of 11.3 percent; the commenter also restates their conclusion that this 11.3 percent is an infeasible VMT reduction.

Furthermore, the commenter asserts that the Draft EIR Appendix B does not provide documentation of how the average trip lengths and operational days were established to inform emissions estimates, including the GHG emissions, specifically stating that the Appendix implies 230 operations days, but that the air quality analysis assumes operations seven days per week.

Response: The GHG emissions estimates for the mitigated scenario incorrectly reduced the passenger vehicle mobile source emissions by 15 percent, when the conclusion in the Transportation section of the Draft EIR (page 4.12-16) was that passenger vehicle VMT would be mitigated to a level that would be 15 percent below the citywide average, which was 11.3 percent below the unmitigated VMT rate. By inaccurately applying this reduction to the mitigated scenario for the estimate of GHG emissions, the Project’s operational GHG emissions were underestimated in the Draft EIR for this passenger vehicle mobile emissions source by approximately 82.6 metric tons (MT) carbon dioxide equivalents (CO₂e) (or less than 0.4 percent) per year for the initial full-buildout operational year (2026) and approximately 62.5 MT CO₂e (or 0.31 percent) for the future operational year 2045. The Final EIR text has been revised to show the updated emissions for this employee commute operational mobile emissions source and for the Project’s total GHG emissions, accounting for this change to reflect an 11.3-percent reduction in passenger vehicle mobile emissions rather than 15 percent, as presented in the Draft EIR; these changes are provided in Chapter 3, “Errata,” to this Final EIR.

Furthermore, with regard to assumptions pertaining to average trip lengths and operational days used to inform the air quality and greenhouse gas analyses, these data are provided on page 86 of Appendix B to the Draft EIR, detailing the inputs to the mobile source emissions calculations. This is also summarized on page 4.2-17 of the Draft EIR. The on-site worker trip travel distance was based upon the traffic analysis conducted for the proposed Project. Visiting truck travel distance was based on the average travel distance between the Project Site and surrounding major ports, which is approximately 52 miles, one-way. This is a conservative estimate, as a large portion of the truck trips would be moving goods from the Project Site to surrounding consumer locations, and not likely traveling as far as those trucks bringing goods to the Project Site. Furthermore, in order to conservatively estimate emissions on an annual basis that would identify the maximum potential daily and annual impact, both for mass emissions and for the health risk assessment of acute and chronic health impacts for the proposed Project, daily trip rates were converted to annual VMT to inform the maximum potential total annual operational emissions. As the traffic impact analysis is based upon an evaluation of daily VMT per employee and peak travel volumes, application of the daily travel data consistent with the transportation impact analysis to develop a maximum potential annual impact for the purposes of evaluation of air quality and greenhouse gas emissions impacts does not create a conflict or inconsistency between the topic areas.

Comment IO 1-10 *Summary of Comment:* *The comment states that the Project’s trip generation rate is not adequately disclosed or supported within the Draft EIR, referencing the Project’s daily trip*

count of 2,310 based on the proposed Project's 1.28 million square feet (or 1.8 trips per 1,000 square feet per day). The comment states that the applied trip generation rate is lower than rates for similar warehouse categories, such as Parcel Hub Warehouse and Fulfillment Center Warehouse with Sorting. The comment also references the air quality analysis' use of the land use sub-type of Refrigerated Warehouse for the Draft EIR's air quality analysis. The commenter recommends application of a "significantly higher and more conservative trip generate rate" or stipulating through a condition of approval that the Project's actual trip generation rate will not exceed that in the Draft EIR.

Response: The Fulfillment Center Warehouse land use category (land use code 155) was selected given the proposed zoning, Project Description, the applicant's draft Planned Unit Development, and the preliminary design, including the size of the proposed Project, which is within the ITE study sample size range. The High-Cube Transload and Short-Term Storage Warehouse (land use code 154) was also considered; however, land use 155 was selected as it resulted in a more conservative trip rate and trip generation.

The Parcel Hub Warehouse (land use code 156) results in a more conservative daily trip generation; however, the sites sampled had an average of approximately 540,000 square feet of building space, which is less than half of the proposed Project's total building square footage. Given the difference in the site's size, the Parcel Hub Warehouse land use code was not appropriate.

Furthermore, the criteria air pollutant and GHG emissions estimates made appropriate use of CalEEMod defaults and substituted such defaults with more Project-specific data on- and off-model in order to most accurately estimate Project emissions with currently available information. The use of the refrigerated warehouse land use sub-type in CalEEMod more conservatively estimated GHG emissions associated with the potential for on-site refrigeration systems. In addition, the defaults for mobile source emissions within CalEEMod were substituted with Project-specific mobile travel data (including trip rate, trip length, and vehicle category fleet mix) based on Project-specific inputs, including the Project's transportation analysis, economic analysis, and the location of the Project Site. Moreover, air quality and GHG analyses assumed that on-site land uses would include refrigeration and conservatively assumed that all trucks visiting the site would also require transportation refrigeration units. The models and thresholds applicable to each the transportation, air quality, and GHG analyses under CEQA have parallels but are also distinct. There is no conflict between the conclusions in the Draft EIR, as revised in this Final EIR, related to air quality, greenhouse gas emissions, or transportation that would underestimate the actual Project impact. Due to the unknowns with regard to future Project operations, some assumptions and data inputs were applied to each to develop the most accurate and, where appropriate, the most conservative analyses for the purpose of each respective impact topic.

Comment IO 1-11 *Summary of Comment:* *The comment reiterates the commenters assertion that the VMT analysis is not based on substantial evidence, and asserts that the City must prepare a revised Draft EIR.*

Response: Please see Response to Comments IO 1-8 through IO 1-10. For the reasons stated therein and based on the revised information as presented in Chapter 3, “Errata,” of this Final EIR, a revised Draft EIR is not required and has not been prepared by the City.

Comment IO 1-12 *Summary of Comment:* The comment asserts that the Draft EIR’s transportation analysis includes an improperly deferred mitigation measure and summarizes the CEQA Guidelines Section 15126.4(a)(1)(b) pertaining to deferral of mitigation.

Response: The City acknowledges the requirements under CEQA pertaining to mitigation and those prohibiting deferral of mitigation. With regard to the specific transportation mitigation measure presented in the Draft EIR, see the Response to Comment IO 1-13 below.

Comment IO 1-13 *Summary of Comment:* The comment provides reasons as to why the commenter asserts that the Draft EIR Mitigation Measure 4.12-1 ‘defers specifics and details.’ First, the commenter states that by use of the term “shall,” “the City is explicitly putting off developing the details of the TDM plan to the future.” The commenter claims that the Draft EIR “fails to provide any reason why it is infeasible or impractical to incorporate the specific details of the TDM Plan in the mitigation measure at this stage of environmental review.” The commenter goes on to reiterate their call for a revised mitigation measure that is “more detailed and comprehensive” or for the City to demonstrate why such is impractical or infeasible at this stage.

Response: Mitigation Measure 4.12-1 identifies TDM strategies for the Project applicant to implement and for the City to enforce, describes how these strategies would reduce VMT attributable to the proposed Project, and provides an estimate of the corresponding maximum VMT reduction that can be expected for each VMT reduction strategy. The measure also includes an enforceable performance standard and identifies specific steps that may need to be taken to ensure achievement of that standard. Throughout the Draft EIR, the City has comprehensively evaluated potential effects based on the anticipated land uses, but the City also understands that, with respect to VMT, the specific type of future tenant may be relevant to the efficacy of each required TDM strategy. Therefore, in order to further ensure the efficacy of the TDM Plan for reducing VMT, Mitigation Measure 4.12-1 allows for additional VMT reduction strategies, and specifies a minimum performance standard – namely, that “the TDM Plan shall reduce the commute trip VMT per employee from 14.2 to a maximum of 12.6, consistent with an 11.3-percent reduction.” The applicant is required to demonstrate that the TDM Plan results in a minimum VMT reduction that meets the performance standard in Mitigation Measure 4.12-1 and continue to demonstrate effectiveness through TDM monitoring and reporting.

The measure requires ongoing monitoring through a series of annual reports that will make this standard enforceable even if the assumed percentage reductions initially prove to be too optimistic. The pertinent language from the measure states that “[i]f the monitoring report shows that there was at least 11.3 percent commute trip VMT reduction, then the TDM Plan is presumed to effectively mitigate the Project impact on VMT. If the monitoring report shows that the TDM Plan does not reduce commute trip VMT by at least 11.3 percent, then the transportation planning/ engineering firm shall assess for financial penalties for non-compliance and provide guidance for TDM Plan modification to achieve the VMT reduction goal.” There

are also back-up measures if the first set of measures falls short. These back-up measures read as follows: “Additionally, if the initial TDM Plan strategies do not reduce commute trip VMT by at least 11.3 percent, the Project shall incorporate additional TMD strategies, such as the following to increase TDM effectiveness in the future:

- Provide enhancements to bus service to the Project site area during peak commute times in coordination with FAST and SolTrans (not quantifiable at this time as future coordination with FAST and SolTrans is required and has not occurred)
- Compliance with a future City VMT/TDM ordinance (not quantifiable at this time as the City does not have a VMT/TDM ordinance)
- Participation in a future City VMT fee program (not quantifiable at this time as the City does not have a VMT fee program)”

If the monitoring and reporting study shows that the threshold is not met, the Project applicant will be charged financial penalties for non-compliance and a modified TDM must be implemented to meet the required reduction.

The TDM Plan is required prior to the issuance of any building permit for the proposed Project. All mitigation required by the Draft EIR is provided in sufficient detail necessary to understand what is required, who is responsible for implementing the requirements, and, for mitigation such as Mitigation Measure 4.12-1, what specific performance standards must be achieved through mitigation. This is particularly important for mitigation measures that are to be implemented throughout the operation of the Project, and for mitigation measures where performance standards will be helpful in ensuring that mitigation measured imposed as a part of the City’s EIR will be effective in reducing potential impacts to a less-than-significant level. The efficacy of mitigation presented in the Draft EIR is also ensured by making the issuance of some approval or entitlement contingent upon satisfying the prescriptive requirements of each mitigation measure. For example, for Mitigation Measures 4.12-1, the TDM Plan is required prior to issuance of any building permit for the proposed Project. In some cases, the mitigation has multiple phases, with some components required as a part of construction and other components required as a part of the operation of the proposed Project. This is true for Mitigation Measure 4.12-1, which requires a TDM Plan developed to achieve the specified performance standard prior to the issuance of a building permit, but also requires annual monitoring and reporting on the efficacy of the mitigation, with adjustments required, if needed to ensure the performance standard continues to be met. While the details of each VMT reduction strategy in the TDM Plan are required to be tailored to each future tenant, the suite of VMT reduction strategies included as a part of Mitigation Measure 4.12-1 are demonstrated in the Draft EIR to be feasible and capable of achieving the identified performance standard, with the understanding that individual VMT reduction strategies included in the TDM Plan may need to be revised as tenants change in order to continue to be as effective.

Comment IO 1-14 *Summary of Comment:* The comment explains the need for EIRs to include analysis of cumulative effects and provides general principles related to the nature of cumulative impacts and impact analysis.

Response: The commenter’s background on cumulative analysis is consistent with the analysis and reporting in the Draft EIR, including that which is detailed in Chapter 5 of the Draft EIR, “Cumulative Impacts.”

Comment IO 1-15*Summary of Comment:* *The comment claims that the City relies on a planning document that did not account for a project like the proposed Project, citing the Bakersfield Citizens for Loc. Control v. City of Bakersfield court case and stating that, by relying on an “outdated and inaccurate” plan, the DEIR’s cumulative impacts analysis is thus insufficient under CEQA. The comment specifically notes that because the Solano County zoning for the Project Site is Exclusive Agriculture 40 Acres (A-40), “the City thus admits that the current Suisun General Plan reflects a land use designation of Agriculture and Open Space where the Project, a commercial warehouse, would be built,” and therefore the Draft EIR’s cumulative analysis is flawed because the Suisun City General Plan “never contemplated a large warehouse being built in the spaces deemed Agriculture and Open Space and has no provisions for rezoning or the construction of a large warehouse.”*

Response: The A-40 zoning is a reflection of the Project Site’s current position within unincorporated Solano County; however, the Project Site is also within the City’s adopted SOI – the area approved by the Local Agency Formation Commission as the long-term development area of the City. As described in Draft EIR Chapter 3, “Project Description,” in Table 3-1 (page 3-9) and shown on Exhibit 3-5 (page 3-8), 69.6 acres of the Project’s 93.4-acre Development Area were previously designated by the City for Commercial Mixed Use in the City’s 2035 General Plan, which was adopted in 2015. The Commercial Mixed-Use designation allows for logistics center and warehouse uses. Therefore, the commenter is incorrect that the General Plan did not contemplate development of similar land uses in the vicinity of the Project Site. The Draft EIR primarily makes use of the plan method to ensure the most comprehensive and informed set of land use assumptions in the cumulative analysis, including changes within the City of Suisun City, the City of Fairfield, and unincorporated Solano County. However, the cumulative analysis presented in Chapter 5 adjusts the land use change assumptions for the Project Site to include the Project, as proposed and *also* to include the proposed Suisun Logistics Center project. No change to the Draft EIR is needed in response to this comment.

Comment IO 1-16*Summary of Comment:* *The commenter makes reference to the need for a list of projects to inform the cumulative analysis and requests additional specificity on the list of projects that was used to augment the projections methodology that was primarily used to support the Draft EIR cumulative analysis.*

Response: See the Response to Comment IO 1-15.

Comment IO 1-17*Summary of Comment:* *The comment states that the Draft EIR would result in air quality and transportation impacts that create inconsistency with City General Plan policies, and that because the Draft EIR failed to address these policy inconsistencies, the City cannot make findings that would support annexation of the Project Site.*

Response: Please see the Response to Comments IO 1-18 and IO 1-19, which address the commenter's concern regarding the analyses for transportation, air quality, and GHGs, contained within the Draft EIR.

Comment IO 1-18 *Summary of Comment:* *The comment cites to Suisun City General Plan Goal T-3 and Policies T3.2 and T3.4, and states that, because the commenter believes the proposed Project will not minimize vehicle trips or reduce VMT by Suisun City residents, the City cannot make the required finding of consistency with the General Plan's stated goals and policies.*

Response: Goal T-3 of the General Plan indicates that the City's goal is to manage travel demand in order to deliver the stipulated co-benefits, consistent with the City's adoption of VMT guidance and the application of that guidance in the VMT impact analysis, mitigation, and reporting in the Draft EIR (Draft EIR, pages 4.12-13 through 4.12-16). Policy T3.2 establishes that the City will encourage new developments and public facilities that reduce vehicle trips and VMT. As noted in Section 4.12 of the Draft EIR and throughout this Final EIR, the City developed VMT guidance and has applied that guidance in the analysis, mitigation, and reporting in the Draft EIR to reduce VMT attributable to the Project. There is no conflict with this policy and no conflict with this policy that would produce any environmental impact of the Project beyond that which is comprehensively addressed in the Draft EIR – the Draft EIR reports on VMT associated with the proposed Project, and the analysis of air pollutant emissions impacts, greenhouse gas emissions impacts, and transportation noise impacts is informed by the tailored Project transportation analysis (Draft EIR, Sections 4.2, 4.6, 4.10, and 4.12). Policy T3.4 establishes that the City will design its review methodology with the intent, in part, of reducing VMT attributable to Suisun City residential, commercial, and employment-generating uses. The VMT analysis detailed in the Draft EIR is tailored to the proposed Project and consistent with the City's adopted VMT analysis methodology and significance thresholds, which are themselves consistent with the guidance that has been published in response to SB 743. The commenter is incorrect to assert that the Draft EIR VMT analysis is unsupported by evidence and does not comply with CEQA. The Draft EIR VMT analysis is tailored to the proposed Project, makes use of a subregional travel demand forecasting model that is focused on the Fairfield-Suisun area and travel demand characteristics of land use in this area. The VMT analysis is quantified and based on methods adopted by the City that are consistent with guidance included in SB 743 and additional guidance published by the Governor's Office of Planning and Research (Draft EIR, pages 4.12-13 through 4.12-16). Please see also the Responses to Comments IO 1-9 and IO 1-13.

In determining the proposed Project's consistency with the City of Suisun City General Plan, the City Council will understand that environmentally protective General Plan language such as those found in Plan Goal T-3 and Policies T3.2 and T3.4 must be understood and applied in light of normal principles of statutory interpretation and construction, taking into account all other relevant goals, objectives, policies, and programs in the 2035 General Plan. Although General Plans are not statutes, the same general interpretive principles apply. These principles dictate (i) that the General Plan should be viewed and interpreted as an integrated, internally consistent whole rather than as sets of isolated goals, objectives, policies, and programs in conflict with each other; (ii) that General Plan goals – and particularly those dealing with environmental

resources – are frequently aspirational and visionary, and not necessarily susceptible of literal achievement; and (iii) that seemingly inflexible goals, objectives, policies, and programs protecting natural resources and the environment must be reconciled and harmonized with goals, objectives, policies, and programs contemplating or advocating development, so as not to frustrate the development of commercial development and other land uses expressly contemplated by the Land Use Element of a General Plan. Here, as explained above in response to Comment IO 1-15, the City’s 2035 General Plan clearly contemplates Commercial Mixed Use development in the Project area.

The courts have emphasized that General Plan provisions seemingly in tension with one another (e.g., pro-development and seemingly anti-development provisions) should be reconciled to the extent reasonably possible. (*No Oil, Inc. v. City of Los Angeles* (1987) 196 Cal.App.3d 223, 244.) The need to reconcile and harmonize different portions of the General Plan reflects the statutory requirement that general plans must be integrated and internally consistent, as opposed to an amalgam of policies at odds with one another. Government Code section 65300.5 states that “the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” As one court explained, “[a] general plan is internally inconsistent when one required element impedes or frustrates another element or when one part of an element contradicts another part of the same element.” (*South Orange County Wastewater Authority v. City of Dana Point* (2011) 196 Cal.App.4th 1604, 1619; see also *Concerned Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90, 103; *Cadiz Land Co., Inc. v. Rail Cycle, L.P.* (2000) 83 Cal.App.4th 74, 115.)

Furthermore, according to case law under the Planning and Zoning Law, a proposed project is only inconsistent with the governing General Plan if the proposed project “conflicts with a general plan policy that is fundamental, mandatory, and clear.” (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-1342 (*FUTURE*), italics added; see also *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782 [“[a] project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear”].) Perfect conformity with every general plan policy is neither achievable nor required. (*FUTURE, supra*, 62 Cal.App.4th at p. 1336.)

“Indeed, it is beyond cavil that no project could completely satisfy every policy stated in the [General Plan], and that state law does not impose such a requirement.” (*Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 719 (*Sequoyah*), citing *Greenebaum v. City of Los Angeles* (1984) 153 Cal.App.3d 391, 406-407 (*Greenebaum*) and 59 Ops.Cal.Atty.Gen. 129, 131 (1976).) “A general plan must try to accommodate a wide range of competing interests—including those of developers, neighboring homeowners, prospective homebuyers, environmentalists, current and prospective business owners, jobseekers, taxpayers, and providers and recipients of all types of city-provided services—and to present a clear and comprehensive set of principles to guide development decisions. Once a general plan is in place, it is the province of elected city officials to examine the specifics of a proposed project to

determine whether it would be ‘in harmony’ with the policies stated in the plan.” (*Sequoyah, supra*, 23 Cal.App.4th at p. 719, citing *Greenebaum, supra*, 153 Cal.App.3d at p. 406.)

When Goal T-3 and Policies T3.2 and T3.4 are interpreted and applied in light of these legal principles, the City Council will be able to reasonably conclude that the proposed Project is consistent with Goal T-3, Policies T3.2 and T3.4, and the 2035 General Plan as a whole.

Comment IO 1-19 *Summary of Comment:* *The comment states that the city cannot make findings necessary for City approval of an annexation application because the Draft EIR is inadequate as a CEQA document since it “fails to properly disclose, analyze, and mitigate the Project’s significant environmental impacts.” The comment further states that the Project does not meet specific stated goals and policies of the General Plan.*

Response: Please see Responses to Comments IO 1-6 through IO 1-15 regarding the Draft EIR’s adequate disclosure, analysis, and mitigation of the Project’s potentially significant environmental impacts. Furthermore, the Project applicant has prepared a Planned Unit Development (PUD), for City approval, to establish the land use, zoning, development standards, and regulations for development of the Project Site (David Babcock & Associates 2023). Chapter 2 of the PUD details the Project’s vision and goals, including the Project’s relationship and alignment with the City’s General Plan; this PUD has been provided as Appendix D to this Final EIR. Please also see Response to Comment IO 1-18 with regard to the proposed Project’s consistency with the City’s General Plan. See also the Responses to Comment Letter A6.

Comment IO 1-20 *Summary of Comment:* *The comment states that for the reasons discussed in the preceding comments, “the Draft EIR for the Project is wholly inadequate under CEQA. It must be thoroughly revised to provide legally adequate analysis of, and mitigation for, all of the Project’s potentially significant impacts. These revisions will necessarily require that the Draft EIR be recirculated for additional public review. Until the Draft EIR has been revised and recirculated, as described herein, the County may not lawfully approve the Project.”*

Response: Please see Responses to Comments IO 1-6 though IO 1-19. See also the Responses to Comment Letter A6.

Comment IO 1-21 *Summary of Comment:* *The comment summarizes the commenter’s findings from their review of the Draft EIR’s VMT, trip generation, and GHG impacts. The comment states that 1) the Draft EIR documents that VMT calculated for the Project exceeds the City’s VMT threshold; 2) project VMT would likely be higher than as calculated in the Draft EIR “because the D[raft] EIR documents than an alternative project with office jobs would result in lower VMT per worker than the proposed project, and the model used to estimate VMT is incapable of making this distinction; 3) the 11.3 percent VMT mitigation in the Draft EIR is not realistic, specifically citing that this is because of the project’s location; and 4) the Draft EIR does not justify the trip rate used and would be higher than noted in the Draft EIR.*

Response: With regard to item 1, this accurately summarizes the finding presented in the Draft EIR for the unmitigated VMT (Draft EIR pages 4.12-13 and 4.12-14).

With regard to item 2, see Response to Comment IO 1-8. The City of Fairfield travel demand model, which includes Fairfield and Suisun City, is the best available tool to estimate VMT for the proposed Project and this tool produces distinct VMT forecasts for different land uses and locations, including distinct estimates for office versus industrial uses. The VMT estimate for the proposed Project, as reported in the Draft EIR, is tailored for the specific proposed use and the specific proposed location (and transportation model traffic analysis zone).

With regard to item 3, the estimated maximum VMT reductions are based on CAPCOA research reflecting the Project's characteristics, including Project environment (suburban location). As described in Response to Comment IO 1-13, the Project applicant is also required to implement TDM monitoring and reporting to demonstrate that the Project is meeting the required VMT reductions. If the reductions are not met, the Project applicant must implement additional TDM strategies and financial penalties will be assessed.

With regard to item 4, see Response to Comment IO 1-10 for information about the trip generation.

Comment IO 1-22 *Summary of Comment:* The comment states that Draft EIR Appendix B omits critical assumptions about average trip lengths and days of operation that underly emission estimates including GHGs, and states that these assumptions must be documented in the Draft EIR because Project emissions likely would be higher than estimated.

Response: Please see Responses to Comments IO 1-9 and IO 1-30.

Comment IO 1-23 *Summary of Comment:* The comment references Draft EIR text on page 5-23 that reports the Project's anticipated daily VMT per employee as compared to the threshold, which is recognized as exceeding the threshold. The comment continues to present an argument as to how the Project's VMT could be greater than reported due to the finding in the Draft EIR that Alternative 3 would potentially reduce daily employee commute VMT by approximately 30 percent compared to the proposed Project, specifically noting that City of Fairfield Model used to calculate Project VMT is incapable of making this distinction between commute VMT for different types of jobs.

Response: The City of Fairfield travel model estimates the City-wide average commute VMT per employee for all employment types (office, industrial, etc.). Fehr & Peers isolated the Project's VMT per employee results by isolating the Project traffic analysis zone to only include the proposed use. Therefore, the Project's estimated VMT per employee is accurately presented and is not underestimated, as office uses are not included in the Project traffic analysis zone or travel model analysis. Refer also to Response to Comment IO 1-8 and IO 1-21.

Comment IO 1-24 *Summary of Comment:* The comment references Draft EIR Mitigation Measure 4.12-1 for the implementation of a TDM Plan to reduce the Project's employee VMT. The commenter presents an argument that the Draft EIR overestimates the potential VMT reduction that could be achieved through implementation of Mitigation Measure 4.12-1, specifically citing the Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (GHG Handbook). Specifically, the

commenter asserts that the GHG Handbook specifies that the percent reduction values for commute trip reduction marketing and ridesharing program are maximum values that the GHG Handbook notes should be reduced because “employees who might not be able to participate could include those who work nighttime hours when transit and rideshare services are not available or employees who are required to drive to work as part of their job duties.” The commenter asserts that there is no evidence that employees will work shifts that will allow them to commute by transit and/or ridesharing, and also references a clip from the Draft EIR Appendix B noting that the Draft EIR air quality analysis shows the Project generating an equal number of trips on the weekend and weekdays.

Response: The TDM strategies identified in the Draft EIR include the maximum estimated reductions for the proposed Project land use, and while the maximum may not be achieved, the sum of the TDM strategies (including multiplicative dampening) results in an estimated maximum reduction of 14.3 percent, which is greater than the 11.3 percent required for the mitigation measure. Therefore, the Draft EIR determined that, based on the documented effectiveness of the strategies cited in Mitigation Measure 4.12-1, as applied to the proposed Project, the proposed Project would produce VMT that would represent a less-than-significant impact. As a further measure ensure the effectiveness of Mitigation Measure 4.12-1, the mitigation also includes a monitoring component and identified additional strategies demonstrated to be effective in further reducing VMT and achieving the enforceable 11.3-percent reduction performance standard. If the threshold is not met, the Project applicant will be charged financial penalties for non-compliance and a modified TDM must be implemented to achieve the performance standard of Mitigation Measure 4.12-1 (i.e., a VMT per employee reduction of at least 11.3 percent). Please also see Responses to Comments IO 1-8 and IO-13 with regard to VMT reduction potential under Mitigation Measure 4.12-1 and Response to Comment IO 1-9 with regard to the operational day assumptions used to inform the air quality analysis.

Comment IO 1-25*Summary of Comment: The comment references the GHG Handbook and asserts that local transit options are inadequate to serve the Project Site and future employees at a level that would support the VMT reduction assumed in the Draft EIR.*

Response: The transit TDM strategy denotes that the Project should be accessible either within 1 mile of high-quality transit service (rail or bus with headways of less than 15 minutes), 0.5 mile of local or less frequent transit service, or along a designated shuttle route providing last-mile connections to rail service. Thus, the local transit service located adjacent to the site may qualify. It should be noted that the maximum estimated VMT reduction for this strategy at this Project Site was assumed in the Draft EIR to be less than one percent.

Comment IO 1-26*Summary of Comment: The comment asserts that the Draft EIR does not provide evidence that a four percent VMT reduction for the Project is achievable from each a commute trip reduction marketing program and ridesharing program.*

Response: The TDM strategies and reductions included in the Draft EIR are based on the Project characteristics and locational context. The maximum reduction may be feasible through implementation of a robust TDM program. Mitigation Measure 4.12-1 denotes that TDM

monitoring and reporting is also required by the City so that ongoing monitoring is in place to ensure that the proposed Project meets the VMT threshold. If the threshold is not met, the Project applicant will be charged financial penalties for non-compliance and a modified TDM must be implemented to achieve the performance standard of Mitigation Measure 4.12-1 (i.e., a VMT per employee reduction of at least 11.3 percent). Refer also to Responses to Comments IO 1-8, IO-13, and IO 1-24.

Comment IO 1-27 *Summary of Comment:* The comment references the GHG Handbook's GHG Reduction Formula and calculated maximum VMT reduction of 2.5 percent for end-of-trip bicycle facilities, and asserts that the Draft EIR does not provide evidence that a 2.5 percent VMT reduction for end-of-trip bicycle facilities is valid for the Project in this location.

Response: This TDM strategy is based on the regional bicycle trends and not the specific census tract. The analysis presents the maximum feasible VMT reduction that can be achieved through robust implementation. Mitigation Measure 4.12-1 also requires the Project applicant to implement TDM monitoring and reporting such that if the Project does not to achieve the performance standard of Mitigation Measure 4.12-1 (i.e., a VMT per employee reduction of at least 11.3 percent), additional TDM strategies are required and financial penalties will be assessed. Refer also to Responses to Comments IO 1-8 and IO-13.

Comment IO 1-28 *Summary of Comment:* The comment notes that vanpools could be important in reducing VMT, but that this would require a major commitment by the employers to make work schedules consistent with the vanpool operations and to subsidize the vanpools.

Response: The TDM strategy reductions are based on the maximum reduction given the Project characteristics and locational context. As noted by the commenter, the maximum VMT reduction resulting from vanpools may be achievable through implementation of a robust and reliable TDM program. Furthermore, as stated above, Mitigation Measure 4.12-1 requires the Project applicant to implement TDM monitoring and reporting such that if the Project does not achieve the performance standard of Mitigation Measure 4.12-1 (i.e., a VMT per employee reduction of at least 11.3 percent), additional TDM strategies are required, and financial penalties will be assessed. Refer also to Responses to Comments IO 1-8 and IO-13.

Comment IO 1-29 *Summary of Comment:* The commenter asserts that Project trip generation "would likely be higher than assumed." The comment presents a graphic of the Institute of Transportation Engineers (ITE) Trip Generation Manual trip generation rates for different warehouse categories, and notes that the rate applied to the proposed Project in the Draft EIR transportation analysis is lower than some warehouse categories. The comment also recognizes that the air quality and greenhouse gas emissions modeling used an operational land use of Refrigerated Warehouse – No Rail in the CalEEMod model. The comment asserts that a higher trip generation rate category should have been applied, or a condition of approval be added to require Project operational trips not exceed the rate applied in the Draft EIR transportation analysis.

Response: Refer to Response to Comment IO 1-6.

Comment IO 1-30*Summary of Comment:* The commenter summarizes their conclusions that the Draft EIR likely underestimates Project VMT and overestimates VMT reductions achievable through Mitigation Measure 4.12-1.

Response: See Response to Comment IO 1-10.

Comment IO 1-31*Summary of Comment:* The comment claims that the Draft EIR Appendix B omits information about average trip lengths and days of operation that underly emissions estimates, including those for GHGs. The comment references page 80 of the Draft EIR Appendix B, noting that this includes information about the daily passenger VMT, annual passenger VMT, implied operational days, and average passenger vehicle trip length of 7.92 miles, but states that this value is not explained. The comment goes on to state that neither the Draft EIR or Appendix B explains information about truck trip lengths or VMT.

Response: Draft EIR Appendix B contains a detailed table on page 86 that explains the inputs used to establish trip rates and distances for employee commute and visiting truck trips to and from the site. This information is also summarized in Draft EIR page 4.2-17. See also Response to Comment IO 1-9.

Comment IO 1-32*Summary of Comment:* This comment consists of a copy of the resume for Norman Marshall, President of Smart Mobility.

Response: The attached resume is noted.

2.2.10 Comment LETTER #IO2:

BLUM, COLLINS & HO, LLP (ON BEHALF OF GOLDEN STATE ENVIRONMENTAL JUSTICE ALLIANCE)

Letter IO2

BLUM, COLLINS & HO LLP
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October 17, 2023

Jim Bermudez
Development Services Director
City of Suisun City
701 Civic Center Blvd.
Suisun City, CA 94585

VIA EMAIL TO:
jbermudez@suisun.com

SUBJECT: Comments on Highway 12 Logistics Center EIR (SCH NO. 2021040016)

Dear Mr. Bermudez,

Thank you for the opportunity to comment on the Environmental Impact Report (EIR) for the proposed Highway 12 Logistics Center Project. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance. Also, Golden State Environmental Justice Alliance formally requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

IO2-1

1.0 Summary

The approximately 486-acre Project Site is in unincorporated Solano County, California, within the City of Suisun City Sphere of Influence. The project proposes to annex and pre-zone 161 acres of the approximately 486-acre Project Site into the City of Suisun City and develop 1.28 million square feet of warehouse and logistics uses on approximately 93 acres (referred to as the "development area" in the EIR). The remainder of the annexation area is proposed as managed open space. The portion of the Project Site not proposed for annexation is outside the City's Sphere of Influence (SOI), is not proposed for any SOI change or annexation, and is proposed for managed open space. This open space would be managed consistent with the Suisun Marsh Protection Plan and in accordance with any required permit conditions imposed by applicable regulatory agencies. The Project proposes an amendment to the City's General Plan Land Use Diagram so that the proposed development and conservation areas are consistent with the General Plan's Commercial Mixed Use and Open Space land use designations.

IO2-2

4.2 Air Quality and 4.6 Greenhouse Gas Emissions and Energy

Please refer to attachments from SWAPE for a complete technical commentary and analysis.

The EIR does not include meaningful analysis of relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is especially significant as the surrounding community is highly burdened by pollution. According to CalEnviroScreen 4.0¹, CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project's census tract (6095252402) is highly burdened by pollution. The surrounding community bears the impact of multiple sources of pollution and is more polluted than average compared to the rest of the State in many pollution indicators measured by CalEnviroScreen. For example, the project census tract ranks in the 59th percentile for traffic burdens. Exhaust fumes contain toxic chemicals that can damage DNA, cause cancer, make breathing difficult, and cause low weight and premature births².

The census tract ranks in the 88th percentile for hazardous waste facility impacts. Hazardous waste generators and facilities contribute to the contamination of air, water and soil near waste generators and facilities can harm the environment as well as people³. The census tract also ranks in the 53rd percentile for solid waste facility impacts. Solid waste facilities can expose people to hazardous chemicals, release toxic gases into the air (even after these facilities are closed), and chemicals can leach into soil around the facility and pose a health risk to nearby populations⁴. The census tract also ranks in the 59th percentile for toxic releases. People living near facilities that emit toxic releases may breathe contaminated air regularly or if contaminants are released during an accident⁵.

The census tract ranks above average in several areas that impact water quality. The census tract ranks in the 59th percentile for impaired waters. Water pollution can harm wildlife habitats and change the number and types of plants and animals in the environment⁶. When fish and shellfish

IO2-3

IO2-4

¹ CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

² OEHHA Traffic <https://oehha.ca.gov/calenviroscreen/indicator/traffic-density>

³ OEHHA Hazardous Waste Generators and Facilities

<https://oehha.ca.gov/calenviroscreen/indicator/hazardous-waste-generators-and-facilities>

⁴ OEHHA Solid Waste Facilities <https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities>

⁵ OEHHA Toxic Releases <https://oehha.ca.gov/calenviroscreen/indicator/toxic-releases-facilities>

⁶ OEHHA Impaired Waters <https://oehha.ca.gov/calenviroscreen/indicator/impaired-water-bodies>

are contaminated, people who eat them can be exposed to toxic substances⁷. The census tract also ranks in the 86th percentile for groundwater threats. People who live near contaminated groundwater may be exposed to chemicals moving from the soil into the air inside their homes⁸.

IO2-4
Cont.

Further, the census tract is a diverse community including 42% Hispanic, 10% African-American, and 14% Asian-American residents, whom are especially vulnerable to the impacts of pollution. The community has a high rate of low educational attainment, meaning 76% of the census tract over age 25 has not attained a high school diploma, which is an indication that they may lack health insurance or access to medical care. The community has a high rate of poverty, meaning 64% of the households in the census tract have a total income before taxes that is less than the poverty level. Income can affect health when people cannot afford healthy living and working conditions, nutritious food and necessary medical care⁹. Poor communities are often located in areas with high levels of pollution¹⁰. Poverty can cause stress that weakens the immune system and causes people to become ill from pollution¹¹. Living in poverty is also an indication that residents may lack health insurance or access to medical care. Medical care is vital for this census tract as it ranks in the 68th percentile for incidence of cardiovascular disease and 95th percentile for incidence of asthma. The community also has a high rate of linguistic isolation, meaning 79% of the census tract speaks little to no English and faces further inequities as a result.

Additionally, the project census tract (6095252402) and the census tract adjacent to the northeast of the project site (6095252502) are identified as SB 535 Disadvantaged Communities¹². This indicates that cumulative impacts of development and environmental impacts in the area are disproportionately impacting these communities. The EIR does not discuss that the project site and surrounding area are disadvantaged communities and does not utilize this information in its analysis. The negative environmental, health, and quality of life impacts of the warehousing and logistics industry in the area have become distinctly inequitable. The severity of impacts particularly on these Disadvantaged Communities must be included for analysis as part of a revised EIR.

IO2-5

⁷ Ibid.

⁸ OEHHA Groundwater Threats <https://oehha.ca.gov/calenviroscreen/indicator/groundwater-threats>

⁹ OEHHA Poverty <https://oehha.ca.gov/calenviroscreen/indicator/poverty>

¹⁰ Ibid.

¹¹ Ibid.

¹² OEHHA SB 535 Census Tracts <https://oehha.ca.gov/calenviroscreen/sb535>

California's Building Energy Code Compliance Software (CBECC) is the State's only approved energy compliance modeling software for non-residential buildings in compliance with Title 24¹³. CalEEMod is not listed as an approved software. The CalEEMod modeling does not comply with the 2022 Building Energy Efficiency Standards and under-reports the project's significant Energy impacts and fuel consumption to the public and decision makers. Since the EIR did not accurately or adequately model the energy impacts in compliance with Title 24, a finding of significance must be made. A revised EIR with modeling using the approved software (CBECC) must be circulated for public review in order to adequately analyze the project's significant environmental impacts. This is vital as the EIR utilizes CalEEMod as a source in its methodology and analysis, which is clearly not the approved software.

IO2-6

4.7 Hazards, including Wildfire, and Hazardous Materials

The Travis Air Force Base Airport Land Use Compatibility Plan¹⁴ (TAFB ALUCP) depicts the project site within Airport Influence Area (AIA) Zone D. The EIR does not provide any information regarding ALUC review of the project. TAFB ALUCP Section 6.1.4(a)(1): Actions Which Always Require Airport Land Use Commission Review states that "The adoption or approval of any amendment to a general or specific plan affecting the property within an AIA (State Aeronautics Act Section 21676(b))." The project proposes an amendment to the City's General Plan Land Use Diagram to change the General Plan land use designation for a portion of the project site from Open Space to Commercial Mixed Use. The project also proposes a change to the Vehicular Circulation Diagram in the Transportation Element of the General Plan to depict Cordelia Road and Pennsylvania Avenue in areas adjacent to the Project Site as two-lane Arterials rather than four-lane Arterials. Therefore, Solano County Airport Land Use Commission (SCALUC) review is required for the proposed project.

IO2-7

The EIR is misleading to the public and decision makers by excluding the required airport compatibility review beyond that of the City. Delaying SCALUC review until after the CEQA process is implementation of the project prior to CEQA review and deferred mitigation in violation of CEQA. The EIR cannot conclude that the project has less than significant impacts until and unless it includes the SCALUC review and determination. A revised EIR must be prepared which includes a review and determination letter regarding the proposed development plans from the SCALUC.

¹³ California Energy Commission 2022 Energy Code Compliance Software
<https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1>

¹⁴ Travis Air Force Base ALUCP
<https://www.solanocounty.com/civicax/filebank/blobdload.aspx?BlobID=34765>

4.9 Land Use and Planning, Including Agriculture Resources, Population, and Housing

IO2-8

The EIR does not provide any substantial or meaningful evidence to support the claim that the project does not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. A revised EIR must be prepared to provide a consistency analysis with all of the most updated versions of the General Plan objectives, goals, policies, and actions, including but not limited to the following:

1. Goal CCD-1 Maintain and Strengthen the Character of Suisun City through Changes in the Built Environment.
2. Objective CCD-1 Enforce design policies and standards that ensure a unique sense of place in new developments so that the City's overall design character is improved between present and 2035.
3. Policy CCD-1.1 The City will review and condition new developments, as necessary, to ensure that development is consistent with the desired future character of the City. This review will take into consideration the size, location, orientation, and height of buildings, as well as proposed signs, fences, drainage, walls, landscaping, and lighting.
4. Policy CCD-1.2 The City will require the use of durable, high-quality building materials to reduce maintenance and replacement needs and ensure the aesthetic appeal of new developments.
5. Policy CCD-1.3 The architectural style, exterior materials, and other design features of accessory buildings, including garages, shall complement the primary structure.
6. Policy CCD-1.5 New developments should locate and size proposed surface parking areas in a way that reduces the visual dominance of parking as viewed from the front property line. In general, street frontages should be composed of building fronts and complementary landscaping, with parking located to the side or rear of the site.
7. Policy CCD-1.6 Proposed buildings of more than 20,000 square feet in gross floor area shall use balconies, bay windows or other window treatments, pitched roofs, arcades, or other architectural features to provide visual interest.
8. Policy CCD-1.10 The City will encourage the use of public art within new development projects. Policy CCD-1.11 The City will require that development projects outside the Downtown incorporate improvements that improve connectivity with the Downtown.
9. Policy CCD-1.17 Trash bins, HVAC equipment, and other required mechanical equipment should be located in areas that are accessible for their intended use and screened from view along public rights-of-way.



10. Policy CCD-1.18 Colors and logos associated with a company shall not be a significant architectural element in any new development. Commercial signage should be restrained in size and height and shall not involve any more than one square foot of building signage for each linear foot of building frontage facing a public street.
11. Goal CCD-4 Design Streetscapes to Create Attractive and Comfortable Spaces for People.
12. Objective CCD-4 Provide a comfortable visual environment along streetscapes throughout the community.
13. Policy CCD-4.1 New streets shall provide comfortable travel areas for pedestrians, bicyclists, and drivers to facilitate multi-modal travel for people of all ages.
14. Goal LU-4. Ensure growth patterns that promote long-term economic prosperity and make efficient use of resources.
15. Objective LU-4 Provide coordinated land use and public infrastructure planning in a way that increases service efficiencies, minimizes environmental impacts, and reduces ongoing costs to the City.
16. Policy LU-4.3 Annexation requests shall provide an analysis of infrastructure and public facilities demand, as well as the financing necessary to support planned development.
17. Policy LU-4.8 The City will use performance-based standards to address important aspects of land use compatibility (air, noise, vibration, heavy truck traffic, light, and glare) without impeding mixed-use infill development.
18. Goal T-1 Provide an efficient, safe transportation system that is free of barriers to travel by all segments of Suisun City's population.
19. Objective T-1 Develop, maintain, and enforce transportation performance standards and public improvement standards that implement the 2035 General Plan.
20. Policy T1.1 The City will review and condition developments to maintain level of service E or better during peak travel periods, as feasible.
21. Policy T1.3 The City's Level of Service policy will be implemented in consideration of the need for pedestrian and bicycle access, the need for emergency vehicle access, and policies designed to reduce vehicle miles traveled.
22. Policy T2.1 The City will require and maintain an interconnected street network with short blocks to support pedestrian, bicycle, transit, automobile, and emergency access.
23. Policy T2.2 New streets shall be arranged in a grid or other highly connected pattern so that pedestrians, bicyclists, and drivers have multiple, direct routes to nearby destinations.
24. Policy T2.5 The City prefers direct connections that allow cars, bikes, and pedestrian through traffic over doglegs or T intersections.

IO2-8
Cont.



25. Goal T-3 Manage travel demand in order to reduce up-front and ongoing cost of transportation infrastructure, enhance local mobility, improve air quality, and improve the local quality of life.
26. Objective T-3 Vehicle miles traveled (VMT) by Suisun City residents and to Suisun City destinations should increase at a lower rate than that of population and employment growth.
27. Policy T3.4 The City's analytical methods, review requirements, impact fees, and investments will be designed and implemented, in part, to reduce VMT by Suisun City residents and to local commercial and employment uses.
28. Policy T3.6 New developments that would accommodate 100 full or part-time employees or more are required to incorporate feasible travel demand management strategies, such as contributions to transit/bike/pedestrian improvements; flextime and telecommuting; a carpool program; parking management, cashout, and pricing; or other measures, as appropriate, to reduce travel demand.
29. Policy T4.2 The City will manage truck traffic, freight rail, and hazardous materials movements in a way that is protective of the public and environmental health, in collaboration with Caltrans, Solano County, the California Highway Patrol, the California Public Utilities Commission, and the Union Pacific Railroad.
30. Objective T-6 Increase the share of work and non-work trips by Suisun City residents and to Suisun City destinations for walking (by 1%), bicycling (by 0.3%), and public transit (by 2.6%) compared to that documented by the 2000 U.S. Census and ABAG.
31. Policy T6.12 New building frontages shall be oriented to pedestrians. Primary pedestrian entries to nonresidential buildings should be from the sidewalk, not from parking areas.
32. Policy T6.13 New developments shall provide pathways that link to sidewalks, trails, streets, and adjacent transit stops.
33. Policy T6.14 Lockers and showers for cyclists shall be provided for new developments that would accommodate 100 or more full or part-time employees.
34. Goal T-7 Maintain an adequate supply of parking and avoid oversupply of parking that would unnecessarily increase urban water runoff, require expensive construction and maintenance, and discourage alternatives to vehicular travel.
35. Objective T-7 Reduce the proportion of parking spaces that are unused during the daytime, evenings, or weekends.
36. Policy T7.1 Parking shall be located and designed to facilitate convenient pedestrian access to and from buildings, trails, sidewalks, and transit stops.
37. Policy T7.3 New developments should optimize and make use of onstreet parking spaces prior to proposing additional surface parking.

IO2-8
Cont.

- 38. Policy T7.8 New developments shall break up and distribute any proposed surface parking and shall provide adequate landscaping to achieve at least 50percent shading of parking areas at maturity.
- 39. Policy T7.11 New developments that require loading areas shall provide these facilities in a way that does not conflict with pedestrian, bicycle, transit, or automobile circulation.
- 40. Policy OSC-7.2 The City will require demonstration of adequate long-term water supply for large development projects, as defined in Water Code 10912(a) (also known as Senate Bills 610 and 221).
- 41. Policy OSC-7.3 The City will condition approval of new developments on the availability of sufficient water supply, storage, and fire flow (water pressure), per City standards.
- 42. Policy OSC-7.8 New developments shall incorporate climate-appropriate landscaping to reduce water demand and ongoing maintenance costs.
- 43. Goal PHS-17 Reduce the Potential for Human Injury or Property Damage Resulting from Activities at Travis Air Force Base.
- 44. Objective PHS-17 Promote the ongoing mission of Travis AFB, while avoiding local risks related to ongoing operations.

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IO2-8
Cont

This is vital as the EIR concludes that the project will have significant and unavoidable impacts to Aesthetics and Visual Resources (cumulatively considerable), Greenhouse Gas Emissions (cumulatively considerable), and Noise and the Land Use and Planning analysis has not considered these impacts in analyzing the project's conflicts with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. It is clear that the project conflicts with several General Plan goals, policies, and objectives adopted for the purpose of avoiding or mitigating an environmental effect, as well as state laws adopted to reduce GHG emissions. Therefore, the EIR must be revised to include a finding of significance in the Land Use and Planning analysis.

IO2-9

Further, the EIR does not discuss that the proposed project site is designated as Conservation: Higher Priority in Exhibit 7-3: Open Space Diagram of the Open Space and Conservation chapter of the General Plan¹⁵. An additional General Plan Amendment is required to amend Exhibit 7-3 and the EIR has not analyzed this requirement or stated that it is part of the proposed project application. The EIR must be revised to provide this information for analysis and include a finding of significance due to this significant and unavoidable impact.

IO2-10

¹⁵ Suisun City Open Space and Conservation Element of the General Plan
<https://www.suisun.com/files/sharedassets/suisuncity/v/2/departments/development-services/planning/documents/chapter-7-through-glossary.pdf>

The Travis Air Force Base Airport Land Use Compatibility Plan¹⁶ (TAFB ALUCP) depicts the project site within Airport Influence Area (AIA) Zone D. The EIR does not provide any information regarding ALUC review of the project. TAFB ALUCP Section 6.1.4(a)(1): Actions Which Always Require Airport Land Use Commission Review states that “The adoption or approval of any amendment to a general or specific plan affecting the property within an AIA (State Aeronautics Act Section 21676(b)).” The project proposes an amendment to the City’s General Plan Land Use Diagram to change the General Plan land use designation for a portion of the project site from Open Space to Commercial Mixed Use. The project also proposes a change to the Vehicular Circulation Diagram in the Transportation Element of the General Plan to depict Cordelia Road and Pennsylvania Avenue in areas adjacent to the Project Site as two-lane Arterials rather than four-lane Arterials. Therefore, Solano County Airport Land Use Commission (SCALUC) review is required for the proposed project.

IO2-11

The EIR is misleading to the public and decision makers by excluding the required airport compatibility review beyond that of the City. Delaying SCALUC review until after the CEQA process is implementation of the project prior to CEQA review and deferred mitigation in violation of CEQA. The EIR cannot conclude that the project has less than significant impacts until and unless it includes the SCALUC review and determination. A revised EIR must be prepared which includes a review and determination letter regarding the proposed development plans from the SCALUC.

The EIR does not discuss or analyze the project’s compliance with the General Plan’s Land Use Buildout Scenario. The Land Use Element of the General Plan states that the 2035 General Plan accommodates “5.8 million square feet of non-residential development at buildout of the Land Use Diagram (Exhibit 3-3).” Since the project requires a General Plan Amendment to change a portion of the project site’s land use designation from Open Space to Commercial Mixed Use, the General Plan EIR did not analyze the buildout of this area with building floor space. Further, the proposed project’s 1,280,000 square feet represents 22% of the General Plan buildout for the Commercial Mixed Use land use designation, which is significant to be attributed to a single project. The EIR has not demonstrated that the proposed project is within the General Plan buildout scenario, including all cumulative development constructed, approved projects not yet constructed, and “projects in the pipeline.” A revised EIR must be prepared to include this analysis in order to provide an adequate and accurate environmental analysis.

IO2-12

¹⁶ Travis Air Force Base ALUCP
<https://www.solanocounty.com/civicax/filebank/blobdload.aspx?BlobID=34765>

The EIR utilizes uncertain and misleading information to conclude that impacts to Population and Housing are less than significant. The EIR relies upon the statement that “approximately 96.6 percent of City residents commute to jobs outside of the city and 85 percent of local jobs within the city are filled by employees from outside of the city, mainly from the cities of Fairfield and Vacaville,” to support the conclusion that “the proposed Project supports the City’s goals to create opportunities to generate jobs and attract new employment-creating industries to Suisun City.” However, it is clear that there is a mismatch between the existing jobs and housing within the City and adjacent cities. Since the predominant majority of Suisun City residents commute outside of the City for work and the City subsequently imports workers from other cities to fill its jobs, there is a mismatch between the types of workers and jobs available within each jurisdiction. The proposed project will compound this problem unless the EIR provides meaningful evidence that the available workforce within the City is qualified for and interested in work in the industrial sector. The EIR must be revised to provide information and analysis on the City’s unemployed workforce. Otherwise, the project will rely on the entire labor force within an undefined distance, notably the greater Bay Area region, to fill the project’s construction and operational jobs will increase project VMT and emissions during all phases of construction and operations. A revised EIR must be prepared to account for longer worker trip distances as a result. Additionally, the revised EIR must also provide demographic and geographic information on the location of qualified workers to fill these positions in order to provide an accurate environmental analysis.

IO2-13

The EIR does not meaningfully discuss the project’s compliance with the Association of Bay Area Governments (ABAG) RTP/SCS (Plan Bay Area 2050). Plan Bay Area 2050’s Growth Pattern¹⁷ notes that the North Solano County area (Dixon, Fairfield, Rio Vista, Suisun City, and Vacaville) will add 53,000 jobs between 2015 - 2050. Utilizing the EIR’s calculation of 1,275 employees, the project represents 2.4% of the North Solano County area employment growth from 2015 - 2050. A single project accounting for this amount of the projected employment and/or population over 35 years represents a significant amount of growth. A revised EIR must be prepared to include this analysis, and also provide a cumulative analysis discussion of projects approved since 2015 and projects “in the pipeline” in Dixon, Fairfield, Rio Vista, Suisun City, and Vacaville to determine if the project will exceed Plan Bay Area 2050’s employment and/or population growth forecast for North Solano County. The amount of growth accounted for by cumulative projects multiplies exponentially when other commercial and industrial development activity approved since 2015 are added to the calculation. A revised EIR must be prepared to include this information for analysis and also include a cumulative development analysis of projects approved since 2015

IO2-14

¹⁷ Plan Bay Area 2050 Growth Pattern
https://www.planbayarea.org/sites/default/files/FinalBlueprintRelease_December2020_GrowthPattern_Jan2021Update.pdf

and projects in the pipeline” to determine if the proposed project exceeds ABAG’s and/or the City’s growth forecasts.

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IO2-14
Cont.

4.12 Transportation and Circulation

The EIR concludes that “the Project is expected to result in 14.2 home-based work daily VMT per employee, which is 1.6 VMT greater than the threshold. The Project would also increase total citywide daily VMT by approximately 10,000. Therefore, this impact would be potentially significant.” Of note, the citywide daily VMT includes the project’s truck traffic.

IO2-15

The EIR implements Table 4.12-3. TDM Plan as mitigation “designed to achieve the trip reduction, as required to reduce the commute trip VMT per employee from 14.2 to 12.6” to reduce impacts to less than significant levels.

However, this is unenforceable mitigation in violation of CEQA § 21081.6 (b). The EIR provides the following information regarding TDM plan implementation:

“As part of the TDM Plan, the Project applicant/contractor(s) shall monitor and report its effectiveness at reducing home-based work VMT per employee. Tenant/s shall submit annual reports to the City describing the specific TDM measures that are being implemented, the number of employees on-site, the daily vehicle trips generated by the Project, and length of the trips being generated by the Project. The report shall be prepared by an independent City-approved transportation planning/engineering firm. The TDM Coordinator will provide information to the firm to monitor implementation effectiveness of the approved TDM Plan. To assess the TDM Plan’s commute trip reductions, a baseline daily driveway count of vehicle trips shall be conducted before implementation of the TDM Plan and compared to the driveway count *after one year* of TDM Plan implementation. If the monitoring report shows that there was at least 11.3 percent commute trip VMT reduction, then the TDM Plan is *presumed* to effectively mitigate the Project impact on VMT. If the monitoring report shows that the TDM Plan *does not* reduce commute trip VMT by at least 11.3 percent, then the transportation planning/engineering firm *shall assess for financial penalties for non-compliance* and provide guidance for TDM Plan modification to achieve the VMT reduction goal.”

The mitigation of the TDM Plan is inadequate as it permits the proposed project to operate while exceeding VMT thresholds, and only be monitored on an annual basis while violations could occur at any time throughout the year (notably the busy holiday seasons). The EIR has not provided any quantified evidence that financial penalties for noncompliance will achieve VMT reductions to less than significant levels. It is not possible for the City to ensure that the TDM Plan will be implemented continuously, at all times, throughout the life of the project and maintain a VMT

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reduction to less than significant levels at all times. The efficacy of the proposed TDM measures and reduction of VMT impacts below the applicable thresholds cannot be assured and the project's VMT impact is therefore significant and unavoidable. A revised EIR must be prepared to include a finding of significance because there is no possible assurance of the percentage of project employees that would utilize the TDM programs and mitigation of the project's VMT impact to less than significant is not feasible.

IO2-18

The EIR has not adequately analyzed the project's potential to result in inadequate emergency access. There are no exhibits adequately depicting the onsite turning radius available for emergency vehicles maneuvering throughout the site. Notably, the truck/trailer parking stalls are adjacent to the the truck/trailer loading docks for each building, as shown on the project site plan. These parking stalls that may be in use at any time and further restrict truck/trailer movement on the site. The EIR states that "the final site plan must be approved by the Suisun City Fire Department to ensure the emergency access routes meet requirements to facilitate the safe movement of emergency vehicles," which is deferred mitigation to after the CEQA public review process. Deferring this environmental analysis required by CEQA to the construction permitting phase is improper mitigation, deferred mitigation, and does not comply with CEQA's requirement for meaningful disclosure and adequate informational documents. A revised EIR must be prepared to include a finding of significance due to these significant and unavoidable impacts.

IO2-19

6.0 Alternatives

The EIR is required to evaluate a reasonable range of alternatives to the proposed project which will avoid or substantially lessen any of the significant effects of the project (CEQA § 15126.6.) The alternatives chosen for analysis include No Project (Buildout of Existing Land Use Designations) Alternative, Reduced Footprint Alternative, and Reduce Criteria Air Pollutant/GHG Emissions/Transportation Related Energy Consumption Alternative. The No Project (Buildout of Existing Land Use Designations) Alternative analyzes that "the current land use designations as set forth in the Suisun City General Plan would remain unchanged," and includes development of a 363,000 square foot project. The EIR relies upon CEQA Guidelines Section 15126.6(e)(2) to decide the components of the No Project alternative in stating that "a discussion of the "No Project" alternative must consider "what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans." However, CEQA Guidelines Section 15126.6(e)(3)(B) states that "If the project is other than a land use or regulatory plan, for example a development project on identifiable property, the 'no project' alternative is the circumstance under which the project does not proceed. Here the discussion would compare the environmental effects of the property remaining in its existing state against environmental effects which would occur if the project is approved." Since the proposed project requires the revision of an existing

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land use/regulatory plan and is also a development project on identifiable property, the EIR must be revised to include a “No Project/No Build” Alternative in addition to an alternative which analyzes development of the site in accordance with existing land use designations (CEQA § 15126.6(e)).

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Cont.

The EIR does not evaluate a reasonable range of alternatives as only three alternatives are analyzed and the No Project/No Build alternative has been excluded. Table 6-7 Comparison of Impacts of the Alternatives to the Proposed Project is misleading to the public and decision makers as it does not identify that several impact areas of the alternative projects continue to have significant and unavoidable impacts, such as the significant and unavoidable Noise impacts under Alternative 2. Table 6-7 must be revised to clarify the impacts that remain significant and unavoidable under each alternative project, even if that significant impact is less than the impact of the proposed project.

IO2-21
IO2-22

The EIR must be revised to include analysis of a reasonable range of alternatives and foster informed decision making (CEQA § 15126.6). This could include alternatives such as development of the site with a project that reduces all of the proposed project’s significant and unavoidable impacts to less than significant levels, or mixed-use project that provides affordable housing and local-serving commercial uses that may reduce VMT, GHG emissions, and improve Air Quality.

IO2-23

7.0 Other CEQA Considerations

Table 2-1. Analyses Required by the CEQA Guidelines within the EIR states that the Irreversible Environmental Effects discussion required by CEQA Guidelines Section 15126.2(c) is found within Section 7 of the EIR. However, this analysis is not provided in Section 7 of the EIR or anywhere else within the EIR. The EIR must be revised to include a discussion of Irreversible Environmental Effects discussion as required by CEQA Guidelines Section 15126.2(c) in order to provide an adequate and accurate environmental analysis.

IO2-24

7.1 Growth-Inducing Impacts

The EIR does not discuss or analyze the project’s compliance with the General Plan’s Land Use Buildout Scenario. The Land Use Element of the General Plan states that the 2035 General Plan accommodates “5.8 million square feet of non-residential development at buildout of the Land Use Diagram (Exhibit 3-3).” Since the project requires a General Plan Amendment to change a portion of the project site’s land use designation from Open Space to Commercial Mixed Use, the General Plan EIR did not analyze the buildout of this area with building floor space. Further, the proposed project’s 1,280,000 square feet represents 22% of the General Plan buildout for the Commercial Mixed Use land use designation, which is significant to be attributed to a single project. The EIR

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Jim Bermudez
October 17, 2023
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has not demonstrated that the proposed project is within the General Plan buildout scenario, including all cumulative development constructed, approved projects not yet constructed, and “projects in the pipeline.” A revised EIR must be prepared to include this analysis in order to provide an adequate and accurate environmental analysis.

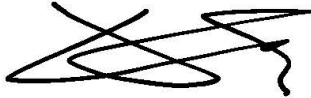
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Cont.

Conclusion

For the foregoing reasons, GSEJA believes the EIR is flawed and a revised EIR must be prepared for the proposed project and circulated for public review. Golden State Environmental Justice Alliance requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

IO2-26

Sincerely,



Gary Ho
Blum, Collins & Ho LLP

Attachments:

1. SWAPE Analysis



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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October 13, 2023

Gary Ho
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Subject: Comments on the Highway 12 Logistics Center Project (SCH No. 2021040016)

Dear Mr. Ho,

We have reviewed the August 2023 Draft Environmental Impact Report (“DEIR”) for the Highway 12 Logistics Center Project (“Project”) located in Suisun City (“City”). The Project proposes to construct 1,276,237-square-feet (“SF”) of warehouse space and 2,024 parking stalls on the 93.4-acre site.

Our review concludes that the DEIR fails to adequately evaluate the Project’s air quality and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed. A revised EIR should be prepared to adequately assess and mitigate the potential air quality and greenhouse gas impacts that the project may have on the environment.

Air Quality

Failure to Implement All Feasible Mitigation to Reduce Emissions

The DEIR concludes that the Project’s operational air quality emissions would be significant-and-unavoidable. Specifically, the DEIR estimates that the Project’s operational VOC and NO_x emissions would exceed the applicable Bay Area Air Quality Management District (“BAAQMD”) thresholds (see excerpt below) (p. 4.2-32 – 4.2-33, Table 4.2-9).

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Cont.

Table 4.2-9. Mitigated Annual and Average Daily Criteria Air Pollutant Operational Emissions

Description	ROG	NO _x	PM ₁₀	PM _{2.5}
Annual Emissions (tons)	<u>13.05</u>	7.19	2.81	0.82
Threshold of Significance (tons/year)	10	10	15	10
Exceeds Threshold?	Yes	No	No	No
Average Daily Emissions (pounds per day) ¹	<u>71.49</u>	39.37	15.39	4.48
Threshold of Significance (pounds per day)	54	54	82	54
Exceeds Threshold?	Yes	Yes	No	No

Source: Estimated by AECOM in 2023. See Appendix B for detailed modelling assumptions, outputs, and results.

Notes: NO_x = oxides of nitrogen; PM₁₀ = particulate matter less than 10 microns in diameter; PM_{2.5} = particulate matter less than 2.5 microns in diameter; ROG = reactive organic gases.

¹ Average daily emission estimates are based on the annual operational emissions divided by 365 days.

The DEIR concludes that the Project’s operational air quality impacts would be significant and unavoidable. Specially, the DEIR states:

“Implementation of Mitigation Measures 4.2-1c through 4.2-1j would reduce energy, area, and mobile source operational emissions associated with the proposed Project. As shown in Table 4.2-9, these mitigation measures would reduce operational emissions of NO_x to below the BAAQMD thresholds. However, ROG emissions would still exceed the BAAQMD thresholds of significance and Project operations could result in a cumulatively considerable net increase of criteria pollutants for which the Project region is non-attainment under an applicable federal or state ambient air quality standard.

There is no additional feasible mitigation. Therefore, this impact would be significant and unavoidable” (p. 4.2-32 – 4.2-33).

While we agree that the Project would result in significant air quality impacts, the DEIR’s assertion that this impact is significant-and-unavoidable is unreliable. According to CEQA Guidelines § 15096(g)(2):

“When an updated EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.”¹

The DEIR is therefore required under CEQA to implement all feasible mitigation to reduce impacts to a less-than-significant level. While the DEIR implements Mitigation Measure (“MM”) 4.2-1c through MM 4.2-1j, the DEIR fails to implement *all* feasible mitigation (p. 4.2-26 – 4.2-29). Consequently, the DEIR’s conclusion that Project’s air quality emissions would be significant-and-unavoidable is unsubstantiated. To reduce the Project’s air quality impacts to the maximum extent possible, additional feasible mitigation measures should be incorporated, such as those suggested in the section of this letter titled

¹ “Cal. Code Regs. tit. 14 § 15096.” California Legislature, *available at*: <https://casetext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-7-eir-process/section-15096-process-for-a-responsible-agency>.

“Feasible Mitigation Measures Available to Reduce Emissions.” The Project should not be approved until a revised EIR is prepared, incorporating all feasible mitigation to reduce emissions to less-than-significant levels.

IO2-28
Cont.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The DEIR estimates that the Project would result in net annual greenhouse gas (“GHG”) emissions of 21.80- and 15.65-metric tons of carbon dioxide equivalents per year per service population (“MT CO₂e/year/SP”) in 2026 and 2045, respectively (see excerpt below) (p. 4.6-27 – 4.6-28, Table 4.6-4).

IO2-29

Table 4.6-4. Mitigated Proposed Project GHG Efficiency in the Years 2026 and 2045

Proposed Project Emissions Source	Mitigated GHG Emissions in 2026 (MT CO ₂ e)	Mitigated GHG Emissions in 2045 (MT CO ₂ e)
Visiting Trucks	22,209	14,829
Worker Passenger Vehicles	1,897	1,437
Transportation Refrigeration Units	-	-
Electricity	-	-
Natural Gas	-	-
Fugitive Refrigerants	2,620	2,620
Yard Equipment (e.g., forklifts)	-	-
Stationary (e.g. backup generators and fire pumps)	16	16
Area Sources	6	6
Water Use	585	585
Waste Generation	375	375
Total Annual Operational Emissions	27,707	19,866
Annual Construction Amortized over 30 years¹	84	84
Total Project Annual Emissions (Operational + Amortized Construction)	27,791	19,950
Proposed Project Service Population (Employees)	1,275	1,275
Proposed Project GHG Efficiency (MT CO₂e per service population)	21.80	15.65
2030 GHG Efficiency Target (MT CO₂e per service population)	13.98	3.32
Project Consistent with GHG Efficiency Target?	No	No

Notes:

GHG = greenhouse gas emissions; MT CO₂e = metric tons of carbon dioxide equivalents

See Appendix B for detailed calculations and inputs.

¹ See Table 4.6-2 for detailed construction emissions by year and total construction emissions.

The DEIR concludes that the Project would result in a significant-and-unavoidable GHG impact, stating:

“Therefore, with implementation of Mitigation Measures 4.6-1a through 1n, the generation of GHG emissions associated with the proposed Project would not result in a substantial contribution to the significant impact of climate change or conflict with an applicable plan, policy, or regulation adopted for the purposes of reduction GHG emissions. However, the City cannot guarantee the availability of emissions credits meeting the standards outlined in Mitigation Measures 4.6-1n presented above. There is no additional feasible mitigation

available. Therefore, with implementation of Mitigation Measures 4.6-1a through 4.6-1n, the Project construction and operations would be cumulatively considerable and significant and unavoidable” (p. 4.6-28).

IO2-29
Cont.

While we agree that the Project would result in a significant GHG impact, the DEIR’s assertion that this impact is significant-and-unavoidable is unreliable. As previously discussed, according to CEQA Guidelines § 15096(g)(2):

“When an updated EIR has been prepared for a project, the Responsible Agency shall not approve the project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment.”

An impact can therefore only be labeled as significant-and-unavoidable after all available, feasible mitigation measures are considered. While the DEIR incorporates MM 4.6-1a through 4.6-1n, there are additional measures that the DEIR fails to consider (p. 4.6-23 – 4.6-27). To reduce the Project’s GHG impacts to the maximum extent possible, additional feasible mitigation measures should be incorporated, such as those suggested in the section of this letter titled “Feasible Mitigation Measures Available to Reduce Emissions.” The Project should not be approved until a revised EIR is prepared, incorporating all feasible mitigation to reduce emissions to less-than-significant levels.

Mitigation

Feasible Mitigation Measures Available to Reduce Emissions

Our analysis demonstrates that the Project would result in potentially significant air quality and GHG impacts that should be mitigated further. In an effort to reduce the Project’s emissions, we recommend the consideration of the following measures from the California Department of Justice Warehouse Project Best Practices document:²

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- Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.
- Requiring on-road heavy-duty haul trucks to be model year 2010 or newer if diesel-fueled.
- Limiting the amount of daily grading disturbance area.
- Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the project area.
- Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.
- Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.

² “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act.” State of California Department of Justice.

- Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.
- Providing information on transit and ridesharing programs and services to construction employees.
- Requiring all heavy-duty vehicles entering or operated on the project site to be zero-emission beginning in 2030.
- Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.
- Posting both interior- and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the project.
- Installing and maintaining, at the manufacturer's recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the project, and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.
- Constructing electric truck charging stations proportional to the number of dock doors at the project.
- Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the project.
- Installing solar photovoltaic systems on the project site of a specified electrical generation capacity, such as equal to the building's projected energy needs.
- Requiring all stand-by emergency generators to be powered by a non-diesel fuel.
- Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.
- Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.
- Achieving certification of compliance with LEED green building standards.
- Providing meal options onsite or shuttles between the facility and nearby meal destinations.
- Posting signs at every truck exit driveway providing directional information to the truck route.
- Improving and maintaining vegetation and tree canopy for residents in and around the project area.
- Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB-approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request.

IO2-30
Cont.

- Requiring tenants to enroll in the United States Environmental Protection Agency’s SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.
- Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.

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Cont.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

IO2-31

A revised EIR should be prepared to include all feasible mitigation measures, as well as include updated air quality and GHG analyses to ensure that the necessary mitigation measures are implemented to reduce emissions to below thresholds. The revised EIR should also demonstrate a commitment to the implementation of these measures prior to Project approval, to ensure that the Project’s significant emissions are reduced to the maximum extent possible.

IO2-32

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

IO2-33

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

Attachment A: Matt Hagemann CV
Attachment B: Paul Rosenfeld CV



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**Geologic and Hydrogeologic Characterization
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review**

IO2-34

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.
B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist
California Certified Hydrogeologist
Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA’s Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014, 2017;
- Senior Environmental Analyst, Komex H2O Science, Inc. (2000 -- 2003);



- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt’s duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfriider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, Oxygenates in Water: Critical Information and Research Needs.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

- principles into the policy-making process.
- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukanaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

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Cont.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

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Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Focus on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years of experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

- Rosenfeld P. E.**, Spaeth K., Hallman R., Bressler R., Smith, G., (2022) Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers. *Water Air Soil Pollution*. **233**, 171.
- Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48
- Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342
- Chen, J. A, Zapata A. R., Sutherland A. J., Molmen, D.R., Chow, B. S., Wu, L. E., **Rosenfeld, P. E.**, Hesse, R. C., (2012) Sulfur Dioxide and Volatile Organic Compound Exposure To A Community In Texas City Texas Evaluated Using AERMOD and Empirical Data. *American Journal of Environmental Science*, 8(6), 622-632.
- Rosenfeld, P.E.** & Feng, L. (2011). *The Risks of Hazardous Waste*. Amsterdam: Elsevier Publishing.
- Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2011). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Agrochemical Industry*, Amsterdam: Elsevier Publishing.
- Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Saugat, IL. *Procedia Environmental Sciences*. 113–125.
- Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.
- Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2010). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Wood and Paper Industries*. Amsterdam: Elsevier Publishing.
- Cheremisinoff, N.P., & **Rosenfeld, P.E.** (2009). *Handbook of Pollution Prevention and Cleaner Production: Best Practices in the Petroleum Industry*. Amsterdam: Elsevier Publishing.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution*, 123 (17), 319-327.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities*. Boston Massachusetts: Elsevier Publishing

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash. *Water Science and Technology*. 49(9),171-178.

Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004*. New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

Rosenfeld, P.E., and Suffet I.H. (2004). Control of Compost Odor Using High Carbon Wood Ash, *Water Science and Technology*, 49(9), 171-178.

Rosenfeld, P. E., Grey, M. A., Sellow, P. (2004). Measurement of Biosolids Odor and Odorant Emissions from Windrows, Static Pile and Biofilter. *Water Environment Research*. 76(4), 310-315.

Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS-6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

Rosenfeld, P.E., and Henry C. L., (2000). Wood ash control of odor emissions from biosolids application. *Journal of Environmental Quality*. 29, 1662-1668.

Rosenfeld, P.E., C.L. Henry and D. Bennett. (2001). Wastewater dewatering polymer affect on biosolids odor emissions and microbial activity. *Water Environment Research*. 73(4), 363-367.

Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

Rosenfeld, P.E., and Henry C. L., (2001). High carbon wood ash effect on biosolids microbial activity and odor. *Water Environment Research*. 131(1-4), 247-262.

Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluoroactane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. *The 23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Floral, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, Toxicology and Remediation. *2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference* Orlando, FL.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants*.. Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington.

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 2010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

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Cont.

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022



In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
 Rocky Bennyhoff Plaintiff vs. Norfolk Southern
 Case No. 20-L-56
 Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
 Joe Briggins Plaintiff vs. CSX
 Case No. A2004464
 Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
 George LaFazia vs. BNSF Railway Company.
 Case No. BCV-19-103087
 Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
 Bobby Earles vs. Penn Central et. al.
 Case No. 2020-L-000550
 Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
 Albert Hartman Plaintiff vs. Illinois Central
 Case No. 2:20-cv-1633
 Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
 Barbara Steele vs. CSX Transportation
 Case No. 16-219-Ca-008796
 Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
 Romano et al. vs. Northrup Grumman Corporation
 Case No. 16-cv-5760
 Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
 Linda Benjamin vs. Illinois Central
 Case No. No. 2019 L 007599
 Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
 Donald Smith vs. Illinois Central
 Case No. No. 2019 L 003426
 Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
 Jan Holeman vs. BNSF
 Case No. 2019 L 000675
 Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
 Dwayne B. Garrett vs. Norfolk Southern
 Case No. 20-SCCV-091232
 Rosenfeld Deposition 11-10-2021

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 Cont.

- In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021
- In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021
- In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021
- In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021
- In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a
AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021
- In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021
- In the Superior Court of the State of Arizona In and For the Cunty of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021
- In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021
- In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021
- In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020
- In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

- In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019
- In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido” Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019
- In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19
- In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018
- In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017
- In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintifs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017
- In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017
- In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020
- In The Superior Court of the State of California, For The County of Los Angeles
Warm Gilbert and Penny Gilber, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018
- In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

- In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017
- In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015
- In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015
- In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015
- In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015
- In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014
- In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014
- In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012
- In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011
- In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010
- In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

RESPONSE TO COMMENT LETTER #IO2

Comment IO2-1 *Summary of Comment:* The comment states that the comments from Blum, Collins & Ho are being submitted on behalf of Golden State Environmental Justice Alliance, and that the Alliance requests to be added to the Project's mailing list.

Response: The City acknowledge receipt of the comments on behalf of the Alliance, and will add the Alliance to the Project's mailing list.

Comment IO2-2 *Summary of Comment:* The commenter provides a brief summary of the proposed Development Area, Managed Open Space area, annexation, and amendment to the City General Plan.

Response: The City agrees with the summary presented by the commenter. This comment does not pertain to the adequacy of the Draft EIR. The comment is noted.

Comment IO2-3 *Summary of Comment:* The commenter references technical commentary and analysis regarding air quality, greenhouse gas emissions, and energy prepared by SWAPE and provided as attachments to the comment letter.

Response: The attachments are noted and Responses to Comments IO2-4 through IO2-6 reflect consideration of the technical details in these attachments, as relevant to the respective comments.

Comment IO2-4 *Summary of Comment:* The comment asserts that the Draft EIR “does not include meaningful analysis of relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project.” The comment goes on to summarize outputs from the California EPA's CalEnviroScreen tool, noting the burden on the proposed Project Site census tract.

Response: The commenter has not cited any legal authority for the notion that CEQA requires consideration of “environmental justice” issues, and the City is unaware of any such authority. Regardless of whether the commenter or the City believe that amendments to CEQA to address environmental justice concerns would constitute laudable public policy, no such requirements exist at present. Indeed, the Legislature, just a few years ago, chose not to enact a bill that would have added limited language requiring consideration of environmental justice issues. (See Senate Bill 950, § 8 [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB950].)

Even so, as noted by the commenter, CalEnviroScreen is a mapping tool that helps identify California communities that are most affected by many sources of pollution, and where people are often especially vulnerable to pollution's effects. CalEnviroScreen uses environmental, health, and socioeconomic information to produce scores for every census tract in the state. CalEnviroScreen screening uses four broad groups of indicators as measures of environmental conditions: exposure, environmental effects, sensitive population, and socioeconomic factor. As defined by OEHHA, exposure indicators are based on measurements of different types of pollution that people may come into contact with; environmental effects indicators are based on the locations of toxic chemicals in or near communities; sensitive population indicators measure

the number of people in a community who may be more severely affected by pollution because of their age or health; and socioeconomic factor indicators are conditions that may increase people's stress or make healthy living difficult and cause them to be more sensitive to pollution's effects. The following summarizes the CalEnviroScreen results for key indicators that the commenter identified as of particular concern, and how such Project-level and cumulative effects are addressed within the Draft EIR.

According to CalEnviroScreen, the Project census tract ranks in the 59th percentile for traffic. The CalEnviroScreen traffic indicator is a measure of the number of vehicles on the roads in an area. Exhaust from on-road vehicles can generate air pollutant and toxic air contaminant emissions, contributing to localized and regional ambient air pollutant conditions. The CalEnviroScreen exposure indicators for ozone, particulate matter, and diesel particulate matter, the primary pollutants from mobile-source exhaust, are 22, 27, and 37, respectively, which represent lower exposure than average. The Draft EIR accounts for existing emissions sources, particularly on-road mobile source emissions associated with vehicles traveling along Pennsylvania Avenue, Cordelia Road, and SR 12, as well as mobile source emissions associated with locomotives traveling along the railroad line that is east of the Project Site (Draft EIR page 4.2-7). Furthermore, a health risk assessment was conducted for the purposes of evaluating Project-level and cumulative air quality impacts. As detailed in Appendix B to the Draft EIR, this analysis was informed by geodatabase data maintained by the Bay Area Air Quality Management District for existing sources of on-road and rail mobile sources. Therefore, the Draft EIR directly considered the contributing effects of existing traffic on potential impacts.

According to CalEnviroScreen, the Project Site census tract ranks in the 88th percentile for hazardous waste generators and facilities and 53rd percentile for solid waste sites and facilities environmental effects. These are measures of permitted hazardous waste facilities, hazardous waste generators, and chrome plating facilities, and solid waste sites and facilities within each census tract. Furthermore, CalEnviroScreen identifies the Project Site census tract in the 86th percentile for groundwater threats, 59th percentile for toxic releases, and 64th percentile for pesticides. The Draft EIR Section 4.7, "Hazards and Hazardous Materials," summarizes past and existing uses of the Project Site and vicinity, including the potential for hazardous materials, pesticides, and details regarding a former 5-acre landfill just east of Pennsylvania Avenue and approximately 400 feet south of SR 12, also shown in Exhibit 4.7-1 of the Draft EIR (Draft EIR pages 4.7-1 through 4.7-6). In addition, a Phase I Environmental Site Assessment was conducted for the Project Site in 2020. As part of the Phase I ESA, Bole retained the services of EDR, Inc. to perform a search of over 90 federal, state, and tribal databases related to hazardous materials, including the databases that are maintained under California Public Resources Code Section 65962.5 (i.e., the "Cortese List"). Evaluation of potential impacts related to hazards and hazardous materials was based on a review of documents pertaining to the Project Site, including a Phase 1 ESA prepared by Bole and Associates (2020); a Phase I ESA prepared by AEI Consultants (2006); a Groundwater and Soil Gas Report prepared by Brusca Associates (2021); and a review of publicly available databases maintained by SWRCB, DTSC, EPA, and PHMSA. The information obtained from these sources was reviewed and summarized in the Draft EIR to document existing conditions and to identify the potential environmental effects of the proposed Project.

According to CalEnviroScreen, the Project Site census tract ranks in the 59th percentile for impaired waters environmental effects. This score is a measure of the summed number of pollutants across all water bodies designated as impaired within the area, as informed by the State Water Resources Control Board 202(d) List of Impaired Water Bodies. The Draft EIR section 4.8, “Hydrology and Water Quality,” summarizes and takes into account existing surface water quality, including identifying existing and potential beneficial uses designated in the San Francisco Bay Basin Plan for surface waters in the Suisun Basin Hydrologic Unit that could receive runoff from the proposed Project, as well as identify waters where the permit standards, any other enforceable limits, or adopted water quality standards are still unattained according to Section 303(d) of the Clean Water Act (Draft EIR page 4.8-2 through 4.8-6). The analysis of impacts 4.8-1 through 4.8-6 in the Draft EIR take into consideration these existing conditions in the evaluation of the potential for the Project to result in impacts related to hydrology and water quality, including the degradation of surface or ground water quality, risk for release of pollutants, and potential to conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

CalEnviroScreen ranks the Project Site census tract above the 90th percentile for asthma and low birth weight and 68th percentile for cardiovascular disease as sensitive population indicators. Socioeconomic indicators for the census tract also range from 62 to 79 for all by unemployment, which is ranked as 34. These are indicators of the population’s potential vulnerability to increased pollution indicators. The City acknowledges these indicators, as ranked by CalEnviroScreen.

The Project Site is primarily undeveloped. The Project Site and the off-site improvement areas are located in a mixed industrial/residential/agricultural area. SR 12 is immediately adjacent to the northern Project Site boundary, with residential uses farther to the north. Union Pacific Railroad tracks are present on the east side of the Project Site, with light industrial, commercial, and residential development in Suisun City east of the railroad tracks. Undeveloped land is present south of the Project Site. Ledgewood Creek is immediately adjacent to the northwest portion of the Project Site, with industrial development west of the creek. Land in active agricultural cultivation (i.e., hay) is present on the southwest side of the Project Site, west of Orehr Road. Located near the center of the Project parcels, but not within the Project Site, are two commercial businesses operating near the intersection of Pennsylvania Avenue and the California Northern Railroad. As noted above, evaluation for impacts in the Draft EIR includes an assessment of the existing environmental setting, including proximity to potential sensitive receptors, as applicable. A health risk assessment for air quality was conducted consistent with Bay Area Air Quality Management District (BAAQMD 2023) and California Office of Environmental Health Hazard Assessment (OEHHA 2015) guidance, applying age-weighted factors to account for potential air pollutant exposure in utero; this evaluation also considers off-site workers as potential sensitive receptors for the purposes of evaluation.

While the Draft EIR comprehensively addresses all topics outlined above, and while some of these same environmental topics are also included in the CalEnviroScreen evaluation tool, there is no conflict between the CalEnviroScreen results in the Draft EIR, and there are no gaps in analysis or any other revisions necessary to the Draft EIR in response to this comment.

Comment IO2-5 *Summary of Comment:* The commenter states that the Project Site census tract and the census tract adjacent to the northeast of the Project Site are identified as SB 535 Disadvantaged Communities, and states that the analysis of impacts particular to these Disadvantaged Communities needs to be provided as part of a Revised EIR.

Response: Senate Bill 535 established minimum requirements for funding levels from California Climate Investments, funded by the state’s Cap-and-Trade proceeds, to “Disadvantaged Communities.” The legislation also established California Environmental Protection Agency (CalEPA) as responsible for identifying Disadvantaged Communities based on geographic, socioeconomic, public health, and environmental hazard criteria. Senate Bill 535 does not establish requirements with regard to impact analyses under CEQA, though the Draft EIR does comprehensively report on potential impacts related to substantial pollutant concentrations, environmental hazards, and water quality (see Sections 4.2, 4.7, and 4.8 of the Draft EIR, respectively). Cumulative impacts are defined in CEQA Guidelines Section 15355 as “two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” A cumulative impact occurs from “the change in the environment which results from the incremental impact of the Project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time” (CEQA Guidelines Section 15355[b]). The Draft EIR provides a comprehensive analysis of cumulative impacts consistent with Section 15130 of the CEQA Guidelines (please see Draft EIR Chapter 5, Cumulative Impact). See also Response to Comment IO2-4 with regard to the approach to analysis for specific resource areas as addressed through screening in the CalEnviroScreen tool and evaluated for the purposes of impact determination under CEQA within the Draft EIR.

Comment IO2-6 *Summary of Comment:* The commenter states that the use of CalEEMod to estimate energy consumption is not an approved modeling software for demonstrating compliance with Title 24 and, therefore, the Draft EIR evaluation of Energy impacts is insufficient, and must be redone using California’s Building Energy Code Compliance Software.

Response: Appendix G of the CEQA Guidelines provides two metrics that must be evaluated for the purposes of energy resources: (1) whether a project would result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; and/or (2) whether a project would conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Appendix F of the CEQA Guidelines elaborates on this, and says that an environmental impact analysis for energy may consider the following:

- The project’s energy requirements and its energy use efficiencies by amount and fuel type for each stage of the project including construction, operation, maintenance and/or removal. If appropriate, the energy intensiveness of materials may be discussed.
- The effects of the project on local and regional energy supplies and on requirements for additional capacity.

- The effects of the project on peak and base period demands for electricity and other forms of energy.
- The degree to which the project complies with existing energy standards.
- The effects of the project on energy resources.
- The project's projected transportation energy use requirements and its overall use of efficient transportation alternatives.

Evaluation of the potential for a project to have an impact related to energy resources does not require the modeling of energy requirements for the purposes of demonstrating compliance with Title 24. These energy efficiency standards ensure that building energy consumption would not be wasteful, inefficient, or unnecessary. Furthermore, the comment referenced the Project's fuel consumption when asserting that an inappropriate model was used to inform the Draft EIR analysis. Title 24 regulations apply to building operations, but do not regulate mobile activities and related fuel consumption. As explained in the Draft EIR (page 4.6-29), the proposed buildings would be constructed to meet all applicable energy efficiency standards at the time of construction and would be required to comply with the current energy performance standards found in Title 24 of the California Code of Regulations, including the Green Building Code (Part 11 of Title 24) Building Energy Efficiency Standards.

As noted by the commenter, CalEEMod was used to estimate building energy consumption of the proposed Project. CalEEMod utilizes widely accepted methodologies for estimating emissions combined with default data that can be used when site-specific information is not available. Sources of these methodologies and default data include the United States Environmental Protection Agency's (USEPA) AP-42 emission factors, California Air Resources Board's (CARB) vehicle emission models, and studies commissioned by California agencies such as the California Energy Commission (CEC) and California Department of Resources Recycling and Recovery (CalRecycle). The emissions inventory modules also contain default values for estimating utility consumption (e.g., water, electricity, natural gas). Electricity and natural gas consumption calculations by CalEEMod are based on 2019 consumption estimates using the CEC's 2018–2030 Uncalibrated Commercial Sector Forecast and 2019 Residential Appliance Saturation Survey. The detailed data inputs and calculations in CalEEMod take into account project location, which informs the electric utility emissions factor and building energy zones, which in turn inform default calculations for building energy consumption and the effectiveness of emission reduction measures in the energy sector. CalEEMod is an industry accepted tool for modeling, adopted by the California Air Pollution Control Officers Association and recommended for use in CEQA analyses by many air districts throughout the state, including the Bay Area Air Quality Management District. While the energy consumption estimates used to inform the Draft EIR impact analysis are based on best available information and are appropriate as used to inform the Draft EIR, it is not implied within the Draft EIR that this data is intended to serve as data calculations to support compliance with Title 24. Prior to issuance of a building permit, the Project applicant will be required to submit the necessary

documentation to demonstrate compliance with relevant parts of the building code, including the Title 24 Building Energy Efficiency Standards.

Comment IO2-7 *Summary of Comment: The comment states that the analysis in Draft EIR Section 4.7, “Hazards, Including Wildfire, and Hazardous Materials” is deficient and misleading because it does not provide information related to Solano County Airport Land Use Commission (ALUC) review of the proposed Project, because the Project Site is in Zone D of the Travis Air Force Base (AFB) Airport Land Use Compatibility Plan (ALUCP). The comment further states that delaying ALUC review until after the Draft EIR is potentially adopted consists of deferred mitigation because the EIR cannot conclude that the Project has less-than-significant impacts until and unless it includes the ALUC review and determination. The comment therefore requests that this consultation be performed, and that the Draft EIR be recirculated to include the results of the ALUC consultation.*

Response: Draft EIR page 4.7-7 contains information related to the Travis AFB ALUCP, including the fact that the Project Site is within ALUCP Zone D. Draft EIR page 4.7-7 explains that Compatibility Zone D includes all other locations (not included in Zones A–C) beneath any of the Travis AFB airspace protection surfaces delineated in accordance with Federal Aviation Regulations (FAR) Part 77 as well as areas subject to frequent aircraft overflight, and that limitations on the height of structures (limited to less than 200 feet above the ground surface) and notice of aircraft overflights are the only airport safety compatibility factors within this zone. FAR Part 77 restrictions are explained on Draft EIR page 4.7-11. As discussed in Draft EIR Impact 4.7-4 (page 4.7-28), the Project Site and the off-site improvement areas are approximately 4.5 miles southwest of Travis AFB. The Project Site and off-site improvement areas are located in Travis AFB ALUCP land use compatibility Zone D, which requires that: (1) structures are limited to a height that is less than 200 feet above the ground surface, and (2) notice of aircraft overflights must be provided to property owners. The maximum height of structures proposed at the Project Site is approximately 47 feet, and notice of aircraft overflights would be provided to future site-specific developers. Therefore, the proposed Project would be in compliance with land use compatibility Zone D, and the Draft EIR properly concluded that the impact related to potential safety compatibility issues associated with Travis AFB would be less than significant.

Therefore, ALUC review of the proposed Project is not necessary prior to the Draft EIR analysis, because the ALUC would find the same results as discussed above, and appropriate to its role as lead agency, the City has directed the preparation of the Draft EIR so that other approval agencies may use the information, analysis, conclusions, and mitigation measures to support future actions. Furthermore, because the Draft EIR identified Impact 4.7-4 as less than significant, no mitigation measures are required, and therefore consultation with the ALUC at a later date does not constitute “deferral of mitigation,” nor would such consultation identify any new significant impacts other than what has been analyzed in the Draft EIR. Thus, no recirculation of the Draft EIR is necessary and no change to the Draft EIR is necessary.

Comment IO2-8 *Summary of Comment: The comment states that the EIR does not provide “any substantial or meaningful evidence to support the claim” that the Project does not conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental*

effect. The comment therefore states that a revised EIR must be prepared to provide a consistency analysis with all of the most updated versions of the General Plan objectives, goals, policies, and actions. The comment goes on to provide the text of 44 specific goals, objectives, and policies from the Suisun City General Plan for which the commenter requests an analysis in the Draft EIR. The comment further states that EIR concludes the Project will have significant and unavoidable impacts to Aesthetics and Visual Resources (cumulatively considerable), Greenhouse Gas Emissions (cumulatively considerable), and Noise, but the Land Use and Planning analysis has not considered these impacts in analyzing the Project's conflicts with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

Response: CEQA does not require an analysis of a project's consistency with every single goal, objective, policy, and action in a lead agency's General Plan. Rather, the CEQA Guidelines Appendix G checklist, which the City has used as the thresholds for this EIR, state in Section XI(b), Land Use and Planning, "Would the project cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect" (emphasis added). As explained on Draft EIR page 4.9-12, policy inconsistencies are not physical effects on the environment under CEQA unless it relates to a physical impact on the environment that is significant in its own right. While EIRs must discuss inconsistencies between the proposed Project and applicable plans, plan consistency is not generally a CEQA issue (see *The Highway 68 Coalition v. County of Monterey, et al.* [[2017] 14 Cal.App.5th 883, 893). For an impact to be considered significant under this threshold, any inconsistency would also need to result in a significant adverse change in the environment not already addressed in the other resource sections of this EIR. Specific impacts and Project consistency issues associated with other resource and issue areas are addressed in each technical section of this EIR, as appropriate. These technical sections provide a detailed analysis of other relevant physical environmental effects that could result from implementation of the proposed Project and identify mitigation measures, as necessary, to reduce impacts.

With regard to the specific goals, objectives, and policies listed by the commenter: the Community Character and Design (CCD) policies referenced by the commenter in items 1-13 were considered in the visual analysis and are listed in Draft EIR Section 4.1, "Aesthetics" (pages 4.1-14 and 4.2-14). Most of the transportation-related policies referenced by the commenter (such as Policy T2.2, "New streets shall be arranged in a grid or other highly connected pattern...") are not related to the potential impacts from the proposed project. Transportation-related policies that are directly applicable to the Project's impacts are listed in Draft EIR Section 4.12, "Transportation and Circulation," on page 4.12-12. Policies cited by the commenter related to the provision of water supply and other utilities are more directly addressed in the General Plan related to Community Facilities and Services (CFS), and the CFS policies that are relevant to potential Project utility impacts are presented on Draft EIR page 4.13-8. Since the Project would not have any adverse effects related to Travis AFB, the policies referenced by the commenter in items 43 and 44 are not relevant. For more detail regarding the proposed Project's consistency with the City's General Plan, see the Responses to Comments IO 1-9 and IO 1-13.

Comment IO2-9 *Summary of Comment:* The comment states that since “[I]t is clear that the project conflicts with several General Plan goals, policies, and objectives adopted for the purpose of avoiding or mitigating an environmental effect, as well as state laws adopted to reduce GHG emissions”, the EIR must be revised to include a finding of significance in the Land Use and Planning analysis.

Response: Contrary to the commentor’s arguments, the Draft EIR need not find any significant land use effects related to purported conflicts with goals, policies, and objectives adopted for the purpose of avoiding or mitigating an environmental impact. The potential for such effects is thoroughly addressed in Draft EIR Section 4.9, “Land Use and Planning, Including Agriculture Resources, Population, and Housing,” in connection with Impact 4.9-1 on pages 4.9-11 and 4.9-12, where no significant effects were found due to inconsistencies with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. The City stands by the analysis found there. The approach to the relevant analysis is explained in Response to Comment IO2-8. In addition, Draft EIR Impact 4.6-1 in Section 4.6, “Greenhouse Gas Emissions,” (pages 4.6-20 through 4.6-28) specifically evaluates and analyzes the Project’s potential to conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions per the CEQA Guidelines Appendix G, Section VIII(b).

Comment IO2-10 *Summary of Comment:* The comment suggests that because the Project would not be consistent with the City General Plan’s designation of “Conservation Higher Priority” (shown in Exhibit 7-3, Open Space Diagram, in the Open Space and Conservation chapter of the General Plan), that this represents a significant and unavoidable impact which has not been discussed in the Draft EIR because a General Plan amendment would be required to change Exhibit 7-3.

Response: City General Plan Exhibit 7-3, Open Space Diagram, does not require a General Plan amendment. Land use designations in the City are controlled by the City’s Land Use Diagram, which designates 69.6 acres of the 93.4-acre Development Area as Commercial Mixed-Use (see text and Table 3-1 in Draft EIR Chapter 3, “Project Description,” [pages 3-6 and 3-9] and Draft EIR Exhibit 3-5 [page 3-8]). Thus, there is no additional impact related to General Plan Exhibit 7-3 that requires discussion or analysis in the Draft EIR.

Comment IO2-11 *Summary of Comment:* The comment restates the same concerns raised in comment IO2-7.

Response: Please see Response to Comment IO2-7.

Comment IO2-12 *Summary of Comment:* The comment states that the Land Use Element of the General Plan states that the 2035 General Plan accommodates “5.8 million square feet of non-residential development at buildout of the Land Use Diagram (Exhibit 3-3).” Since the Project requires a General Plan Amendment to change a portion of the Project Site’s land use designation from Open Space to Commercial Mixed Use, the comment states that the General Plan EIR did not analyze the buildout of this area with building floor space. Furthermore, the comment states that the proposed Project’s 1,280,000 square feet represents 22% of the General Plan buildout for the Commercial Mixed Use land use designation, which is significant to be attributed to a single project. Therefore, the Draft EIR must be revised to include an analysis demonstrating

whether or not the proposed Project is within the General Plan buildout scenario to provide an adequate environmental analysis, including all cumulative development constructed, approved projects not yet constructed, and “projects in the pipeline.”

Response: The Draft EIR is focused on direct and reasonably foreseeable indirect impacts attributable to the proposed Project. However, the Draft EIR does also report on cumulative impacts and the contribution of the proposed Project to significant cumulative impacts. As noted elsewhere in this Final EIR, the City used a conservative approach to developing the cumulative context that combines buildout of the General Plans of the City of Suisun City, the City of Fairfield, and Solano County, but also adds the proposed Suisun Logistics Center to this assessment, while also evaluating in detail the cumulative contribution of the proposed Project to significant cumulative impacts. As noted by the commenter, the Land Use Element of the 2035 City of Suisun City General Plan includes a detailed discussion of General Plan buildout estimates on page 3-8. As noted, the City’s land use change assumptions include a total of 10,900 local jobs and 5.8 million square feet of non-residential development at buildout. As made clear in the General Plan, the estimates of future population, housing units, local jobs, and square footage of development are not City policy creating a total cap on the amounts of square footage of such development. Rather, these assumptions are derived strictly for the purposes of analysis, including analysis presented in the 2035 General Plan EIR. The City currently has a total of approximately 1.5 million square feet of office, industrial, flex, retail, and hospitality development (Costar 2023). The City’s cumulative scenario used in the Draft EIR also contemplates development in the unincorporated County and in the city of Fairfield. For industrial land use designations, Solano County had 2,125 acres under existing conditions upon the last update to the County’s General Plan, while the County’s General Plan includes 8,996 acres of land area in industrial designations for a net change of 6,871 acres (Solano County 2008). There is no change needed to the Draft EIR related to the land use change assumptions cited in the City’s General Plan.

Comment IO2-13 *Summary of Comment: The comment states that the EIR analysis related to population and housing is misleading, and it must be revised to provide meaningful evidence that the available workforce within the City is qualified for and interested in work in the industrial sector, which includes information and analysis on the City’s unemployed workforce. Otherwise, the project will rely on the entire labor force within an undefined distance, notably the greater Bay Area region, to fill the Project’s construction and operational jobs, which will increase Project VMT and emissions during all phases of construction and operations. Therefore, the comment states that a revised EIR must be prepared to account for longer worker trip distances as a result. The comment states that the revised EIR must also provide demographic and geographic information on the location of qualified workers to fill these positions in order to provide an accurate environmental analysis.*

Response: The tailored Project-specific transportation analysis to support the Draft EIR was conducted using the City of Fairfield travel demand model, which includes land use information for Suisun City, Fairfield, and unincorporated Solano County, and is designed to produce vehicular travel demand estimates for City of Fairfield and City of Suisun City. The model was developed and validated, and shows an average worker commute distance would be 14.2 miles per employee

per day, or 7.1 miles per one-way trip. Within Solano County, 33,756 employed residents work in manufacturing, wholesale trade, transportation, warehousing, and utilities and in Suisun City, this total is 3,024 (U.S. Census Bureau 2024). Solano County’s population is projected to increase by approximately 42,000 over the 30 years between 2020 and 2050 (California Department of Finance 2024). The future labor force participation rate of the new population within Solano County is not currently known, and the City also does not know or control the educational or professional interests of the existing or future population, and whether the labor force would seek occupations that could be provided by future tenants at the Project Site. The City does not have evidence of what number of employees would leave existing businesses within Suisun City, Solano County, or elsewhere to work at the proposed Project, or whether these businesses would represent a going concern or would be closed. The City does not have data showing the number of employees of the Project Site that would be residents of newly formed households in the Suisun City area versus existing households that already live in the Suisun City area or would move from a different region. Computer models are used in part to eliminate the need to account for demographic and socioeconomic unknowns and support rigorous analysis, such as that presented in the Draft EIR. In this case, the employee-related VMT estimates were developed, as noted previously, using the City of Fairfield travel demand model, which was developed and validated to 2019 pre-pandemic conditions, using Caltrans and Federal Highway Administration model validation standards. While it is not possible for the City to know the location of residences for employees that would work at the Project Site during the life of the Project, this level of detailed knowledge is not used in or required for CEQA analysis, and the City has used best practices to model employee commute VMT associated with the proposed Project. No change to the Draft EIR is needed to address this comment. See also the Response to Comment IO 1-8 and the Response to Comment IO 2-12.

Comment IO2-14 *Summary of Comment: The comment states that the EIR does not meaningfully discuss the Project’s compliance with the Association of Bay Area Governments (ABAG) RTP/SCS (Plan Bay Area 2050) because utilizing the EIR’s calculation of 1,275 employees, the Project represents 2.4 percent of the North Solano County area employment growth from 2015 through 2050, which the commenter suggests represents a significant amount of growth. The comment states that a revised EIR must be prepared to include this analysis, and also provide a cumulative analysis discussion of projects approved since 2015 and projects “in the pipeline” in Dixon, Fairfield, Rio Vista, Suisun City, and Vacaville to determine if the Project will exceed Plan Bay Area 2050’s employment and/or population growth forecast for North Solano County.*

Response: Plan Bay Area 2050 is a long-range regional plan for the nine-county San Francisco Bay Area, adopted by ABAG and the Metropolitan Transportation Commission (MTC) in October 2021. Plan Bay Area originally was developed out of the California Sustainable Communities and Climate Protection Act of 2008 (California Senate Bill 375), which requires each of the state’s 18 metropolitan areas, including the Bay Area, to reduce greenhouse gas emissions from cars and light-duty trucks (ABAG 2021). The Project Site is identified by the Plan Bay Area 2050 as a Priority Production Area (ABAG 2021). Priority Production Area are places for job growth in middle-wage industries like manufacturing, logistics, or other trades (ABAG 2023). Regarding the estimate of employment to be provided within the Project Site cited by the commenter, the Draft EIR comprehensively examines all adverse physical environmental effects associated with

the proposed Project, including the estimated level of employment. The cumulative scenario evaluated in the Draft EIR, principally in Chapter 5, includes not just projects approved since 2015 in the identified cities, but past, present, and future development within Suisun City and Solano County over the long term, and also the proposed Suisun Logistics Center. See also the Responses to Comments IO 1-8, IO 2-12, and IO 2-13. No change to the Draft EIR is needed to address this comment.

Comment IO2-15 *Summary of Comment:* *The comment states that the TDM Plan is unenforceable in violation of CEQA Section 21081.6(b). The comment further states that the TDM Plan as mitigation is inadequate because it permits the proposed Project to operate while exceeding VMT thresholds, and only be monitored on an annual basis while violations could occur at any time throughout the year (notably the busy holiday seasons).*

Response: The TDM Plan does *not* allow the proposed Project to operate in violation of the performance standard found in Mitigation Measure 4.12-1 and then to gradually come into compliance over time based on annual monitoring reports. Rather, the measure is intended to require initial and ongoing compliance with the enforceable performance standard of an 11.3 percent reduction in VMT, which the City considers to be realistic and achievable. The monitoring provisions and backup strategies built into the measure are intended to *ensure* compliance if initial expectations unexpectedly are not attained at the outset of project operations. The Citywide daily VMT and daily VMT per employee thresholds for office and industrial uses are based on commute traffic only and are not applicable to truck traffic, though the environmental effects of truck traffic and all other types of trips are comprehensively evaluated in the Draft EIR – please see Sections 4.2, 4.6, and 4.10 in particular for a detailed evaluation of air quality, greenhouse gas emissions, and noise impacts related to transportation. Given the nature of the Project Site, it is reasonable to evaluate the proposed Project’s VMT impact under typical (i.e., non-holiday) conditions. Refer also to Responses to Comments IO 1-8 and IO 1-13.

Comment IO2-16 *Summary of Comment:* *The comment states that the EIR has not provided any quantified evidence that financial penalties for noncompliance will achieve the required VMT reductions to less-than-significant levels.*

Response: The Draft EIR does not imply that financial penalties for noncompliance will achieve the required VMT reductions. Rather, Mitigation Measure 4.12-1 is written to include penalty for non-compliance, while also requiring modification to the TDM Plan through additional TDM strategies that must demonstrate additional VMT reductions at a level that would achieve the performance standard set forth in Mitigation Measure 4.12-1 (i.e. at least an 11.3 percent reduction). Refer also to Responses to Comments IO 1-8 and IO 1-13.

Comment IO2-17 *Summary of Comment:* *The comment states that it is not possible for the City to ensure that the TDM Plan will be implemented continuously, at all times, throughout the life of the Project and maintain a VMT reduction to less-than-significant levels at all times.*

Response: As stated in the Draft EIR (page 4.12-16) for Mitigation Measure 4.12-1, as part of the TDM Plan, the Project applicant/contractor(s) shall monitor and report its effectiveness at reducing

home-based work VMT per employee. Tenant/s shall submit annual reports to the City describing the specific TDM measures that are being implemented, the number of employees on-site, the daily vehicle trips generated by the Project, and length of the trips being generated by the Project. This requirement is a part of the Mitigation Monitoring and Reporting Plan included with this Final EIR and to serve throughout implementation of the proposed Project. Refer also to Responses to Comments IO 1-8 and IO 1-13.

Comment IO2-18 *Summary of Comment: The comment states that the efficacy of the proposed TDM measures and reduction of VMT impacts below the applicable thresholds cannot be assured and the Project's VMT impact is therefore significant and unavoidable. Thus, the comment further states that a revised EIR must be prepared to include a finding of significance because there is no possible assurance of the percentage of Project employees that would utilize the TDM programs and therefore mitigation of the Project's VMT impact to a less-than-significant level is not feasible.*

Response: VMT reductions are based on research from the California Air Pollution Control Officers Association (CAPCOA). The mitigation measure identifies the VMT reduction possible given the characteristics of the site and most feasible measures that would be included in a TDM based on current technologies and regional transportation programs and infrastructure. As stated in the Draft EIR (page 4.12-16) for Mitigation Measure 4.12-1, as part of the TDM Plan, the Project applicant/contractor(s) shall monitor and report its effectiveness at reducing home-based work VMT per employee. Tenant/s shall submit annual reports to the City describing the specific TDM measures that are being implemented, the number of employees on-site, the daily vehicle trips generated by the Project, and length of the trips being generated by the Project. This requirement is a part of the Mitigation Monitoring and Reporting Plan included with this Final EIR and to serve throughout implementation of the proposed Project. Refer also to Responses to Comments IO 1-8 and IO 1-13.

Comment IO2-19 *Summary of Comment: The comment states that the EIR has not adequately analyzed the Project's potential to result in inadequate emergency access because there are no exhibits adequately depicting the on-site turning radius available for emergency vehicles maneuvering throughout the site; and the position of the truck/trailer parking stalls may further restrict truck/trailer movement on the site. The comment further alleges that since the EIR states that "the final site plan must be approved by the Suisun City Fire Department to ensure the emergency access routes meet requirements to facilitate the safe movement of emergency vehicles," this constitutes deferred mitigation. The comment therefore states that a revised EIR must be prepared to include a finding of significance due to these impacts, which the commenter alleges are significant and unavoidable.*

Response: Draft EIR Impacts 4.7-5 (pages 4.7-29 through 4.7-30) and 4.12-5 (pages 4.12-16 through 4.12-19) evaluate the potential for the Project to result in potentially hazardous conditions. Proposed development is subject to design review by the City and is required to comply with City standards relating to appropriate street design to accommodate emergency vehicles and emergency evacuation thoroughfares, including lane widths and turning radii. Furthermore, as noted in the Transportation and Circulation Impact 4.12-5 discussion of emergency access, the Project proposes a complete on-site circulation network with multiple ingress and egress.

Therefore, consultation with the Suisun City Fire Department, as is required per City review requirements of development applications, at a later date does not constitute “deferral of mitigation,” nor would such consultation identify any new significant impacts other than what has been analyzed in the Draft EIR. Thus, no recirculation of the Draft EIR is necessary.

Comment IO2-20 *Summary of Comment:* *The commenter notes that the EIR is required to evaluate “a reasonable range of alternatives” to the proposed Project which will avoid or substantially lessen any of the significant effects of the Project (citing to the State CEQA Guidelines Section 15126.6). The comment alleges that the EIR’s reliance on the State CEQA Guidelines Section 15126.6(e)(3)(A)—where the No Project Alternative for the EIR is assumed to be a continuation of the existing land use designations—is misplaced, because the proposed Project is both a revision of an existing land use/regulatory plan and a development project. Therefore, the comment suggests the EIR should be recirculated to include a second No Project Alternative that consists of no development.*

Response: CEQA Guidelines Section 15126.6(a) requires that an EIR evaluate “a range of reasonable alternatives which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the Project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation.” Furthermore, “[T]he lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553 and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376).” As the CEQA lead agency, the City retains the authority to determine the range of reasonable alternatives that is appropriate for the Project, and to determine which method for the analysis of the No Project Alternative is most appropriate. In this case, as explained in Draft EIR Chapter 3, “Project Description,” the City’s Land Use Diagram in the General Plan designates 69.6 acres of the 93.4-acre Development Area for Commercial Mixed-Use (see text and Table 3-1 in Draft EIR Chapter 3, “Project Description,” [pages 3-6 and 3-9] and Draft EIR Exhibit 3-5 [page 3-8]); this encompasses the majority of the proposed Development Area. Furthermore, the proposed Project requires a General Plan amendment and an annexation. Finally, the State CEQA Guidelines Section 15126.6(e)(3)(B) states that where a “No Build” alternative is selected, “if failure to proceed with the Project will not result in preservation of existing environmental conditions, the analysis should identify the practical result of the Project’s non-approval and not create and analyze a set of artificial assumptions that would be required to preserve the existing physical environment.” Since nearly the entire proposed Development Area is already designed for Commercial Mixed-Use in the City’s General Plan, failure to proceed with the Project will not result in preservation of existing environmental conditions. Therefore, based on the State CEQA Guidelines Section 15126.6(e)(3)(A), the City believes that the existing Draft EIR Alternative 1: No Project Alternative (Buildout of Existing Land Use Designations) is the appropriate methodology for analysis of the No Project impacts, an additional No Project/No

Build alternative analysis is not required, and therefore the Draft EIR does not require recirculation.

Comment IO2-21 *Summary of Comment: The comment states that EIR does not evaluate a reasonable range of alternatives because only three alternatives are analyzed and a “No Project/No Build” alternative has been excluded.*

Response: Please see response to comment IO2-20.

Comment IO2-22 *Summary of Comment: The comment states that the EIR alternatives analysis, in particular Table 6-7, is deficient because it fails to inform the public as to whether or not the alternatives would have significant and unavoidable impacts, or whether any of the alternatives would reduce the Project’s significant and unavoidable impacts.*

Response: CEQA Guidelines Section 15126.6(a) requires that the alternatives analysis in an EIR “... evaluate the comparative merits of the alternatives.” Section 15126.6(d) states that, “[T]he EIR shall include sufficient information about each alternative to allow meaningful evaluation, analysis, and comparison with the proposed Project. A matrix displaying the major characteristics and significant environmental effects of each alternative may be used to summarize the comparison.” CEQA does not establish a “required” method by which the alternatives analysis must be presented, but rather provides general guidelines as set forth in Section 15126.6. Draft EIR Chapter 6, “Alternatives,” provides a thorough evaluation of three different alternatives in a descriptive and comparative manner that allows for meaningful evaluation, analysis, and comparison with the proposed Project. Each topic area evaluated for the Project in the EIR is also briefly evaluated in Chapter 6, “Alternatives,” for each alternative. The last sentence of each summary analysis presents a comparison with the proposed Project, as to whether impacts would be similar, lesser, or greater. Because CEQA Section 15126.6 requires that the alternatives must reduce or avoid at least one or more of the Project’s significant impacts, Table 6-7 is organized to identify the areas where the impacts of the Project would be reduced under each alternative. Information specifying the exact significance conclusion of each impact is contained in the Project’s topic area impact analyses contained in Draft EIR Sections 4.1 through 4.13, and are also presented in Table ES-1 in Draft EIR Chapter 1, “Executive Summary.”

Furthermore, CEQA Section 15126.6(e)(2) requires that the EIR identify the “environmentally superior alternative,” (i.e., the alternative with the fewest adverse impacts and/or the most beneficial impacts). Therefore, in addition to summarizing the areas where the alternatives would reduce or avoid the Project’s impacts, Draft EIR Table 6-7 also serves to identify the environmentally superior alternative as Alternative 2 (the Reduced Footprint Alternative) because it would result in the greatest reduction of the Project’s significant impacts.

Therefore, no changes to the Draft EIR are required.

Comment IO2-23 *Summary of Comment: The comment states that the EIR should be revised to include additional alternatives including (1) development of the site with a project that reduces all of the proposed project’s significant and unavoidable impacts to less than significant levels, and (2)*

development of a mixed-use project that provides affordable housing and local-serving commercial uses that may reduce VMT, GHG emissions, and improve Air Quality.

Response: Please see response to comment IO2-20. The City also notes that Alternative 3, which is evaluated in Draft EIR Chapter 6, “Alternatives,” is already designed to reduce VMT, GHG emissions, and improve air quality. Nothing in CEQA, the CEQA Guidelines, or CEQA case law requires the inclusion in every EIR of an alternative that reduces *all* of a proposed project’s significant environmental effects to less-than-significant levels. Indeed, the relevant directive is that a lead agency formulate alternatives that “avoid or substantially lessen *any* of the significant effects of the project[.]” (CEQA Guidelines, § 15126.6[a], emphasis added.) Similarly, nothing in CEQA, the CEQA Guidelines, or CEQA case law requires the inclusion in every EIR of an alternative that includes affordable housing. The City’s General Plan shows the Project site as being appropriate for commercial mixed use. Housing is not required. As the California Supreme Court has emphasized, “an EIR is not ordinarily an occasion for the reconsideration or overhaul of fundamental land use policy” as set forth in a General Plan land use map. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 573.) The Project applicant is not a housing developer and need not be turned into one as part of the CEQA process. Rather, the applicant is legitimately pursuing a land use allowed by the City’s General Plan.

Comment IO2-24 *Summary of Comment:* *The comment states that the EIR should be revised to include a discussion of irreversible impacts per the State CEQA Guidelines Section 15126.6(c).*

Response: As explained in the State CEQA Guidelines Section 15127, the information required in Section 15126.6(c) related to irreversible impacts is only required under the following circumstances:

- (a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency;
- (b) The adoption by a Local Agency Formation Commission of a resolution making determinations; or
- (c) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347.

Annexation and a General Plan amendment will be required to comply with the policies and standards of the Solano Local Agency Formation Commission. To ensure that this EIR has been prepared so that LAFCO may rely on the analysis and mitigation when considering the boundary changes required for the Project, the commenter’s request to include an evaluation of irreversible impacts has been added to this EIR. This evaluation is provided in Chapter 3, “Errata,” of this Final EIR.

Comment IO2-25 *Summary of Comment:* *The comment restates the text of comment IO2-12 suggesting that the EIR analysis is deficient because the commenter believes that the Development Area is not within the General Plan buildout scenario.*

Response: Please see response to comment IO2-12.

Comment IO2-26 *Summary of Comment:* The comment states that for the reasons presented in comments IO2-1 through IO2-25, the commenter believes the Draft EIR is flawed and must be revised and recirculated for public review. The comment also restates the commenter's previous request to be added to the Project's mailing list.

Response: For the reasons presented in responses to comments IO2-1 through IO2-25, the City believes that the Draft EIR is not flawed and therefore does not require recirculation. As noted in Response to Comment IO2-1, the City will add the commenter to the Project's mailing list.

Comment IO2-27 *Summary of Comment:* The comment states that the consulting firm SWAPE (Soil/Water/Air Protection Enterprise), based in Santa Monica, California, has reviewed and provided comments on the Draft EIR at the request of Blum, Collins & Ho [coded herein as comments IO2-28 through IO2-34), and finds that the Draft EIR "fails to adequately evaluate the Project's air quality and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project may be underestimated and inadequately addressed." The comment further states that a revised EIR should be prepared to "adequately assess and mitigate" the potential air quality and greenhouse gas impacts that the Project may have on the environment.

Response: Comments provided SWAPE as Attachment 1 to this comment letter are noted. Refer to Responses to Comments IO2-28 through IO2-34.

Comment IO2-28 *Summary of Comment:* The comment provides a summary of the Project's air quality impacts from Draft EIR Table 4.2-9 and the text on Draft EIR pages 4.2-32 and 4.2-33, and concludes that although the commenter agrees with the Draft EIR's significance conclusions, the Draft EIR fails to include "all feasible" mitigation measures based on the State CEQA Guidelines Section 15096(g)(2). The comment therefore states that additional mitigation measures should be incorporated (detailed in the comment letter and coded as comment IO2-30) to reduce the Project's significant and unavoidable operational air quality impacts from emissions of reactive organic gases (ROG) and nitrogen oxides (NOx) to a less-than-significant level.

Response: The commenter's citation to CEQA Guidelines Section 15096(g)(2) is puzzling, as that section governs the actions of responsible agencies, while the commenter's assertions are directed to the City, a lead agency. The cited provision states that "[w]hen an EIR has been prepared for a Project, the Responsible Agency shall not approve the Project as proposed if the agency finds any feasible alternative or feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the Project would have on the environment" (emphasis added). This language merely reiterates that responsible agencies, in taking action within their legal jurisdiction and powers, are subject to the same "substantive mandate" that lead agencies are, namely, to use their powers to require the mitigation of proposed projects' significant environmental effects to the extent feasible. (See *Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 134 [describes substantive mandate]; Pub. Resources Code, § 21002; CEQA Guidelines, §§ 15002[a][2], 15021[a][2].) The CEQA Statutes (Section 21021) and the State CEQA Guidelines (Section 15364) define "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into

account economic, environmental, social, and technological factors.” In formulating mitigation measures in the Draft EIR (as modified in the Final EIR), City staff and environmental consultants have used their best professional judgment based on experience in devising feasible mitigation measures. Where impacts have been labeled significant and unavoidable, City staff and consultants have been unable to formulate additional workable, legally sound, and practical measures to achieve additional impact reductions. Please see also Response to Comment IO2-30, in which City staff note some instances in which, in response to the commenter’s suggestions, additional mitigation requirements were added to measures originally found in the Draft EIR.

Comment IO2-29 *Summary of Comment:* *The comment provides a summary of the Project’s GHG impacts from Draft EIR Table 4.6-4 and the text on Draft EIR pages 4.6-23 through 4.6-28 and concludes that although the commenter agrees with the Draft EIR’s significance conclusions, the Draft EIR fails to include “all feasible” mitigation measures based on the State CEQA Guidelines Section 15096(g)(2). The comment therefore states that additional mitigation measures should be incorporated (detailed in the comment letter and coded as comment IO2-30) to reduce the Project’s cumulatively significant and unavoidable contribution to impacts from GHG emissions to a less-than-significant level.*

Response: Please see Responses to Comments IO2-28 and IO2-30.

Comment IO2-30 *Summary of Comment:* *The comment provides a bulleted list of 26 items excerpted from pages 7–9 from the publication “Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act,” published by the California Department of Justice, which the commenter states should be incorporated into the Draft EIR to reduce the Project’s significant and unavoidable air quality and GHG impacts to less-than-significant levels.*

Response: The mitigation proposed within the Draft EIR, as revised in the Final EIR incorporates relevant best practices and all applicable and feasible mitigation, as necessary, to reduce potentially significant impacts. Construction-related impacts associated with criteria air pollutant and TAC emissions were determined in the Draft EIR to be less than significant with implementation of identified mitigation, as detailed in Impacts 4.2-1, 4.2-2, and 4.2-3. Although the impact associated with the Project’s GHG emissions was determined in the Draft EIR to be cumulatively considerable, the responsible sources of emissions are operational emissions, accounting for 99.8 percent of the Project’s emissions. Nonetheless, Table 3-2 provides an additional review of the feasibility of implementing each mitigation measures suggested by the commenter.

Proposed Mitigation	Feasibility / Applicability
Prohibiting off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.	Not Necessary: Project construction activities would typically occur between the hours of 7:00 a.m. and 5:00 p.m., inclusive of breaks and with equipment turned off to adhere to regulatory idling limits, as well as idling limits imposed by Draft EIR Mitigation Measure 4.2-1h. Furthermore, construction-related air quality impacts are found to be less than significant after mitigation.
Requiring on-road heavy-duty haul trucks to be model year 2010 or newer if diesel-fueled.	Not Necessary: As of January 1, 2023, CARB requires that all diesel-fueled trucks with a gross vehicle weight rating greater than 14,000 pounds must have 2010 model year engines.
Limiting the amount of daily grading disturbance area.	Not Applicable: Draft EIR Mitigation Measure 4.2-1a requires the implementation of best management practices to minimize fugitive dust emissions, consistent with Bay Area Air Quality Management District recommendations. The Draft EIR determines that, with implementation of mitigation, construction-related emissions would not conflict with or obstruct implementation of the applicable clean air plan or result in a cumulatively considerable net increase of criteria pollutants for which the Project region is non-attainment under an applicable federal or state ambient air quality standard.; no further mitigation is required.
Prohibiting grading on days with an Air Quality Index forecast of greater than 100 for particulates or ozone for the Project area.	Not Applicable: Draft EIR Mitigation Measure 4.2-1b requires the implementation of construction exhaust emissions control measures to minimize emissions from construction equipment and vehicles, consistent with Bay Area Air Quality Management District recommendations. The Draft EIR determines that, with implementation of mitigation, construction-related emissions would not conflict with or obstruct implementation of the applicable clean air plan or result in a cumulatively considerable net increase of criteria pollutants for which the Project region is non-attainment under an applicable federal or state ambient air quality standard.; no further mitigation is required.
Keeping onsite and furnishing to the lead agency or other regulators upon request, all equipment maintenance records and data sheets, including design specifications and emission control tier classifications.	Revised Mitigation Measure: Draft EIR Mitigation Measure 4.2-1b has been revised to detail the record keeping requirements more specifically reflective of the recommendations of the commenter. This change is provided in Chapter 3, “Errata,” of this Final EIR.

<p>Conducting an on-site inspection to verify compliance with construction mitigation and to identify other opportunities to further reduce construction impacts.</p>	<p>Revised Mitigation Measure: Draft EIR Mitigation Measures 4.2-1a and 4.2-1b have been revised to note that on-site inspection may occur at any time by the city to verify compliance with mitigation requirements. As noted above, the Draft EIR determines that, with implementation of mitigation, construction-related emissions would not conflict with or obstruct implementation of the applicable clean air plan or result in a cumulatively considerable net increase of criteria pollutants for which the Project region is non-attainment under an applicable federal or state ambient air quality standard. Therefore, the revisions do not call for identification of other opportunities to further reduce construction impacts; no further mitigation is required. This change is provided in Chapter 3, "Errata," of this Final EIR.</p>
<p>Using paints, architectural coatings, and industrial maintenance coatings that have volatile organic compound levels of less than 10 g/L.</p>	<p>Not Applicable: The proposed mitigation would reduce emissions of volatile organic compounds (also referred to as reactive organic gasses [ROG]). As noted in the Draft EIR Table 4.2-5, the Project's construction emissions of ROG are less than significant without mitigation. Furthermore, as noted above, implementation of Mitigation Measures 4.2-1a and 4.2-1b reduce all construction-related emissions to levels that would not exceed applicable thresholds. No further mitigation is required.</p>
<p>Providing information on transit and ridesharing programs and services to construction employees.</p>	<p>Included in Draft EIR: Draft EIR Mitigation Measure 4.6-1b requires that the Project applicant shall provide meal options on-site or shuttles between the facility and nearby meal destinations for construction employees. This Mitigation Measure 4.6-1b aligns with the mitigation measure recommended by the commenter</p>
<p>Require all heavy-duty vehicles entering or operated on the Project Site to be zero-emission beginning in 2030.</p>	<p>Not Feasible: Project end users are unknown at the time of Final EIR publication and, thus, it would be speculative to place restrictions on fleet equipment. Furthermore, imposing onerous requirements on the potential fleet of future unknown users could put the Project at a competitive disadvantage by limiting the breadth of potential future end users that could comply, and may be technologically infeasible due to the performance needs of the end user. However, MM 4.3-1i does require that truck fleets meet or exceed model year 2014 for heavy- duty trucks used during Project operation.</p>
<p>Requiring tenants to use zero-emission light- and medium-duty vehicles as part of business operations.</p>	<p>Not Feasible: Project end users are unknown at the time of Final EIR publication and, thus, no information is known about what types of light- and medium- duty vehicles would be used as part of business operations. Imposing requirements on the potential vehicles of future unknown users could create hardships for future employees and could put the Project at a competitive disadvantage by limiting the breadth of potential future end users.</p>

<p>Posting both interior-and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager.</p>	<p>Revised Mitigation Measure: Mitigation Measure 4.2-1h requires on-site idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes, and that appropriate signage and training for on-site workers and truck drivers be provided to support effective implementation of this limit. This Mitigation Measure 4.2-1h aligns with and would achieve the intended outcome of the mitigation measure recommended by the commenter.</p> <p>Nonetheless, Mitigation Measure 4.2-1h has been revised to more specifically detail the signage requirements reflective of the recommendations of the commenter. This change is provided in Chapter 3, “Errata,” of this Final EIR. This change does not alter the significance findings of Impacts 4.2-1, 4.2-2 or 4.6-1, which remain significant and unavoidable.</p>
<p>Installing and maintaining, at the manufacturer’s recommended maintenance intervals, air filtration systems at sensitive receptors within a certain radius of facility for the life of the Project.</p>	<p>Not Required: Draft EIR Impact 4.3-3 evaluated the potential for the proposed Project to expose sensitive receptors to substantial pollutant concentrations, including the use of a quantitative health risk assessment, consistent with Bay Area Air Quality Management (BAAQMD 2023) and Office of Environmental Health Hazard Assessment ((OEHHA 2015) guidance. As explained in the Draft EIR (pages 4.3-33 through 4.3-42) and further detailed in Appendix B to the Draft EIR, with implementation of Mitigation Measures 4.2-1a through 4.2-1j, proposed Project construction and operational activities would not expose sensitive receptors to substantial pollutant concentrations with implementation and this impact would be less than significant with mitigation. No further mitigation is required.</p>
<p>Installing and maintaining, at the manufacturer’s recommended maintenance intervals, an air monitoring station proximate to sensitive receptors and the facility for the life of the Project and making the resulting data publicly available in real time. While air monitoring does not mitigate the air quality or greenhouse gas impacts of a facility, it nonetheless benefits the affected community by providing information that can be used to improve air quality or avoid exposure to unhealthy air.</p>	<p>Not Required: The California ambient air monitoring network consists of more than 250 monitoring stations operated by federal, State, and local agencies. Among other purposes, the air monitoring data generated define the nature and severity of pollution, determine attainment status with Ambient Air Quality Standards, identify pollution trends, provide real-time air quality information, and assess community exposure. The Draft EIR evaluated the Project’s contribution to ambient air quality conditions, which is what would be monitored by an air monitoring station proximate to the Project Site. As noted above, Mitigation Measures 4.2-1a through 4.2-1j ensure that the proposed Project construction and operational activities would not expose sensitive receptors to substantial pollutant concentrations. The Draft EIR evaluated the Project’s potential cumulative considerable health risk contribution associated with ambient air quality. As explained in the Draft EIR (page 5-5) and further detailed in Appendix B to the Draft EIR, this impact was found to be less than cumulatively considerable with mitigation. Therefore, no additional mitigation is required.</p>

<p>Constructing electric truck charging stations proportional to the number of dock doors at the Project.</p>	<p>Included in Draft EIR: Mitigation Measure 4.2-1g requires all dock doors serving transportation refrigeration units to be equipped with charging infrastructure to accommodate the necessary plug-in requirements for electric transportation refrigeration units while docked or otherwise idling, as well as the electrical capacity to support the on-site power demand associated with electric transportation refrigeration unit charging requirements. Furthermore, as explained above, Mitigation Measure 4.2-1h requires on-site idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes, thereby minimizing any emissions associated with trucks operating at the dock doors of the Project.</p>
<p>Constructing electric light-duty vehicle charging stations proportional to the number of parking spaces at the Project.</p>	<p>Included in Draft EIR: Mitigation Measure 4.2-1e requires the Project applicant to include electric vehicle (EV) capable parking at the rate consistent with the California Green Building Standards Code (CALGreen) Tier 2 standards for the proposed Project land use. The EV capable parking shall include the installation of the enclosed conduit that forms the physical pathway for electrical wiring and adequate panel capacity to accommodate future installation of a dedicated branch and charging stations(s). The total EV capable parking to be provided shall be based on the proposed size and scale of development and the most current CALGreen Tier 2 standards at the time of the application for a building permit. This Mitigation Measure 4.2-1e aligns with the mitigation measure recommended by the commenter.</p>
<p>Installing solar photovoltaic systems on the Project Site of a specified electrical generation capacity, such as equal to the building's Projected energy needs.</p>	<p>Included in Draft EIR: The power generation that can be accommodated onsite relative to the future tenant demand cannot be determined at the time of analysis for this Final EIR. However, Mitigation Measure 4.7-1f requires that electricity to serve the Project Site shall be supplied from a power mix that comprises 100 percent carbon-free electricity sources. The Project's electricity demand, including that of electric vehicle charging stations and other onsite electric infrastructure required to support electrification of the on-site offroad equipment, will be supplied with 100 percent carbon-free electricity sources. These sources may include, but are not limited to, on-site renewable generation system(s) or Pacific Gas and Electric Company (PG&E) 100 percent solar electricity service option, or a similar 100 percent carbon-free utility option that becomes available in the future and meets the requirements of this mitigation measure. This Mitigation Measure 4.2-1f aligns with the intent of the mitigation measure recommended by the commenter to utilize GHG-free power to serve Project operations.</p>

<p>Requiring all stand-by emergency generators to be powered by a non-diesel fuel.</p>	<p>Revised Mitigation Measure: Draft EIR Mitigation Measure 4.2-1j requires that the diesel backup generators and fire pumps meet or exceed the air board’s Tier 4 emission standards. Additionally, once operational, the diesel backup generators and fire pumps shall be maintained in good working order for the life of the equipment, and any future replacement of the equipment shall be required to be consistent with these emissions specifications.</p> <p>While the backup generators would only be used in cases of emergency, and not anticipated to result in substantial daily or annual air pollutant or GHG emissions, in order to address the commenter’s concern, Mitigation Measure 4.2-1i has been revised as follows:</p> <p>Mitigation Measure 4.2-1j: Diesel Backup Generator and Fire Pump Specifications</p> <p>The Project applicant shall ensure that the diesel backup generators and fire pumps <u>utilize the best available control technology to minimize criteria air pollutant, diesel particulate matter, and greenhouse gas emissions. The preferred technology shall be non-diesel fueled units, should they meet the operational and safety requirements of the Project operations. Should diesel-powered engines be required, such units shall</u> meet or exceed the air board’s Tier 4 emission standards. Additionally, once operational, the diesel backup generators and fire pumps shall be maintained in good working order for the life of the equipment, and any future replacement of the equipment shall be required to be consistent with these emissions specifications. To ensure compliance with this measure, the Project applicant shall ensure that records of the testing schedule for the diesel backup generators and fire pumps are maintained for the life of the equipment and make these records available to the City upon request.</p> <p>This change is noted in Chapter 3, “Errata,” of this Final EIR. This change does not alter the significance of Impacts 4.2-1, 4.2-2, or 4.6-3, which remain significant and unavoidable.</p>
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<p>Requiring facility operators to train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks.</p>	<p>Revised Mitigation Measure: Mitigation Measure 4.2-1h requires on-site idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes, and that appropriate signage and training for on-site workers and truck drivers be provided to support effective implementation of this limit. This Mitigation Measure 4.2-1h aligns with and would achieve the intended outcome of the mitigation measure recommended by the commenter.</p> <p>Nonetheless, Mitigation Measure 4.2-1h has been revised to detail the training requirements reflective more specifically of the recommendations of the commenter. This change is provided in Chapter 3, “Errata,” of this Final EIR. This change does not alter the significance finding Impacts 4.2-1, 4.2-2 or 4.6-1, which remain significant and unavoidable.</p>
<p>Requiring operators to establish and promote a rideshare program that discourages single-occupancy vehicle trips and provides financial incentives for alternate modes of transportation, including carpooling, public transit, and biking.</p>	<p>Included in Draft EIR: Mitigation Measure 4.12-1 requires the Project applicant to develop a Transportation Demand Management (TDM) Plan for the proposed Project. The TDM Plan shall identify trip reduction strategies, as well as mechanisms for funding and overseeing the delivery of trip reduction programs and strategies. Table 4.12-3 of the Draft EIR identifies feasible TDM measures that would achieve the required reductions in operational vehicle miles traveled associated with Project operations. Included in this list is a ridesharing program as well as subsidized or discounted transit program for employees.</p>

<p>Achieving certification of compliance with LEED™ green building standards.</p>	<p>Included in Draft EIR: Mitigation Measure 4.6-1e omits the inclusion of natural gas infrastructure in the design and construction of the proposed Project, thereby relying on electricity, which is required by Mitigation Measure 4.6-1f to be sourced from 100 percent carbon-free sources. Mitigation Measure 4.6-1h, 4.6-1i, and 4.6-1j require CalGreen Tier 2 standards for electric vehicle infrastructure, use of electric yard equipment, and use of zero-emission transportation refrigeration units, respectively. Furthermore, Mitigation Measure 4.6-1g requires implementation of a Transportation Demand Management Plan to reduce vehicle miles traveled associated with Project operations, including a suite of feasible options such as desirable parking spaces for ridesharing vehicles; installation and maintenance of end-of-trip facilities to support use of alternative modes of transportation; and vanpool services. Finally, Mitigation Measure 4.6-1m requires the use of reduced Global Warming Potential refrigerants in the case of refrigerated operational uses.</p> <p>These mitigation measures as included in the Draft EIR require actions that minimize the Project's reliance on non-renewable energy and maximize efficiency in building design and operations, in alignment with the emissions reduction potential achieved through the commenter's recommendation for certification of compliance with LEED™ green building standards.</p>
<p>Providing meal options onsite or shuttles between the facility and nearby meal destinations.</p>	<p>Not Feasible: Meals are a function of personal preference, dietary needs, economics, and the amount of time one has to eat. Given that the meal preferences of Project workers are unknown and may change from day-to-day, requiring on-site meal options or a shuttle to off-site meal locations as a condition of Project approval would be premature and might commit future end users to expensive programs with very limited effectiveness, if any, in reducing emissions. Future end users might freely decide to provide on-site opportunities for varieties of meal types.</p>
<p>Posting signs at every truck exit driveway providing directional information to the truck route</p>	<p>Not Applicable: The City Policy T-4.3 already requires that the City will restrict truck traffic to designated routes, which include: SR 12, Main Street, Cordelia Street, Railroad Avenue, Lotz Way, Walters Road, Peterson Road, and Civic Center Boulevard. Trucks may go by direct route to and from restricted streets, where required for the purpose of making pickups and deliveries of goods, but are otherwise restricted to designated routes.</p> <p>This Policy will be amended as part of the General Plan amendments for the proposed Project to also include portions of Cordelia Road and Pennsylvania Avenue being annexed into the City of Suisun City.</p>

<p>Improving and maintaining vegetation and tree canopy for residents in and around the Project area.</p>	<p>Not Applicable: The Project Site and vicinity is entirely non-residential. The nearest residential neighborhoods are separated from the Project Site by State Route 12 to the north and the railroad to the east. Nonetheless, the Proposed Project does include landscaping guidelines to provide landscaping and trees along street frontages and within parking areas.</p>
<p>Requiring that every tenant train its staff in charge of keeping vehicle records in diesel technologies and compliance with CARB regulations, by attending CARB approved courses. Also require facility operators to maintain records on-site demonstrating compliance and make records available for inspection by the local jurisdiction, air district, and state upon request.</p>	<p>Not Feasible: California Air Resources Board regulations are enforced by the State and local agencies, and operators must comply with State rules and regulations to legally operate in California, inclusive of any training and record keeping requirements. This measure does not provide direct emission reductions or other air quality benefits. The measure would be onerous and difficult to monitor and enforce and is outside of the scope of City enforcement to monitor and provide oversight for implementation of CARB regulatory requirements.</p>
<p>Requiring tenants to enroll in the United States Environmental Protection Agency's SmartWay program, and requiring tenants to use carriers that are SmartWay carriers.</p>	<p>Not Feasible: The requirement that tenants enroll in the EPA SmartWay program would be onerous and difficult to enforce against unknown future end users of the Project. Additionally, this measure would have limited emission reduction potential which is not possible to quantify. Furthermore, CARB has adopted the Advanced Clean Trucks and Advanced Clean Fleets Regulations to accelerate the statewide transition to zero-emissions medium and heavy-duty vehicles, which will exceed emissions reductions likely achieved through enrollment in the US EPA's SmartWay program.</p>
<p>Providing tenants with information on incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to upgrade their fleets.</p>	<p>New Mitigation: Mitigation Measure 4.2-1k has been added to the EIR, requiring that the Project applicant provide information to all future tenants regarding available incentive programs, such as the Carl Moyer Program and Voucher Incentive Program, to update their fleets. Informative materials will be updated annually, as applicable, to reflect new programs over time.</p>

Comment IO2-31 *Summary of Comment:* The comment references State policy requiring that eligible renewable energy resources and zero-carbon resources supply 100 percent of retail sales of electricity to California end-use customers by December 31, 2045, and states that the Project should not be approved until the feasibility of incorporating solar power into the Project's design has been analyzed.

Response: The policy likely referenced by the commenter in the California Renewable Portfolio Standard (RPS). Established in 2002 by SB 1078, California's RPS requires electricity providers (i.e., utilities, cooperatives, and community choice aggregators) to provide a specified minimum portion of their electricity supply from eligible renewable resources by milestone target years. Senate Bill 100, adopted in December 2021, requires all of the state's electricity come from carbon-free resources (not only RPS-eligible ones) by 2045. These standards are applicable to electricity providers, and not to individual developments. Nonetheless, Mitigation Measure 4.7-

1f (Draft EIR page 4.6-24) requires the Project source electricity for Project operations from a power mix that is 100 percent carbon-free. As detailed within Mitigation Measure 4.7-1f, these sources may include, but are not limited to, on-site renewable generation system(s) or Pacific Gas and Electric Company (PG&E) 100 percent solar electricity service option, or a similar 100 percent carbon-free utility option that becomes available in the future and meets the requirements of this mitigation measure, thereby aligning with the intentions of Senate Bill 100. As noted, the requirements of Senate Bill 100 do not pertain to individual developments, but to utility providers, and are therefore not directly applicable to the proposed Project. Nonetheless, the Draft EIR has taken this legislation into account in the analysis of greenhouse gas and energy impacts. No revisions to the Draft EIR are necessary.

Comment IO2-32 *Summary of Comment:* *The comment states that a revised EIR should be prepared to incorporate all of the mitigation measures included in Comments IO2-31 and IO2-32, which the commenter believes are feasible, and that the revised EIR should “demonstrate a commitment to the implementation of these measures” prior to Project approval.*

Response: See Responses to Comments IO2-31 and IO2-32.

Comment IO2-33 *Summary of Comment:* *The comment provides the following “disclaimer”: “SWAPE has received limited discovery regarding this Project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.”*

Response: SWAPE’s statement that its company’s work, “... may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties” calls into question the reliability of all of SWAPE’s comments on the Draft EIR, since they themselves raise the possibility that everything contained in comments IO2-27 through IO2-33 may, in fact, be inaccurate.

Comment IO2-34 *Summary of Comment:* *This comment consists of a resume for Matthew F. Hagemann, employed by SWAPE, attached to the comment letter.*

Response: The copy of the attached resume is noted.

Comment IO2-35 *Summary of Comment:* *This comment consists of a resume for Dr. Paul Rosenfeld, employed by SWAPE, attached to the comment letter.*

Response: The copy of the attached resume is noted.

2.2.11 Comment LETTER #IO3:

GEORGE, ALETA

Letter IO3

Aleta George
407 Sacramento Street
Suisun City, CA 94585

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September 28, 2023

Jim Bermudez, Development Services Director
City of Suisun City
701 Civic Center Boulevard
Suisun City, CA 94585

Dear Mr. Bermudez,

Please find the following comments on the City of Suisun City Highway 12 Logistics Center Project, Draft Environmental Impact Report.

Regarding: 4.3 Biological Resources. Impact 4.3-15. Special Status Fish Species, the EIR states that construction activities “could result in potential water quality impacts in Ledgewood Creek and other waterways and could adversely affect special status fish species.” For mitigation, the EIR states that “control measures will be implemented to the maximum extent practicable.”

IO3-1

That statement is unquantifiable. It’s clear that with increased industrial activity and heavy vehicle use there will be increased threats to water quality of Ledgewood Creek and other waterways and the Suisun Marsh. It would be preferable to require state of the art filtering swales and wetland boundaries to act as buffer zones along the entire length of Ledgewood Creek and the interface of Buildings F and G with open space and the marsh. I suggest that these mitigations be required, not implemented where “practicable.”

Regarding 4.8 Flooding, the section references the area as being in FEMA’s 2016 100-year flood zone, which downplays the potential of flooding from sea level rise. According to Adapting to Rising Tides Bay Area Shoreline Flood Explorer, which is based on the latest data, Planning Area 3 would likely experience periods of flooding with 24-inches of SLR (including storm surges and King tides) by 2050. Planning Area 2 will be affected with 36 inches of SLR.

IO3-2

To mitigate the impacts of SLR, a miles-long horizontal levee in the managed open space area south of Cordelia Road could be built in collaboration with Caltrans, the project owner, and Suisun City to protect the project area and CA-12. You might also consider removing Buildings F & G and designate those areas as managed open space. That would provide a smaller footprint of industrial impacts and still provide benefits for the city.

Thank you,

Aleta George
Member of Suisun City’s Environment & Climate Committee
aleta.george@gmail.com
(707) 429-3529

RESPONSE TO COMMENT LETTER #IO3

Comment IO3-1 *Summary of Comment:* The commenter notes that Draft EIR Impact 4.3-15 determined that construction activities "could result in potential water quality impacts in Ledgewood Creek and other waterways and could adversely affect special status fish species," and that the EIR states, "control measures will be implemented to the maximum extent practicable." The comment states that the suggested mitigation [to the "maximum extent practicable"] cannot be quantified, and therefore the Draft EIR should include additional mitigation that includes "state of the art filtering swales and wetland boundaries to act as buffer zones along the entire length of Ledgewood Creek and the interface of Buildings F and G with open space and the marsh." The comment further suggests that these mitigation measures should be required, not implemented where "practicable."

Response: Draft EIR Impact 4.3-15 (page 4.3-88) states that Ledgewood Creek is not currently known to support breeding or rearing habitat for the Central Valley fall/late fall-run or the spring run Chinook salmon or the Sacramento River winter run of Chinook Salmon. However, Ledgewood Creek is accessible from Suisun Slough (south and east from the Project Site) and therefore fish in Suisun Slough could potentially migrate upstream into Ledgewood Creek in search of suitable breeding habitat. Draft EIR page 4.3-88 also states that Delta smelt, longfin smelt, and Sacramento splittail have the potential to occur in the lower reach of Ledgewood Creek and Suisun Slough channels within the Managed Open Space area—south of the proposed Development Area.

Mitigation Measure 4.3-15(a) (Draft EIR page 4.3-90) refers to implementation of the Stormwater Pollution Prevention Plan and associated Best Management Practices as required by law under the State Water Resources Control Board's (SWRCB) National Pollutant Discharge Elimination System (NPDES) Construction General Permit. Item (f) in Mitigation Measure 4.3-15(a) states, "Permanent erosion control measures, such as biofiltration strips and swales to receive stormwater discharges from the highway or other impervious surfaces, will be implemented to the maximum extent practicable." The term "maximum extent practicable" (MEP) relates to the SWRCB's water quality standard, which in turn was adopted based on the federal U.S. Environmental Protection Agency (EPA) water quality standard. The federal Clean Water Act (CWA) provides that NPDES permits require construction activities (through the SWRCB's Construction General Permit) and municipalities (during Project operation through MS4 permits) reduce pollutants in stormwater discharges to the MEP. The MEP standard includes management practices, control techniques, and system design and engineering methods (see, for example, CWA Section 402[p][3][B]).

As explained by the SWRCB: "The MEP standard involves applying best management practices (BMPs) that are effective in reducing the discharge of pollutants in storm water runoff. There must be a serious attempt to comply, and practical solutions may not be lightly rejected. If, from the list of BMPs, a permittee chooses only a few of the least expensive methods, it is likely that MEP has not been met. On the other hand, if a permittee employs all applicable BMPs except those where it can show that they are not technically feasible in the locality, or whose cost would exceed any benefit to be derived, it would have met the standard. MEP requires permittees to

choose effective BMPs, and to reject applicable BMPs only where other effective BMPs will serve the same purpose, the BMPs would not be technically feasible, or the cost would be prohibitive. (Order No. WQ 2000-11, at p.20.) MEP is the result of the cumulative effect of implementing, continuously evaluating, and making corresponding changes to a variety of technically and economically feasible BMPs that ensures the most appropriate controls are implemented in the most effective manner. This process of implementing, evaluating, revising, or adding new BMPs is commonly referred to as the iterative approach. For Small MS4s, the EPA has stated that pollutant reductions to the MEP will be realized by implementing BMPs through the six minimum measures described in the MS4 permit (64 Federal Register 68753).” (SWRCB 2004.)

Furthermore, as described in detail in Draft EIR Appendix D, the proposed Project would implement a variety of Low Impact Development (LID) techniques such as bioswales and other stormwater biofiltration facilities throughout the Project Site, including within the parking lots, around the building perimeters, and along Ledgewood Creek (see for example, “Stormwater Quality Control Plan, Planning Area No. 1” presented on page 201 of Appendix D). These are the same types of stormwater treatment techniques suggested by the commenter. These LID stormwater treatment strategies would meet City requirements as well as the requirements of the MS4 permit issued to the Solano Stormwater Alliance (of which the City is a permittee). This information is also presented and evaluated in detail throughout Draft EIR Section 4.8, “Hydrology and Water Quality.” Therefore, the mitigation suggested by the commenter is not necessary because it is substantially similar to the designs already incorporated in the proposed Project, and furthermore would not reduce the Project’s environmental impacts beyond what is already included in existing Mitigation Measure 4.3-15(a).

Comments IO3-2 *Summary of Comments:* The comments state, “Regarding 4.8 Flooding, the section references the area as being in FEMA’s 2016 100-year flood zone, which downplays the potential of flooding from sea level rise. According to Adapting to Rising Tides Bay Area Shoreline Flood Explorer, which is based on the latest data, Planning Area 3 would likely experience periods of flooding with 24-inches of SLR (including storm surges and King tides) by 2050. Planning Area 2 will be affected with 36 inches of SLR.” The commenter further suggests mitigation for sea level rise by constructing a levee along the Project Site’s boundary with Cordelia Road.

Response: FEMA flood zones, and the potential for sea level rise due to climate change, are different topics. Per the CEQA Appendix G checklist, which the City has used as the environmental thresholds of significance for the EIR, the potential for flooding based on designated FEMA flood zones is a required topic of analysis. This topic is addressed throughout Draft EIR Section 4.8, “Hydrology and Water Quality,” (pages 4.8-5, 4.8-7, 4.8-12, 4.8-25, 4.8-27, 4.8-28), and Impact 4.8-4 (pages 4.8-37 and 4.8-38). CEQA requires an analysis of a project’s impacts on the environment; the California courts have determined that sea level rise is an impact of the environment on a project. (*Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 473-474.) Furthermore, to the extent that significantly measurable sea level rise sufficient to affect a construction project is a hypothetical future environmental condition that will arrive at an unknown time, analysis of the issue in the present would involve speculation and is not required. (*Citizens’ Committee to Complete the Refuge v. City of Newark* (2021) 74

Cal.App.5th 460, 478-479.) For these reasons, an analysis of sea level rise is not required and no changes to the Draft EIR or additional mitigation measures are necessary. In addition, compliance with laws and standards intended to protect structures from flood waters will take sea level into account. (*Id.* at pp. 4.8-37 and 4.8-38.) Thus, foreseeable changes in sea level will be accounted for in project design.

2.2.12 Comment LETTER #IO4:

PISCHING, BARBARA

Letter IO4

*Barbara Pisching
1405 Ebbetts Court
Suisun City, CA 94585
707-759-5907*

October 10, 2023

Mr. Jim Bermudez
Development Services Director
City of Suisun City
701 Civic Center Boulevard
Suisun City, CA 94585

Re: Proposed Development of Highway 12 Logistics Center

Dear Mr. Bermudez,

In May 2021, when the captioned development was in initial review with the City Planning Department, I researched the project, then wrote an extensive letter to Mr. Kearns outlining serious concerns of such a development that would amend the City's General Plan Land Use Diagram designations.

IO4-1

April 2022, I took a physical inventory of the existing warehouses, as well as those under construction located in Fairfield to determine the number of unoccupied warehouses. Presently, most of those warehouses including new buildings since 2022 are still vacant and are within proximity of the subject project parcels; thus, making the increased demand or necessity for warehouse and distribution services in Suisun City difficult to prove.

This letter outlines my citizen concerns and objections to the development of warehousing and distribution buildings on the specified Suisun wetland and selected open space parcels. Developing those parcels for industrial warehouse use does not support the Suisun City General Plan goals of urban development.

After reading through the **AECOM Highway 12 Logistics Center EIR**, focusing on specific sections of considerable importance and impact, I offer the following disconcerting scope that this project is the wrong use for the selected land, which determined my objections to this project going forward within Suisun City.

IO4-2

A. Hydrology

The project parcels are wetlands within the Suisun Marsh. The EIR hydrology study clearly describes the extensive mitigation at construction of those wetlands and over a 5 yr. to 20 yr. period of maintenance. Current and future rising sea water levels in the SF Bay along with the continual local parcel ground water infiltration are reasons enough to abandon the project.

IO4-3

The known hazard of ground water rise along with the existing marsh (the wetlands) at the project site will continue to be a mitigation and control problem for the buildings on the site.

Construction activities associated with the projects considered and stated in this cumulative analysis would create the potential for soil erosion and sedimentation of drainage systems, both within and downstream of

IO4-4

each project site and any associated off-site improvement areas. The construction processes may also result in accidental release of pollutants to surface waters, along with groundwater. Ground water infiltration on built sites will be insidious during the next 20+ years. Site grading will eliminate or diminish the Ledgewood Creek levees to hold back water flow. Storm runoff and excess water events draining will seep into old Downtown Suisun residential areas next to the railroad tracks.

IO4-4
Cont.

The proposed project storm drainage system includes the existing drain system, 3 new detention basins (one at each project area), along with accompanying 3 pump stations for those basins. All 3 proposed buildings are in FEMA established flood zones. Extensive and long-term water detention and bioretention maintenance is needed to keep the sites dry. The biological conservation of the wetlands and Suisun Marsh consists of distinct environments: grasslands and plant habitats and wetlands. Watershed preservation of Ledgewood Creek is not considered in the EIR. The importance of keeping pollution out of stormwater drainage is serious.

IO4-5

B. Increased Traffic Congestion on Hwy 12

An EIR impact analysis was made for noise and vibration surrounding the project site, but there was no study or analysis of the expected increase in heavy or semi-tractor trailer truck traffic on State Hwy 12 into the new warehouse facilities. Increased truck traffic will exacerbate congested and dangerous traffic flow on Hwy 12, and into the intersection at Pennsylvania Avenue and into two-lane Cordelia Road. Not addressed in the EIR was a study or perspective on the need to expand the Pennsylvania Road and Hwy 12 intersection to adapt to the increase in heavy truck traffic going to the new warehouses. The EIR traffic impact dictates a need for better distribution of vehicle traffic to avoid large volumes on any one street, to create traffic calming and buffering, and truck noise insulation mitigation.

IO4-6

Other traffic problems will evolve as noted in the EIR:

- The project will cause future traffic volumes to exceed 5,000 average daily trips on any roadway that fronts residential, institutional, and open space land uses or will cause traffic volume to increase by 25 percent or more, on any of these roadways.
- Future development would result in an increase of traffic volumes due to the addition of construction-generated traffic associated with on-site future development and off-site infrastructure improvements. Construction-generated traffic on the local roadway network was analyzed based on a maximum construction-related traffic volume of 500 vehicles daily and assuming eight hours of construction period per, the Project would result in 63 construction vehicles per hour. As such, all materials would be transported using the local roadway network, thus increasing traffic volumes along affected roadway segments.
- Operations of the proposed Project would result in an increase in traffic volumes on the local roadway network and, consequently, an increase in noise levels from traffic sources along affected roadway segments.

Safety Element is Not Considered

As stated in the EIR, the existing public roadway system does not provide adequate turn lanes for safe access of Project driveways. The direct mix of rail and vehicular activity on the site could lead to circulation conflicts and potentially hazardous conditions for vehicles. The EIR does not provide a study of the potential increased heavy and semi-tractor trailer truck traffic from Hwy 12 in east or west directions into the project sites or through the Pennsylvania Avenue/ Hwy 12 intersection. Such truck traffic into the warehouse sites will be increased to the point of generating congestion at that intersection and on an already impeded and dangerous

IO4-7

Hwy 12 truck thoroughfare through Suisun City. This impact would be significant to the citizens' daily travel through Suisun City and Fairfield. An analysis of a potential revision of the intersection to accommodate an increased load of truck traffic is required.

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IO4-7
Cont.

There was no study or analysis submitted by Solano Transportation Authority in the EIR about the increased traffic flow at and through the 3 main streets outlining the project site, nor an estimate of that increased traffic impact on the conditions, deterioration, and repairs or improvements of those streets in the future.

IO4-8

Proposed Alternatives to land use

1. Do not develop the specified land parcels.
2. Do not remediate or mitigate the identified project wetland geographic areas.
3. Leave the proposed Suisun Logistics Center in unincorporated Solano County. Do not annex the parcels into Suisun City.
4. Create wetlands, biology habitat, and marsh conservation preserves for the targeted sensitive land parcels.
5. Land annexation will require Suisun City to provide municipal services (sewer, water, street lighting) to support development, which could also be provided by a special district or by the adjoining City of Fairfield through land annexation into that city.
6. The Fairfield Train Station project resulted in massive destruction of vernal pools in violation of state environmental laws that require replacement of wetlands for wetlands destroyed. There is no EIR identified plan providing for wetland destruction reparation.
7. There are no concessions for other land uses for the specific project parcels.

IO4-9

The EIR provided no identified benefit to the citizens of Suisun City to annex the project parcels for development. Also, there was no estimate provided for the cost to Suisun City for the relocation and extensions of the water, sewer, and street lighting infrastructure to the project site that the city will be responsible for doing. A large three building warehouse development located at Hwy 12 and Pennsylvania Avenue, along with the increased heavy truck traffic congestion it will bring will not provide an "immediate positive first impression of attractive building facades and landscaping" as stated in the General Plan when approaching the western gateway of Suisun City.

IO4-10

Suisun City has land parcels available for purchase by a developer to build a warehouse along the Main Street corridor adjacent to the railroad tracks. That land can be cleared, cleaned, and prepared for warehouses of various sizes, as it currently is a colony of mixed-use small light industrial buildings.

I do not believe that distribution logistics is the future economy for Suisun City. Commercial and retail centers are what the city economy needs to provide the revenue it requires from land use.

Also, the cost for parcel annexation and installation of required infrastructure to develop and mitigate the wetland parcels is not an expense the Suisun taxpayers and the city can afford to make now or in the future.

I strongly urge the Suisun City Council to not approve or permit the annexation of the land parcels and the development of the Highway 12 Logistics Center Project.

Yours truly,

Barbara Pisching

cc: Mayor Alma Hernandez

RESPONSE TO COMMENT LETTER #IO4

Comment IO4-1 *Summary of Comment:* The comment states that since the commenter believes there are too many existing empty warehouses in the Project region now, the proposed Project (warehouse and logistics services) is unnecessary and does not support the General Plan goals for urban development.

Response: Regardless of the commenter’s assessment of marketplace conditions for warehouses in the region, the Project applicant is pursuing the proposed Project. The City’s 2035 General Plan contemplates commercial uses of the kind proposed on the project site, and the Project applicant is prepared to invest substantial sums developing the property, indicating a belief in the ultimate market demand for the project. This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment IO4-2 *Summary of Comment:* The comment suggests that the Project represents an inappropriate use of the land, and therefore should not be approved.

Response: This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR; the comment is noted.

Comment IO4-3 *Summary of Comment:* The comment states, “The Project parcels are wetlands within the Suisun Marsh. The EIR hydrology study clearly describes the extensive mitigation at construction of those wetlands and over a 5 yr. to 20 yr. period of maintenance.” The comment further states, “Current and future rising sea water levels in the SF Bay along with the continual local parcel ground water infiltration are reasons enough to abandon the Project.” Finally, the comment states, “The known hazard of ground water rise along with the existing marsh (the wetlands) at the Project Site will continue to be a mitigation and control problem for the buildings on the site.”

Response: The Biological Resources Report includes details related to the Project’s Wetland Mitigation Plan. Draft EIR Chapter 4.3, “Biological Resources,” address the potential impacts of the project related to wetlands in Impact 4.3-17 (page 4.3-92), and recommends several feasible mitigation measures (pages 4.3-92 through 4.3-94). As described on Draft EIR page 4.3-95, the proposed Project would protect 393.2 acres east of Pennsylvania Avenue and south of Cordelia Road; this area would be designated as Managed Open Space and protected in perpetuity with a deed restriction or conservation easement. Furthermore, implementation of Mitigation Measures 4.3-17a through 4.3-17e would offset permanent impacts to Seasonally Saturated Annual Grassland, Vernal Pools, Alkali Seasonal Wetlands, and Perennial Brackish Marsh, and would ensure there is no-net loss of wetland area, thus reducing the Project’s potential impacts on wetlands to a less-than-significant level.

The commenter’s reference to reason to “abandon the project” does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; this comment is noted.

The issue of ground water rise at the Project Site, as raised by the commenter, is addressed in Draft EIR Section 4.5, “Geology, Soils, Minerals, and Paleontological Resources.” As described on Draft EIR page 4.5-5, the results of a site-specific geotechnical investigation performed by MPE in 2020 determined that project-related excavations deeper than 5 feet below the ground surface for utilities and loading dock excavations may encounter groundwater, requiring construction dewatering. Construction dewatering is a common process for installation of buildings and other infrastructure in areas where shallow groundwater is present. As part of the geotechnical report, MPE also noted that shallow groundwater may exert pressure on building slabs. As a result, MPE recommended that slabs should be coated with a moisture barrier and be underlain by a layer of free-draining gravel to prevent moisture from migrating upward. Additional moisture protection for office and warehouse interior slabs may be provided by placing a plastic water vapor directly over the crushed rock. MPE also noted that if loading dock slabs will extend below existing grade, they may be affected by seasonal variations in groundwater levels subject to buoyant forces and/or flooding. Occasional seasonal flooding of the depressed loading docks may be possible. The slabs may be either designed to resist groundwater rising to an assumed level of 3 feet below the ground surface, or relief valves could be provided in the slab to relieve the water pressure and allow flooding of the dock. This information is presented in Draft EIR Impact 4.5-3 on page 4.5-23. However, as stated on Draft EIR page 4.5-24, the Project applicant would be required to implement the measures that are determined by the soils and civil/structural engineering studies to be appropriate for the Project, in accordance with the requirements of the CBC and the City. Therefore, the Draft EIR properly concluded that with adherence to the requirements of the CBC as applicable to the site-specific nature of the soils, and the required permit application and design review for on-site improvements by the City, project-related impacts related to construction in unstable/expansive soils would be less than significant.

Comment IO4-4 *Summary of Comment: The comment states that the cumulative analysis identifies the potential for soil erosion and sedimentation of drainage systems, both within and downstream of each Project Site and any associated off-site improvement areas, and that the construction processes may also result in accidental release of pollutants to surface waters, along with groundwater.*

Response: Draft EIR Chapter 5, “Cumulative Impacts,” analyzes the Project’s potential for cumulative contribution to other past, present, and future planned development. Draft EIR Cumulative Impacts subsections 5.3.5, “Geology, Soils, Minerals, and Paleontological Resources,” and 5.3.8, “Hydrology and Water Quality,” analyze the Project’s potential contribution to cumulative impacts related to soil erosion and sedimentation both within and downstream of individual project sites, as well as construction-related accidental release of pollutants to surface and groundwater. As discussed in detail in Draft EIR subsections 5.3.5 and 5.3.8, all of the cumulative projects that disturb 1 acre or more are required by law to prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement site-specific Best Management Practices (BMPs) that are specifically designed to prevent construction-related erosion and sedimentation and protect water quality. The SWPPP is required by law to include a Spill Prevention and Control Plan. Projects are also required to obtain grading permits from the applicable jurisdictions (i.e., City of Suisun City, Solano County, or City of Fairfield), which require submittal of a soils report and a geotechnical report, along with detailed grading plans for review

and approval, showing how erosion would be reduced. Permit conditions would be imposed by the applicable jurisdiction (such as straw wattles and watering of the soil surface during construction) to reduce potential erosion impacts (Draft EIR pages 5-9 and 5-13). As further discussed in Draft EIR subsection 5.3.8, operation of the proposed Project and the related projects must comply with the requirements of the MS4 permit issued by the San Francisco Bay Regional Water Quality Board, and must incorporate the requirements contained in the Stormwater C.3 Guidebook available from the Solano Stormwater Alliance (prepared by the former Fairfield-Suisun Urban Runoff Management Program in 2012) (Draft EIR pages 5-13 and 5-14). Therefore, the Draft EIR properly concluded that the Project's incremental contribution to cumulative impacts related to erosion, sedimentation, and water quality degradation would be less than significant.

The comment further states, "Ground water infiltration on built sites will be insidious during the next 20+ years."

Please see Response to Comment IO4-3.

(Comment IO4-4, cont.) The comment also states that, "Site grading will eliminate or diminish the Ledgewood Creek levees to hold back water flow."

Grading associated with the proposed Project would not occur within the levees along Ledgewood Creek and therefore would have no effect on levee stability or flood flows along Ledgewood Creek.

(Comment IO4-4, cont.) Finally, the comment states, "Storm runoff and excess water events draining will seep into old Downtown Suisun residential areas next to the railroad tracks."

The City requires all new projects to demonstrate, via hydrologic modeling, that on-site drainage systems are designed to appropriately detain and retain stormwater runoff such that post-project conditions are the same as pre-project conditions, and therefore off-site flooding would not occur. The Draft Master Drainage Plans for the proposed Project included hydrologic modeling per Suisun City Engineering Design Standards to determine the necessary sizing for stormwater drainage infrastructure, including pipe sizes and detention basin storage and peak flow rates, to ensure that off-site flooding would not occur. Please see the information and analysis contained in Draft EIR Section 4.8, "Hydrology and Water Quality," and Draft EIR Appendix D, "Drainage Master Plan." Therefore, stormwater runoff and excess water from storm events will not affect old Downtown Suisun residential areas or any other off-site areas.

Comment IO4-5 *Summary of Comment:* *The comment states, "The proposed project storm drainage system includes the existing drain system, 3 new detention basins (one at each Project area), along with accompanying 3 pump stations for those basins. All 3 proposed buildings are in FEMA established flood zones. Extensive and long-term water detention and bioretention maintenance is needed to keep the sites dry."*

Response: The commenter is correct that the Draft Master Drainage Plan prepared for the proposed Project identifies a new stormwater drainage system that includes three detention basins with associated

pump stations. Detention basins with associated pump stations are a common form of stormwater drainage infrastructure throughout California and the U.S. The commenter is also correct that the proposed on-site buildings are within FEMA flood zones, and therefore are subject to the design standards set forth in the City's Floodplains and Flood Damage Prevention Ordinance (Suisun City Municipal Code Section Chapter 15.08, Article I), which defines and regulates construction in floodplains. These issues are thoroughly discussed and addressed throughout Draft EIR Chapter 4.8, "Hydrology and Water Quality." See also Response to Comment IO4-3. This comment does not identify any new environmental impacts or any deficiencies in the Draft EIR analysis related to stormwater drainage or flooding. No changes to the Draft EIR are required.

The comment further states, "The biological conservation of the wetlands and Suisun Marsh consists of distinct environments: grasslands and plant habitats and wetlands. Watershed preservation of Ledge wood Creek is not considered in the EIR."

Watershed preservation of Ledge wood Creek is required in the City of Fairfield and City of Suisun City Municipal Codes and the City of Fairfield and City of Suisun City General Plans, which are discussed in Draft EIR Section 4.3, "Biological Resources," and Section 4.8, "Hydrology and Water Quality." Furthermore, both of these Draft EIR sections thoroughly address direct and indirect impacts to water quality and habitat protection along Ledge wood Creek, which directly contributes to watershed preservation.

Finally, the comment states, "The importance of keeping pollution out of stormwater drainage is serious."

The City agrees with the commenter's statement. This issue has been thoroughly evaluated throughout Draft EIR Section 4.8, "Hydrology and Water Quality," and is also evaluated as an indirect effect throughout Draft EIR Section 4.3, "Biological Resources."

Comment IO4-6 *Summary of Comment: The comment states that the Draft EIR failed to make a study or provide an analysis of the expected increase in heavy or semi-tractor trailer truck traffic on SR 12 into the new warehouse facilities, which would exacerbate congested traffic on SR and create a dangerous condition at the intersection with Pennsylvania Avenue and onto the two-lane Cordelia Road. The comment also states that the Draft EIR did not address the need to expand the SR 12/Pennsylvania Avenue intersection. Finally, the comment states that based on mitigation measures included in the Draft EIR, there is a need for better distribution of truck traffic onto additional streets rather than just Pennsylvania Avenue to create traffic calming and reduce truck noise.*

Response: The Section 4.12, "Transportation and Circulation," of the Draft EIR comprehensively analyses the net increase in vehicle traffic, inclusive of truck traffic, to and from the proposed Project Site, inclusive of that along SR 12. The evaluation of Impact 4.12-2 specifically addresses the potential of the Project to result in hazardous conditions for vehicles, which the Draft EIR found to be potentially significant, and included Mitigation Measure 4.12-2 to address and reduce potential impacts to a less-than-significant level. Included in Mitigation Measure 4.12-2 are

requirements detailing improvements to Pennsylvania Avenue, Cordelia Road, and SR 12. Furthermore, Draft EIR Impact 4.10-4 discusses the potential impact associated with noise generated by Project related operational trucks (page 4.10-40). Traffic noise levels were modeled under existing and future conditions, with and without Project implementation. Average daily traffic volumes and the distribution were obtained from the traffic study for the proposed Project and included day/night percentages of autos, medium and heavy trucks, vehicle speeds, ground attenuation factors, and roadway widths. The modeling conducted shows that the proposed Project would not contribute to a substantial increase in future traffic noise conditions along one Project area roadway. Therefore, long-term noise levels from Project-generated traffic sources would not result in a substantial permanent increase in ambient noise levels (an increase of 3 dBA or greater) under existing and future conditions.

The comment also asserts to summarize findings from the Draft EIR, noting that (1) the Project will cause future traffic volumes to exceed 5,000 average daily trips on any roadway that fronts residential, institutional, and open space land uses or will cause traffic volume to increase by 25 percent or more, on any of these roadways.

The asserted finding of the Draft EIR that is noted by the commenter as a finding of the Draft EIR is not a conclusion of any impact analysis of the Draft EIR. Rather, this is the exact text provided in Section 4.10, “Noise and Vibration,” of the Draft EIR on page 4.10-8, which is quoting Policy HS.I-62 of the Health and Safety Element of the existing Solano County General Plan.

The comment also summarizes findings from the Draft EIR, noting that (2) construction-generated traffic on the local roadway network was analyzed based on a maximum construction-related traffic volume of 500 vehicles daily and assuming eight hours of construction period per, the Project would result in 63 construction vehicles per hour. As such, all materials would be transported using the local roadway network, thus increasing traffic volumes along affected roadway segments.

The text provided by the commenter is quoted from Section 4.10, “Noise and Vibration,” of the Draft EIR on page 4.10-36, and represents a conservative assumption used to inform the analysis of potential short-term exposure of sensitive receptors to increased traffic noise levels from Project construction, not a finding of the Draft EIR. As detailed in Impact 4.10-2 of the Draft EIR, this impact was determined to be less than significant (page 4.10-36).

The comment also summarizes findings from the Draft EIR, noting that (3) operations of the proposed Project would result in an increase in traffic volumes on the local roadway network and, consequently, an increase in noise levels from traffic sources along affected roadway segments.

The text provided by the commenter is quoted from Section 4.10, “Noise and Vibration,” of the Draft EIR on page 4.10-40. As noted by the commenter, the Draft EIR acknowledges the increase in noise levels from traffic sources. However, as detailed in Impact 4.10-4, the noise modeling conducted for the Draft EIR supported the conclusion that Project-generated

operational traffic sources would not result in substantial permanent increases in ambient noise levels and this impact would be less than significant (Draft EIR page 4.10-40).

Comment IO4-7 *Summary of Comment:* The comment states that the existing public roadway system does not provide adequate turn lanes for safe access of Project driveways, and therefore the direct mix of rail and vehicular activity on the site could lead to circulation conflicts and potentially hazardous conditions for vehicles. The comment further states that the EIR does not provide a study of the potential increased heavy and semi-tractor trailer truck traffic from SR 12 in east or west directions into the Project Site or through the Pennsylvania Avenue/SR 12 intersection, and that this impact would be significant to the citizens' daily travel through Suisun City and Fairfield. Therefore, an analysis of a potential revision of the intersection to accommodate an increased load of truck traffic is required.

Response: As discussed in Impact 4.12-2 (Draft EIR, pages 4.12-16 through 4.12-19), the Draft EIR acknowledges the potential for hazardous conditions and identifies proposed Mitigation Measure 4.12-2 to implement several intersection and driveway improvements that would successfully mitigate the potential impact. Improvements include consolidating and relocating the Project driveways along Pennsylvania Avenue, increasing the distance from the SR 12 intersection. The Project is also proposing improvements along the Project Site frontages to Pennsylvania Avenue to ensure that there would be no substantial queue spillback onto SR 12. On- and off-site transportation improvements required to serve the proposed Project and required to ensure adequate turn lanes and access, including consideration of future anticipated truck traffic attributable to the proposed Project are detailed in Chapter 3 of the Draft EIR, "Project Description," and required by Mitigation Measure 4.12-2 (Draft EIR, page 4.12-18) (Fehr & Peers 2022a, 2022b).

Comment IO4-8 *Summary of Comment:* The comment states there was no study or analysis submitted by Solano Transportation Authority in the EIR about the increased traffic flow at and through the three main streets outlining the Project Site, nor an estimate of that increased impact on the conditions, deterioration, and repairs or improvements of those streets in the future.

Response: The Project does not propose any improvements to County roadway rights of way. As shown in Exhibit 3-4 of the Draft EIR, the portions of frontage roads Cordelia Road and Pennsylvania Avenue within the existing City of Suisun City Sphere of will be annexed to the City of Suisun City. For informational purposes, the vehicle miles traveled (VMT) and level of service (LOS) analysis prepared in support of the Project is provided as Appendix C to this Final EIR; this study evaluates existing and future trips, LOS, and recommended improvements and resulting LOS. The analysis conducted to support the Draft EIR and this Final EIR examines traffic volumes and potential impacts under the proposed Project and proposed improvements to the on- and off-site circulation system. This comment does not pertain to the adequacy or completeness of the environmental analysis contained in the Draft EIR; this comment is noted and has been provided to the decision-makers for their awareness.

Comment IO4-9 *Summary of Comment:* The comment provides seven separate suggested project alternatives for consideration in the EIR (each of which are addressed separately below).

1. *Do not develop the specified land parcels.*

Response: Please see Draft EIR Chapter 6, “Alternatives,” for the information and analyses presented under the headings “Alternative 1: No Project Alternative (Buildout of Existing Land Use Designations).” As discussed on Draft EIR page 6-3, the CEQA Guidelines Section 15126.6(e)(2) states that a discussion of the “No Project” alternative must consider “what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on current plans.” Therefore, Alternative 1 assumes that the current land use designations as set forth in the Suisun City General Plan would remain unchanged, and the commenter’s suggested alternative would not meet the requirements contained in the CEQA Guidelines.

2. *Do not remediate or mitigate the identified project wetland geographic areas.*

Remediation of wetlands is not necessary nor is it proposed as part of the proposed Project. It is unclear as to the reason why the commenter would suggest “remediation” of existing wetlands. Failing to mitigate for the loss of wetlands (from project-related fill) would result in significant and unavoidable impacts to wetlands, and would result in a permanent loss of wetlands at the Project Site. Therefore, the impacts from implementation of this alternative would be several orders of magnitude greater (more adverse) than those of the proposed Project. This alternative would not meet the requirements of the State CEQA Guidelines Section 15126.6(a) which requires that an EIR describe “...a range of reasonable alternatives to the Project, which would feasibly attain most of the basic objectives of the Project but would avoid or substantially lessen any of the significant effects of the project...” (emphasis added).

3. *Leave the proposed Suisun Logistics Center in unincorporated Solano County. Do not annex the parcels into Suisun City.*

Assuming that the commenter intended to suggest that the proposed Project Site should not be annexed to the City, rather than the Suisun Logistics project, this suggested alternative would not avoid or substantially lessen any of the Project’s significant impacts. Therefore, this alternative would not meet the requirements of the CEQA Guidelines Section 15126.6(a) which requires that an EIR describe “...a range of reasonable alternatives to the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project...” (emphasis added). Additionally, as noted in the Draft EIR, the portion of the Project Site proposed for annexation is already within the Sphere of Influence of the City of Suisun City, making an alternative that would not include annexation infeasible (Draft EIR, page 3-1). If the commenter did intend to address the Suisun Logistics project, the City has focused the alternatives contemplated in the Draft EIR on avoiding or substantially lessening impacts attributable to the proposed Project, and therefore elected not to include an alternative that would exclude the proposed Suisun Logistics Center project from annexation to the City. In addition, the Suisun Logistics project site is also within the City of Suisun City’s existing Sphere of Influence.

4. *Create wetlands, biology habitat, and marsh conservation preserves for the targeted sensitive land parcels.*

This alternative would exclude all development at the Project Site. Therefore, this alternative would not meet the requirements of the State CEQA Guidelines Section 15126.6(a) which requires that an EIR describe "...a range of reasonable alternatives to the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project..." (emphasis added). The City also notes that as stated in Draft EIR Chapter 3, "Project Description," (page 3-16), the proposed Project includes approximately 331.7 acres of Managed Open Space southeast of Cordelia Road and south of the California Northern Railroad to be maintained within unincorporated Solano County. These open space areas will serve to protect the existing habitat and to also provide for any mitigation of development impacts.

5. *Land annexation will require Suisun City to provide municipal services (sewer, water, street lighting) to support development, which could also be provided by a special district or by the adjoining City of Fairfield through land annexation into that city.*

This comment suggests that the land area that encompasses the proposed Project be annexed into the City of Fairfield rather than Suisun City. This alternative is infeasible, since the Project Site is already part of the Suisun City Sphere of Influence and is designated in the Suisun City General Plan and Land Use Diagram for future urban development. Further, the commenter suggests the formation of a new services district or districts that would require approval by LAFCO. The City's understanding is that small, single purpose or limited purpose service agencies providing service in areas within City spheres of influence would not be consistent with LAFCO policy and additionally, this would not reduce any potentially significant impact associated with the proposed Project. The City's focus with this EIR is on adverse physical environmental effects.

6. *The Fairfield Train Station project resulted in massive destruction of vernal pools in violation of state environmental laws that require replacement of wetlands for wetlands destroyed. There is no EIR-identified plan providing for wetland destruction reparation.*

This comment is related to a different project within the City of Fairfield proposed at a different time. This comment does not provide a suggested alternative to the proposed Project, but rather relates to wetland mitigation. As noted above, the proposed Project includes approximately 331.7 acres of Managed Open Space southeast of Cordelia Road and south of the California Northern Railroad to be maintained within unincorporated Solano County. These open space areas will serve to protect the existing habitat and to also provide for any mitigation of development impacts (Draft EIR Chapter 3, "Project Description," page 3-16). Draft EIR Appendix C contains the 2023 Biological Resources Report for the Project, prepared by the Huffman-Broadway Group. The Biological Resources Report includes details related to the Project's Wetland Mitigation Plan. Draft EIR Chapter 4.3, "Biological Resources," addresses the potential impacts of the project related to wetlands in Impact 4.3-17 (page 4.3-92), and recommends several feasible mitigation measures (pages 4.3-92 through 4.3-94). As described

on Draft EIR page 4.3-95, the proposed Project would protect over 300 acres east of Pennsylvania Avenue and south of Cordelia Road; this area would be designated as Managed Open Space and protected in perpetuity with a deed restriction or conservation easement. Furthermore, implementation of Mitigation Measures 4.3-17a through 4.3-17e would offset permanent impacts to Seasonally Saturated Annual Grassland, Vernal Pools, Alkali Seasonal Wetlands, and Perennial Brackish Marsh, and would ensure there is no-net loss of wetland area, thus reducing the Project's potential impacts on wetlands to a less-than-significant level.

7. *There are no concessions for other land uses for the specific Project parcels.*

The exact meaning of this comment is unclear, but for purposes of this response the City assumes that the commenter suggests an alternative to the proposed Project that would involve a different mix of land uses. Two alternatives that would include a different mix of land uses as compared to the proposed Project are already included in the Draft EIR analysis. Please see Draft EIR Chapter 6, "Alternatives," for the information and analyses presented under the headings "Alternative 1: No Project Alternative (Buildout of Existing Land Use Designations)" and "Alternative 3: Reduce Criteria Air Pollutant and GHG Emissions and Transportation-Related Energy Consumption."

Comment IO4-10 *Summary of Comment: The comment states that EIR provided no identified benefit to the citizens of Suisun City to annex the Project parcels for development. Also, there was no estimate provided for the cost to Suisun City for the relocation and extensions of the water, sewer, and street lighting infrastructure to the Project Site that the city will be responsible for doing.*

Response: The purpose of an EIR is provide identification and analysis of the Project's potential effects on the environment. Per the CEQA Guidelines Section 15131(a), "Economic or social effects of a Project shall not be treated as significant effects on the environment." Therefore, the information requested by the commenter is not required, and no changes to the Draft EIR have been made. Even so, City staff notes that, if the City Council should choose to approve the proposed Project, the City Council will be required to identify what it considers to be the benefits of the Project. The City Council will do so through the adoption of a Statement of Overriding Considerations pursuant to CEQA Guidelines Section 15093. This special finding will have to identify the "the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits," of the alternative that, in the City Council's judgment, make the significant unavoidable effects of the Project "acceptable." Statements of Overriding Consideration serve the policy purpose of "enable[ing] the public to determine the environmental and economic values of their elected and appointed officials thus allowing for appropriate action come election day should a majority of the voters disagree." (CEQA Guidelines, § 15003[e].)

The comment further states, "A large three building warehouse development located at Hwy 12 and Pennsylvania Avenue, along with the increased heavy truck traffic congestion it will bring will not provide an 'immediate positive first impression of attractive building facades and landscaping' as stated in the General Plan when approaching the western gateway of Suisun City. The comment further states that other parcels are available in different locations that could

be developed for warehouse uses, and that the City needs commercial and retail development rather than warehouse and logistics center development, thus the Project should not be approved.

This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR; the commenter's opposition to the Project is noted.

2.2.13 Comment LETTER #IO5:

RILEY, GABRIEL

Letter IO5

From: [GDR Riley](#)
To: [Jim Bermudez](#)
Subject: Highway 12 Logistics Center
Date: Sunday, October 15, 2023 4:46:22 PM

Hello,

I am concerned the project will impede the ability to upgrade the UP owned California Northern operated spur to support east west SMART and a potential reroute of the Capitol Corridor

thanks,

Gabriel Riley

IO5-1

RESPONSE TO COMMENT LETTER #IO5

Comment IO5-1 *Summary of Comment: The comment expresses concern that the proposed Project would somehow impede the ability to “upgrade the UP-owned California Northern operated spur to support east west SMART and a potential reroute of the Capitol Corridor.”*

Response: The proposed Project does not adversely affect the railroad or railroad right-of-way. Draft EIR page 3-17 states, “The Project Site has direct access to an existing rail spur, and the Project applicant will coordinate with the Southern Pacific Railroad, which merged with Union Pacific Railroad in 1996, regarding access to this existing railroad spur for proposed on-site uses where future tenants identify the need for rail access.” Mitigation Measure 4.12-2: Vehicle System Improvements (Draft EIR page 4.12-18) requires that at the rail spurs, vehicles would be prohibited from crossing the railroad tracks with the use of signs or physical barriers, and the adjacent parking space would be removed. The City does not have any evidence of any easement or other public right-of-way reserved for future rail use that would be adversely affected by the proposed Project.

2.2.14 Comment LETTER #IO6:

RUMBAOA, NOAH

Letter IO6

From: [Noah Rumbaoa](#)
To: [Jim Bermudez](#)
Subject: Comments on Highway 12 Logistics Center DEIR
Date: Monday, October 2, 2023 10:47:19 AM
Attachments: [1696177671318.pnc](#)
[1696177694086.pnc](#)
[1696177722814.pnc](#)

Hello,

Please find below my comments on the DEIR for the Highway 12 Logistics Center project:

- SOLANOEXPRESS - Table 4.12-1 should be revised to show Soltrans as the sole operator of SolanoExpress. FAST no longer operates the Blue and Green lines.

IO6-1

- PEDESTRIAN AND CYCLIST BARRIERS - Mitigation Measure 4.12-3 should be revised so that the project construct physical barriers that protect people walking and on bike, such as in the below image. As currently written, the mitigation measure only requires a barrier next to the walkway. Bike lanes should be built next to walkways, with a physical barrier separating cyclists from auto traffic. This is especially important for this type of project where there will be heavy truck and freight traffic along Pennsylvania Avenue and Cordelia Road. As currently written, the proposed mitigation measure will not adequately protect people biking, exposing them to unnecessary risk and discouraging cycling. This contradicts a number of goals in the General Plan (Goal T-1, Policy T-1.6, Goal T-6, Policy T-6.1, Policy T-6.2) and the Solano County Active Transportation Plan (Goal 1). Constructing a physical barrier that protects both pedestrians and people biking will help to save lives and prevent collisions.

IO6-2

Noah Rumbaoa
he/him
rumbaoa.noah@gmail.com

IO6-3



IO6-3
Cont.





RESPONSE TO COMMENT LETTER #IO6

Comment IO6-1 *Summary of Comment:* The comment states that Draft EIR Table 4.12-1 [page 4.12-2] should be revised to show Solano County Transit (SolTrans) as the sole operator of Solano Express, because Fairfield and Suisun Transit (FAST) no longer operates the Blue and Green lines.

Response: As requested by the commenter and shown in FEIR Chapter 3, “Errata,” the text in Draft EIR Table 4.12-1 on page 4.12-2 has been modified to identify the agency responsible for the Solano Express as Solano County Transit.

Comment IO6-2 *Summary of Comment:* The comment states that as currently written, Draft EIR Mitigation Measure 4.12-3 only requires a physical barrier between the proposed walkways [referencing the physical barrier called for between Planning Areas 1 and 3 along the railroad tracks, Draft EIR page 4.12-20]; therefore, the mitigation measure should be revised to require a physical barrier between the bicycle pathways and the roadways along Pennsylvania Avenue and Cordelia Road, because the hazard is from trucks and cars on the roadways.

Response: Mitigation Measure 4.12-3 of the Draft EIR includes requirements for pedestrian and bicycle facilities and improvements along Project Site frontages and on-site to ensure adequate pedestrian and bicycle facilities serving the Project Site; improvements under Mitigation Measure 4.12-3 include continuous sidewalks of at least five feet and bicycle facilities of at least four feet at the Project Site frontages along both sides of Cordelia Road and Pennsylvania Avenue; high-visibility crosswalks at the Pennsylvania Avenue and Cordelia Road/Cordelia Street intersection; adequate pedestrian-scale lighting along Project Site frontages and on-site; and on-site markings or signage to notify drivers of pedestrians and bicyclists traveling between off-site pedestrian facilities, on-site parking facilities, and bicycle parking facilities and building access points. Implementation of Mitigation Measure 4.12-3 would improve on-site and Project area pedestrian and bicycle transportation conditions by providing adequate facilities to connect to the existing and future multimodal transportation network. In addition, the City of Fairfield and City of Suisun City Active Transportation Plans propose the following bikeway projects in the vicinity of the Project Site that would coincide with some of what the commenter has suggested as improvements: Class II facilities on Beck Avenue between SR12 and California Northern Railroad (Fairfield Plan); Class III facilities along Cordelia Road between Beck Avenue and Pennsylvania Avenue (Fairfield Plan); and Cordelia Street between Pennsylvania Avenue and Waterfront Path (Suisun City Plan). Regarding physical barriers along Pennsylvania Avenue and Cordelia Road, this is not required by the City’s current improvement standards, and there is not a potentially significant impact that would be reduced through this improvement, so this has not been included as mitigation in the EIR.

2.2.15 Comment LETTER #IO7:

SOLANO COUNTY ORDERLY GROWTH COMMITTEE

Letter IO7



Preserving Open Space and Agriculture
<https://solanoorderlygrowth.org>

14 October 2023

Mr. Jim Bermudez
Development Services Director, City of Suisun City
via email to: jbermudez@suisun.com

SUBJECT: Draft Environmental Impact Report for the Highway 12 Logistics Center

Dear Mr. Bermudez:

We are writing to provide comments on the draft Environmental Impact Report for the Highway 12 Logistics Center (“draft EIR”), as posted on the following website:
<https://www.suisun.com/Departments/Development-Services/Planning/Environmental-Documents>

Based on our review, Orderly Growth Committee concludes that the draft EIR is inadequate and requires significant additional information and additional analyses. As currently written, the draft EIR would allow at least six broad categories of impacts to remain “significant and unavoidable” even after implementation of the Mitigation Measures that it sets forth. We are particularly concerned about inadequately-mitigated impacts to biological resources and agricultural land, and cumulative impacts to air quality.

IO7-1

We present specific recommendations below, in numerical order by section of the draft EIR. More broadly, given the presence of so many red flags, we recommend that Suisun City consider taking a new approach by choosing Alternative 2 (Reduced Footprint), which is the environmentally-superior alternative.

Once the Project applicant has incorporated the necessary new information and analyses that we are recommending, we request that the revised draft EIR be re-circulated for public review and comment.

IO7-2

1.2 Project Summary [within the Executive Summary, page 1-1]

The Executive Summary incorrectly states:

“The Project Site is bordered by ... a drainage channel and warehouse development to the west”.

The phrase “a drainage channel” should be replaced with “Ledgewood Creek and adjacent riparian habitat”. The ecological and aesthetic values of Ledgewood Creek are clearly explained elsewhere in the document (e.g., pages 1-24 and 3-1). Therefore, it is misleading to

IO7-3

1

readers to refer to a “drainage channel” in this initial summary. Correcting this is important, because many stakeholders likely will read only the Executive Summary.

Y
IO7-3
Cont.

3.2.1 Proposed Land Use [page 3-6]

The draft EIR should be amended to state explicitly whether the western limit of the proposed annexation area is contiguous with the eastern limit of the City of Fairfield. Clarification is essential to avoid ambiguity about jurisdictions for future law enforcement, fire-fighting, and assistance to homeless individuals. The proposed annexation must avoid leaving a narrow, “no-man’s-land” strip of unincorporated Solano County along Ledgeewood Creek.

IO7-4

Ledgeewood Creek itself is not part of the project site¹. The proposed annexation area extends westward only to the edge of a roughly 50-foot buffer² along the eastern bank of Ledgeewood Creek (Exhibit 3-4). That is not a problem provided that all lands west of the annexation area already lie within City of Fairfield limits. Fairfield’s General Plan Land Use Diagram³ seems to indicate that Fairfield city limits extend onto the eastern bank of Ledgeewood Creek. However, the online map is not sufficiently precise to indicate whether or not the proposed 50-foot buffer along the eastern bank of Ledgeewood Creek already is under the jurisdiction of Fairfield.

If needed, the proposed annexation area should be extended westward in order to be contiguous with City of Fairfield’s eastern limit.

IO7-5

4.2 Air quality

Main source of impact: vehicles operated by tenants or their suppliers and contractors, such as semi trucks used to transport supplies or finished products (aka “mobile sources”).

IO7-6

Mitigation measures currently proposed in the draft EIR:

4.2-1g: Electrification of Transportation Refrigeration Units

“The Project applicant shall require that all transportation refrigeration units operating on the Project Site be electric or alternative zero-emissions technology ...”

4.2-1h: Prohibition of Truck Idling for More than Two Minutes

“The Project applicant shall require that onsite idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes ...”



¹ Page 8 of Attachment 7 within Appendix C, “Biological Resources”.

² Mitigation Measure 4.3-16b, Riparian Corridor Protection Zone, states in part: “The western boundary of the proposed Development Area of the Project Site and the permanent fence line adjacent to Ledgeewood Creek shall be set back a minimum of 50 feet from the top of the bank or the outside edge of riparian vegetation, whichever distance is greater.”

³ City of Fairfield General Plan Land Use Diagram is available at: <https://www.fairfield.ca.gov/home/showdocument?id=6100&t=637733210459644029>

4.2-1i: Limitation of Model Year of Visiting Trucks

“The Project applicant shall require that lease agreements stipulate that any gasoline- or diesel-powered vehicle, whether owned *[or operated]*⁴ by tenant(s), that enters or operates on the Project Site and has a gross vehicle weight rating greater than 14,000 pounds, have a model year dated no older than model year 2014.”

The draft EIR admits that, even after implementing those mitigation measures, emissions of organic gases that form ozone would still, “exceed the BAAQMD thresholds of significance and Project operations could conflict with or obstruct implementation of the 2017 Bay Area Clean Air Plan” [page 4.2-29]. In short, those mitigation measures are inadequate to protect Suisun residents.

Recommended improvements: *[for convenience, recommended text is summarized on the following page]*

- 1) **Replace the model-year requirement in 4.2-1i with a more effective measure.** The existing measure would allow diesel trucks that are 10 years old in 2024, and even older in future years. Perhaps better than nothing, but inadequate to protect Suisun residents. Instead, we recommend requiring that *tenants shall choose contractors and suppliers that operate fleets consisting of at least 50% zero-emissions vehicles, such as electric vehicles.*

Many logistics-center tenants already are using such contractors. Both Walmart and Amazon have publicly committed to operate 100% zero-emission vehicles by 2040. Therefore, we recommend a single, straightforward measure for all tenants. However, if Suisun City would prefer to offer tenants a menu of options, we recommend creating mitigation measures modeled on the “Warehouse Actions and Investments to Reduce Emissions” (WAIRE) Program⁵ that was adopted in 2021 by California’s South Coast Air Quality Management District. Either option is preferable to the inadequate model-year requirement proposed in the draft EIR.

- 2) **Improve enforceability of 4.2-1g and 4.2-1h by adding the phrase “lease agreements stipulate that”.** In other words, use the same wording that was used in 4.2-1i. The Project applicant will not be standing at the entrance gate inspecting trucks. Instead, the only mechanism the Project applicant can use to enforce these mitigation measures is to include them in the lease agreements for each building occupant.

- 3) **Improve enforceability of all three measures by including a requirement for submission of documentation.** Merely signing a lease agreement is not sufficient protection for Suisun residents. Instead, to each of the three measures, add the following requirement:

⁴ In Mitigation Measure 4.2-1i the phrase “or operated” is missing, though it is present in the identical measure 4.6-1i. Regardless, we recommend requiring that both measures apply to all vehicles at the site, regardless of who owns or operates the vehicles.

⁵ For tenants unable or unwilling to use zero-emission vehicles, WAIRE offers alternatives including paying to install air filters in local homes, schools and hospitals or paying a fee if not in compliance. To see the mitigation measures required by the WAIRE Program, visit <http://www.aqmd.gov/home/rules-compliance/compliance/waire-program> and the links posted there.

Y
107-6
Cont.

107-7

107-8

107-9

“Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.”

IO7-9
Cont.

Note that a comparable requirement for documentation already has been included within Mitigation Measure 4.2-1f (for electrified yard equipment). For vehicles, an example of suitable documentation would be certification that the building occupant has selected contractors whose fleets are (for example) 100% equipped with electrified refrigeration units, thereby complying with Mitigation Measure 4.2-1g.

Summary of recommended text within 4.2 Air Quality:

4.2-1g: Electrification of Transportation Refrigeration Units

The Project applicant shall require that **lease agreements stipulate that** all transportation refrigeration units operating on the Project Site be electric or alternative zero-emissions technology, including hydrogen fuel cell transport refrigeration and cryogenic transport refrigeration, to reduce emissions of NOX without substantially increasing other emissions. The Project design shall also include necessary infrastructure; for example, requiring all dock doors serving transportation refrigeration units to be equipped with charging infrastructure to accommodate the necessary plug-in requirements for electric transportation refrigeration units while docked or otherwise idling, as well as the electrical capacity to support the on-site power demand associated with electric transportation refrigeration unit charging requirements. **Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.**

4.2-1h: Prohibition of Truck Idling for More than Two Minutes

The Project applicant shall require that **lease agreements stipulate that** onsite idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes, and that appropriate signage and training for on-site workers and truck drivers be provided to support effective implementation of this limit. **Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.**

4.2-1i: **Fleet Requirement for Visiting Trucks** ~~Limitation of Model Year of Visiting Trucks~~

The Project applicant shall require that lease agreements stipulate that, for any contract established by a building occupant that includes visits to the Project Site by vehicles having a gross vehicle weight rating greater than 14,000 pounds, the building occupant shall certify that the other party in the contract will use a vehicle fleet that consists of at least 50% zero emission vehicles. Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.

IO7-10

4.3 Biological Resources

IO7-11

The *Mitigation and Monitoring Plan*⁶ is based on a faulty concept of mitigation. It should be rejected and replaced.

The draft EIR correctly identifies many rare species and vegetation communities⁷ that would be destroyed by the proposed project. These include vernal pools and alkali seasonal wetlands. The identified impacts are probably underestimates, because some key benchmark surveys were conducted during a historic drought⁸, when wetland species are quiescent and hard to detect. Nonetheless, the draft EIR makes clear that impacts would be significant.

A standard approach to mitigation would be for the Project applicant to protect comparable acreages of existing, healthy vegetation communities located on other properties. Instead, the *Mitigation and Monitoring Plan* proposes a risky and untested effort to create new plant communities on land where they do not currently exist. Not coincidentally, the property proposed for those new plantings - - located south of Cordelia Road - - is already owned by the Project applicant, Buzz Oates Construction⁹. More importantly, the property proposed for the new plantings *is permanently under the jurisdiction of, and permanently protected by, the Suisun Marsh Protection Plan*¹⁰. The reason is, the property proposed for the new plantings already has its own wetland communities that are recognized as making important contributions to the health of Suisun Marsh.

There are at least three fundamental problems with this so-called mitigation:

IO7-12

1) It is unlikely to succeed. Anyone who has tried to establish plants in their own yard, or has tried to maintain an aquarium, understands that plants and aquatic animals have very specific ecological requirements. The reason why certain rare plants and vegetation communities do not exist south of Cordelia Road is because conditions there are not suitable for them. It would be a dangerous precedent to grant mitigation credit for a speculative effort to create new ecological communities that are unlikely to survive.

2) It would cause new damage, in addition to the damage caused by the actual logistics center. As already mentioned, the property south of Cordelia Road currently has thriving wetland communities that are contributing to the health of Suisun Marsh. Efforts to “improve” that property will unavoidably damage what is already growing there.

IO7-13

⁶ The *Mitigation and Monitoring Plan* is Attachment 7 within Appendix C, “Biological Resources”.

⁷ “Vegetation communities are assemblages of plant species growing in an area of similar biological and environmental factors.” Source of definition: page 5 of the *Mitigation and Monitoring Plan*.

⁸ The 2021 and 2022 surveys, described on pages 9-10 of the *Mitigation and Monitoring Plan*.

⁹ “The Permittee Responsible Mitigation (PRM) site is within the 393.24 acre Managed Open Space area. ... The landowner, Buzz Oats [sic] Construction, Inc., will place a deed restriction or conservation easement over the entire 393.24 acre Managed Open Space ... For purposes of this management plan, the Landowner [Buzz Oates] is responsible for land management, compliance, and funding activities.” [page 4 within Attachment 7 of Appendix C, “Biological Resources”].

¹⁰ “The southern portion of the Project Site is within the Primary Management Area of the Suisun Marsh Protection Plan and a small portion of the southwestern extremity of the Project Site is within the Secondary Management Area of the Suisun Marsh Protection Plan. As shown in **Exhibit 3-3**, all portions of the Project Site that are in the ... Suisun Marsh Protection Plan ... are proposed as Managed Open Space as a part of the project.” [page 3-4]

3) **It seeks credit for protecting land that already is protected.** The draft EIR magnanimously promises, “The Managed Open Space area would be protected in perpetuity with a deed restriction or conservation easement” [page 1-2]. However, this is a moot point, because nearly all¹¹ of the land south of Cordelia Road already is protected in perpetuity by the Suisun Marsh Protection Plan¹².

IO7-14

For all of these reasons, the *Mitigation and Monitoring Plan* should be rejected. It should be replaced by reliable protection of existing ecological communities, on land that is not currently protected.

IO7-15

Vernal pool flowers on the Project site, May 2023.



¹¹ Specifically, 84% of the acreage within the proposed Managed Open Space is protected by the Suisun Marsh Protection Plan. See Table 1 on page 2 of the Mitigation and Monitoring Plan (Attachment 7 within Appendix C, “Biological Resources”).

¹² The Suisun Marsh Protection Plan was enacted by the California Legislature in 1974. For details about the protections it provides, visit: <https://suisunrcd.org/wp-content/uploads/2018/01/Suisun-Marsh-Plan.pdf>

4.6 Greenhouse gas emissions

IO7-16

Mitigation measures currently proposed in the draft EIR:

These are identical to three measures proposed under 4.2 Air Quality:

4.6-1j: Electrification of Transportation Refrigeration Units

“The Project applicant shall require that all transportation refrigeration units operating on the Project Site be electric or alternative zero-emissions technology ...”

4.6-1k: Prohibition of Truck Idling for More than Two Minutes

“The Project applicant shall require that onsite idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes ...”

4.6-1l: Limitation of Model Year of Visiting Trucks

“The Project applicant shall require that lease agreements stipulate that any gasoline- or diesel-powered vehicle, whether owned or operated by tenant(s), that enters or operates on the Project Site and has a gross vehicle weight rating greater than 14,000 pounds, have a model year dated no older than model year 2014.”

Recommended improvements:

The same recommendations already provided for the identical three mitigation measures listed under 4.2 Air Quality, namely:

4.2-1g

4.2-1h

4.2-1i

4.9.3 Conflict with Existing Zoning for an Agricultural Use [page 4.9-11]

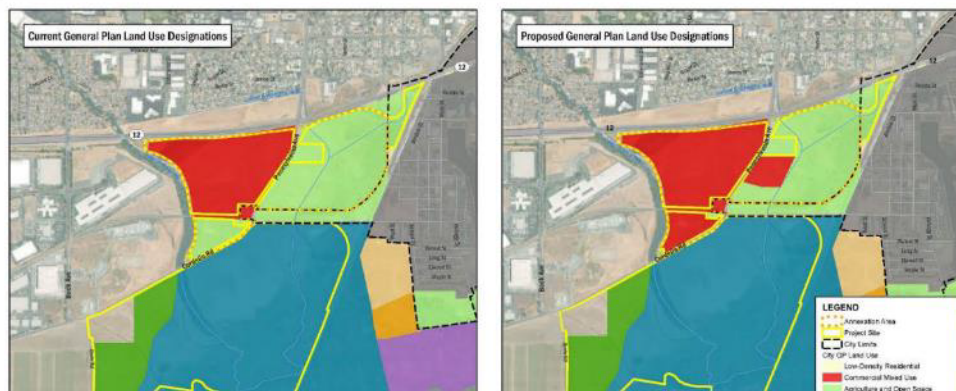
The draft EIR offers a confusing, legalistic interpretation in order to conclude that no impact would occur with regards to land zoned for agriculture. However, this is only because the project proposes to annex, and then re-zone, land that currently is zoned for agricultural use.

The draft EIR correctly explains that:

- “The Project Site is currently agricultural grazing land and undeveloped open space. Cattle graze throughout the northern portion of the Project Site” [page 3-4]
- “The northern portion of the Development Area [the portion north of Cordelia Road] is zoned by Solano County as Exclusive Agriculture 40 Acres (A-40).” [page 4.9-11]
- The purpose of A-40 zoning is, “to preserve agriculture, including allowing agricultural-related support uses, excluding incompatible uses, and protecting the viability of the family farm.” [page 4.9-2]

Moreover, Exhibit 3-5 clearly shows that the project will result in a net reduction in land zoned for agriculture. See the extract presented below. For all these reasons, **we call on Suisun City to require revision of this section of the draft EIR. The loss of land zoned for agriculture should be quantified, and an appropriate Mitigation Measure imposed**, such as protecting an equivalent or greater quantity of agricultural land via deed restriction or conservation easement to be held by an accredited land trust.

Extract of Exhibit 3-5 [page 3-8], showing loss of land zoned for agriculture (pale green).



4.1-2 Degradation of Visual Character or Quality [page 4.1-21]

IO7-18

Additional exhibits are needed to better illustrate the project’s visual appearance during the years required for landscaping to mature. At present, all exhibits of the visual appearance (Exhibits 4.1-3 through 4.1-7) feature mature landscaping, including majestic trees arching above the warehouses. Perhaps that may eventually come to pass. However, regarding timing, the design guidelines specify only that, “Landscapes should be designed to reach a reasonable level of maturity within five years.” Therefore, **we recommend adding exhibits to illustrate the expected visual appearance at 1, 5, and 10 years after construction begins.**

In addition, a Mitigation Measure is needed to give Suisun City authority to benchmark the landscaping performance at those time intervals. Suisun City planning staff should visit the Project site and verify whether plants’ health and size is comparable to what the Project applicant forecast. If actual landscape appearance is substantially worse than forecast, then the project Applicant should be required to install additional plants or take other steps to correct the shortcoming.

IO7-19

4.12 Transportation and Circulation

IO7-20

The draft EIR should explicitly state a time-bound commitment by City of Suisun City to construct an improved bikeway between Pennsylvania Avenue and Suisun’s Waterfront Path. To reduce vehicle miles traveled by employees, the draft EIR requires the Project applicant to develop a Transportation Demand Management (TDM) Plan¹³. The draft EIR recommends¹⁴ that the TDM Plan actively encourage employees to commute by bicycle, by having the Project applicant construct “end-of-trip bicycle facilities” such as bike lockers, showers, and personal lockers. In addition, the draft EIR requires the Project applicant to construct delineated bikeways, though only along the actual frontage of the project site¹⁵.

In general, we support amenities and policies that encourage bicycle commuting. However, **at present it is unsafe to commute by bicycle along the most direct route to the project site, namely Cordelia Street.** Cordelia Street lacks any delineated bikeway, and much of Cordelia Street has a paved shoulder that is too narrow for safe bicycle travel.

The draft EIR includes a vague statement that, “The Suisun City and Fairfield Active Transportation Plans propose to build bicycle facilities that directly connect to the Project Site frontages at ... Cordelia Street between Pennsylvania Avenue and Waterfront Path” [page 4.12-21]. Similarly, Exhibit 4.12-4 shows that particular bikeway as merely a “proposed” Class 3 bicycle route. **Those vague “proposals” should be replaced by a specific commitment to construct this bikeway no later than 1 year after project construction begins.** Unless Suisun

¹³ Mitigation Measure 4.12-1 required in part, “Prior to issuance of building permits, the Project applicant shall develop a TDM Plan for the proposed Project, including any anticipated phasing, and shall submit the TDM Plan to the City for review and approval.”

¹⁴ Recommended elements for the TMD Plan for this project are listed in Table 4.12-3.

¹⁵ Mitigation Measure 4.12-3 includes, “Continuous bicycle facilities of at least four feet at the Project Site frontages along both sides of Cordelia Road and Pennsylvania Avenue with even surface pavement, appropriate signage, delineation, and other features to improve the bicycle transportation conditions.”

City makes this essential contribution, it is dangerous and counter-productive to encourage bicycle commuting.

Y
IO7-20
Cont.

5.3.2 Cumulative impacts – Air Quality [page 5-5]

The draft EIR correctly states:

“Regional air quality effects are inherently cumulative in nature. The nonattainment status of regional pollutants results from multiple sources in the air basin, both past and present.” [page 5-5]

IO7-21

Unfortunately, the analysis of cumulative impacts for cancer-causing airborne particles¹⁶ apparently only considered health impacts from the proposed Highway 12 Logistics Center plus existing sources [page 5-5, and page 47 of Appendix B]. In other words, there is no indication that the cumulative analysis for air quality included likely future pollution from a second, massive warehouse project: Suisun Logistics Center, planned for the eastern border of Suisun City.

The draft EIR correctly states [page 5-1] that CEQA recognizes both the list method, and the plan method, as two alternative methods for establishing the cumulative environment in which a proposed project is to be considered. Regardless of the methodology chosen, we have repeatedly called to Suisun City’s attention the need for a region-wide, cumulative approach to planning. Analyzing projects individually will always underestimate the impacts of development, especially impacts on air quality and traffic. It is simply irresponsible to fail to analyze the cumulative impacts of all future projects known to be in the development pipeline.

IO7-22

Buzz Oates Construction is the applicant for both projects: Highway 12 Logistics Center, and Suisun Logistics Center.¹⁷ Therefore, **Suisun City should require Buzz Oates to fund a combined, cumulative analysis of both projects. If the cumulative impact is significant, then mitigation for the current project should explicitly be designed to help address that cumulative impact.**

In addition, we call Suisun City’s attention to the following recommendation from California Association of Environmental Professionals:

IO7-23
↓

¹⁶ The cumulative air quality analysis for PM2.5 concentrations and excess cancer risk is discussed in Section 5.3 of Appendix B.

¹⁷ Suisun City staff stated that Buzz Oates was the applicant for both projects during the December 20, 2022 meeting of Suisun City Council. Though the minutes do not include the applicant’s name, the minutes are available at: <https://www.suisun.com/files/sharedassets/suisuncity/v/1/government/clerk/agenda-archive/2023-city-council/2023-01-17-agenda-packet.pdf> In addition, during 2022 Buzz Oates hosted several “Good Neighbor” meetings for both projects, including: https://www.suisun.com/files/sharedassets/suisuncity/v/1/government/documents/highway_12_and_suisun_logistics_good_neighbor_meeting.pdf

“With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.”¹⁸

Y
IO7-23
Cont.

Regarding cumulative impact of logistics centers, we encourage Suisun City’s planning commissioners and staff to consider creating ordinances modeled on the “Warehouse Actions and Investments to Reduce Emissions” (WAIRE) Program¹⁹ that was adopted in 2021 by California’s South Coast Air Quality Management District.

For all the reasons presented herein, Orderly Growth Committee concludes that the draft EIR is inadequate and requires significant additional information and additional analyses.

IO7-24

Once the Project applicant has incorporated the necessary new information and analyses that we are recommending, we request that the revised draft EIR be re-circulated for public review and comment.

If desired, representatives of Orderly Growth Committee would be happy to meet with the Project applicant and City of Suisun City staff to discuss our recommendations.

Yours sincerely,

Michael Zeiss, resident of Suisun City
for Solano County Orderly Growth Committee

¹⁸ Source of quote: *2023 California Environmental Quality Act Statute and Guidelines*, p. 232. Available at: https://www.califaep.org/docs/CEQA_Handbook_2023_final.pdf

¹⁹ For information on the mitigation measures required by the WAIRE Program, visit <http://www.aqmd.gov/home/rules-compliance/compliance/waire-program> and the links posted there.

Gerken, Matthew

From: Mike Z <michaelzeiss@hotmail.com>
Sent: Saturday, October 14, 2023 4:31 PM
To: Jim Bermudez
Cc: John Kearns
Subject: Hwy12 Logistics Center EIR comments
Attachments: Comments EIR Hwy12 LogCtr OGC 2023-10-14.pdf

Dear Mr. Bermudez:

On behalf of Solano County Orderly Growth Committee, I am writing to provide comments on the draft Environmental Impact Report for the Highway 12 Logistics Center (“draft EIR”), as posted on the following website: <https://www.suisun.com/Departments/Development-Services/Planning/Environmental-Documents>

IO7-25

Based on our review, Orderly Growth Committee concludes that the draft EIR is inadequate and requires significant additional information and additional analyses. As currently written, the draft EIR would allow at least six broad categories of impacts to remain “significant and unavoidable” even after implementation of the Mitigation Measures that it sets forth. We are particularly concerned about inadequately-mitigated impacts to biological resources and agricultural land, and cumulative impacts to air quality.

Please see the attached PDF file for our full recommendations.

Once the Project applicant has incorporated the necessary new information and analyses that we are recommending, we request that the revised draft EIR be re-circulated for public review and comment.

If desired, representatives of Orderly Growth Committee would be happy to meet with the Project applicant and City of Suisun City staff to discuss our recommendations.

Yours sincerely,

Michael Zeiss, resident of Suisun City
for Solano County Orderly Growth Committee

RESPONSE TO COMMENT LETTER #IO7

Comment IO7-1 *Summary of Comment:* The comment states that Draft EIR is inadequate and requires significant additional information and additional analyses, because it would allow at least six broad categories of impacts to remain "significant and unavoidable" even after implementation of the recommended mitigation measures.

Response: CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible (CEQA Guidelines Section 15021). However, a public agency may approve a project that would cause a significant effect on the environment if the agency makes a fully informed and publicly disclosed decision that:

(a) There is no feasible way to lessen or avoid the significant effect (see State CEQA Guidelines Section 15091); and

(b) Specifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project (State CEQA Guidelines Section 15043).

CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian.

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable" and the lead agency may approve the project (State CEQA Guidelines Section 15093).

If the City Council decides to adopt the proposed Project or one of the alternatives evaluated in the EIR, the City Council must adopt a Statement of Overriding Considerations as required by the State CEQA Guidelines Section 15093 to reflect the ultimate balancing of competing public objectives. (See Response to Comment IO4-10.)

The comment further states that further detailed comments are presented in the body of the comment letter, and that the Solano OGC recommends the reduced footprint alternative (Alternative 2) rather than the proposed Project.

Responses to individual Solano OGC comments are provided below in Responses to Comments Solano OGC-2 through Solano OGC-25. The commenter's preference for Alternative 2 rather than the proposed Project is noted.

Comment IO7-2 *Summary of Comment:* The comment states that the Draft EIR should be recirculated for public review and comment following the changes recommended in comments Solano OGC-3 through Solano OGC-25.

Response: For the reasons set forth in detail in Responses to Comments IO7-3 through IO7-25, recirculation of the Draft EIR is not required.

Comment IO7-3 *Summary of Comment:* The comment states that the Executive Summary in the Draft EIR incorrectly identifies Ledgewood Creek as an unnamed “drainage channel” [Draft EIR page 1-1], and that this should be corrected.

Response: As requested by the commenter and shown in FEIR Chapter 3, “Errata,” the text on Draft EIR page 1-1 has been modified to replace the words “drainage channel” with Ledgewood Creek.

Comment IO7-4 and IO7-5 *Summary of Comments:* These comments state that the Draft EIR should be amended to state explicitly whether the western limit of the proposed annexation area is contiguous with the eastern limit of the City of Fairfield, and if necessary the annexation boundary should be changed so that it is contiguous, so that the proposed annexation can avoid leaving a narrow, “no-man’s-land” strip of unincorporated Solano County along Ledgewood Creek..

Response: These comments do not pertain to the adequacy of the environmental analysis contained in the Draft EIR; nevertheless, the City responds as follows. With regard to jurisdictional boundaries, the precise area annexed into the City of Suisun would be subject to review and approval by the Solano Local Agency Formation Commission (LAFCO). Based on applicable requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and LAFCO Standards, it is assumed that the area annexed to the City of Suisun City as a part of this proposed Project would abut the existing City of Fairfield city limits, and that there would be no change to City of Fairfield city limits. In other words, it is the City’s understanding that there will not be any “no man’s land” strip of property, and that the annexation area would abut the existing City of Fairfield City limits. The Draft EIR and this Final EIR are both consistent with this assumption.

Comment IO7-6 *Summary of Comment:* The comment provides a partial restatement of Draft EIR Mitigation Measures 4.2-1g, 4.2-1h, and 4.2-1i (pages 4.2-28 and 4.2-29) and which the commenter states would reduce impacts from vehicles operated by tenants or their suppliers and contractors, such as semi-trucks used to transport supplies or finished products (aka “mobile sources”). The comment also states that even after implementing those mitigation measures, emissions of organic gases that form ozone would still, “exceed the BAAQMD thresholds of significance and Project operations could conflict with or obstruct implementation of the 2017 Bay Area Clean Air Plan” (quoting from Draft EIR page 4.2-29].” Therefore, the commenter suggests that these mitigation measures are inadequate to protect Suisun residents.

Response: See Response to Comments IO7-1 and IO2-30 (identifying additional air quality mitigation requirements added in response to public input).

Comment IO7-7 *Summary of Comment:* The comment suggests that the model-year requirement in Mitigation Measure 4.2-1i should be revised because the existing measure would allow diesel trucks that are 10 years old in 2024, and even older in future years. The comment suggests that the mitigation measure should require tenants to choose contractors and suppliers that operate fleets consisting of at least 50 percent zero-emissions vehicles, such as electric vehicles, or creating mitigation measures modeled on the "Warehouse Actions and Investments to Reduce Emissions" (WAIRE) Program that was adopted in 2021 by California's South Coast Air Quality Management District.

Response: The Project applicant has committed to ensuring the future tenants utilize truck fleets that are no older than model year 2014, which is in alignment with and slightly exceeding existing State regulations, as well as recommended practices of the State of California Department of Justice whitepaper, "Warehouse Projects: Best Practices and Mitigation Measures to Comply with the California Environmental Quality Act," but not enforcing use of new technologies, such as zero emissions technologies for truck fleets. It should be noted that California Code of Regulations (CCR) Title 13 Section 2025 Resolution 08-43 requires that by the year 2023 all trucks registered in California will be required to meet the 2010 or newer emission standards. Mitigation proposed by the commenter is not feasible because the Project applicant has no means of controlling the privately-owned vehicles used by the independent trucking companies that will eventually serve the future tenants operating on the Project Site. Please also see Response to Comment IO2-30.

Comment IO7-8 *Summary of Comment:* The comments suggests that the enforceability of Mitigation Measures 4.2-1g and 4.2-1h should be improved by adding the including the requirement that the measures be stipulated in future tenant lease agreements.

Response: As requested by the commenter, the recommended text has been added to Mitigation Measures 4.2-1g and 4.2-1h. Please see Chapter 3 of this Final EIR, "Errata" for more details.

Comment IO7-9 *Summary of Comment:* The commenter suggests that Mitigation Measures 4.2-1g, 4.2-1h, and 4.2-1i should be improved by adding a requirement that future tenants must provide documentation to the City demonstrating that the measures have been incorporated.

Response: As requested by the commenter, the recommended text has been added to Mitigation Measures 4.2-1g, 4.2-1h, and 4.2-1i. Please see Chapter 3 of this Final EIR, "Errata" for more details.

Comment IO7-10 *Summary of Comment:* The comment provides a summary of the recommended text changes encompassed by comments IO7-7, IO7-8, and IO7-9.

Response: Please see Responses to Comments IO7-7, IO7-8, and IO7-9.

Comment IO7-11 *Summary of Comment:* The comment states that the Project's Mitigation and Monitoring Plan (contained in DEIR Appendix C), is based on a faulty concept of mitigation and therefore it should be rejected and replaced, based on the commenter's belief that, "A standard approach to mitigation would be for the Project applicant to protect comparable acreages of existing, healthy vegetation communities located on other properties." The comment also states that the

idea of creating additional wetlands on the Project Site is “risky and untested,” and that since the area of the Project Site proposed for Managed Open Space is already part of the Suisun Marsh Protection Plan it does not need to be part of a Mitigation and Monitoring Plan.

Response: See Response to Comment A7-9, which explains why CEQA allows for compensatory mitigation strategies for adversely affected resources involving conservation, management, enhancement, restoration, and recreation of like resources, and response to comment A7-10, which explains why the City has high expectations regarding the likelihood of success for the proposed Managed Open Space Plan generally and wetlands mitigation in particular.

Functioning vernal pools, alkali seasonal wetlands, and seasonally saturated annual grasslands exist within close proximity to the areas where wetland creation is proposed, and these wetlands support sensitive plant species and salt marsh harvest mouse. To ensure, to the maximum extent possible, that the success criteria for created wetlands are met, the created wetlands will be located in upland areas on the same soil type, watershed, and general topography as these functioning wetlands. This is a common concept that has been accepted by the regulatory agencies with jurisdiction over wetlands (including the USACE, USFWS, CDFW and RWQCB) and has proven to be effective. For example, in Solano County, the agency-approved the North Suisun Mitigation Bank successfully created vernal pools in upland habitat where soils and topography supported adjacent vernal pools. In addition, a residential development project in Vacaville called the North Village Development project (USACE Permit # 1999-00429N, USFWS BO# 1-1-99-F-0184, RWQCB WDID# 5A48CR00016, CDFW Notification No. 1600-2004-0207-R2) successfully created seasonal wetlands and vernal pools on uplands where soils and topography supported adjacent seasonal wetlands and vernal pools.

See response to comment A7-7 for an explanation as to why placing a conservation easement and providing an endowment to manage the land in perpetuity will provide additional protection and benefits for the ecological values of the Managed Open Space beyond the protection and benefits currently provided by the SMPP.

Comment IO7-12 *Summary of Comment:* *The comment states that establishing new wetlands or plant communities in other areas of the Project Site where they are not currently present is infeasible, because plants and aquatic animals have very specific ecological requirements which are not present in areas where mitigation is proposed.*

Response: See Responses to Comments IO7-11, A7-7, and A7-10.

Comment IO7-13 *Summary of Comment:* *The comment states that the Project’s Mitigation and Monitoring Plan “would cause new damage, in addition to the damage caused by the actual logistics center” by damaging the existing plants in areas where mitigation is proposed.*

Response: See Response to Comment A7-8.

Comment IO7-14 *Summary of Comment:* *The comment states that the Project’s Mitigation and Monitoring Plan is flawed because it seeks “credit” for protecting land that is already protected by the Suisun Marsh Protection Plan.*

Response: See Response to Comment A7-9, which explains why CEQA allows for compensatory mitigation strategies for adversely affected resources involving the conservation, management, enhancement, restoration, and recreation of like resources. The Draft EIR acknowledges that the Managed Open Space portion of the proposed Project Site is located within the area covered by the SMPA and is protected by the SMPP and the Solano County Component of the Suisun Marsh Local Protection Program. The biologically beneficial land uses and activities that will occur in the Managed Open Space Area would be consistent with the SMPA, the SMPP, and the Solano County Component of the Suisun Marsh Local Protection Program, and nothing in the SMPA or the two planning documents disallows such land uses and activities.

See Response to Comment A7-7 for an explanation as to why placing a conservation easement and providing an endowment to manage the land in perpetuity will provide additional protection and benefits for the ecological values of the Managed Open Space beyond the protection and benefits currently provided by the SMPP.

Comment IO7-15 *Summary of Comment:* *The comment states that the proposed Mitigation and Monitoring Plan for on-site wetlands should be rejected and replaced by “reliable protection” of existing ecological communities, on land that is not currently protected.*

Response: See Response to Comment A7-7 for an explanation as to why placing a conservation easement and providing an endowment to manage the land in perpetuity will provide additional protection and benefits for the ecological values of the Managed Open Space beyond the protection and benefits currently provided by the SMPP.

Comment IO7-16 *Summary of Comment:* *The comment notes that Greenhouse Gas Emission Mitigation Measures 4.6-1j, 4.6-1k, and 4.6-1l in the DEIR are the same mitigation measures that are proposed in Section 4.2, “Air Quality,” and suggests that these mitigation measures for Greenhouse Gas Emissions should be replaced with the commenter’s suggested changes to Mitigation Measures 4.2-1g, 4.2-1h, and 4.2-1i.*

Response: See Response to Comments IO7-7, IO7-8, and IO7-9.

Comment IO7-17 *Summary of Comment:* *The commenter disagrees with the DEIR’s conclusion of no impact with regards to conflicts with land zoned for agricultural use, based primarily on DEIR Exhibit 3-5 and noting the Project proposes to annex and then rezone a portion of the Project Site, and requests that the impact conclusion be changed from no impact to a significant impact because the proposed Project would result in a loss of agricultural land. The commenter further suggests that mitigation should be required in the form of protecting an equivalent or greater quantity of agricultural land via deed restriction or conservation easement to be held by an accredited land trust.*

Response: Draft EIR Exhibit 3-5 (Chapter 3, “Project Description,” page 3-8), referenced by the commenter, shows the existing and proposed land use designations at the Project Site; it does not show the zoning. The proposed Project includes three Planning Areas, which together comprise the proposed Development Area. Planning Area 1 is a 69.6-acre development area north of the existing railroad tracks and west of Pennsylvania Avenue. Planning Area 2 is a 13.1-

acre development area north of and immediately adjacent to Cordelia Road. Planning Area 3 is a 10.7-acre development area on the east side of Pennsylvania Avenue (see Draft EIR Table 3-1 [page 3-9] and Exhibit 3-8 [page 3-18] showing the Planning Areas). As shown in Draft EIR Exhibit 3-5, the City's land use designation for Planning Area 1 is Commercial Mixed Use, and the City's Land Use Designation for Planning Areas 2 and 3 is Agriculture and Open Space. Although the Project Site is within the City's Sphere of Influence, it has not been annexed to the City and therefore the Solano County zoning still applies. The Solano County zoning for the entire Project Site north of Cordelia Road (which includes the entire Development Area, encompassed by Planning Areas 1, 2, and 3) is Exclusive Agriculture 40 Acres (A-40). The commenter correctly quotes from Draft EIR Section 4.9, "Land Use and Planning, Including Agriculture Resources, Population, and Housing," (page 4.9-2) that the purpose of the A-40 zoning designation (per Solano County) is to preserve agriculture, including allowing agricultural-related support uses, excluding incompatible uses, and protecting the viability of the family farm. However, as noted above, most of the proposed Development Area (i.e., Planning Area 1, which encompasses 69.6 acres) has already been designated by the City for future Commercial Mixed-Use Development as part of the City's 2035 General Plan (adopted in 2015). Therefore, the commenter's issue does not lie with the proposed Project, but rather with the City's designated and previously approved land uses in its adopted General Plan. Implementation of the proposed Project would change both the land use designations and zoning for Planning Areas 2 and 3 (23.8 acres of the Project Site) from Agriculture and Open Space/AG-40 to Commercial Mixed-Use/Commercial Services & Fabricating.

Based on the CEQA Guidelines Appendix G Section II(b), which the City has adopted as the thresholds of significance for this EIR, the applicable threshold is "conflict with existing zoning for agricultural use or a Williamson Act contract" (emphasis added) (see Draft EIR page 4.9-10).

As explained on Draft EIR page 4.9-11, all of the Project Site north of Cordelia Road is zoned by Solano County as AG-40, and Planning Area 1 is designated by the City for Commercial Mixed Use. The 93.4-acre Development Area, which represents part of the area that would be annexed into the City, would be pre-zoned as Commercial Services & Fabricating (CSF). Of this 93.4 acres, 69.6 acres is already designated for Commercial Mixed Use. The Project proposes an amendment to the City's General Plan Land Use Diagram so that the General Plan's Commercial Mixed Use and Open Space land use designations are consistent with the proposed Development Area. As previously noted, the Project also proposes a rezone of this Development Area from the County's AG-40 zoning to the City's CSF zoning. If the Project is approved, the Project Site would be annexed into the City, the zoning and land use designations would be changed as part of proposed Project adoption, and thus there would be no conflict. Therefore, the Draft EIR properly concludes there would be no impact from conflicts with agricultural zoning (page 4.9-11), and no changes to the Draft EIR are required.

The concern expressed by the commenter is not, in fact, with a zoning conflict, but rather with loss of agricultural land that would be converted to urban development, as the commenter has expressly stated. As noted above, 69.6 acres of the Project's 93.4-acre Development Area were already designated for Commercial Mixed Use in the City's 2035 General Plan adopted in 2015,

and the potential loss of agricultural land throughout the city as a result of projected future urban development was analyzed in the City's adopted General Plan EIR (AECOM 2015, Section 3.1, "Agricultural Resources"). As explained therein, and in the Draft EIR for this Project on pages 4.9-9 and 4.9-10, the applicable CEQA Appendix G checklist threshold, Section II(a), is "convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to nonagricultural use." There is no Prime Farmland, Unique Farmland, or Farmland of Statewide Importance in Suisun City, including within the City's Sphere of Influence. The "farmland" at the Project Site is classified by the California Department of Conservation's Farmland Mapping and Monitoring Program as "Grazing Land" (Draft EIR page 4.9-2). Grazing Land is not considered Important Farmland under CEQA (Public Resources Code Sections 21060.1 and 21095 and CEQA Guidelines Appendix G). Therefore, the proposed Project would not convert Important Farmland to nonagricultural uses and the Draft EIR properly concluded that no impact would occur (Draft EIR pages 4.9-10 and 4.9-11). The City's 2035 General Plan EIR (AECOM 2015, Section 3.1, "Agricultural Resources") reached the same conclusion of "no impact," for the same reasons, as related to "farmland" throughout the City. Therefore, the mitigation measure suggested by the commenter is not required, and no changes to the Draft EIR have been made.

Comment IO7-18 *Summary of Comment:* *The comment suggests that additional exhibits are needed to illustrate the Project's visual appearance during the years required for landscaping to mature, because the current exhibits in DEIR Section 4.1 only show the Project's appearance when the landscaping has reached maturity.*

Response: This comment refers to visual simulations provided by the Project applicant, which show the conceptual appearance of proposed Project buildings and landscaping at maturity (Draft EIR Exhibits 4.1-3 through 4.1-5 and 4.1-7; pages 4.1-24, 4.1-25, and 4.1-29). In fact, there is no general requirement in CEQA for any visual simulations to be prepared for proposed projects, showing either the buildings or the appearance of the proposed landscaping at any stage. Rather, a lead agency's obligation is to provide discussion and substantial evidence to support its conclusions about the significance of aesthetic effects. Here, the proposed landscape plan is shown in Draft EIR Exhibit 4.1-6 (Draft EIR page 4.1-28). It is unclear what purpose would be served in showing additional landscape simulations at an earlier stage of maturity, which would have no effect on the Draft EIR impact analysis, conclusion, or mitigation measures. Therefore, the suggested change to the Draft EIR (in the form of additional visual simulations) has not been made.

Comment IO7-19 *Summary of Comment:* *The comment suggests that additional mitigation should be added to the DEIR in the form of requiring the City to conduct inspections at periodic intervals (i.e., 1, 5, and 10 years after construction) to ensure that the applicant's landscaping is not "worse than forecast."*

Response: The commenter has not expressed disagreement with the less-than-significant impact conclusion reached by the Draft EIR for Impact 3.1-2 (Substantial Degradation of Visual Character or Quality), nor has the commenter expressed disagreement with the applicant's proposed

landscaping plan or the projected visual appearance of the Project Site at full build out. Under CEQA, no mitigation measures are required for less-than-significant impacts. The City already has the authority to enforce landscaping requirements through its Municipal Code related to site design (Title 18 Zoning), and the City's design review process. City review of the applicant's landscaping plans, including watering plans and schedules, would ensure that appropriate plant species would be used, and appropriate watering methods and schedules would be employed to ensure survivability of plantings. Furthermore, City building department officials would perform routine inspections during and after installation of plantings and the Project's irrigation system to ensure that compliance with the approved plans is achieved, as standard City procedure before issuance of final site occupancy permits. Therefore, Draft EIR Impact 4.1-2 properly concludes that impacts related to substantial degradation of visual character would be less than significant, and the mitigation measure suggested by the commenter is not required.

Comment IO7-20 *Summary of Comment:* *The comment states that although the Project's Transportation Demand Management Plan discussed in the DEIR includes bicycle routes, it is unsafe to bicycle along Cordelia Street and the TDMP shows this bicycle route as a "proposed" Class 3 bicycle route without any timeframe. Therefore, the commenter suggests that mitigation should be included to require construction of the bicycle route along Cordelia Street no later than 1 year after Project construction begins.*

Response: See Response to Comment IO6-2.

Comment IO7-21 *Summary of Comment:* *The comment states that the cumulative air quality analysis failed to consider air pollution from PM_{2.5} generated by future projects, namely the Suisun Logistics center planned for the eastern border of Suisun City.*

Response: The air district defines a cumulative assessment of health risk and hazards to be those from the Project combined with the health impacts from surrounding sources, such as industrial facilities, rail, roadways, and marine vessels (BAAQMD 2022 CEQA: Appendix E). A cumulative analysis for annual PM_{2.5} was conducted for the proposed Project, as discussed in Section 5.3 of Appendix B of the Draft EIR. The air district has established a cumulative threshold for annual PM_{2.5} of 0.8 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) (BAAQMD 2022 CEQA: Appendix A, Table A-1). Per air district guidance, "the distance used for the radius around the project boundary should reflect the zone or area over which sources may have a significant influence." The air district references several studies (BAAQMD 2022 CEQA: Appendix A, p. A-37-A-38), to arrive at a typical "zone of influence" of 1,000 feet from the Project boundary. As discussed in Section 3.3 of Appendix B of the Draft EIR, the zone of influence not only took into account the proposed Project boundary but also accounted for off-site on-road project-related sources. These sources extended out approximately 6,000 feet to the east and west and 3,000 feet to the north of the proposed Project boundary. Receptors modeled were placed 1,000 feet from on-site and off-site sources; therefore, effectively resulting in a zone of influence extending approximately 7,000 feet to the east and west, and 4,000 feet to the north, which is well beyond the typical distance recommended by the air district. Note that there are no sensitive receptors located south of the proposed Project Site.

The cumulative analysis utilized air district source-screening tools to quantify existing impacts of annual PM_{2.5} from roadway and rail at each maximum sensitive receptor type (residential, worker, student, and child). The data provided in these screening tools are very recent, as the air district released an update in late 2022. Consistent with air district guidance, the existing annual PM_{2.5} impacts from these screening tools at the maximum proposed Project modeled receptors were added to the proposed Project's impacts.

Similar to existing conditions, impacts from potential future sources of PM_{2.5} emissions should be included in the cumulative analysis within the zone of influence. At the time of the analysis for the Draft EIR, there were no known potential future sources of PM_{2.5} within the 1,000 foot zone of influence. However, the comment notes that there is another logistics center planned to be developed on a 167-acre undeveloped area at the eastern extend of Suisun City along Highway 12. According to the Notice of Preparation, this "Eastern Suisun City" project plans to develop 2.1 million square feet of warehouse on approximately 120 acres, with the remaining 47 acres designated as permanently open space (City of Suisun 2021). The distance between the proposed Project and the Eastern Suisun City project is approximately 18,000 feet (3.4 miles), well beyond the zone of influence. As discussed in Section 3.1 of Appendix B of the Draft EIR, wind flow across this region is predominantly west-southwest to east-northeast. Therefore, impacts from the two sites would very likely not overlap until areas east of the Eastern Suisun City project, where there are no sensitive receptors.

While the physical locations of the two Suisun City logistic centers are well beyond the zone of influence, there is the potential for overlap of off-site on-road vehicles from the two projects along Highway 12. It is assumed that the use of the two logistics centers would be similar in nature. Based on this assumption, the proposed Project-level impacts associated with on-road source along Highway 12 could be scaled based on the difference in warehouse development. The proposed Project plans for 1.28 million square feet of warehouse development compared to 2.1 million square feet for the Eastern Suisun City logistics project. The Eastern Suisun City logistics project is more than 64 percent larger than the proposed Project. As discussed in Section 5.2 of Appendix B, the proposed Project phase yielding the highest annual PM_{2.5} impacts occurred during the first year of construction. The contribution of off-site on-road sources to the total annual PM_{2.5} impacts ranges from 1 to 3 percent, accounting for mitigated emissions, depending on the sensitive receptor type (residential, worker, student, or child). Therefore, if the total proposed Project impacts for year one of construction were increased by 3 percent (high end of the range), that would only add at most about 0.01 µg/m³ to the cumulative impact. As a result, the conclusions described in the Draft EIR would not change and the cumulative impact would be less than cumulatively considerable with mitigation.

Comment IO7-22 *Summary of Comment:* *The commenter acknowledges that the CEQA permits either a "list" method or a "plan" method for cumulative impact analyses [per State CEQA Guidelines Section 15130(b)(1)], but states that use of the list method is "irresponsible" and therefore the DEIR should have used the plan method for the project's cumulative impact analyses. The comment also states that because the applicant for the proposed Project also proposes to construct another project called the Suisun Logistics Center, that second project should have been included in the proposed Project's cumulative impact analysis.*

Response: As stated in Draft EIR Chapter 5, “Cumulative Impacts,” on pages 5-1 and 5-2, “The cumulative analysis for this EIR primarily uses the plan method. The relevant plans that inform the cumulative context with regard to planned development include the buildout of the City of Suisun City General Plan and City of Fairfield General Plan. More focused consideration of Project-specific cumulative projects also taken into consideration, as appropriate to inform the cumulative context in this EIR, include contemplation of development of the adjacent light industrial/warehousing area in the City of Fairfield and in the County that would occur west of the proposed Project Site, as well as consideration of the proposed Suisun Logistics Center in unincorporated Solano County within the eastern boundary of the City of Suisun City Sphere of Influence.” (Emphasis added.) The commenter’s disagreement with the State CEQA Guidelines Section 15130(b)(1) is noted. No changes to the Draft EIR are required.

Comment IO7-23 *Summary of Comment:* *The comment cites to the State CEQA Guidelines Section 15130(c), and requests that Suisun City adopt an ordinance based on the "Warehouse Actions and Investments to Reduce Emissions" (WAIRE) Program that was adopted in 2021 by California's South Coast Air Quality Management District to reduce the cumulative impacts of logistics centers in the City.*

Response: In preparing the Draft EIR, the City considered all potentially feasible mitigation measures to address potentially significant effects associated with the proposed Project, and imposed all feasible mitigation as a part of the Draft EIR. The City focused on potentially feasible mitigation measures that would be enforceable and effective in addressing potentially significant air pollutant emissions effects for the specific type of project proposed here. Both project-direct and cumulative air quality effects are comprehensively addressed in the Draft EIR – please see in particular Draft EIR pages 4.1-16 through 4.2-43 and page 5-5.

The referenced South Coast Air Quality Management Warehouse Actions and Investments to Reduce Emissions (WAIRE) program identifies actions related to low-emission trucks and yard equipment, installation of solar generation facilities, purchase of high-efficiency particle filtration equipment, and payment of fees under that program – to the extent that any of these actions could represent feasible mitigation to address a potentially significant impact attributable to the proposed Project, these actions are imposed as mitigation in the Draft EIR. The City also considered and has imposed mitigation beyond that summarized as a part of the WAIRE program. Mitigation Measure 4.2-1a requires fugitive dust control during construction. Mitigation Measure 4.2-1b requires exhaust control measures during construction. Mitigation Measure 4.2-1d requires travel demand management during operations to reduce vehicular trips and Mitigation Measure 4.2-1e requires installation of electric vehicle (EV) capable parking, including the installation of the enclosed conduit that forms the physical pathway for electrical wiring and adequate panel capacity to accommodate future installation of a dedicated branch and charging stations(s). Mitigation Measure 4.2-1f requires electrification of yard all yard equipment and similar on-site off-road equipment, such as forklifts. Mitigation Measure 4.2-1g requires that all transportation refrigeration units are electric or alternative zero-emissions technology, such as hydrogen fuel cell transport refrigeration and cryogenic transport refrigeration. Mitigation Measure 4.2-1h prohibits idling of all visiting gasoline- or diesel-powered trucks for longer than two minutes. Mitigation Measure 4.2-1i requires all gasoline- or

diesel-powered vehicles with a gross vehicle to have a model year dated no older than 2014. Mitigation Measure 4.2-1 requires diesel backup generators and fire pumps to meet or exceed the relatively newer and cleaner Tier 4 emission standards. As described on pages 4.2-29 through 4.2-33, mitigation imposed in the Draft EIR will reduce potentially significant effects during construction and operational phases and project-direct and cumulative criteria air pollutant emissions effects during construction would be less than significant with mitigation, while operational criteria air pollutant emissions effects would be significant and unavoidable. In addition, using conservative methodology, the Draft EIR presents a detailed analysis of potential impacts related to exposure of sensitive receptors to substantial pollutant concentrations – this analysis finds that, with the implementation of Mitigation Measures 4.2-1a through 4.2-1j, proposed construction and operational activities would not expose sensitive receptors to substantial pollutant concentrations and the impact would be less than significant with mitigation (Draft EIR, pages 4.2-33 through 4.2-42). Cumulative methods of analysis recommended by the Bay Area Quality Management District were employed by the City in the Draft EIR, as well, finding that for the maximally exposed individual, the aggregation of health impacts from the proposed Project sources and existing sources, the cumulative impact is less than cumulatively considerable with mitigation (Draft EIR, page 5-5).

Regarding the commenter’s suggestion that the City should consider adopting an ordinance or ordinances modeled on the program implemented by the South Coast Air Quality Management District, the City applies its own policies and programs to proposed development within Suisun City. Specifically, as it relates to air quality, the City implements Policies T-3.1, Policy T-3.6, Policy PHS-3.1, Policy PHS-3.2, Policy PHS-3.3, Policy PHS-3.4, as applicable, within the context of proposed projects, and incorporates General Plan Programs PHS-3.1, Program PHS-3.2, and Program PHS-3.3, among other strategies, into project conditions, project environmental analysis, and mitigation, as applicable (Draft EIR, page 4.2-14 and 4.2-16).

Comment IO7-24 *Summary of Comment: The comment states that for all reasons listed in its detailed comments, the Solano OGC believes the DEIR is inadequate, requires significant additional information and analyses, and should be recirculated for public review and comment.*

Response: For the reasons set forth in responses to comments IO7-1 through IO7-23, the Draft EIR is adequate, does not require significant additional information or analyses, and therefore no recirculation is required.

Comment IO7-25 *Summary of Comment: The comment restates the same concerns expressed in comments IO7-1 and IO7-2.*

Response: Please see Responses to Comments IO7-1 and IO7-2.

2.2.16 Comment LETTER #IO8:

ZEISS, MICHAEL

Letter IO8

From: [Mike Z](#)
To: [Jim Bermudez](#); [John Kearns](#)
Subject: Question about annexation for Hwy12 LogCtr
Date: Monday, October 9, 2023 5:51:39 AM
Attachments: [No-mans-land EIR Hwy12 LogCtr.pdf](#)

Jim and John,

I'm writing to ask a clarification question about the proposed annexation for the Highway 12 Logistics Center.

The question is, where is the eastern border of City of Fairfield? Their online map makes it look like Fairfield's city limit already extends onto the eastern bank of Ledgewood Creek. But the map isn't detailed enough for me to be sure.

For more details, please see the attached page of my draft letter. The documents cited in the footnotes are available at: <https://www.suisun.com/Departments/Development-Services/Planning/Environmental-Documents>

Thanks for your help, and regards,

Mike Zeiss
Suisun City resident

P.S. One "in the weeds" detail: the EIR makes it sound as if Suisun's annexation will stop at the fence that will be erected to protect riparian vegetation. The problem is, that fence is not likely to follow the boundary of Fairfield's city limit. Instead, "The western boundary of the proposed Development Area of the Project Site and the permanent fence line adjacent to Ledgewood Creek shall be set back a minimum of 50 feet from the top of the bank **or the outside edge of riparian vegetation, whichever distance is greater.**" As a tree-hugger, I'm happy that the fence will wander around as needed to protect the vegetation. But LAFCO probably won't want our city limits wandering around like that. Instead, the language for the annexation, per se, probably should echo whatever language Fairfield used to define its eastern border.

IO8-1

IO8-2

DRAFT version 8 October 2023

1.2 Project Summary [within the Executive Summary, page 1-1]

The Executive Summary incorrectly states:

“The Project Site is bordered by ... a drainage channel and warehouse development to the west”.

The phrase “a drainage channel” should be replaced with “Ledgewood Creek and adjacent riparian habitat”. The ecological and aesthetic values of Ledgewood Creek are clearly explained elsewhere in the document (e.g., pages 1-24 and 3-1). Therefore, it is misleading to readers to refer to a “drainage channel” in this initial summary.

IO8-3

3.2.1 Proposed Land Use [page 3-6]

The draft EIR should be amended to state explicitly whether the western limit of the proposed annexation area is contiguous with the eastern limit of the City of Fairfield.

Clarification is essential to avoid ambiguity about jurisdictions for future law enforcement, fire-fighting, and assistance to homeless individuals. The proposed annexation must avoid leaving a narrow, “no-man’s land” strip of unincorporated Solano County along Ledgewood Creek.

IO8-4

Ledgewood Creek itself is not part of the project site¹. The proposed annexation area extends westward only to the edge of a 50-foot buffer² along the eastern bank of Ledgewood Creek (Exhibit 3-4). That is not a problem provided that all lands west of the annexation area already lie within City of Fairfield limits. Fairfield’s General Plan Land Use Diagram³ seems to indicate that Fairfield city limits extend onto the eastern bank of Ledgewood Creek. However, the online map is not sufficiently precise to indicate whether or not the proposed 50-foot buffer along the eastern bank of Ledgewood Creek already is under the jurisdiction of Fairfield.

IO8-5

If needed, the proposed annexation area should be extended westward in order to be contiguous with City of Fairfield’s eastern limit.

4.2 Air quality

Source of impact: vehicles operated by tenants or their suppliers and contractors, such as semi trucks used to transport products (aka “mobile sources”).

Mitigation measures currently proposed in the draft EIR:

IO8-6

¹ Page 8 of Attachment 7 within Appendix C, “Biological Resources”.

² Mitigation Measure 4.3-16b, Riparian Corridor Protection Zone, states in part: “The western boundary of the proposed Development Area of the Project Site and the permanent fence line adjacent to Ledgewood Creek shall be set back a minimum of 50 feet from the top of the bank or the outside edge of riparian vegetation, whichever distance is greater.”

³ City of Fairfield General Plan Land Use Diagram is available at: <https://www.fairfield.ca.gov/home/showdocument?id=6100&t=637733210459644029>

4.2-1g: Electrification of Transportation Refrigeration Units

“The Project applicant shall require that all transportation refrigeration units operating on the Project Site be electric or alternative zero-emissions technology ...”

IO8-6
Cont.

4.2-1h: Prohibition of Truck Idling for More than Two Minutes

“The Project applicant shall require that onsite idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes ...”

4.2-1i: Limitation of Model Year of Visiting Trucks

“The Project applicant shall require that lease agreements stipulate that any gasoline- or diesel-powered vehicle, whether owned [or operated] ⁴ by tenant(s), that enters or operates on the Project Site and has a gross vehicle weight rating greater than 14,000 pounds, have a model year dated no older than model year 2014.”

The draft EIR admits that, even after implementing those mitigation measures, emissions of organic gases that form ozone would still, “exceed the BAAQMD thresholds of significance and Project operations could conflict with or obstruct implementation of the 2017 Bay Area Clean Air Plan” [page 4.2-29]. In short, those mitigation measures are inadequate to protect Suisun residents.

Recommended improvements: *[for convenience, recommended text is summarized on the following page]*

IO8-7

- 1) Replace the model-year requirement in 4.2-1i with a more effective measure.** The existing measure would allow diesel trucks that are 10 years old in 2024, and even older in future years. Perhaps better than nothing, but inadequate to protect Suisun residents. Instead, we recommend requiring that *tenants shall choose contractors and suppliers that operate fleets consisting of at least 50% zero-emissions vehicles, such as electric vehicles.*

Many logistics-center tenants already are using such contractors. Both Walmart and Amazon have publicly committed to operate 100% zero-emission vehicles by 2040. Therefore, we recommend a single, straightforward measure for all tenants. However, if Suisun City would prefer to offer tenants a menu of options, we recommend creating mitigation measures modeled on the “Warehouse Actions and Investments to Reduce Emissions” (WAIRE) Program⁵ that was adopted in 2021 by California’s South Coast Air Quality Management District. Either option is preferable to the inadequate model-year requirement proposed in the draft EIR.

- 2) Improve enforceability of 4.2-1g and 4.2-1h by adding the phrase “lease agreements stipulate that”.** In other words, use the same wording that was used in 4.2-1i. The Project applicant will not be standing at the entrance gate inspecting trucks. Instead, the only mechanism the Project applicant can use to enforce these mitigation measures is to include them in the lease agreements for each building occupant.

IO8-8

- 3) Improve enforceability of all three measures by including a requirement for submission of documentation.** Merely signing a lease agreement is not sufficient protection for Suisun residents. Instead, to each of the three measures, add the following requirement:

IO8-9

⁴ In Mitigation Measure 4.2-1i the phrase “or operated” is missing, though it is present in the identical measure 4.6-11. Regardless, we recommend requiring that both measures apply to all vehicles at the site, regardless of who owns or operates the vehicles.

⁵ For tenants unable or unwilling to use zero-emission vehicles, WAIRE offers alternatives including paying to install air filters in local homes, schools and hospitals or paying a fee if not in compliance. To see the mitigation measures required by the WAIRE Program, visit <http://www.aqmd.gov/home/rules-compliance/compliance/waire-program> and the links posted there.

“Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.”

IO8-9
Cont.

Note that a comparable requirement for documentation already has been included within Mitigation Measure 4.2-1f (for electrified yard equipment). For vehicles, an example of suitable documentation would be certification that the building occupant has selected contractors whose fleets are (for example) 100% equipped with electrified refrigeration units, thereby complying with Mitigation Measure 4.2-1g.

Summary of recommended text within 4.2 Air Quality:

4.2-1g: Electrification of Transportation Refrigeration Units

The Project applicant shall require that **lease agreements stipulate that** all transportation refrigeration units operating on the Project Site be electric or alternative zero-emissions technology, including hydrogen fuel cell transport refrigeration and cryogenic transport refrigeration, to reduce emissions of NOX without substantially increasing other emissions. The Project design shall also include necessary infrastructure; for example, requiring all dock doors serving transportation refrigeration units to be equipped with charging infrastructure to accommodate the necessary plug-in requirements for electric transportation refrigeration units while docked or otherwise idling, as well as the electrical capacity to support the on-site power demand associated with electric transportation refrigeration unit charging requirements. **Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.**

4.2-1h: Prohibition of Truck Idling for More than Two Minutes

The Project applicant shall require that **lease agreements stipulate that** onsite idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes, and that appropriate signage and training for on-site workers and truck drivers be provided to support effective implementation of this limit. **Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.**

4.2-1i: **Fleet Requirement for Visiting Trucks** ~~Limitation of Model Year of Visiting Trucks~~

The Project applicant shall require that lease agreements stipulate that, for any contract established by a building occupant that includes visits to the Project Site by vehicles having a gross vehicle weight rating greater than 14,000 pounds, the building occupant shall certify that the other party in the contract will use a vehicle fleet that consists of at least 50% zero emission vehicles. Prior to the issuance of an occupancy permit, the Project applicant shall provide the City with documentation, to the City’s satisfaction, demonstrating that the building occupant shall comply with this measure.

IO8-10

4.3 Biological Resources

IO8-11

The *Mitigation and Monitoring Plan*⁶ is based on a faulty concept of mitigation. It should be rejected and replaced.

The draft EIR correctly identifies many rare species and vegetation communities⁷ that would be destroyed by the proposed project. These include vernal pools and alkali seasonal wetlands. The identified impacts are probably underestimates, because some key benchmark surveys were conducted during a historic drought⁸, when wetland species are quiescent and hard to detect. Nonetheless, the draft EIR makes clear that impacts would be significant.

A standard approach to mitigation would be for the Project applicant to protect comparable acreages of existing, healthy vegetation communities located on other properties. Instead, the *Mitigation and Monitoring Plan* proposes a risky and untested effort to create new plant communities on land where they do not currently exist. Not coincidentally, the property proposed for those new plantings - - located south of Cordelia Road - - is already owned by the Project applicant, Buzz Oates Construction⁹. More importantly, the property proposed for the new plantings *is permanently under the jurisdiction of, and permanently protected by, the Suisun Marsh Protection Plan*¹⁰. The reason is, the property proposed for the new plantings already has its own wetland communities that are recognized as making important contributions to the health of Suisun Marsh.

There are at least three fundamental problems with this so-called mitigation:

IO8-12

1) It is unlikely to succeed. Anyone who has tried to establish plants in their own yard, or has tried to maintain an aquarium, understands that plants and aquatic animals have very specific ecological requirements. The reason why certain rare plants and vegetation communities do not exist south of Cordelia Road is because conditions there are not suitable for them. It would be a dangerous precedent to grant mitigation credit for a speculative effort to create new ecological communities that are unlikely to survive.

2) It would cause new damage, in addition to the damage caused by the actual logistics center. As already mentioned, the property south of Cordelia Road currently has thriving wetland communities that are contributing to the health of Suisun Marsh. Efforts to “improve” that property will unavoidably damage what is already growing there.

IO8-13

⁶ The *Mitigation and Monitoring Plan* is Attachment 7 within Appendix C, “Biological Resources”.

⁷ “Vegetation communities are assemblages of plant species growing in an area of similar biological and environmental factors.” Source of definition: page 5 of the *Mitigation and Monitoring Plan*.

⁸ The 2021 and 2022 surveys, described on pages 9-10 of the *Mitigation and Monitoring Plan*.

⁹ “The Permittee Responsible Mitigation (PRM) site is within the 393.24 acre Managed Open Space area. ... The landowner, Buzz Oats [sic] Construction, Inc., will place a deed restriction or conservation easement over the entire 393.24 acre Managed Open Space ... For purposes of this management plan, the Landowner [Buzz Oates] is responsible for land management, compliance, and funding activities.” [page 4 within Attachment 7 of Appendix C, “Biological Resources”].

¹⁰ “The southern portion of the Project Site is within the Primary Management Area of the Suisun Marsh Protection Plan and a small portion of the southwestern extremity of the Project Site is within the Secondary Management Area of the Suisun Marsh Protection Plan. As shown in **Exhibit 3-3**, all portions of the Project Site that are in the ... Suisun Marsh Protection Plan ... are proposed as Managed Open Space as a part of the project.” [page 3-4]

3) **It seeks credit for protecting land that already is protected.** The draft EIR magnanimously promises, “The Managed Open Space area would be protected in perpetuity with a deed restriction or conservation easement” [page 1-2]. However, this is a moot point, because nearly all¹¹ of the land south of Cordelia Road already is protected in perpetuity by the Suisun Marsh Protection Plan¹².

IO8-14

For all of these reasons, the *Mitigation and Monitoring Plan* should be rejected. It should be replaced by reliable protection of existing ecological communities, on land that is not currently protected.

IO8-15

Vernal pool flowers on the Project site, May 2023.



¹¹ Specifically, 84% of the acreage within the proposed Managed Open Space is protected by the Suisun Marsh Protection Plan. See Table 1 on page 2 of the Mitigation and Monitoring Plan (Attachment 7 within Appendix C, “Biological Resources”).

¹² The Suisun Marsh Protection Plan was enacted by the California Legislature in 1974. For details about the protections it provides, visit: <https://suisunrcd.org/wp-content/uploads/2018/01/Suisun-Marsh-Plan.pdf>

4.6 Greenhouse gas emissions

IO8-16

Mitigation measures currently proposed in the draft EIR:

These are identical to three measures proposed under 4.2 Air Quality:

4.6-1j: Electrification of Transportation Refrigeration Units

“The Project applicant shall require that all transportation refrigeration units operating on the Project Site be electric or alternative zero-emissions technology ...”

4.6-1k: Prohibition of Truck Idling for More than Two Minutes

“The Project applicant shall require that onsite idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes ...”

4.6-1l: Limitation of Model Year of Visiting Trucks

“The Project applicant shall require that lease agreements stipulate that any gasoline- or diesel-powered vehicle, whether owned or operated by tenant(s), that enters or operates on the Project Site and has a gross vehicle weight rating greater than 14,000 pounds, have a model year dated no older than model year 2014.”

Recommended improvements:

The same recommendations already provided for the identical three mitigation measures listed under 4.2 Air Quality, namely:

4.2-1g

4.2-1h

4.2-1i

4.9.3 Conflict with Existing Zoning for an Agricultural Use [page 4.9-11]

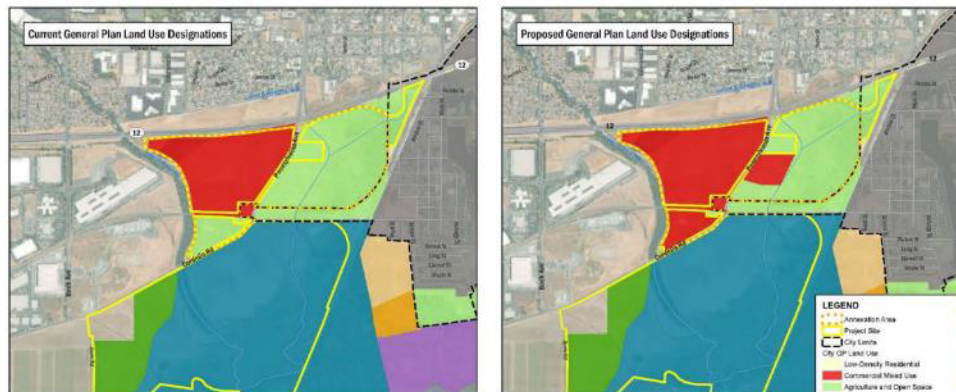
The draft EIR offers a confusing, legalistic interpretation in order to conclude that no impact would occur with regards to land zoned for agriculture. However, this is only because the project proposes to annex, and then re-zone, land that currently is zoned for agricultural use.

The draft EIR correctly explains that:

- “The Project Site is currently agricultural grazing land and undeveloped open space. Cattle graze throughout the northern portion of the Project Site” [page 3-4]
- “The northern portion of the Development Area [the portion north of Cordelia Road] is zoned by Solano County as Exclusive Agriculture 40 Acres (A-40).” [page 4.9-11]
- The purpose of A-40 zoning is, “to preserve agriculture, including allowing agricultural-related support uses, excluding incompatible uses, and protecting the viability of the family farm.” [page 4.9-2]

Moreover, Exhibit 3-5 clearly shows that the project will result in a net reduction in land zoned for agriculture. See the extract presented below. For all these reasons, **we call on Suisun City to require revision of this section of the draft EIR. The loss of land zoned for agriculture should be quantified, and an appropriate Mitigation Measure imposed**, such as protecting an equivalent or greater quantity of agricultural land via deed restriction or conservation easement to be held by an accredited land trust.

Extract of Exhibit 3-5 [page 3-8], showing loss of land zoned for agriculture (pale green).



4.1-2 Degradation of Visual Character or Quality [page 4.1-21]

IO8-18

Additional exhibits are needed to better illustrate the project’s visual appearance during the years required for landscaping to mature. At present, all exhibits of the visual appearance (Exhibits 4.1-3 through 4.1-7) feature mature landscaping, including majestic trees arching above the warehouses. Perhaps that may eventually come to pass. However, regarding timing, the design guidelines specify only that, “Landscapes should be designed to reach a reasonable level of maturity within five years.” Therefore, **we recommend adding exhibits to illustrate the expected visual appearance at 1, 5, and 10 years after construction begins.**

In addition, a Mitigation Measure is needed to give Suisun City authority to benchmark the landscaping performance at those time intervals. Suisun City planning staff should visit the Project site and verify whether plants’ health and size is comparable to what the Project applicant forecast. If actual landscape appearance is substantially worse than forecast, then the project Applicant should be required to install additional plants or take other steps to correct the shortcoming.

IO8-19

4.12 Transportation and Circulation

IO8-20

The draft EIR should explicitly state a time-bound commitment by City of Suisun City to construct an improved bikeway between Pennsylvania Avenue and Suisun’s Waterfront Path. To reduce vehicle miles traveled by employees, the draft EIR requires the Project applicant to develop a Transportation Demand Management (TDM) Plan¹³. The draft EIR recommends¹⁴ that the TDM Plan actively encourage employees to commute by bicycle, by having the Project applicant construct “end-of-trip bicycle facilities” such as bike lockers, showers, and personal lockers. In addition, the draft EIR requires the Project applicant to construct delineated bikeways, though only along the actual frontage of the project site¹⁵.

In general, we support amenities and policies that encourage bicycle commuting. However, **at present it is unsafe to commute by bicycle along the most direct route to the project site, namely Cordelia Street.** Cordelia Street lacks any delineated bikeway, and much of Cordelia Street has a paved shoulder that is too narrow for safe bicycle travel.

The draft EIR includes a vague statement that, “The Suisun City and Fairfield Active Transportation Plans propose to build bicycle facilities that directly connect to the Project Site frontages at ... Cordelia Street between Pennsylvania Avenue and Waterfront Path” [page 4.12-21]. Similarly, Exhibit 4.12-4 shows that particular bikeway as merely a “proposed” Class 3 bicycle route. **Those vague “proposals” should be replaced by a specific commitment to construct this bikeway no later than 1 year after project construction begins.** Unless Suisun

¹³ Mitigation Measure 4.12-1 required in part, “Prior to issuance of building permits, the Project applicant shall develop a TDM Plan for the proposed Project, including any anticipated phasing, and shall submit the TDM Plan to the City for review and approval.”

¹⁴ Recommended elements for the TMD Plan for this project are listed in Table 4.12-3.

¹⁵ Mitigation Measure 4.12-3 includes, “Continuous bicycle facilities of at least four feet at the Project Site frontages along both sides of Cordelia Road and Pennsylvania Avenue with even surface pavement, appropriate signage, delineation, and other features to improve the bicycle transportation conditions.”

City makes this essential contribution, it is dangerous and counter-productive to encourage bicycle commuting.

Y
IO8-20
Cont.

5.3.2 Cumulative impacts – Air Quality [page 5-5]

The draft EIR correctly states:

“Regional air quality effects are inherently cumulative in nature. The nonattainment status of regional pollutants results from multiple sources in the air basin, both past and present.” [page 5-5]

IO8-21

Unfortunately, the analysis of cumulative impacts for cancer-causing airborne particles¹⁶ apparently only considered health impacts from the proposed Highway 12 Logistics Center plus existing sources [page 5-5, and page 47 of Appendix B]. In other words, there is no indication that the cumulative analysis for air quality included likely future pollution from a second, massive warehouse project: Suisun Logistics Center, planned for the eastern border of Suisun City.

The draft EIR correctly states [page 5-1] that CEQA recognizes both the list method, and the plan method, as two alternative methods for establishing the cumulative environment in which a proposed project is to be considered. Regardless of the methodology chosen, we have repeatedly called to Suisun City’s attention the need for a region-wide, cumulative approach to planning. Analyzing projects individually will always underestimate the impacts of development, especially impacts on air quality and traffic. It is simply irresponsible to fail to analyze the cumulative impacts of all future projects known to be in the development pipeline.

IO8-22

Buzz Oates Construction is the applicant for both projects: Highway 12 Logistics Center, and Suisun Logistics Center.¹⁷ Therefore, **Suisun City should require Buzz Oates to fund a combined, cumulative analysis of both projects. If the cumulative impact is significant, then mitigation for the current project should explicitly be designed to help address that cumulative impact.**

In addition, we call Suisun City’s attention to the following recommendation from California Association of Environmental Professionals:

IO8-23
↓

¹⁶ The cumulative air quality analysis for PM2.5 concentrations and excess cancer risk is discussed in Section 5.3 of Appendix B.

¹⁷ Suisun City staff stated that Buzz Oates was the applicant for both projects during the December 20, 2022 meeting of Suisun City Council. Though the minutes do not include the applicant’s name, the minutes are available at: <https://www.suisun.com/files/sharedassets/suisuncity/v/1/government/clerk/agenda-archive/2023-city-council/2023-01-17-agenda-packet.pdf> In addition, during 2022 Buzz Oates hosted several “Good Neighbor” meetings for both projects, including: https://www.suisun.com/files/sharedassets/suisuncity/v/1/government/documents/highway_12_and_suisun_logistics_good_neighbor_meeting.pdf

“With some projects, the only feasible mitigation for cumulative impacts may involve the adoption of ordinances or regulations rather than the imposition of conditions on a project-by-project basis.”¹⁸

Y
IO8-23
Cont.
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|
|

Regarding cumulative impact of logistics centers, we encourage Suisun City’s planning commissioners and staff to consider creating ordinances modeled on the “Warehouse Actions and Investments to Reduce Emissions” (WAIRE) Program¹⁹ that was adopted in 2021 by California’s South Coast Air Quality Management District.

For all the reasons presented herein, Orderly Growth Committee concludes that the draft EIR is inadequate and requires significant additional information and additional analyses.

IO8-24
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|
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Once the Project applicant has incorporated the necessary new information and analyses that we are recommending, we request that the revised draft EIR be re-circulated for public review and comment.

If desired, representatives of Orderly Growth Committee would be happy to meet with the Project applicant and City of Suisun City staff to discuss our recommendations.

Yours sincerely,

Michael Zeiss, resident of Suisun City
for Solano County Orderly Growth Committee

¹⁸ Source of quote: *2023 California Environmental Quality Act Statute and Guidelines*, p. 232. Available at: https://www.califaep.org/docs/CEQA_Handbook_2023_final.pdf

¹⁹ For information on the mitigation measures required by the WAIRE Program, visit <http://www.aqmd.gov/home/rules-compliance/compliance/waire-program> and the links posted there.

Gerken, Matthew

From: Mike Z <michaelzeiss@hotmail.com>
Sent: Saturday, October 14, 2023 4:31 PM
To: Jim Bermudez
Cc: John Kearns
Subject: Hwy12 Logistics Center EIR comments
Attachments: Comments EIR Hwy12 LogCtr OGC 2023-10-14.pdf

Dear Mr. Bermudez:

On behalf of Solano County Orderly Growth Committee, I am writing to provide comments on the draft Environmental Impact Report for the Highway 12 Logistics Center (“draft EIR”), as posted on the following website: <https://www.suisun.com/Departments/Development-Services/Planning/Environmental-Documents>

108-25

Based on our review, Orderly Growth Committee concludes that the draft EIR is inadequate and requires significant additional information and additional analyses. As currently written, the draft EIR would allow at least six broad categories of impacts to remain “significant and unavoidable” even after implementation of the Mitigation Measures that it sets forth. We are particularly concerned about inadequately-mitigated impacts to biological resources and agricultural land, and cumulative impacts to air quality.

Please see the attached PDF file for our full recommendations.

Once the Project applicant has incorporated the necessary new information and analyses that we are recommending, we request that the revised draft EIR be re-circulated for public review and comment.

If desired, representatives of Orderly Growth Committee would be happy to meet with the Project applicant and City of Suisun City staff to discuss our recommendations.

Yours sincerely,

Michael Zeiss, resident of Suisun City
for Solano County Orderly Growth Committee

RESPONSE TO COMMENT LETTER #IO8

Comment IO8-1 *Summary of Comment: The commenter requests clarification as to location of the eastern boundary of the City of Fairfield.*

Response: This comment does not pertain to the adequacy of the environmental analysis contained in the Draft EIR; nevertheless, the City responds as follows. With regard to jurisdictional boundaries, the precise area annexed into the City of Suisun, accounting for the existing jurisdictional boundaries of the City of Fairfield would be subject to review and approval by the Solano Local Agency Formation Commission (LAFCO).

Comment IO8-2 *Summary of Comment: The commenter suggests that the annexation area extend to the boundary of Fairfield's city limits, and not be limited by the proposed Project fence line set back a minimum of 50 feet from Ledgewood Creek.*

Response: See Response to Comment IO7-6.

Comment IO8-3 through IO8-25

Summary of Comment: The commenter letter includes what appears to be the draft comment letter on behalf of the Solano County Orderly Growth Committee.

Response: The comments contained in this letter were submitted on October 14, 2023 and are identified in this Final EIR as Comment Letter IO7. Please see Responses to Comments IO7-1 through IO7-25.

3 ERRATA

This chapter identifies revisions to the Draft Environmental Impact Report (Draft EIR). The changes are presented in the order in which they appear and identified by page number. Text deletions are shown in ~~strikeout~~ and additions are underlined. These edits provide clarifications or additional supportive information and do not change the analysis or conclusions of the Draft EIR.

3.1 CHAPTER 1, EXECUTIVE SUMMARY

3.1.1 REVISION TO PROJECT LOCATION DESCRIPTION

DRAFT EIR, PAGE 1-1:

The discussion of the project location is revised to specify that Ledgewood Creek is the drainage channel bordering the project site to the west.

1.2.1 PROJECT LOCATION

The proposed project site consists of approximately 487 acres of land area, which is primarily in unincorporated Solano County, California, west of the city of Suisun City (Suisun City or City) with an approximately 4.5-acre site within the existing City jurisdiction. Suisun City is in central Solano County, southwest of the city of Fairfield, and is situated along State Route 12 (SR 12), just west of the intersection with Interstate 80, centrally located between the San Francisco Bay Area and Sacramento Valley. The project site is bordered by SR 12 to the north, ~~a drainage channel~~ Ledgewood Creek and warehouse development to the west, the Union Pacific Railroad to the east, and Suisun Marsh to the south.

3.2 CHAPTER 3, PROJECT DESCRIPTION

3.2.1 REVISIONS TO WASTEWATER COLLECTION AND TREATMENT DESCRIPTION

DRAFT EIR PAGE 3-22:

The wastewater collection and treatment discussion in the Project Description has been revised to clarify that the project would be served by the Fairfield-Suisun Sewer District (FSSD), rather than annexed to the District. Additionally, the discussion has been revised to remove the statement that sewer facilities upstream of Cordelia Street and Beck Road are owned or operated by FSSD.

Wastewater Collection and Treatment

The Project Site ~~is not currently within, but is proposed to be annexed to~~ would be served by the Fairfield-Suisun Sewer District. The proposed wastewater system includes the on-site private sewer pipe system, one on-site private pump station, and an off-site public combination force main and gravity line in Cordelia Road right-of-way.

The proposed on-site sewer system serving Planning Areas 1 and 2 would be designed using a gravity-fed system. The general pattern of sewer discharge will be from north to south. The sewer service from Planning Area 3 will be brought cross Pennsylvania Avenue, at a depth of 9 to 12 feet, and combine with the Planning Area 1 sewer system via gravity line. The combined Planning Area 1 and 3 on-site sewer mains will then cross under the California Northern Railroad tracks and right-of-way and combine with the Planning Area 3 on-site sewer line until it reaches Cordelia Road at the southwest corner of Planning Area 2 frontage. At this location, an on-site private sewer lift station will be constructed, at a depth of 24 to 30 feet, to pump sewer flows via an

off-site force main and gravity sewer line in Cordelia Road, at a depth of 9 to 15 feet, 6 feet south of the centerline within the paved area of the road, to the intersection with Beck Avenue, approximately 2,700 feet west, at which location the 10-inch wastewater line will tie into ~~the Fairfield-Suisun Sewer District existing sewer facilities~~ at an existing sanitary sewer manhole and 15-inch sewer main ~~owned and operated by the Fairfield-Suisun Sewer District~~ (Exhibit 3-8). A force main would be attached to the side of the existing Ledgewood Creek bridge in order to convey sewer flows from the Project pump station to the west side of Ledgewood Creek; the Project applicant would coordinate with Solano County, as the owner of the bridge.

3.2.2 REVISIONS TO RESPONSIBLE AGENCIES FOR REQUIRED PROJECT APPROVALS

DRAFT EIR PAGE 3-24:

The Required Project Approvals section in the Project Description has been revised to clarify the role of the Fairfield-Suisun Sewer District related to CEQA Responsible Agencies.

- Fairfield-Suisun Sewer District – ~~Annexation into the District~~ approval of proposed sewer facilities

3.3 CHAPTER 4, ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION MEASURES

3.3.1 DRAFT EIR SECTION 4.1, AESTHETICS

DRAFT EIR, PAGES 4.1-31 AND 4.1-32:

Mitigation Measures 4.1-3 is revised to clarify the circumstances under which certain requirements of the exterior lighting plan may be infeasible or impractical.

Mitigation Measure 4.1-3: Prepare an Exterior Lighting Plan Including an Off-Site Photometric Analysis

The Project applicant or contractor(s) shall prepare and submit to the City Planning Division for review and approval, an Exterior Lighting Plan, which shall present the size, orientation, location, height, and appearance of proposed fixtures (Suisun City Municipal Code Title 18, Chapter 18.76.030). Before issuing any occupancy permit, the City will review each site-specific lighting plan to ensure that it includes the following standards:

- Shield or screen all exterior lighting fixtures to direct the light downward and prevent light spill on adjacent properties.
- Place and shield or screen flood and area lighting needed for security so as not to disturb adjacent properties or passing motorists.
- Light fixtures that are of unusually high intensity or brightness (e.g., harsh mercury vapor, low-pressure sodium, or fluorescent bulbs) or that blink or flash, shall not be used. Light-emitting diode (LED) lighting shall be used, except in such cases that LED lighting cannot meet the requirements of the lighting purpose or is otherwise a safety hazard where feasible.
- Motion-controlled exterior nighttime lighting, rather than lighting that is always on, shall be used, unless in the case in which an alternative is required for security or other safety purposes where feasible.
- Based on an off-site photometric analysis, proposed on-site lighting fixtures shall be demonstrated to avoid spillage onto any property other than the boundaries for which lighting is intended.

3.3.2 DRAFT EIR SECTION 4.2, AIR QUALITY

DRAFT EIR, PAGES 4.2-26 AND 4.2-27:

Mitigation Measure 4.2-1a is revised to clarify the potential occurrence of on-site inspections.

Mitigation Measure 4.2-1a: Implement BAAQMD Basic Best Management Practices for Construction-Related Fugitive Dust Emissions

The Project applicant shall require all construction contractors to implement the basic construction best management practices recommended by BAAQMD for construction-related fugitive dust. Emission reduction measures shall include, at a minimum, the following measures. Additional measures may be identified by BAAQMD or contractor as appropriate. The Project applicant shall demonstrate to the City the inclusion of these measures through applicable provisions of construction contracts requiring the use of the BAAQMD basic construction best management practices for fugitive dust prior to the issuance of a grading permit. On-site inspection may occur at any time by the City to verify compliance with mitigation requirements.

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt trackout onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site.
- Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
- Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.

DRAFT EIR, PAGES 4.2-27 AND 4.2-28:

Mitigation Measure 4.2-1b is revised to clarify potential occurrence of on-site inspections add record keeping requirements for equipment and maintenance records and data sheets, as well as the circumstances under which electric tools would not meet project requirements.

Mitigation Measure 4.2-1b: Implement Construction Exhaust Emissions Control Measures

The Project applicant shall require that the construction contractor(s) comply with the following heavy-duty construction equipment exhaust emissions control measures. Prior to the issuance of grading permits for the Project, the Project applicant shall include all requirements in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant on- or off-road construction equipment for use prior to any ground-disturbing and construction activities. The Project applicant shall demonstrate to the City the inclusion of these measures through applicable provisions of construction contracts prior to the issuance of a grading permit. On-site inspection may occur at any time by the City to verify compliance with mitigation requirements.

- Use Tier 4 final certified engines for all on-site, diesel-powered construction equipment rated at equal to or greater than 50 horsepower.
- Prohibit the idling of construction equipment and trucks, if diesel-fueled, for more than two minutes. The Project applicant or construction contractor(s) shall provide appropriate signage onsite communicating this requirement to on-site equipment operators.
- Where grid power is available, prohibit portable diesel engines and provide electrical hook ups for electric construction tools, such as saws, drills and compressors, and using electric tools, unless such electric-powered tools would not meet the power or longevity requirements to achieve the construction task, or are otherwise infeasible due to site conditions such as wet or damp circumstances—whenever feasible.
- Where grid power is not available, use alternative fuels, such as propane or solar electrical power, for generators at construction sites.
- Use battery-powered equipment for all off-road construction equipment with a power rating below 19kW (e.g., plate compactors, pressure washers) during construction.
- Maintain all equipment and maintenance records and data sheets, including design specifications and emission control tier classifications, onsite and furnish to the lead agency or other regulators upon request.

DRAFT EIR, PAGE 4.2-28:

Mitigation Measure 4.2-1g is revised to require that the mitigation measure be stipulated in future tenant lease agreements and that tenants provide documentation to the City to demonstrate incorporation of the measure.

Mitigation Measure 4.2-1g: Electrification of Transportation Refrigeration Units

The Project applicant shall stipulate in tenant lease agreements that ~~require that~~ all transportation refrigeration units operating on the Project Site are required to be electric or alternative zero-emissions technology, including hydrogen fuel cell transport refrigeration and cryogenic transport refrigeration, to reduce emissions of NO_x without substantially increasing other emissions. The Project design shall also include necessary infrastructure; for example, requiring all dock doors serving transportation refrigeration units to be equipped with charging infrastructure to accommodate the necessary plug-in requirements for electric transportation refrigeration units while docked or otherwise idling, as well as the electrical capacity to support the on-site power demand associated with electric transportation refrigeration unit charging requirements. Future tenants must provide documentation to the City to demonstrate compliance with this measure.

DRAFT EIR, PAGE 4.2-29:

Mitigation Measure 4.2-1h is revised to more specifically detail the signage and training requirements contained in the mitigation measure. Revisions are also included to require the mitigation measure to be stipulated in future tenant lease agreements and to require that future tenants provide documentation to the City to demonstrate incorporation of the measure.

Mitigation Measure 4.2-1h: Prohibition of Truck Idling for More than Two Minutes

The Project applicant shall stipulate in tenant lease agreements ~~require~~ that onsite idling of all visiting gasoline- or diesel-powered trucks not exceed two minutes, and that appropriate signage and training for on-site workers and truck drivers be provided to support effective implementation of this limit. Signage shall include both interior-and exterior-facing signs, including signs directed at all dock and delivery areas, identifying idling restrictions and contact information to report violations to CARB, the air district, and the building manager. Facility operators shall train managers and employees on efficient scheduling and load management to eliminate unnecessary queuing and idling of trucks. Future tenants must provide documentation to the City to demonstrate compliance with this measure.

DRAFT EIR, PAGE 4.2-29:

Mitigation Measure 4.2-1i is revised to require future tenants to provide documentation to the City to demonstrate incorporation of the measure.

Mitigation Measure 4.2-1i: Limitation of Model Year of Visiting Trucks

The Project applicant shall require that lease agreements stipulate that any gasoline- or diesel-powered vehicle, whether owned by tenant(s), that enters or operates on the Project Site and has a gross vehicle weight rating greater than 14,000 pounds, have a model year dated no older than model year 2014. Future tenants must provide documentation to the City to demonstrate compliance with this measure.

DRAFT EIR, PAGE 4.2-29:

Mitigation Measure 4.2-1j is revised to clarify that the measure is applicable to all backup generator and fire pumps, regardless of fuel type, and to add language for preferred engine technology.

Mitigation Measure 4.2-1j: Diesel-Backup Generator and Fire Pump Specifications

The Project applicant shall ensure that the ~~diesel~~ backup generators and fire pumps utilize the best available control technology to minimize criteria air pollutant, diesel particulate matter, and greenhouse gas emissions. The preferred technology shall be non-diesel fueled units, should they meet the operational and safety requirements of the Project operations. Should diesel-powered engines be required, such units shall meet or exceed the air board's Tier 4 emission standards. Additionally, once operational, the diesel backup generators and fire pumps shall be maintained in good working order for the life of the equipment, and any future replacement of the equipment shall be required to be consistent with these emissions specifications. To ensure compliance with this measure, the Project applicant shall ensure that records of the testing schedule for the diesel backup generators and fire pumps are maintained for the life of the equipment and make these records available to the City upon request.

DRAFT EIR, PAGE 4.2-29:

The second impact statement for Chapter 4.2, "Air Quality," is revised to correct a typo error in the impact numbering.

Impact 4.32-2. Result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is in nonattainment under an applicable federal or state ambient air quality standard. *Emissions of criteria air pollutants and ozone precursors could exceed an ambient air quality standard or contribute substantially to an existing or predicted air quality exceedance. Therefore, this impact would be significant.*

DRAFT EIR, PAGE 4.2-33:

The third impact statement for Chapter 4.2, “Air Quality,” is revised to correct a typo error in the impact numbering.

Impact 4.32-3. Expose sensitive receptors to substantial pollutant concentrations. *This impact would be potentially significant.*

3.3.3 DRAFT EIR SECTION 4.3, BIOLOGICAL RESOURCES

DRAFT EIR, PAGE 4.3-6:

The regional setting is revised to clarify the role of the Fairfield-Suisun Sewer District related to creek management.

Ledgewood Creek was channelized by the U.S. Army Corps of Engineers for flood control ~~and is currently managed by the Fairfield-Suisun Sewer District for flood control~~ purposes.

DRAFT EIR, PAGES 4.3-71 THROUGH 4.3-94:

Mitigation Measures 4.3-8a, 4.3-9b, and 4.3-17e are revised and new Mitigation Measures 4.3-9c and 4.3-17f are added, as follows.

Mitigation Measure 4.3-8a is revised with wording modifications.

Mitigation Measure 4.3-8a: Preserve Swainson’s Hawk Foraging Habitat

To offset impacts to 92.0 acres of Swainson’s hawk foraging habitat, the Project applicant shall provide habitat preservation at a location that will provide foraging habitat value to Swainson’s hawks consistent with CDFW guidance as set forth in the 1994 Staff Report Regarding Mitigation for Impacts to Swainson’s Hawks in the Central Valley of California. CDFW 1994 guidance provides that mitigation lands should be provided if an active nest is located within a 10-mile radius of the Project Site, mitigation habitat value shall be equal to or higher than what currently occurs on the Project Site, and at a minimum of 1:1 ratio. Currently, the Project proposes 393.2 acres of Managed Open Space area, of which 205.4 acres consists of annual grasslands and seasonal wetlands considered suitable foraging habitat, shall be preserved and protected in perpetuity. ~~deed restriction or Acreage required to provide a 1:1 compensation acreage for Swainson’s hawk foraging habitat would be protected through a conservation easement; a deed restriction would be placed on the remainder of the Managed Open Space that prohibits development of, any resource extraction within, and public access to, and public use of the Managed Open Space area under the Project.~~ Furthermore, the Project proposes that the preserved Swainson’s hawk foraging habitat would be enhanced by grazing the Managed Open Space area to control the buildup of thatch.

If additional Swainson’s hawk foraging habitat mitigation is required by the 1994 CDFW guidance, the Project applicant shall purchase mitigation credits from an approved Swainson’s hawk mitigation bank which services the Project Site, or preserve suitable foraging habitat off-site at an approved CDFW location so as to satisfy the additional CDFW requirement to offset the permanent loss of foraging habitat.

Mitigation Measure 4.3-9b is revised to incorporate specific mitigation ratio requirements for impacted burrows.

Mitigation Measure 4.3-9b: Avoid Impacts to Occupied Burrows

If preconstruction surveys determine that burrowing owls occupy the Project Site during the non-breeding season (September 1 to January 31), occupied burrows shall be avoided by establishing a no-disturbance buffer zone in consultation with CDFW. During the non-breeding season, if a qualified raptor biologist determines in consultation with CDFW that an occupied burrow(s) may be impacted even with implementation of non-disturbance buffers, the Project applicant shall consult CDFW to determine if a passive relocation effort and implementation of a Burrowing Owl Exclusion Plan prepared in accordance with the CDFW guidelines (CDFG 2012) is appropriate to avoid impacts. Implementation of such a Burrowing Owl Exclusion Plan would likely require habitat mitigation consistent with the requirements of the 2012 CDFW Staff Report.

If burrowing owls are found to be present on the Project Site or off-site improvement areas during the breeding season (February 1 to August 31), the Project applicant shall consult CDFW and implement the ~~CDFW recommended~~ avoidance protocol recommended in the 2012 CDFG guidance (CDFG 2012) whereby occupied burrows will be avoided with a no-disturbance buffer during the breeding season.

At a minimum, impacts to each burrowing owl unoccupied breeding site (i.e., a burrow known to have been used in the past three years for breeding) shall be mitigated by creating one artificial burrow for every burrow impacted (1:1 ratio) in a location within the Managed Open Space area situated within a minimum of 6.5 acres of foraging habitat like the foraging habitat impacted. The same requirements (a 1:1 ratio) shall apply for impacts to non-breeding evicted burrowing owl sites. As an alternative, with the approval of CDFW, burrowing owl mitigation credits may be purchased at a CDFW approved mitigation bank.

A new Mitigation Measure 4.3-9c is added as an additional mitigation measure to mitigate potential impacts to burrowing owls.

Mitigation Measure 4.3-9c: Cap Pipe and Hose

To prevent burrowing owls from sheltering or nesting in exposed material, all construction pipes, culverts, hoses or similar materials greater than two inches in diameter stored at the Project site shall be capped or covered before the end of each work day and shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

The last paragraph of Mitigation Measure 4.3-17e is revised to include only a conservation easement as the site protection instrument.

Mitigation Measure 4.3-17e. Implement Mitigation and Monitoring Plan

...

In summary, the Mitigation and Monitoring Plan shall:

- Establish within the Managed Open Space a minimum of 16.33 acres of Seasonally Saturated Annual Grassland; 14.09 acres of Vernal Pools; 7.42 acres of Alkali Seasonal Wetlands; and 0.002 acre of Perennial Brackish Marsh.
- Provide financial assurances to ensure a high level of confidence that the Mitigation and Monitoring Plan will be successfully completed, in accordance with applicable performance standards.

- Design ecological performance standards to assess whether the Mitigation and Monitoring Plan is achieving the overall objectives, so that it can be objectively evaluated to determine if it is developing into the desired resource type, providing the expected conditions or function, and attaining any other applicable metrics such as acres, percent cover of native plants, structural patch richness, control of invasive plants, water depth etc.
- Monitor the site for a minimum of 10 years to determine if the Mitigation and Monitoring Plan is meeting the performance standards; and
- Assess the potential effects of changing weather patterns that are currently occurring, and that may occur due to climate change in the foreseeable future and how these changes may impact the long-term viability of the constructed wetlands. The purpose of this assessment is to locate and design the wetlands to avoid and minimize impacts from climate change and to develop adaptive management measures into the Mitigation and Monitoring Plan specifically to minimize these potential effects.

The Mitigation and Monitoring Plan shall include a conservation easement as the site protection instrument (e.g., deed restriction or conservation easement[s]) that will restrict use of the proposed Managed Open Space area of the Project Site in accordance with the acreages and ratios set forth by Mitigation Measures 4.3-1a, 4.3-1b, 4.3-1c, 4.3-2a, 4.3-3a, 4.3-5a, 4.3-8a, 4.3-9b, 4.3-13, and 4.3-17b to offset impacts to wetlands and impacts to rare plants and shall include a long-term endowment funded by the proposed Project; the balance of the Managed Open Space area shall be protected through a deed restriction that prohibits development of, any resource extraction within, and public access to, and public use of the Managed Open Space area. The combination of these preservation tools shall to manage the entire 393.2Managed Open Space area in perpetuity and in accordance with the Mitigation and Monitoring Plan's Long-Term Management Plan (see Property Analysis Record in the Mitigation and Monitoring Plan, in Appendix C to the Draft EIR).

A new Mitigation Measure 4.3-17f is added as an additional mitigation measure to reduce potential impacts to the slough containing perennial brackish marsh wetlands and potentially sensitive natural communities to less than significant and to comply with Fish and Game Code section 1600 et seq.

Mitigation Measure 4.3-17f. Lake and Streambed Alteration Notification:

The Project shall notify CDFW pursuant to Fish and Game Code section 1600 et seq. using the Environmental Permit Information Management System (see: <https://wildlife.ca.gov/Conservation/Environmental-Review/EPIMS>) for Project activities that may substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of any river, stream, or lake, and shall comply with the LSA Agreement, if issued.

3.3.4 DRAFT EIR SECTION 4.6, GREENHOUSE GAS AND ENERGY

DRAFT EIR, PAGE 4.6-23

Mitigation Measure 4.6-1a has been revised to clarify the circumstances under which electric tools would not meet project requirements.

Mitigation Measure 4.6-1a: Use Battery or Electric-powered Construction Equipment

The Project applicant shall require that construction contractor(s):

- Where grid power is available, prohibit portable diesel engines and provide electrical hook ups for electric construction tools, such as saws, drills and compressors, and using electric tools, unless such electric-powered tools would not meet the power or longevity requirements to achieve the construction

task, or are otherwise infeasible due to site conditions such as wet or damp circumstances—whenever feasible.

...

DRAFT EIR, PAGE 4.6-24

The title of Mitigation Measure 4.6-1f is revised to correct the numbering.

Mitigation Measure 4.67-1f: Source Electricity for Project Operations from a Power Mix that is 100 Percent Carbon-free.

DRAFT EIR, PAGE 4.6-27 AND 4.6-28

Table 4.6-4 is revised to reflect the mitigated visiting truck emissions, rather than unmitigated and to correct the employee commute operational GHG emissions 11.3-percent reduction in passenger vehicle VMT with mitigation rather than 15 percent. Based on the revisions to Table 4.6-4, as identified below, the estimated required credits required reduce the proposed Project’s annual amortized construction and operational emissions, after implementation of Mitigation Measures 4.6-1a through 4.6-1m, is also revised on Draft EIR page 4.6-26 to 224,734 MT CO_{2e} for the life of the Project.

Table 3.3-1. Mitigated Proposed Project GHG Efficiency in the Years 2026 and 2045

Proposed Project Emissions Source	Mitigated GHG Emissions in 2026 (MT CO_{2e})	Mitigated GHG Emissions in 2045 (MT CO_{2e})
Visiting Trucks	15,126	14,829
Worker Passenger Vehicles	<u>1,8971,980</u>	<u>1,4371,499</u>
Transportation Refrigeration Units	-	-
Electricity	-	-
Natural Gas	-	-
Fugitive Refrigerants	2,620	2,620
Yard Equipment (e.g., forklifts)	-	-
Stationary (e.g., backup generators and fire pumps)	16	16
Area Sources	6	6
Water Use	585	585
Waste Generation	375	375
Total Annual Operational Emissions	<u>207,707</u>	<u>19,929866</u>
Annual Construction Amortized over 30 years¹	84	84
Total Project Annual Emissions (Operational + Amortized Construction)	<u>207,791791</u>	<u>20,01319,950</u>
Proposed Project Service Population (Employees)	1,275	1,275

Proposed Project Emissions Source	Mitigated GHG Emissions in 2026 (MT CO ₂ e)	Mitigated GHG Emissions in 2045 (MT CO ₂ e)
Proposed Project GHG Efficiency (MT CO ₂ e per service population)	216.3180	15.7065
2030 GHG Efficiency Target (MT CO ₂ e per service population)	13.98	3.32
Project Consistent with GHG Efficiency Target?	No	No

Notes:

GHG = greenhouse gas emissions; MT CO₂e = metric tons of carbon dioxide equivalents

See Appendix B for detailed calculations and inputs.

¹ See **Error! Reference source not found.** for detailed construction emissions by year and total construction emissions.

3.3.5 DRAFT EIR SECTION 4.7, HAZARDS AND HAZARDOUS MATERIALS

DRAFT EIR, PAGE 4.7-27:

Mitigation Measure 4.7-3b is revised to state that existing buried utility lines shall be protected to the satisfaction of the utility owner.

Mitigation Measure 4.7-3b: Locate and Avoid Underground Utilities in Areas Where Development is Proposed, and Prepare a Response Plan to be Implemented if Accidental Rupture Occurs

The Project applicant or construction contractor(s) shall implement the following measures before construction begins, to avoid and minimize potential damage to utilities that could result in hazardous materials incidents.

- ...
- Verify through field surveys and the use of the Underground Service Alert services, the locations of any other utilities that may be buried at the Project Site in the areas where development is proposed (e.g., stormwater, sewer, water, electrical, or communication cables). Any buried utility lines shall be clearly marked in the field and on the construction drawings and protected to the satisfaction of the utility owner in advance of any Project-related earthmoving activities.

DRAFT EIR, PAGE 4.7-29:

Mitigation Measure 4.7-4 is added to detail the requirement that detention basins are designed to discharge stormwater within a period of 48 hours or less.

Mitigation Measure 4.7-4: Detention Basin Design to Drain within 48 Hours or Less

The applicant shall design all detention basins developed for the proposed Project to discharge within 48 hours or less. This specification for detention basin design will be demonstrated in the Final Drainage Study and reviewed by the City for approval prior to the issuance of a grading permit.

3.3.6 DRAFT EIR SECTION 4.8, HYDROLOGY AND WATER QUALITY

DRAFT EIR, PAGE 4.8-11:

The text of DEIR Chapter 4.8, “Hydrology and Water Quality,” in the second paragraph on page 4.8-11 under the heading “National Pollutant Discharge Elimination System Permit Program, Section 402” is hereby revised as follows:

In November 1990, EPA published regulations establishing NPDES permit requirements for municipal and industrial stormwater discharges. Phase I of the permitting program applied to municipal discharges of stormwater in urban areas where the population exceeded 100,000 persons.¹ Phase II of the NPDES stormwater permit regulations became effective in March 2003 and required NPDES permits be issued for construction activity for projects that disturb between 1 and 5 acres. Phase II of the municipal permit system (i.e., known as the NPDES General Permit for Small Municipal Separate Storm Sewer Systems [Small MS4s], Order No. 2003-0005-DWQ as amended by 2013-0001-DWQ) required small municipality areas of less than 100,000 persons (hereinafter called Phase II communities) to develop stormwater management programs. The ~~Fairfield-Suisun Urban Runoff Management Program (FSURMP)~~Solano Stormwater Alliance, discussed in detail below, describes the City’s activities to comply with the NPDES General Permit for Small MS4s.

DRAFT EIR, PAGE 4.8-14:

The text of DEIR Chapter 4.8, “Hydrology and Water Quality,” on page 4.8-14 is hereby revised as follows:

Municipal Regional Stormwater Discharge (MS4) Permit

Suisun City is under the purview of the San Francisco Bay RWQCB Municipal Regional Stormwater NPDES (MS4) Permit Order ~~R2-2015-0049 as amended in 2019, R2-2022-0018~~, NPDES Permit No. CAS612008 (San Francisco Bay RWQCB ~~2015~~2022).

Originally issued in 2009, this updated permit was issued to 7679 Bay Area municipalities, including the ~~FSURMP~~ Solano Stormwater Alliance formed by the cities of Suisun City, ~~and~~ Fairfield, and Vallejo, and the Vallejo Flood & Wastewater District (discussed further below).

DRAFT EIR, PAGE 4.8-21:

The discussion of the City of Fairfield General Plan, Open Space, Conservation, and Recreation Element is revised to remove Program OS 9.2A.

- ~~**Program OS 9.2 A.** During development review, require all projects to continue to meet the requirements of the Fairfield-Suisun Sewer District. Incorporate appropriate best management practices into stormwater runoff plans to reduce impacts on local seasonal creeks and drainage courses.~~

DRAFT EIR, PAGE 4.8-23:

The regulatory setting is revised to clarify that the Fairfield-Suisun Urban Runoff Management Program (FSURMP) was replaced by the Solano Stormwater Alliance in 2022 and FSSD’s responsibilities under the Solano Stormwater Alliance.

~~Fairfield-Suisun Urban Runoff Management Program~~Solano Stormwater Alliance

In ~~the cities of Fairfield and~~ Suisun City, stormwater and urban runoff is collected in a system that is separate from the wastewater system. The ~~FSURMP~~ Solano Stormwater Alliance is a collaboration established by an

agreement between the Cities of Fairfield, ~~and the City of Suisun City, Vallejo, and the Vallejo Flood & Wastewater District.~~ In ~~these two cities~~ Suisun City, development projects must comply with the Municipal Regional Stormwater NPDES Permit (MS4 Permit) issued by the San Francisco Bay Regional RWQCB to the FSURMP Solano Stormwater Alliance (and other agencies and stormwater programs) in 2015-2022 (Order No. R2-2015-0049 as amended in 2019R2-2022-0018) (San Francisco Bay RWQCB 2015-2022). The FSURMP Solano Stormwater Alliance implements the requirements of the MS4 Permit. The ~~FSURMP Solano Stormwater Alliance~~ is intended was formed to reduce or eliminate pollutants discharged from the urban environment into storm drains, local creeks, and the Suisun Marsh. Water flowing into the gutters and storm drains is not treated before discharge into the creeks, which feed into the Suisun Marsh. Key components of the FSURMP Solano Stormwater Alliance include industrial and commercial inspections, education outreach to schools and the general public, monitoring municipal maintenance activities, and ensuring that local residential and commercial construction sites do not contribute to pollution in local waterways.

Development projects ~~within the cities of Fairfield and~~ in Suisun City are required to address stormwater quality during development review. Projects must use BMPs during construction to reduce impacts from construction work, and also during project operation to reduce post-construction impacts to water quality. Long-term water quality impacts must be reduced using site design and source control measures to help keep pollutants out of stormwater. Details related to these requirements are contained in the former FSURMP's *Stormwater C.3 Guidebook* (FSURMP 2012), which is currently the appropriate guidance document for projects in Suisun City (Solano Stormwater Alliance 2023).

DRAFT EIR, PAGE 4.8-24:

The text of DEIR Chapter 4.8, "Hydrology and Water Quality," on page 4.8-24 is hereby revised as follows:

Storm Drainage Systems — Fairfield-Suisun Sewer District

The Fairfield-Suisun Sewer District ~~participates in the FSURMP~~ leads the Solano Stormwater Alliance (described above) and ~~assists the cities of Fairfield and Suisun City by: (1) operating and maintaining storm drain facilities, including pumping stations, public stormwater pump stations in Suisun City; and (2) working with the San Francisco Bay RWQCB, the Environmental Protection Agency, and other agencies in enforcing pollution control regulations.~~

3.3.7 DRAFT EIR SECTION 4.10, NOISE AND VIBRATION

DRAFT EIR, PAGE 4.10-35:

Mitigation Measure 4.10-1a has been revised to remove the reference to feasibility and to remove requirements relative to future residences, as the project does not propose any such uses.

Mitigation Measure 4.10-1a: Implement Noise-Reducing Construction Practices, Prepare and Implement a Noise Control Plan, and Monitor and Record Construction Noise near Sensitive Receptors.

The Project applicant(s) and their primary contractors for engineering design and construction of all Project phases shall ensure that the following requirements are implemented at each worksite during Project construction to avoid and minimize construction noise effects on sensitive receptors. The Project applicant(s) and primary construction contractor(s) shall employ noise-reducing construction practices. Measures that shall be used to limit noise shall include the measures listed below:

- ...
- To the extent ~~feasible and~~ necessary to reduce construction noise levels consistent with applicable policies, acoustic barriers (e.g., lead curtains, sound barriers) shall be constructed to reduce

construction-generated noise levels at affected noise-sensitive land uses. The barriers shall be designed to obstruct the line of sight between the noise-sensitive land use and on-site construction equipment.

- ~~When future noise sensitive uses are within close proximity to prolonged construction noise, noise-attenuating buffers such as structures, truck trailers, or soil piles shall be located between noise sources and future residences, as feasible, to shield sensitive receptors from construction noise.~~

DRAFT EIR, PAGE 4.10-39:

Mitigation Measure 4.10-2a has been revised to clarify the separation requirements of construction-related activities during pile driving activities from surrounding receptors.

Mitigation Measure 4.10-2a: Implement Measures to Reduce Groundborne Noise and Vibration Levels at Sensitive Receptors during Pile Driving Activities.

The Project applicant and contractor(s) for engineering design and construction of all proposed Project components and offsite improvements shall ensure that the following controls are implemented to minimize or avoid construction vibration effects on sensitive receptors:

- Place stationary construction equipment as far as possible from vibration sensitive uses.
- Use smaller construction equipment when practical, particularly smaller vibratory rollers that are as small as practicable, or that have an adjustable vibratory force feature.
- Locate loading areas, staging areas, stationary noise, vibration-generating equipment, etc., ~~as far as feasible~~ at the farthest point within the active pile driving construction area from sensitive receptors.
- ...

DRAFT EIR, PAGE 4.10-45:

Mitigation Measure 4.10-3a has been revised to clarify the noise mitigation applicable to residential land uses within 2,500 feet of and within the direct line of sight of major noise-generating activities.

Mitigation Measure 4.10-3a: Implement Measures to Reduce Potential Exposure of Sensitive Receptors to Non-Transportation Source-Generated Noise.

To reduce potential long-term exposure of sensitive receptors to noise generated by Project-related non-transportation noise sources, the Project applicant or contractor(s) for all Project phases shall implement the below measures to assure maximum reduction of Project interior and exterior noise levels from operational activities. ~~The City shall evaluate individual facilities for compliance with the City Noise Ordinance and policies contained in the City's General Plan at the time that tentative subdivision maps and improvements plans are submitted. All Project elements shall comply with City noise standards.~~

- The proposed land uses shall be designed so that on-site mechanical equipment (e.g., HVAC units, compressors, and generators) and area-source operations (e.g., loading docks, parking lots, and recreational-use areas) are located as far as possible from or shielded from nearby noise-sensitive land uses.
- Air conditioning units shall be shielded to reduce operational noise levels at adjacent dwellings or designed to meet City noise standards. Shielding may include the use of fences or partial equipment enclosures. To provide effectiveness, fences or barriers shall be continuous or solid, with no gaps, and shall block the line of sight to windows of neighboring dwellings.

- ~~To the extent feasible, r~~Residential land uses located within 2,500 feet of and within the direct line of sight of major noise-generating commercial uses (e.g., loading docks and equipment/vehicle storage repair facilities,) shall be shielded from the line of sight of these facilities by construction of a noise barrier or other design feature that would accomplish equivalent noise mitigating results. To provide effectiveness, noise barriers shall be continuous or solid, with no gaps, and shall block the line of sight to windows of neighboring dwellings.
- ...

3.3.8 DRAFT EIR SECTION 4.12, TRANSPORTATION AND CIRCULATION

DRAFT EIR, PAGE 4.12-2:

Table 4.12-1 is revised to reflect that Solano County Transit (SolTrans) is the sole operator of Solano Express because Fairfield and Suisun Transit (FAST) no longer operates the Blue and Green Lines.

Table 3.3-2. FAST and SolTrans Transit Routes in Project Vicinity of the Project Site

Agency	Route	Type	Termini	Closest Stop	Hours of Operation ¹	Peak Frequency (Minutes)
FAST	1	Local	Fairfield Transportation Center to Fairfield Walmart	West Texas Street & Pennsylvania Avenue	Monday-Friday: 6:00 AM to 7:55 PM Saturday: 9:00 AM to 4:55 PM	30
FAST	5	Local	Fairfield Transportation Center to Suisun City Senior Center	Pennsylvania Avenue & Woolner Avenue	Monday-Friday: 5:30 AM to 7:40 PM Saturday: 9:30 AM to 4:20 PM	60
FAST	7	Local	Fairfield Transportation Center to Cordelia Library	Beck Avenue & Courage Drive	Monday-Friday: 6:00 AM to 6:55 PM Saturday: 10:00 AM to 4:20 PM	60
FAST (Solano Express) <u>SolTrans</u>	Blue	Intercity/Commuter	Walnut Creek BART to Sacramento Valley Station	Fairfield Transportation Center	Monday-Friday: 4:20 AM to 8:30 PM Saturday: 7:55 AM to 7:50 PM	30
FAST (Solano Express) <u>SolTrans</u>	Green Express	Intercity/Commuter	Suisun City/Fairfield Amtrak to El Cerrito del Norte BART	Fairfield Transportation Center	Monday-Friday: 4:10 AM to 8:55 PM	30

Agency	Route	Type	Termini	Closest Stop	Hours of Operation ¹	Peak Frequency (Minutes)
SolTrans	Red	Intercity/ Commuter	Suisun City/Fairfield to El Cerrito del Norte BART	Fairfield Transportation Center	Monday-Friday: 4:30 AM to 12:00 AM Saturday: 7:00 AM to 10:00 PM Sunday: 9:00 AM to 10:00 PM	60

Table Notes

1. Time rounded to 5 minutes.

Source: FAST Transit and SolTrans, accessed August 2021.

DRAFT EIR, PAGE 4.12-18:

Mitigation Measure 4.12-2 has been revised for clarity with regard to on-site circulation improvement requirements.

Mitigation Measure 4.12-2: Vehicle System Improvements

Prior to issuance of building permits, the Project applicant shall provide site plans that include the following on-site and off-site vehicle system improvements to minimize hazardous conditions.

- Driveway access improvements.
 - The Project Site tenant has yet to be determined, and thus the exact operations are still unknown. The Project shall design each driveway width and throat length appropriate for the vehicle types expected to be served. For passenger vehicle access only, provide at least 10 feet driveway width for each direction of travel and a throat length of at least 50 feet to hold the approximate length of two vehicles. For driveways that serve trucks, provide at least 15 feet driveway width for each direction of travel and a throat length that can hold at least one of the longest expected trucks to access the site.
 - Combine driveways #1 and #2 to a single right-in right-out only driveway 300 feet south of the Pennsylvania Avenue and SR-12 intersection. This would improve the sight distance of drivers exiting the driveway and reduce vehicular conflicts with northbound vehicles on Pennsylvania Avenue.
 - Connect the northernmost parking lot accessible by driveways #1 and #2 to the vehicle system of Building B-C. This would improve on-site connectivity and circulation. Vehicles that want to make a left turn in and out from the northernmost parking would use driveway #3.
 - Orient all driveways to be perpendicular to the public road for improved sight distance and vehicle maneuvers.
- On-site circulation improvements.
 - Orient drive aisles to be as close to perpendicular as possible, while maintaining necessary design features for circulation and safety, to the extent feasible for improved sight distance and vehicle maneuvers.
 - Add directional markers (e.g., signs or painted strips) for on-site circulation guidance and efficiency.

- At the rail spurs, prohibit vehicles from crossing tracks with the use of signs or physical barriers and remove the adjacent parking spaces.

...

3.3.9 DRAFT EIR SECTION 4.13, UTILITIES AND SERVICE SYSTEMS

DRAFT EIR, PAGE 4.13-2:

The environmental setting discussion is revised to correct a grammatical error in the heading for “Wastewater Collection, Conveyance, and Treatment Facilities” and to clarify the role of FSSD related to serving parcels within city limits.

WASTEWATER COLLECTION, ~~AND CONVEYANCE,~~ AND TREATMENT FACILITIES

The Project Site ~~is not currently within, but is proposed to be annexed to~~ would be served by the FSSD. The City of Suisun City and FSSD jointly operate and maintain the wastewater collection system that serves the city. The City, along with the City of Fairfield and Travis Air Force Base, is a “satellite collection system” to FSSD, and owns and operates 74 miles of 10-inch and smaller gravity sewers within its service area (City of Suisun City 2022a).

DRAFT EIR, PAGE 4.13-3:

The environmental setting discussion related to the pump stations serving Suisun City and its Planning Area is revised to remove content about sewer pump stations that are not related to service for the proposed Project.

Suisun City and its Planning Area are located within the FSSD’s Suisun Basin and are served by Suisun Pump Station and three smaller lift stations: Lawler I Lift Station, Lawler II Lift Station, and Crystal Lift Station. Wastewater is conveyed from these lift stations to the Suisun Pump Station. ~~Each of the FSSD’s pump stations are equipped with Supervisory Control and Data Acquisition monitoring and controls. Each station has a backup control for pump operation and several other operational features to increase reliability and decrease the chances of pump station failure (FSSD 2019). Table 4.13-3 summarizes the pumping capacity of these pump and lift stations.~~

~~The 36-inch Suisun force main passes through the Central Pump station site where the 36-inch and 48-inch force mains are joined in a junction vault. The force mains are interchangeable in the junction vault, but the standard configuration is for Suisun pump station to use the 48-inch force main from the junction vault to the treatment plant (FSSD 2019). The Central Suisun force main configuration provides a contingency option should one of the force mains fail or be damaged. The Suisun Pump Station flow will divert by gravity to Central Pump Station during in the event of an extended pump station outage. Central Pump Station has adequate capacity to handle dry weather flows for both Suisun and Central drainage basins. As shown on Table 4.13-3, the Suisun pump station has a firm pumping capacity of 33 million gallons per day (mgd).~~

Table 3.3-3. Fairfield-Suisun Sewer District Pump and Lift Stations and Existing Pumping Capacity

Pump/Lift Station ¹	Firm Pumping Capacity (mgd)
Lawler Ranch I Lift Station	0.36

Lawler Ranch II Lift Station	1.1
Crystal Lift Station	0.5
Suisun Pump Station	33

Notes: mgd = million gallons per day

¹ Pump stations discharge directly into the Fairfield-Suisun Subregional Wastewater Treatment Plan headworks while lift stations discharge to gravity sewers within drainage basins.

Source: FSSD 2019, Woodard & Curran 2020a

~~According to the FSSD 2020 Wastewater Collection System Master Plan Update (2020 FSSD Master Plan Update) (Woodard & Curran 2020a), the existing peak dry weather flow to the Suisun pump station is 6.5 mgd and the anticipated future peak dry weather flow would be 15.6 mgd. Wastewater flows generated by the proposed Project were not included in the 2020 FSSD Master Plan Update (Morton & Pitalo 2022).~~

DRAFT EIR, PAGE 4.13-10:

The discussion for Impact 4.13-1 has been modified to remove the statement that sewer facilities upstream of Cordelia Street and Beck Road are owned or operated by FSSD.

Wastewater Collection and Conveyance Facilities

The proposed wastewater system includes the on-site private sewer pipe system, one on-site private pump station, and an off-site public combination force main and gravity line in Cordelia Road. The proposed on-site sewer system serving Planning Areas 1 and 2 would be designed using a gravity-fed system. The general pattern of sewer discharge will be from north to south. The sewer service from Planning Area 3 will be brought cross Pennsylvania Avenue and combine with the Planning Area 1 sewer system via gravity line. The combined Planning Area 1 and 3 on-site sewer mains will then cross under the Union Pacific Railroad tracks and right-of-way and combine with the Planning Area 3 on-site sewer line until it reaches Cordelia Road at the southwest corner of Planning Area 2 frontage. At this location, an on-site private sewer lift station will be constructed to pump sewer flows via an off-site force main and gravity sewer line along Cordelia Road to the intersection with Beck Avenue, approximately 2,700 feet west, at which location the wastewater line will tie into ~~the FSSD existing sewer~~ facilities at an existing sanitary sewer manhole and 15-inch sewer main ~~owned and operated by the FSSD~~ (see Exhibit 3-9 in Chapter 3). A force main would be attached to the side of the existing Ledgewood Creek bridge in order to convey sewer flows from the project pump station to the west side of Ledgewood Creek.

3.4 CHAPTER 5, CUMULATIVE IMPACTS

DRAFT EIR CHAPTER 5, PAGES 5-13 AND 5-14:

The text of the last paragraph of DEIR Chapter 5, “Cumulative Impacts,” on pages 5-13 and 5-14 is hereby revised as follows:

The proposed project or Alternative 2 would result in new impervious surfaces from buildings, roads, and parking areas within the Development Area. Therefore, the proposed project or Alternative could cause or contribute to increased long-term discharges of urban contaminants such as oil and grease, fuel, trash, pesticides, and fertilizers. A Drainage Master Plan for the proposed project has been prepared, which

demonstrates incorporation of stormwater design and treatment measures for the proposed Development Area as required by the former Fairfield-Suisun Urban Runoff Management Program's (FSURMP) *Stormwater C.3 Guidebook* (FSURMP 2012), which is currently the appropriate guidance document for projects in Suisun City (Solano Stormwater Alliance 2023) ~~per to achieve compliance with the Solano County Suisun City MS4 permit.~~ The locations and sizes of detention basins and LID features for Alternative 2 have also been developed consistent with City and ~~FSURMP~~ Solano Stormwater Alliance standards. Therefore, the proposed project or Alternative 2 would result in a **less than cumulatively considerable contribution** to cumulative impacts from operational degradation of water quality or interference with implementation of the Basin Plan.

DRAFT EIR CHAPTER 5, PAGE 5-14:

The text of the first two paragraphs of DEIR Chapter 5, "Cumulative Impacts," on page 5-14 is hereby revised as follows:

Exceedance of Drainage Systems Resulting in Hydromodification or Flooding

Potential changes to the hydrologic and geomorphic processes in a watershed as a result of impervious surfaces and exceedance of drainage infrastructure capacity from urbanization include increased runoff volumes and dry weather flows, increased frequency and number of stormwater runoff events, increased long-term cumulative duration of flows, as well as increased peak flows. Exceedance of drainage infrastructure capacity results in hydromodification, which intensifies the erosion and sediment transport process, and often leads to changes in stream channel geometry, and streambed and streambank properties, which can result in degradation and loss of riparian habitat, and downgradient sediment deposition. In addition, operational stormwater discharges, if not properly detained, could exceed drainage system capacity resulting in flooding. However, all of the related projects considered in this cumulative analysis must prepare drainage plans in compliance with the FSURMP to protect and improve stormwater quality. The ~~FSURMP~~ Solano Stormwater Alliance requires that measures for long-term BMPs that protect water quality and control runoff flow be incorporated into new development and substantial redevelopment projects. All projects are required to design and implement water quality and runoff controls per the former FSURMP's *Stormwater C.3 Guidebook* (FSURMP 2012), which is currently the appropriate guidance document for projects in Suisun City (Solano Stormwater Alliance 2023). Drainage Master Plans for all of the projects considered in this cumulative analysis must include hydraulic, floodplain, hydrologic, and water quality analyses for each site-specific proposed development. Projects that involve improvements within Caltrans rights-of-way must comply with the Caltrans Operational NPDES Permit (SWRCB 2022) and implement the operational stormwater controls specified in the Caltrans PPDG Handbook (Caltrans 2019). Stormwater modeling results contained in plans must demonstrate that the projects as designed include appropriate stormwater runoff design features, properly sized stormwater drainage features, and appropriate stormwater quality treatment features so that the new impervious surfaces would not increase peak discharge rate of stormwater runoff and would not result in erosion, sedimentation, and on-site or downstream flooding. Therefore, implementation of the related projects considered in this cumulative analysis would avoid a significant cumulative impact.

A Drainage Master Plan has been prepared for the proposed project (Morton Pitalo 2021). The locations and sizes of detention basins and LID features for Alternative 2 have also been developed based on City and ~~FSURMP~~ Solano Stormwater Alliance requirements. Drainage from proposed building roofs and parking lots would be routed into bioretention facilities for infiltration and treatment prior to discharge to the on-site detention basins. The bottom of the on-site detention basins would also be constructed as a bioretention facility. LID features may include disconnected roof drains and disconnected pavement. The proposed on-site detention basin volumes are based on the 100-year, 24-hour storm event with outflows restricted to 95 percent of pre-development flows or less (as required by the City). The Drainage Master Plan demonstrates incorporation of stormwater design and treatment measures for the proposed Development Area as required by the former FSURMP *Stormwater C.3 Guidebook* (FSURMP 2012), which is currently the appropriate guidance document for projects in Suisun City (Solano Stormwater Alliance 2023). Furthermore, a draft Stormwater Control Plan, that would be finalized and approved by the City, has been prepared for the proposed project to control

operational stormwater runoff and quality. A similar Stormwater Control Plan would be prepared for Alternative 2, as required by the City. Therefore, the proposed project or Alternative 2 would result in a less than cumulatively considerable contribution to cumulative impacts associated with exceedance of stormwater drainage systems resulting in hydromodification and flooding.

DRAFT EIR CHAPTER 5, PAGE 5-18:

Table 5-2 is revised to correct a typographical error in the “Significant Impact?” column.

Table 3-4. Predicted Traffic Noise Levels, Cumulative Conditions, L_{dn} at 50 Feet, dB

Roadway Segment	Segment Location	Cumulative No Project	Cumulative Plus Proposed Project	Net Change	Significant Impact?
Chadbourne Road	From SR-12 to Cordelia Road	67.7	67.7	0.0	No
Beck Avenue	From SR-12 to North of SR-12	66.9	66.9	0.0	No
Beck Avenue	From SR-12 to South of SR-12	65.5	65.6	0.1	No
West Texas Street	From Beck Avenue to Pennsylvania Avenue	67.7	67.7	0.0	No
SR-12	From Beck Avenue to Pennsylvania Avenue	76.5	76.5	0.0	No
Cordelia Road	From Beck Avenue to Pennsylvania Avenue	61.0	61.3	0.2	No
Pennsylvania Avenue	From SR-12 to North of SR-12	67.7	67.8	0.1	No
Pennsylvania Avenue	From SR-12 to South of SR-12 ^a	62.7	63.3	0.6	Yes No
SR-12	From Marina Boulevard to Grizzly Island Road	75.9	75.9	0.0	No
SR-12	From Emperor Drive to Walters Road	74.2	74.2	0.0	No

Notes: dB = A-weighted decibels; L_{dn} = day-night average noise level

^a There are no noise-sensitive uses along this segment of the roadway.

Source: AECOM 2023

3.5 CHAPTER 6, ALTERNATIVES

3.5.1 DRAFT EIR SECTION 6.5, ALTERNATIVES ANALYSIS

DRAFT EIR CHAPTER 6, PAGES 6-17:

The first paragraph under Impact 6.5.1-3 is revised to correct a typo, which does not change the analysis or conclusions of the Draft EIR:

Alternative 2 would result in additional nighttime lighting and skyglow effects. The area is urbanized and is not a “dark sky” area; existing development in the area already contributes substantially to nighttime lighting and skyglow effects. Development of approximately 51 ~~45~~ acres under Alternative 2 would introduce new street lighting, parking lot lighting, pedestrian way lighting, interior lighted building signage, interior and front lighted landmark and directory signage, interior lighted (LED) security lighting, and architectural lighting, during operations. These lights would be visible during nighttime hours and would represent a source of light and glare surrounding developed areas and roadways. Therefore, this impact is considered significant.

DRAFT EIR CHAPTER 6, PAGES 6-22:

The first paragraph under air quality Impact 6.5.2-2 is revised as shown below to clarify the results shown in Table 6.5-1, which show that NO_x emissions are below the BAAQMD-recommended thresholds of significance:

As shown in **Error! Reference source not found.**, construction-related emissions associated with Alternative 2 would not exceed the BAAQMD-recommended thresholds of significance. ~~exceed the average daily thresholds of significance for NO_x emissions in the initial year of construction (2024).~~ The BAAQMD does not have quantitative mass emissions thresholds for fugitive PM₁₀ and PM_{2.5} fugitive dust. Instead, the BAAQMD recommends that all projects, regardless of the level of average daily emissions, implement applicable best management practices (BMPs), including those listed as Basic Best Management Practices for Construction-Related Fugitive Dust Emissions in the BAAQMD CEQA Air Quality Guidelines (BAAQMD 2023) in order to minimize fugitive dust in alignment with the regional plans for PM reduction. Fugitive dust emissions are considered to be significant unless Alternative 2 implements the BAAQMD's BMPs for fugitive dust control during construction. ~~Because construction related exhaust emissions would exceed the significance threshold for NO_x and w~~Without implementation of the BAAQMD Basic Construction Measures, Alternative 2 could result in a cumulatively considerable net increase of criteria pollutants for which the region is non-attainment under an applicable federal or state ambient air quality standard. Construction-related impacts from Alternative 2 would therefore be **potentially significant**.

DRAFT EIR CHAPTER 6, PAGE 6-23:

The paragraph under Table 6.5-2 is revised to correct a typographical error as shown below. The revision does not change the significance determination and is only a minor typographical error:

Because operational emissions from Alternative 2 would exceed the BAAQMD daily and annual thresholds, Alternative 2 could ~~not~~ result in a cumulatively considerable net increase of a criteria pollutant for which the region is in nonattainment under an applicable federal or state ambient air quality standards. Therefore, operational activities associated with Alternative 2 would be **potentially significant**.

DRAFT EIR CHAPTER 6, PAGE 6-25:

The title of Impact 6.5.2-4 is revised to match the Appendix G Air Quality Impact 4 and to correct the impact determination as shown in the body of the impact analysis:

Impact 6.5.2-4. Result in other emissions (such as those leading to orders) that would adversely affect a substantial number of people. ~~Conflict with or Obstruct Implementation of the Applicable Air Quality Plan. This impact would be less potentially than significant.~~

DRAFT EIR CHAPTER 6, PAGE 6-27:

The list of issues not discussed further in the Biological Resources Alternative impact analysis is revised to add the Western Bumble Bee, consistent with Chapter 4.3, "Biological Resources":

- ▶ Monarch Butterfly
- ▶ Delta Green Ground Beetle
- ▶ Western Bumble Bee
- ▶ California Tiger Salamander & Critical Habitat, Central Population
- ▶ Western Spadefoot Toad
- ▶ Special Status Vernal Pool Crustaceans
- ▶ Critical Habitat for Suisun Thistle

DRAFT EIR CHAPTER 6, PAGE 6-28:

The title of Mitigation Measure 4.3-1b is revised to correspond with the number of acres of wetland habitat to reflect the requirements of this mitigation for the Reduced Footprint Alternative:

Mitigation Measure 4.3-1b: Establish and Manage 5.6146 Acres of Wetland Habitat

DRAFT EIR CHAPTER 6, PAGE 6-30:

A minor typographical revision is made to clarify the applicable mitigation measure (4.3-1e) under the heading, “Significance after Mitigation,” for Impact 6.5.3-4:

These mitigation measures would offset and avoid permanent impacts to occupied long-styled sand-spurrey habitat and would ensure there is no-net loss of potential habitat for the species. Mitigation Measure 4.43-1e would avoid the introduction and spread of invasive plant species.

DRAFT EIR CHAPTER 6, PAGE 6-35:

A minor typographical revision is made to clarify the applicable mitigation measure (4.3-13) under the heading, “Significance after Mitigation,” for Impact 6.5.3-12. Additionally, a grammatical revision is made for consistency with language in other sections:

Implementation of Mitigation Measure 4.3-~~11~~13 would enhance and provide additional upland refugia in the proposed Managed Open Space area of the Alternative 2 site for salt marsh harvest mouse, Suisun shrew, and any other species that need cover during high tide events and ~~will~~would reduce this potential impact to **less than significant** under Alternative 2.

DRAFT EIR CHAPTER 6, PAGE 6-35:

A grammatical revision is made under the heading, “Significance after Mitigation” for Impact 6.5.3-13 for consistency with language in other sections:

Implementation of Mitigation Measures 4.3-14a and 4.3-14b ~~will~~would avoid and minimize potential impacts during construction of Alternative 2 on nesting avian species, thus reducing potential impacts to **less than significant** under Alternative 2.

DRAFT EIR CHAPTER 6, PAGE 6-37:

Two grammatical revisions are made under the heading, “Significance after Mitigation,” for Impact 6.5.3-17 for consistency with language in other sections:

The site protection instrument ~~will~~would create new freshwater wetlands and would provide a sanctuary for wildfowl during hunting season by excluding duck hunting, and foster implementation of Suisun Marsh Protection Plan policies and goals such as managing agricultural lands to support waterfowl and enhancements of wildlife habitat.

In addition, the proposed Managed Open Space area under Alternative 2 includes approximately 103.14 acres not currently within the Suisun Marsh Plan jurisdiction. This area ~~will~~would be protected as wildlife habitat and provide refuge to wildfowl consistent with the land acquisition recommendations of the Suisun Marsh Protection Plan.

DRAFT EIR CHAPTER 6, PAGES 6-39 AND 6-40:

Minor typographical revisions are made to the numbering of the impact statements under Section 6.5.4, “Cultural and Tribal Cultural Resources,” for consistency with the impact numbering in Chapter 6:

Impact 4.4-~~16~~.5.4-1. Substantial adverse change in the significance of known historical resources. No impact would occur.

Impact 4.4-~~26~~.5.4-2. Substantial adverse change to undiscovered historical resources or unique archeological resources. The impact would be potentially significant.

Impact 4.4-~~36~~.5.4-3. Disturbance of human remains. This impact would be potentially significant.

Impact 4.4-~~46~~.5.4-4. Substantial adverse change in the significance of a tribal cultural resources. This impact would be potentially significant.

DRAFT EIR CHAPTER 6, PAGES 6-42 AND 6-43:

Minor typographical revisions are made to the numbering of the impact statements under Section 6.5.5, “Geology, Soils, Minerals, and Paleontological Resources,” for consistency with the impact numbering in Chapter 6:

Impact 6.5.75-1. Risks to People and Structures Caused by Strong Seismic Ground Shaking. This impact would be less than significant.

Impact 6.5.75-2. Construction-Related Soil Erosion. This impact would be less than significant.

Impact 6.5.75-3. Potential Damage to Structures and Infrastructure from Construction in Unstable/Expansive Soils. This impact would be less than significant.

DRAFT EIR CHAPTER 6, PAGE 6-46:

A minor revision is made to the Section 6.5.7 heading title to clarify that the section addresses impacts related to wildfire:

6.5.7 HAZARDS, AND HAZARDOUS RESOURCES, AND WILDFIRE

DRAFT EIR CHAPTER 6, PAGES 6-47 TO 6-49:

Minor typographical revisions are made to the numbering of the impact statements under Section 6.5.7, “Hazards and Hazardous Resources,” for consistency with the impact numbering in Chapter 6:

Impact 6.5.97-1. Routine Transport, Use, or Disposal of Hazardous Materials. This impact would be less than significant.

Impact 6.5.97-2. Exposure to Hazardous Materials from Upset and Accident Conditions. This impact would be less than significant.

Impact 6.5.97-3. Exposure of People and the Environment to Existing Hazardous Materials, Including Cortese-listed Sites. This impact is considered potentially significant.

Impact 6.5.97-4. Creation of Potential Safety Hazards, Including Possible Birdstrike, in the Vicinity of an Airport. This impact would be less than significant.

Impact 6.5.97-5. Interference with Emergency Response or Evacuation Plans. This impact would be potentially significant.

DRAFT EIR CHAPTER 6, PAGE 6-49:

A minor typographical revision is made to indicate the correct mitigation measure number that is applicable to Impact 6.5.7-3 (revised impact numbering):

Mitigation Measure: Implement Mitigation Measure 4.7-73b (Locate and Avoid Underground Utilities in Areas Where Development is Proposed, and Prepare a Response Plan to be Implemented if Accidental Rupture Occurs).

DRAFT EIR CHAPTER 6, PAGES 6-53:

The first paragraph under Impact 6.5.10-1 is revised to correct a typo, which does not change the analysis or conclusions of the Draft EIR:

Under Alternative 2, approximately 51 ~~45~~ acres of cattle grazing land would be converted to urban development in the form of new industrial (i.e., logistics and warehouse) land uses. In addition, off-site improvements related to roadways, water lines, and a sewer line would also occur. Construction and operation under Alternative 2 would result in increased stormwater runoff, which could in turn result in transport of sediment and other pollutants to on-site and off-site waterways...

DRAFT EIR CHAPTER 6, PAGES 6-54:

The second paragraph under Impact 6.5.10-2 is revised to correct a typo, which does not change the analysis or conclusions of the Draft EIR:

The Suisun-Fairfield Valley Groundwater Basin is a low priority basin, and therefore a GSP is not required nor are there any plans to prepare one. Alternative 2 would result in new impervious surfaces over the approximately 45-acre proposed development area. However, the remaining approximately 437 acres of Alternative 2 site would continue to be available for groundwater recharge through rainwater percolation, because this area of the Alternative 2 site would continue to be operated with the existing land use (i.e., cattle grazing). The new 51 ~~45~~ acres of impervious surfaces would represent only an approximately 9 percent decrease in the area available for groundwater recharge at the Alternative 2 site. Therefore, Alternative 2 would not substantially interfere with groundwater recharge, and this impact would be less than significant. This impact conclusion is the same as the proposed Project (Impact 4.8-2); however, because Alternative 2 would result in a reduced amount of impervious surfaces, the level of impact would be reduced under Alternative 2 as compared to the Proposed project.

DRAFT EIR CHAPTER 6, PAGES 6-53 TO 6-56:

Minor typographical revisions are made to the numbering of the impact statements under Section 6.5.8, "Hydrology and Water Quality," for consistency with the impact numbering in Chapter 6:

Impact 6.5.408-1. Violate Water Quality Standards or Substantially Degrade Surface or Groundwater Quality. This impact would be less than significant.

Impact 6.5.408-2. Substantially Decrease Groundwater Supplies or Interfere with Groundwater Recharge. This impact would be less than significant.

Impact 6.5.408-3. Substantially Alter Drainage Patterns or Add Impervious Surfaces Resulting in Increased Erosion or Siltation. This impact would be less than significant.

Impact 6.5.408-4. Substantially Alter Drainage Patterns or Add Impervious Surfaces that would Exceed Storm Drainage Systems, Result in Increased Flooding, or Impede or Redirect Flood Flows. This impact would be less than significant.

Impact 6.5.408-5. Risk Release of Pollutants from Inundation in a Tsunami, Seiche, or Flood Hazard Zone. This impact would be less than significant.

Impact 6.5.408-6. Conflict with a Water Quality Control Plan or Sustainable Groundwater Management Plan. This impact would be less than significant.

DRAFT EIR CHAPTER 6, PAGE 6-60:

Minor typographical revisions are made to the impact analysis for Impact 6.5.9-2 to reflect that the impact analysis is for Alternative 2:

Alternative 2 could indirectly lead to some population growth by creating 528 new local jobs. The ~~1,275~~528 new employees from jobs created under ~~the proposed Project~~Alternative 2 could also indirectly induce additional population growth.

DRAFT EIR CHAPTER 6, PAGE 6-65:

Minor typographical revisions are made to correct table number references under Impacts 6.5.10-2 and 6.5.10-3:

Impact 6.5.10-2

Table ~~4.10-16~~20 of this EIR summarizes the modeled traffic noise levels for existing and existing plus construction conditions at 50 feet from the centerline of roadways for the proposed Project. Proposed Project-related construction traffic increases accounted for a 0.1 to ~~3~~30.5 dB increase in short-term traffic noise levels. Construction-related traffic noise would result in an estimated ~~30.5~~-dB increase over existing traffic noise levels at Pennsylvania Avenue from SR-12 to south of SR-12 along Chadbourne Road from Cordelia Road to South of Cordelia Road.

Impact 6.5.10-3

Table ~~4.10-17~~21 of this EIR provides vibration levels at 25 feet for impact and heavy construction equipment, in terms of PPV (for structural damage) and VdB (for human annoyance). Construction equipment could include pile drivers, loaded trucks, bulldozers, and vibratory roller, among others. According to the FTA, vibration levels associated with the use of such equipment would range from approximately 0.003 in/sec PPV (referenced to 1 μ in/sec and based on the root mean square velocity amplitude) and 58 VdB for a vibratory roller to 1.518 in/sec PPV and 112 VdB for a pile driver, at 25 feet, as shown in Table ~~4.10-17~~21 of this EIR.

DRAFT EIR CHAPTER 6, PAGE 6-77:

A grammatical revision is made to Impact 6.5.12-2 for consistency with language in other sections:

This impact conclusion is the **same** as for the proposed Project (Impact 4.12-2). Some adjustments ~~will~~would be required to the Alternative 2 site plan if the City were to move forward with this alternative.

3.6 CHAPTER 7, OTHER CEQA CONSIDERATIONS

The following discussion on irreversible changes is added:

The CEQA Guidelines require a discussion of the significant irreversible environmental changes that would be caused by project implementation (CEQA Guidelines Section 15126.2[d]). Specifically, the EIR must consider whether “uses of nonrenewable resources during the initial and continued phases of the Project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely” (CEQA Guidelines Section 15126.2[d]). The irreversible and irretrievable commitment of resources is the permanent loss of resources for future or alternative purposes. Irreversible and irretrievable resources are those that cannot be recovered or recycled, or those that are consumed or reduced to unrecoverable forms. Nonrenewable resources, as used in this discussion, refer to the physical features of the natural environment: land, air, and waterways.

Construction and operation of the Highway 12 Logistics Center Project would use both renewable and nonrenewable natural resources. Nonrenewable fossil fuels would be used during construction and operation. Other nonrenewable and slowly-renewable resources consumed as a result of the Highway 12 Logistics Center Project would include, but not necessarily be limited to, lumber and other forest products, sand and gravel, asphalt, petrochemical construction materials, steel, copper, and water. Project operation would consume energy for multiple purposes including, but not limited to, building heating and cooling, lighting, appliances, electronics, office equipment, and commercial machinery.

The Highway 12 Logistics Center Project would also generate additional transportation demand, energy demand, and operation of construction equipment that would increase emissions of greenhouse gases and other air pollutants, as well as generation of noise. Different air pollutants and different greenhouse gas emissions remain in the atmosphere for different amounts of time, ranging from a few years to thousands of years.

3.7 CHAPTER 8, REFERENCES

DRAFT EIR CHAPTER 8, PAGE 8-20:

The text of DEIR Chapter 8, References, on page 8-20, is hereby revised as follows:

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None.

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Final
City of Suisun City
Highway 12 Logistics Center
Environmental Impact Report

Appendix A
Wildlife Hazard Assessment

AECOM

September 2024

Final
City of Suisun City
Highway 12 Logistics Center
Environmental Impact Report

Appendix B
Groundwater Soil and Gas Investigation

AECOM

September 2024

Final
City of Suisun City
Highway 12 Logistics Center
Environmental Impact Report

Appendix C
Level of Service Analysis

AECOM

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City of Suisun City
Highway 12 Logistics Center
Environmental Impact Report

Appendix D
Planned Unit Development

AECOM

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Final
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Highway 12 Logistics Center
Environmental Impact Report

Appendix E
Mitigation Monitoring and Reporting Program

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