**LAFCO**

# *Alameda* Local Agency Formation Commission

## NOTICE OF REGULAR MEETING AND AGENDA

ALAMEDA LOCAL AGENCY FORMATION COMMISSION

THURSDAY, MAY 9, 2019
2:00 P.M.

CITY OF DUBLIN COUNCIL CHAMBERS
100 CIVIC PLAZA, DUBLIN, CALIFORNIA

**Ayn Wieskamp, Chair – Scott Haggerty, Vice Chair – John Marchand – Sblend Sblendorio –Jerry Thorne – Nate Miley – Ralph Johnson**
**David Haubert, Alternate –Richard Valle, Alternate – Georgean Vonheeder-Leopold, Alternate – Tom Pico, Alternate**

On behalf of the Chair, the Commission welcomes you to its meetings and your interest is appreciated. **If you wish to speak to a matter on the agenda, please complete a Speakers Card and submit it to staff.** When your name is announced, please come forward and give your name and address, and state your comments or questions. If you wish to speak on a matter not on the agenda, please wait until the Chair calls for Public Comment. Speakers may have a time limitation imposed at the discretion of the Chair. Alameda LAFCO meetings are wheelchair accessible. Call (510) 208-4949 (voice) or (510) 834-6754 (TDD) to request a sign-language interpreter. Five working days' notice is required.

Only those issues which are brought up at the public hearing described in this notice, or in written correspondence delivered to the LAFCO Commissioners at or prior to the hearing, may be raised in any legal challenge to the actions taken by the Commission.

1. **2:00 P.M. – Call to Order and Pledge of Allegiance**

2. **Roll Call**

3. **Welcome Returning/New Commissioners** – The Commission will acknowledge the reappointment of regular Commissioner Haggerty by the Alameda County Board of Supervisors on April 23, 2019 and of alternate Commissioner Haubert by the Alameda County Mayors' Conference on April 10, 2019; and will learn the outcome of the Independent Special Districts Selection Commission election for the special district seat to be held on May 8, 2019.

4. **Public Comment:** Anyone from the audience may address the Commission on any matter not listed on the agenda and within the jurisdiction of the Alameda LAFCO. The Commission cannot act upon matters not appearing on the agenda. ***Speakers are limited to three (3) minutes.***

5. **Approval of Meeting Minutes: March 14, 2019 Regular Meeting** (Consent)

6. **Budget Update for 2018-2019 and Year End Projections** (Consent) – The Commission will review a report comparing budgeted and actual transactions for 2018-2019 through April 30, 2019 and its projection Alameda LAFCO is on pace to finish the fiscal year with an operating surplus of $157,951. This includes a $176,000 fund balance applied to offset agency apportionments. The report is being

presented to the Commission to accept and file and to provide direction as needed.

**LAFCO Staff Recommendation:** Accept and file the report as presented and provide direction as needed to staff with respect to any related matters for future consideration**.**

**7. Proposed Out of Area Service Agreement | 27440 and 27489 Fairview Avenue to the City of Hayward** (Regular) – The Commission will consider an out of area service agreement filed by the City of Hayward with the Alameda Local Agency Formation Commission (LAFCO) requesting approval to extend public wastewater services outside of its jurisdictional boundary to two affected lots located at 27440 and 27489 Fairview Avenue in the Castle Homes area of the unincorporated community of Fairview. The affected territories as submitted are developed with single-family residences on each legal lot. The purpose of the proposal is a response to a failing septic system and potential health and safety hazard by extending public wastewater services to the affected territories.

**LAFCO Staff Recommendation:** Adopt the attached draft resolution approving the out of area service agreement of 27440 and 27489 Fairview Avenue to the City of Hayward.

**8. Proposed Annexation of the "Bayside Newark Project" to the Union Sanitary District** (Public Hearing) – The Commission will consider a change of organization proposal filed by Lennar Homes of California and the FMC Corporation with the Alameda Local Agency Formation Commission (LAFCO) on behalf of two landowners to annex approximately 57.5 acres of territory located within the City of Newark to the Union Sanitary District (USD). The affected territory is within USD's sphere of influence and includes 297 parcels. The purpose of the proposal is to facilitate the planned development of 768 single- and multi-family residential units through public wastewater services.

**LAFCO Staff Recommendation:** Adopt the draft resolutions approving the annexation with standard terms.

**9. Adoption of Final Workplan and Budget for FY 2019-2020** (Public Hearing) – The Commission will consider adopting a final work plan and budget for 2019-2020. Both items return following their adoption in draft-form and subsequent public review. The final work plan and budget remain intact from its initial draft. The final budget expenses total $793,880 and represents a decrease of $2,964 or 0.4% from the current fiscal year with adjustments tied in services and supplies and resources drawn to accomplish items in the final work plan. Revenues are matched to expenses with a slight decrease in agency contributions by 14,464 or 2.4% in conjunction with an increase in the use of reserves by $4,000.

**LAFCO Staff Recommendation:** Adopt the attached resolution approving the final budget and work plan for FY 2019-2020 with any desired changes.

**10. Legislative Report** (Business) – The Commission will receive an update from the Legislative Committee as it relates to proposals impacting Local Agency Formation Commissions (LAFCOs). The report is being presented for discussion with a recommendation for the Commission to proceed and approve a support position for CALAFCO sponsored bill, Assembly Bill 1822. An update is also provided on CALAFCO's efforts to streamline its protest proceedings and the statutes.

**LAFCO Staff Recommendation:** Approve a support position for AB 1822 and authorize the Executive Officer to issue a letter to the authors.

**11. Update | Memorandum of Understanding with County of Alameda** (Business) – The Commission will receive an update on progress to date between the Alameda Local Agency Formation Commission (LAFCO) and the County of Alameda in regards to its Memorandum of Understanding (MOU) for administrative and support services set to expire on June 30, 2019. The existing MOU is still under negotiation, but with both parties in agreement to the overall terms outlined, staff expects an MOU agreement ready for Commission approval at Alameda LAFCO's special meeting scheduled on May 29, 2019. The report is being presented for information only along with any Commission feedback.

**12. Nomination and Election of Chair and Vice Chair** (Business) – As set forth in the Commission's Policies and Procedures Guidelines, the Alameda Local Agency Formation Commission (LAFCO) elects its officers (Chair and Vice Chair) at the May meeting for a period of two years with the newly elected officers assuming office at the next regular Commission meeting.

**LAFCO Staff Recommendation:** Nominate and elect the Commission Chair and Vice Chair for FY 2019-2020.

**13. Matters Initiated by Members of the Commission**

**14. Informational Items**

- **a.** Current and Pending Proposals
- **b.** Strategic Plan Update
- **c.** Report on 2019 CALAFCO Staff Workshop
- **d.** 2019 Annual Conference October 30 – November 1, 2019 in Sacramento

**15. Adjournment of Regular Meeting**

**16. Next Meetings of the Commission**

**Special Meeting**
**Wednesday, May 29, 2019 at 2:00 p.m. at City of Dublin, 100 Civic Plaza, Dublin, CA**

**Policy and Budget Committee Meeting**
**Thursday, June 7, 2019 at 2:00 pm at City of Dublin, 100 Civic Plaza, Dublin, CA**

**Regular Meeting**
**Thursday, July 18, 2019 at 2:00 p.m. at City of Dublin, 100 Civic Plaza, Dublin, CA**

## DISCLOSURE OF BUSINESS OR CAMPAIGN CONTRIBUTIONS TO COMMISSIONERS

Government Code Section 84308 requires that a Commissioner (regular or alternate) disqualify herself or himself and not participate ina proceeding involving an "entitlement for use" application if, within the last twelve months, the Commissioner has received **$250 or morein business or campaign contributions from an applicant, an agent of an applicant, or any financially interested person who activelysupports or opposes a decision on the matter.** A LAFCo decision approving a proposal (e.g., for an annexation) will often be an "entitlement for use" within the meaning of Section 84308. Sphere of Influence determinations are exempt under Government Code Section 84308.

If you are an applicant or an agent of an applicant on such a matter to be heard by the Commission and if you have made business or campaigncontributions totaling $250 or more to any Commissioner in the past twelve months, Section 84308(d) requires that you disclose that fact for the official record of the proceeding. The disclosure of any such contribution (including the amount of the contribution and the name of the recipient Commissioner) must be made either: l) In writing and delivered to the Secretary of the Commission prior to the hearing on the matter,or 2) By oral declaration made at the time the hearing on the matter is opened. Contribution disclosure forms are available at the meeting for anyone who prefers to disclose contributions in writing.

Pursuant to GC Section 84308, if you wish to participate in the above proceedings, you or your agent are prohibited from making a campaign contribution of $250 or more to any Commissioner. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until 3 months after a final decision is rendered by LAFCO. If you or your agent have made a contribution of $250 or more to any Commissioner during the 12 months preceding the decision, in the proceeding that Commissioner must disqualify himself or herself from the decision. However, disqualification is not required if the Commissioner returns that campaign contribution within 30 days of learning both about the contribution and the fact that you are a participant in the proceedings. Separately, any person with a disability underthe Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCO office at least three (3) working days prior to the meeting for any requested arraignments or accommodations.

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**SUMMARY ACTION MINUTES**
**ALAMEDA LOCAL AGENCY FORMATION COMMISSION**
**REGULAR MEETING**

**City of Dublin Council Chambers, 100 Civic Drive, Dublin, CA**

**March 14, 2019**

1. **Call to Order and Pledge of Allegiance**

Chair Wieskamp called the meeting to order at 2:00 p.m. The Pledge of Allegiance was recited.

**2. Roll Call**.

Roll was called. A quorum was present of the following commissioners:

County Members: Scott Haggerty (arrived 2:08, item 7) and Nate Miley (arrived 2:18, item 8)
City Members: John Marchand and alternate David Haubert (arrived 2:04, item 6)
Special District Members: Ayn Wieskamp, Ralph Johnson, and alternate Georgean Vonheeder-Leopold
Public Members: Sblend Sblendorio and alternate Tom Pico

Not Present: City Member Jerry Thorne and alternate County Member Richard Valle,

Staff present: Rachel Jones, Executive Officer; Theresa Rude, Analyst; Andrew Massey, Legal Counsel; and Sandy Hou, Clerk

**3. Public Comment**

Chair Wieskamp invited members in the audience to address the Commission on any matter not listed on the agenda and within the jurisdiction of the Commission. There were no comments**.**

**4. Approval of Meeting Minutes: January 10, 2019 Regular Meeting** (Consent Item)

Upon Motion by Commissioner Marchand, second by Commissioner Johnson, the minutes of January 10, 2019 were approved.

AYES: 4 (Johnson, Marchand, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 3 (Haggerty, Miley, Thorne)
ABSTAIN: 0

**5. Budget Update for 2018-2019 and Year End Projections** (Consent Item)

Executive Officer provided a summary of the written report, comparing budgeted and actual transactions for 2018-2019 through February 28, 2019, projecting that Alameda LAFCO is on pace to finish the fiscal year with an operating surplus of $136,705, which includes a $176,000 fund balance applied to offset agency apportionments.

Upon motion by Commissioner Marchand, second by Commissioner Sblendorio, the Commission approved accepting and filing the report.

AYES: 4 (Johnson, Marchand, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 3 (Haggerty, Miley, Thorne)
ABSTAIN: 0

DRAFT

**6. Adoption of Final Study Schedule for FY2019 to FY2024** (Public Hearing)

Adoption of a final study schedule calendaring municipal service reviews and sphere of influence updates beginning FY 2019. The final study schedule will serve as a formal policy in guiding the Commission's related planning activities. The proposed version approved at the January meeting was subsequently circulated among the 47 affected local agencies and general public with no comments received. The Commission made two changes to the proposed schedule:

- The inclusion of a broadband services review as a municipal service in the proposed Community Services II Municipal Service Review; and
- Inclusion of a municipal service review of the Alameda County Resource Conservation District during fiscal year 2021.

Following Executive Officer's summary of the written report, Chair Wieskamp opened and closed the public hearing, with no comments being offered.

Upon motion by Commissioner Marchand, second by Commissioner Johnson, the Commission approved the study schedule as amended.

AYES: 5 (Haubert, Johnson, Marchand, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 3 (Haggerty, Miley, Thorne)
ABSTAIN: 0

**7. Dissolution of San Lorenzo Library County Service Area (L-2 CSA) and Livermore-Amador Valley Sewer Study County Service Area (S-1984-1 CSA)** (Public Hearing)

The Commission had initiated dissolution at its January 2019 meeting following the State Controller's notice on November 6, 2018 that both districts were inactive.

Executive Officer provided summary remarks noting that the County agrees with the dissolution. She suggested to amend the draft resolution to include that under Government Code Section 57451, the County will automatically be named the successor agency given that both districts are encompassed within the County. She noted that the project is exempt from CEQA.

Chair Wieskamp opened and closed the public hearing with no comments being offered.

Discussion:
Commissioner Marchand shared that no one currently working for the City of Livermore is familiar with the Livermore-Amador Valley Sewer Study CSA or what it is/was for. Commissioner Johnson shared that he recalled it being set up years back, when he was working for the County, as a funding mechanism.

Motion & Vote:
Commissioner Haubert motioned, in honor of Commissioner Vonheeder-Leopold and Commissioner Pico, who put a lot of time in on the Amador Valley issues, to accept the recommendations of staff to adopt the draft resolution, as amended, approving the dissolutions of L-2 CSA and S-1984-1 CSA. Commissioner Johnson seconded and motion passed.

AYES: 6 (Haggerty, Haubert, Johnson, Marchand, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 2 (Miley, Thorne)
ABSTAIN: 0

**8. Adoption of Proposed Workplan and Budget for FY 2019-2020** (Public Hearing)

Executive Officer summarized the written report, noting the proposed budget expenses total $793,880 and represent a decrease of $2,964 or 0.4% with adjustments tied in services and supplies and resources drawn to accomplish items in the proposed work plan.

Chair Wieskamp opened and closed the public hearing with no comments being offered.

Discussion:
There was discussion concerning the proposed increased budgeting for staffing. Commissioner Haggerty expressed reservations about the necessity of the increase and Commissioner Haubert inquired if the Commission would have flexibility in staffing hours if the workload warranted such. Commissioner Wieskamp emphasized the importance of job title and description. Commissioner Marchand asked if LAFCO staff would continue to be employees of the County or employees directly of LAFCO.

The Executive Officer, along with Commissioners Johnson and Sblendorio, members of the ad hoc team negotiating the Memorandum of Understanding (MOU) with the County by June 30, 2019, clarified that:

- The proposed budget and staffing reflect the anticipation that LAFCO and the County will reach agreement on a new MOU.

- The proposed budget and staffing incorporate the County negotiator, Joni Pattillo, Special Assistant to the County Administrator's, agreement that under the new MOU there would be unique civil service classifications for the LAFCO Executive Officer, LAFCO Analyst and LAFCO Clerk positions in which case the positions would need to be budgeted by LAFCO as full time positions. Whether or not the Commission utilizes the positions as full time is up to the Commission. LAFCO staff will continue to be County employees, but will be designated as LAFCO specific. This adjustment in staffing will allow the Commission to have more control over its staffing choices. The Commission will approve the job titles and descriptions. The Executive Officer will hire and supervise the Analyst, Clerk, or Analyst/Clerk positions.

- The Analyst and Clerk positions, as of July 1, 2019 will be budgeted as full time, making a total of three full time budgeted staff (Executive Officer, Analyst, and Clerk). It is anticipated that due to anticipated retirements, after the first of the year, the Commission will actually have working for it two full time staff – an Executive Officer and an Analyst/Clerk. If work load requires it, there will be the flexibility to add to the staffing level in the future. LAFCO has had a full time Clerk in the past.

Executive Officer Jones indicated that the workload for LAFCO staff has increased based on her review of past reports and schedules. Commissioner Sblendorio noted that perhaps an Analyst could help out with projects that have typically been handled by outside consultants.

Motion & Vote:

Chair Wieskamp asked if there was a motion to approve staff's recommendation to approve the proposed budget and work plan for 2019-2020; to direct the Executive Officer to circulate the proposed budget for review and comment by the funding agencies and general public; and to return with a final budget for 2019-2020 for adoption as part of a noticed public hearing on May 9, 2019.

Commissioner Johnson so moved. Commissioner Sblendorio seconded and motion passed.

AYES: 6 (Haggerty, Haubert, Johnson, Marchand, Sblendorio, Wieskamp)
NOES: 0
ABSENT: 1 (Thorne)
ABSTAIN: 1 (Miley)

**9. Informational Items –** Staff comments as noted.

**a.** Current and Pending Proposals
Two new proposals on file with LAFCO – an annexation application from Union Sanitary District to provide wastewater services to a planned residential area located in the City of Newark and out of area service extension by the City of Hayward for wastewater services to two properties on Fairview Avenue due to failed septic systems. Proposals will be noticed for next regular meeting in May.

**b.** Strategic Plan Update
QK has completed the majority of its data gathering phase and is currently drafting the profiles and comparisons of each agency from past studies and current metrics. A draft document is expected by May.

**c.** Legislative Update
Per CALAFCO's request, letters of support went out for AB 213 that would reinstate funding for inhabited annexations through vehicle license fee adjustments and AB 1253 that would allow for the reimbursement of the mandatory dissolutions of inactive special districts pursuant to AB 448.

**d.** Memorandum of Understanding with County | Update
The MOU Advisory Committee met with County and outlined a list of themes that LAFCO would like to move forward with that would address any operational needs – from requesting specific LAFCO classifications or designations for its employees within the County system to seeking its own office space. The Committee believes the County is agreeable in moving forward with these terms and the Committee is currently working with the County to implement the specifics and ensure each item is translatable within the County system. Next meeting is March 25th and the Committee is working hard to reach the terms before the June 30th deadline.

Commissioner Miley observed that the Board of Supervisors had not been informed of any of the negotiations with LAFCO, so it was more accurate to say that the Advisory Committee had met with County representatives. There was discussion about LAFCO moving its office space out of its current location in the County Administrator's Office. Commissioner Sblendorio explained that the Committee had discussed moving to another County building, with Ms. Pattillo having recommended the Community Development Agency's (CDA) building in Hayward. Commissioners Haggerty and Wieskamp expressed support for moving the office to the Martinelli Center in Livermore, where CDA has office space used only once a week. The Heritage House at the Pleasanton Fairgrounds was another possibility mentioned by Commissioner Haggerty; although, he acknowledged access while the fair is in session is difficult. Commissioners Sblendorio and Vonheeder-Leopold expressed concern for staff having to make such a long commute out to Livermore, especially given the lack of a counter commute now. It was also pointed out that location of office space for staff was separate from the location of the Commission meetings which would continue to be in Dublin. It was then mentioned that the City of Dublin might have office space it could lease to LAFCO. Commissioner Sblendorio said the Committee would look into the suggestions made before their next meeting on March 25th. Commissioner Miley said that he would be in touch with the County Administrator's office about the details and status of the negotiations.

**e.** Commissioners with terms ending May 2019
1. Ayn Wieskamp
2. Scott Haggerty
3. David Haubert

**f.** Form 700: Due April 2
Commissioner Haggerty asked if he could submit his form electronically. Staff to follow up on inquiry.

**10. Matters Initiated by Members of the Commission** (Item inadvertently omitted from the agenda.)

Commissioner Miley informed the Commission of an initiative he has been working on in his capacity as a member of the Board of Supervisors. It is called the Eden Area Livability Initiative. It will involve a review of all the unincorporated areas to determine the desire and feasibility of incorporating. If it does incorporate, it would be the 4th largest city in the County. He said he would be in touch with the LAFCO Executive Officer to be engaged in some of the relevant conversations concerning the review.



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**11. Adjournment of Regular Meeting**

Chair Wieskamp adjourned the meeting at 3:00 p.m.

**Next Meetings**

**Policy & Budget Committee**
**Thursday, April 4, 2019 at 2:00 p.m. at the City of Dublin, Regional Room, 100 Civic Plaza, Dublin, CA**
(Subsequently cancelled)

**Regular Meeting**
**Thursday, May 9, 2019 at 2:00 p.m. at City of Dublin, City Council Chambers, 100 Civic Plaza, Dublin**

Respectfully submitted,

Sandy Hou, Commission Clerk

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**AGENDA REPORT**
May 9, 2019
Item No. 6

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Budget Update for 2018-2019 and Year End Projections**

The Commission will review a report comparing budgeted and actual transactions for 2018-2019 through April 30, 2019 and its projection Alameda LAFCO is on pace to finish the fiscal year with an operating surplus of $157,951. This includes a $176,000 fund balance applied to offset agency apportionments. The report is being presented to the Commission to accept and file and to provide direction as needed.

## Information

Alameda LAFCO's ("Commission") adopted final budget for 2018-2019 totals $796,843. This amount represents the total approved operating expenditures for the fiscal year divided between three active expense units: salaries and benefits; services and supplies; and internal services. A matching revenue total was also budgeted to provide a year-end balance of $0 and with a purposeful aid of a planned $176,000 transfer from reserves. Budgeted revenues are divided between three active units: intergovernmental contributions, application fees, and investments. The Commission's total fund balance as of July 1, 2018 was $595,796.

## Discussion

This item is for the Commission to receive an update comparison of (a) budget to (b) actual expenses and revenues through the month of April. The report provides the Commission the opportunity to track expenditure trends accompanied by year-end operating balance projections from the Executive Officer. The report is being presented to the Commission to formally accept and file and provide related direction as needed.

| Budgeted Expenses<br>FY 18-19 | Budgeted Revenues<br>FY 18-19 | Budgeted Year End Balance<br>FY 18-19 |
|---|---|---|
| $796,843 | $796,843 | $0 |

**Summary of Operating Expenses**

The Commission's budgeted operating expense total for 2018-2019 is $796,843. Actual expenses processed through the first ten months totaled $442,190; an amount representing 55.5% of the budgeted total with 83.0% of the fiscal year complete.

Actuals through the first ten months and related analysis suggest the Commission is on pace to finish the fiscal year with $643,670 in total expenses and finish with a remaining balance of $153,173 and an operating surplus of $157,951. A discussion on budgeted and actual expenses through the first ten months and related year-end projections follow.

| Expense Units | Adopted | Actuals | Percent Expended | Remaining Balance |
|---|---|---|---|---|
| **Salaries and Benefits** | 471,653 | 343,060 | 83% | 128,593 |
| **Services and Supplies** | 243,500 | 72,620 | 30% | 170,880 |
| **Internal Service Charges** | 31,690 | 26,510 | 84% | 5,180 |
| **Contingencies** | 50,000 | - | - | 50,000 |
| | $796,843 | $442,190 | 55% | $153,173 |

**Staffing Unit**

The Commission budgeted $471,653 in Staffing or Salaries and Benefits Unit for 2018-2019 with proceeds largely tied to funding 2.15 fulltime equivalent employees as well as existing retiree obligations. Through the first ten months the Commission's estimated expenses within the affected accounts totaled $343,060 or 73% of the budgeted amount. It is projected the Commission finish the fiscal year with an expenses total of $413,334. The remaining $58,319 is a contingency due to the recruitment and hiring of the Executive Officer and any other related staffing modifications.

**Services and Supplies Unit**

The Commission budgeted $243,500 in the Services and Supplies Unit for 2018-2019 to provide funding for *direct* support services necessary to operate Alameda LAFCO. Through the first ten months the Commission's actual expenses within the affected 14 accounts totaled $72,620 or 30% of the

budgeted amount. Two of the affected accounts – Travel and Mileage and Memberships – finished with balances exceeding the proportional 83% threshold with explanations provided below. In the absence of subsequent amendments at this time, it is projected the Commission will finish the fiscal year with an expense total of $192,854.

- Travel and Mileage

  This account covers the Commission's transportation costs. The Commission budgeted $200 in this account for 2018-2019 based on recent actual trends. Actual expenses through April totaled $1,308 and can be attributed to travel costs for the CALAFCO Annual Conference held in October 2018 in Yosemite. Staff projects limited additional mileage costs over the succeeding months.

- Memberships

  This account covers the Commission's annual dues for ongoing membership with several outside agencies and organizations as previously authorized by the members. This includes CALAFCO and the California Special Districts Association memberships. The Commission budgeted $9,026 in this account for 2018-2019 based on recent actual trends. Actual expenses through April totaled $9,026 or 100% of the budgeted amount and tied to providing full payment of all budgeted costs.

### Internal Services and Supplies

The Commission budgeted $31,690 in the Internal Services and Supplies Unit for 2018-2019 to provide funding for *indirect* support services necessary to operate Alameda LAFCO. Through the first ten months the Commission's actual expenses within the four affected accounts totaled $26,510 or 84% of the budgeted amount. It is projected the Commission will finish the fiscal year with a negative balance of ($5,792). One of the affected accounts – Information Technology – finished with balances exceeding the proportional 83% threshold with explanations provided below.

- Information Technology

  This account covers the Commission's computer maintenance, equipment and website costs. The Commission budgeted $21,578 in this account for 2018-2019 based on a preliminary quote. Actual expenses through April totaled $20,600 and can be attributed to an increase service charges. Staff projects additional costs of $11,081 to be applied to the account by the end of the fiscal year.

## Summary of Operating Revenues

The Commission budgeted operating revenue total for 2018-2019 at $796,843. Actual revenues collected through the first ten months totaled $619,614. This amount represents 77.8% of the budgeted total with 83% of the fiscal year complete. A summary comparison of budgeted to actual operating revenue follows.

Actuals through the first ten months and related analysis suggest the Commission's year-end revenue totals will tally at $801,621, or 619,614 without the application of the $176,000 fund balance to offset agency apportionments. An expanded discussion on the budgeted and actual revenues through the first ten months follows.

| Revenue Units | Adopted | Actuals | Percent Expended | Remaining Balance |
|---|---|---|---|---|
| **Agency Contributions** | 590,843 | 590,843 | 100% | - |
| **Application Fees** | 30,000 | 16,456 | 55% | 13,544 |
| **Interest** | - | 12,314 | - | 12,314 |
| **Fund Balance Offset** | 176,000 | - | - | - |
| | $796,843 | $619,614 | 78% | $177,229 |

### Agency Apportionments

The Commission budgeted $590,843 in the Agency Apportionments Unit for 2018-2019. This total budgeted amount was to be divided in two three equal shares at $196,948 and invoiced among the County of Alameda, 14 cities, and 15 independent special districts as provided under State statute. All payments have been received and the Commission will finish with an ending balance of $590,843 or 100% of the budgeted amount.

### Application Fees Unit

The Commission budgeted $30,000 in the Application Fees Unit for 2018-2019. Through the first ten months $16,456 have been collected in this unit. Staff anticipates – and at least for budgeting purposes – the account ultimately tallying at $20,000.

### Interest Unit

The Commission budgeted $0 in the Interest Unit for 2018-2019. Through the first ten months $12,314 have been collected in this unit by the County Treasurer. Staff anticipates – and at least for budgeting purposes – the account accruing at the current rate and ultimately tallying at $14,777.

## Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):
Accept and file the report as presented and provide direction as needed to staff with respect to any related matters for future consideration.

Alternative Two:
Continue consideration of the report to a future meeting and provide direction for more information as needed.

**Recommendation**

It is recommended the Commission proceed with Alternative Action One.

**Procedures for Consideration**

This item has been placed on the agenda as part of the consent calendar. Accordingly, a successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

Respectfully,

Rachel Jones
Executive Officer

Attachments:
1. 2018-2019 General Ledger through April 30, 2019

# ALAMEDA LOCAL AGENCY FORMATION COMMISSION

Regional Service Planning | Subdivision of the State of California

## Expense Ledger

| | | FY2017-2018 | | FY2018-2019 | | | | |
|---|---|---|---|---|---|---|---|---|
| | | Final | Actuals | Adopted | Actuals As of 4-30-19 | % of Budget | Projected Year End | Difference |
| **Salary and Benefit Costs** | | | | | | | | |
| Account | Description | | | | | | | |
| 60001 | Staff Salaries | - | - | 321,692 | 218,599 | 68.0% | 263,373 | 58,319 |
| - | Employee Benefits and Retirement (ACERA) | - | - | 149,961 | 124,461 | 83.0% | 149,961 | - |
| | | 472,385 | 383,228 | **471,653** | **343,060** | **72.7%** | **413,334** | **58,319** |
| **Service and Supplies** | | | | | | | | |
| Account | Description | | | | | | | |
| - | Intern | 1,600 | - | 1,600 | - | 0.0% | - | 1,600 |
| 610077 | Postage | 1,000 | 1,000 | 1,000 | 114 | 11.4% | 1,000 | 0 |
| 610141 | Copier | 2,000 | 2,503 | 3,000 | 3,000 | 0.0% | 3,000 | 0 |
| 610191 | Pier Diems | 7,500 | 7,300 | 7,700 | 4,100 | 53.2% | 7,700 | 0 |
| 610211 | Mileage/Travel | - | 89 | 200 | 1,308 | 654.0% | 2,628 | (2,428) |
| 610461 | Training (Conferences and Workshops) | 20,000 | 17,171 | 20,000 | 11,086 | 55.4% | 12,000 | 0 |
| 610241 | Records Retention | 1,000 | 1,000 | 1,000 | 256 | 25.6% | 1,000 | 0 |
| 610261 | Consultants | 75,000 | 75,000 | 96,000 | 20,408 | 21.3% | 90,000 | 6,000 |
| 610261 | Mapping - County | 5,000 | 5,000 | 5,000 | 595 | 11.9% | 5,000 | 0 |
| 610261 | Planning Services | 25,000 | 10,000 | 25,000 | 1,466 | 5.9% | 5,000 | 20,000 |
| 610261 | Legal Services | 40,000 | 35,000 | 40,000 | 12,383 | 31.0% | 25,000 | 0 |
| 610311 | CAO - County - Services | 11,000 | 11,000 | 11,000 | 5,500 | 50.0% | 11,000 | 0 |
| 610312 | Audit Services | 7,500 | - | 10,000 | 0 | 0.0% | 7,500 | 2,500 |
| 610351 | Memberships | 8,675 | 8,774 | 9,000 | 9,026 | 100.3% | 9,026 | (26) |
| 610421 | Public Notices | 5,000 | 2,000 | 5,000 | 2,870 | 57.4% | 5,000 | 0 |
| 610441 | Assessor - County - Services | 5,000 | - | 2,500 | - | 0.0% | 2,500 | 0 |
| 610461 | Special Departmental | 500 | 500 | 1,500 | 267 | 17.8% | 1,500 | 0 |
| 620041 | Office Supplies | 3,000 | 500 | 4,000 | 241 | 6.0% | 4,000 | 0 |
| | | 218,775 | 176,837 | **243,500** | **72,620** | **29.8%** | **192,854** | **50,646** |
| **Internal Service Charges** | | | | | | | | |
| Account | Description | | | | | | | |
| 630051 | Office Lease/Rent | 3,200 | 3,200 | 3,200 | 2,454 | 76.7% | 3,200 | 0 |
| 630021 | Communication Services | 3,218 | 3,218 | 3,878 | 1,939 | 50.0% | 3,878 | 0 |
| 630061 | Information Technology (GIS, ITD, Website) | 18,081 | 18,081 | 21,578 | 20,600 | 95.5% | 27,370 | (5,792) |
| 630081 | Risk Management | 2,686 | 2,686 | 3,034 | 1,517 | 50.0% | 3,034 | 0 |
| | | 27,185 | 27,185 | **31,690** | **26,510** | **83.7%** | **37,482** | **(5,792)** |
| **Contingencies** | | 50,000 | | **50,000** | **-** | **0.0%** | **-** | **50,000** |
| Account | Description | | | | | | | |
| - | Operating Reserve | - | - | | - | - | - | - |
| | | - | - | | - | - | - | - |
| | **EXPENSE TOTALS** | **768,345** | **587,250** | **796,843** | **442,190** | **55.5%** | **643,670** | **153,173** |

## Revenue Ledger

| | | FY2017-2018 | | FY2018-2019 | | | | |
|---|---|---|---|---|---|---|---|---|
| | | Adopted | Estimate | Proposed Final | Actuals | % of Budget | Projected Year End | Difference |
| **Intergovernmental** | | | | | | | | |
| Account | Description | | | | | | | |
| - | Agency Contributions | 588,345 | 588,344 | 590,843 | 590,844 | 100% | 590,844 | 0 |
| | County of Alameda | 196,115 | 196,114 | 196,948 | 196,948 | 100% | 196,948 | 0 |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Cities | 196,115 | 196,114 | 196,948 | 196,948 | 100% | 196,948 | 0 |
| Special Districts | 196,115 | 196,114 | 196,948 | 196,948 | 100% | 196,948 | 0 |
| | 588,345 | 588,344 | 590,843 | 590,844 | 100% | 590,844 | 0 |
| **Service Charges** | | | | | | | |
| - Application Fees | 30,000 | 16,000 | 30,000 | 16,456 | 54.9% | 20,000 | (13,544) |
| **Investments** | | | | | | | |
| - Interest | - | 4,000 | 0 | 12,314 | - | 14,777 | 12,314 |
| **Fund Balance Offset** | 150,000 | 150,000 | 176,000 | - | 0.0% | 176,000 | 0 |
| **REVENUE TOTALS** | **768,345** | **758,344** | **796,843** | **619,614** | **77.8%** | **801,621** | **4,778** |
| **OPERATING NET** | - | 171,094 | - | 177,424 | | 157,951 | |
| **UNRESTRICTED FUND BALANCE** | | | 595,796 | | | | |
| **As of June 30th** | | | | | | | |

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**AGENDA REPORT**
May 9, 2019
Item No. 7

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Proposed Out of Service Area Agreement | 27440 and 27489 Fairview Avenue to the City of Hayward**

---

The Commission will consider an out of area service agreement filed by the City of Hayward with the Alameda Local Agency Formation Commission (LAFCO) requesting approval to extend public wastewater services outside of its jurisdictional boundary to two affected lots located on 27440 and 27489 Fairview Avenue in the Castle Homes area of the unincorporated community of Fairview. The affected territories as submitted are developed with single-family residences on each legal lot. The purpose of the proposal is a response to a failing septic system and potential health and safety hazard by extending public wastewater services to the affected territories. Staff recommends approval of the proposal with standard terms.

## Background

Alameda LAFCO has received a proposal through a resolution of application from the City of Hayward on behalf of landowners (Avtar Singh and Reina Murray) requesting an out of area service agreement (OASA) approval involving two legal lots each totaling 2.3 and 1.0 acres within the City's sphere of influence. The affected territories with a situs address of 27440 and 27489 Fairview Avenue, located in the unincorporated community of Fairview, are already developed with single family residences built in 1958 and 1963 respectively, and totaling 2,500 and 2,946 square feet in size with four bedrooms. The County of Alameda Assessor's Office identifies the subject parcels as 0854-6200-011-00 and 425-0500-013-00.

### Other Affected Agencies

The affected territories lie within the unincorporated area of Alameda County. They also lie within the boundaries of the following special districts subject to Commission oversight:

- Castle Homes County Service Area (CSA)
- Fairview Fire Protection District
- Hayward Area Recreation and Park District
- Alameda County Fire Department
- Alameda County Flood Control and Water Conservation District
- East Bay Regional Park District

- Alameda County Mosquito Abatement District

* The affected territory also lies within the Hayward Unified School District and lies within County Supervisorial District No. 4 (Nate Miley).

**Discussion**

This item is for the Commission to consider approving – with or without modifications – the City's proposal for an OASA with the affected territories. The Commission may also consider applying conditions to an approval so long as it does not directly regulate land use, property development, or subdivision requirements.

**Purpose of the Proposal**

The primary purpose of the proposal is to facilitate the extension of public wastewater service in step with removing a failed septic system with the potential of creating a public health and safety hazard. The OASA connection to the wastewater system would serve as an alternative to repairing or replacing the system. A sewer main extension of approximately 300 feet is required and will be paid for by the landowners of the affected territories.

**Development Potential**

The affected territory as proposed is planned for single-family residential with limited agriculture use by the County of Alameda. The zoning designation is under the County of Alameda's classification as R-1-L-BE with a 5 acre minimum building site area. In order to provide for maximum site and design review, secondary units may be developed only through rezoning to a Planned Development (PD) District.

**Analysis**

Government Code (G.C.) Section 56133 requires that a city or special district obtain written LAFCO approval prior to extending services by contract or agreement outside of the agency's jurisdictional boundary. This authority supports LAFCO's legislated role to promote orderly growth and development within the region. LAFCO may authorize out of area service agreements only if the proposal is to extend services to the affected territory either:

1. Outside the jurisdictional boundary but within the sphere of influence in anticipation of a later change of organization; or

2. Outside the jurisdictional boundary and outside the sphere of influence in response to an existing or impending documented threat to public health or safety of the affected residents.

The City of Hayward has requested approval of the OASA on the premise of addressing a public health and safety threat tied to the failed septic systems, even though the subject territories are located within the City of Hayward's sphere of influence. The County of Alameda's Department of Environmental Health has also provided LAFCO with a letter noticing the potential threat (Attachment 3).

Annexations are the preferred method under LAFCO law to use boundary changes to ensure the relationship between land and service providers, unless local conditions suggest otherwise.

The City of Hayward indicates in its application that the annexation of these parcels are not feasible at this time due to lack of resident interest. The city prefers to annex the entire territory than on an individual basis and given that the affected territories are not exactly contiguous to the city's jurisdictional boundary, other surrounding territories would also have to be annexed at the same time.

Staff finds that the local conditions sufficiently justify an OASA as the most responsive means to provide wastewater services to the affected territory. The wastewater services proposed by the city will not facilitate a change of land use nor will they promote or induce growth on the property or surrounding properties. The proposed service agreement is consistent with LAFCO law and the policies of this Commission in that the subject properties are within the City of Hayward's sphere of influence and the landowners have consented to annexation upon request by the city. Staff also conditions approval of the proposed OASA upon the signing of a pre-annexation agreement with Alameda LAFCO.

## Other Mandated Considerations

### Environmental Review

The Commission serves as lead agency under the California Environmental Quality Act (CEQA) for the proposed OASA. Staff has determined the proposal is a project under CEQA, but exempt from further review under CEQA Guidelines 15303(d). This exemption contemplates the construction of new utility systems and the proposed wastewater services would support one single family residence for each subject territory which is the maximum allowed on the parcel.

## Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):
Adopt the draft resolution (Attachment 4) with conditional approval of the out of area service agreement of 27440 and 27489 Fairview Avenue with the City of Hayward.

Alternative Two:
Continue consideration of the report to a future meeting and provide direction for more information as needed.

Alternative Three:
Disapprove the proposal. Disapproval would statutorily prohibit the initiation of a similar proposal for one year unless a request for reconsideration is filed and approved by the Commission within 30 days.

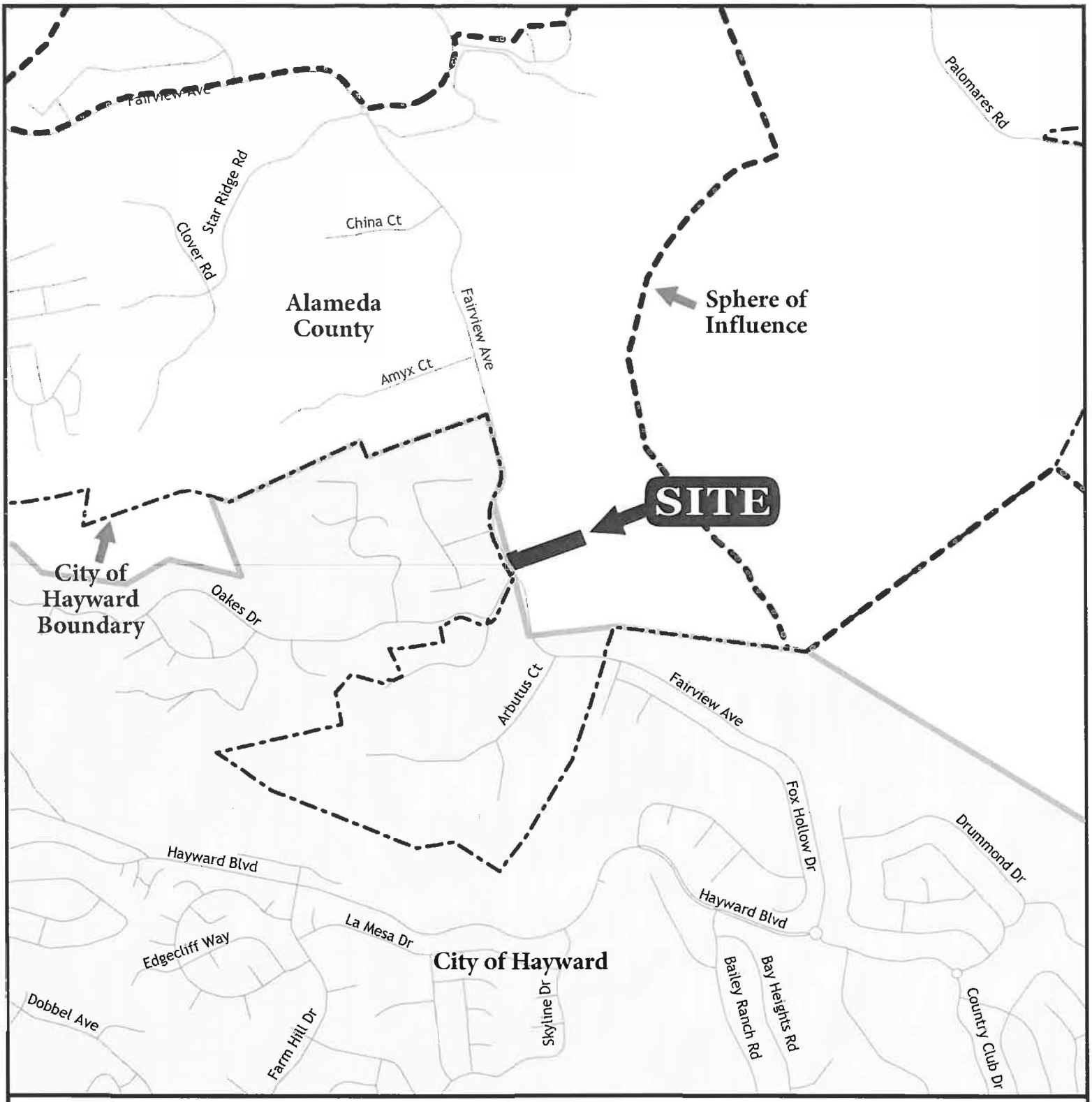
**Recommendation**

It is recommended the Commission proceed with Alternative Action One.

Respectfully,

Rachel Jones
Executive Officer

Attachments:
1. Vicinity Maps
2. Application Materials
3. Letter from County of Alameda Department of Environmental Health
4. Draft Resolution




# Project Location Map

201805761 USA 18-02

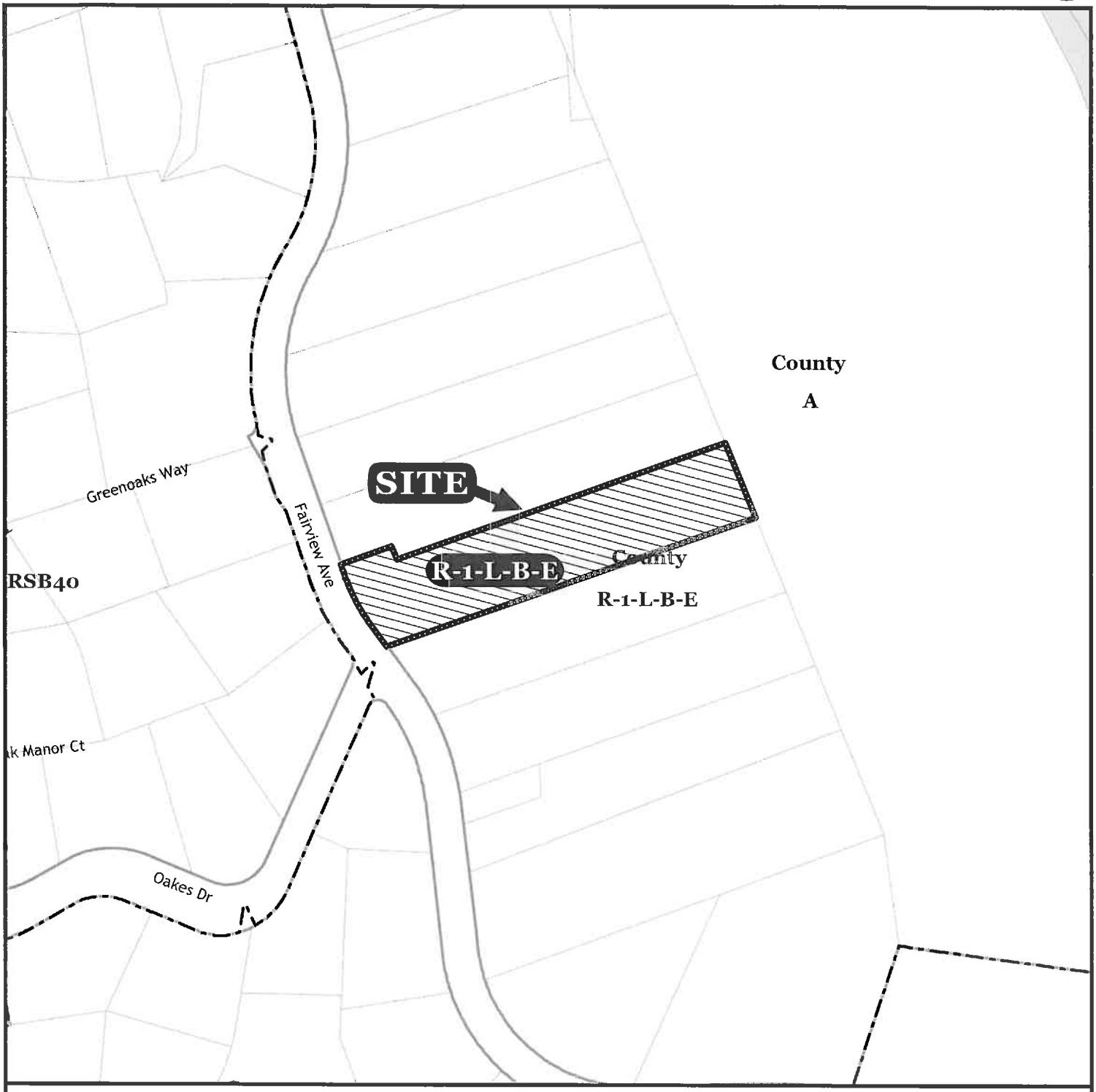
27440 Fairview Ave

Sewer Service Boundary

Mile 0 0.5

N

# Area & Zoning Map




## USA 18-02

*Address:*
***27440 Fairview Ave***

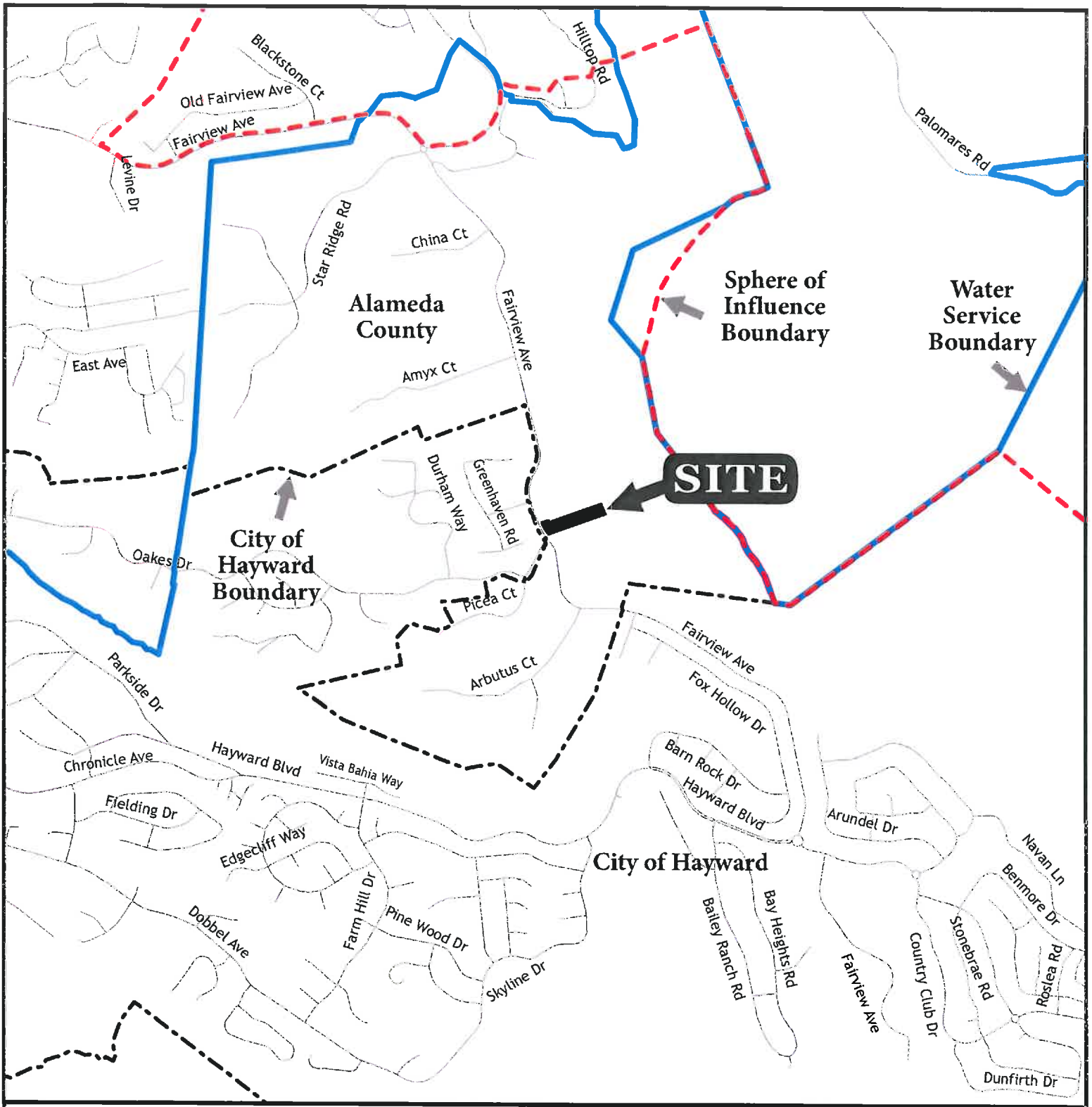
*Applicant:*
***Avtar Singh***

*Owner:*
***Avtar Singh***

0 100 200 300 Feet

**Zoning Classifications**

| | |
|---|---|
| A | Agriculture |
| RSB10 | Single Family Residential, min lot size 10000 sqft |
| RSB40 | Single Family Residential, min lot size 40000 sqft |
| R-1-L-BE | Single Family Residential, Limited Agriculture |
| PD | Planned Development |

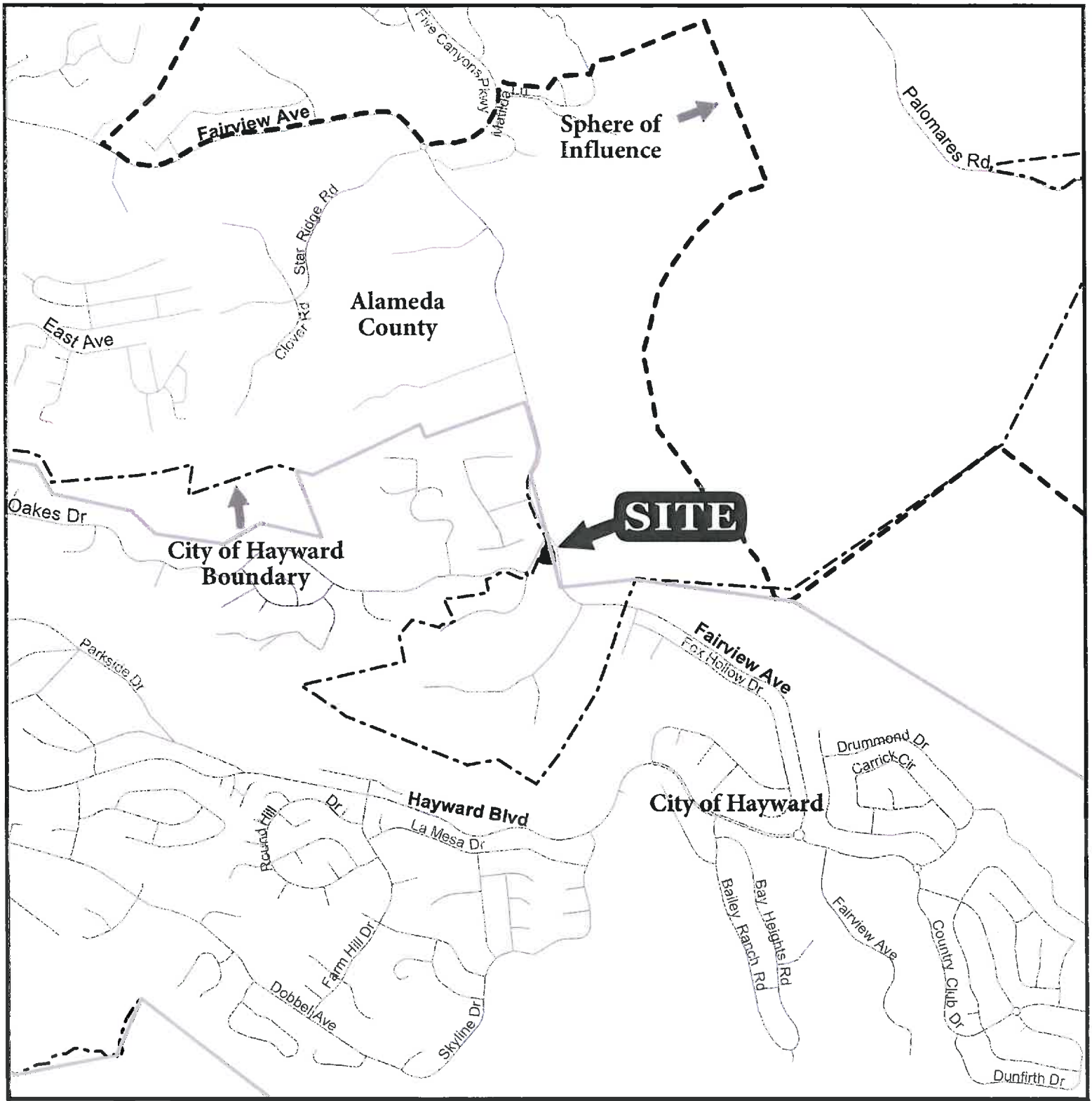



# City of Hayward Sphere of Influence

201805761 USA 18-02

27440 Fairview Ave

Mile 0 0.5




# Project Location Map

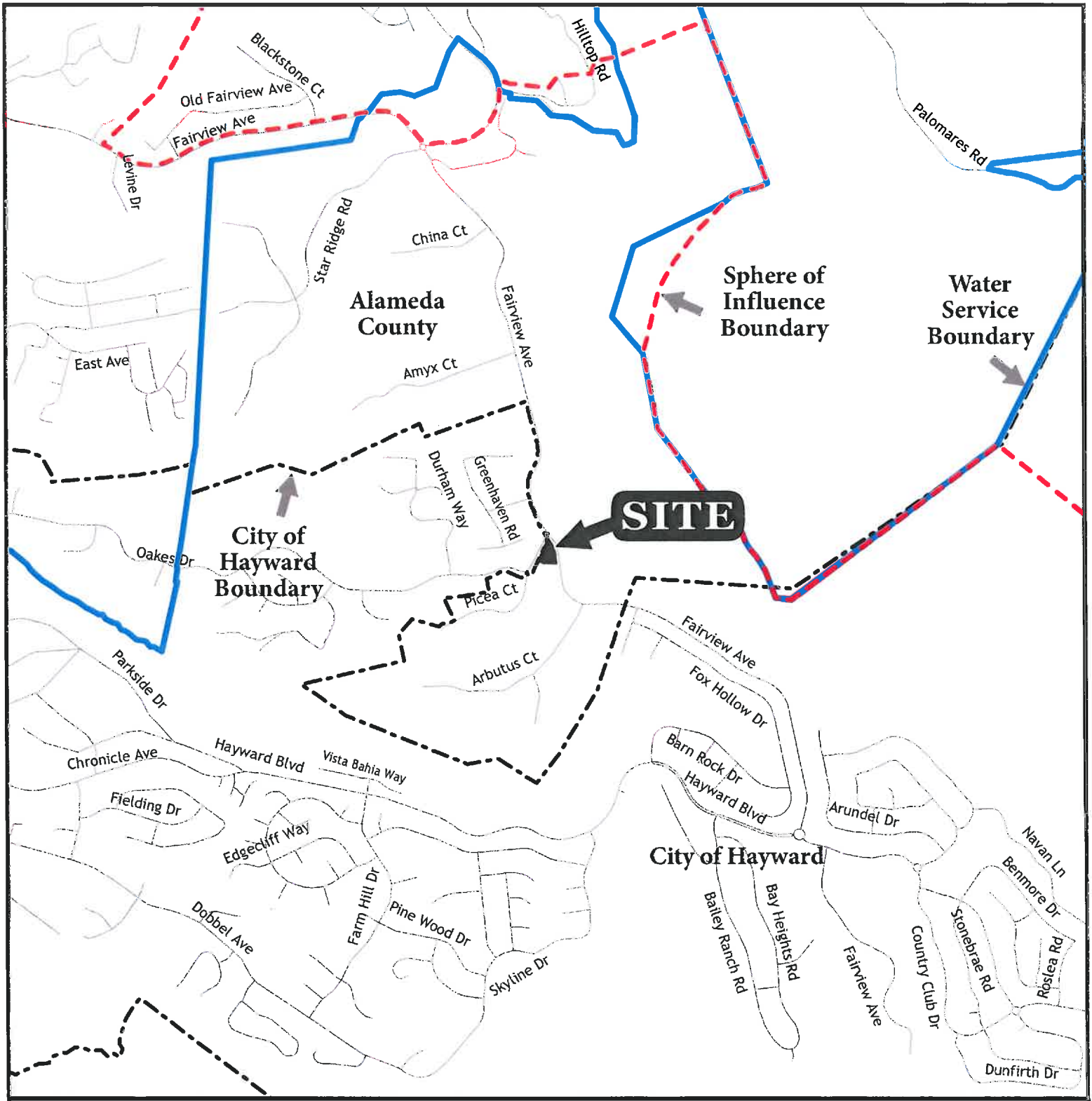
201801820 USA 18-01

27489 Fairview Ave

Sewer Service Boundary

Mile 0 0.5

N




# City of Hayward Sphere of Influence

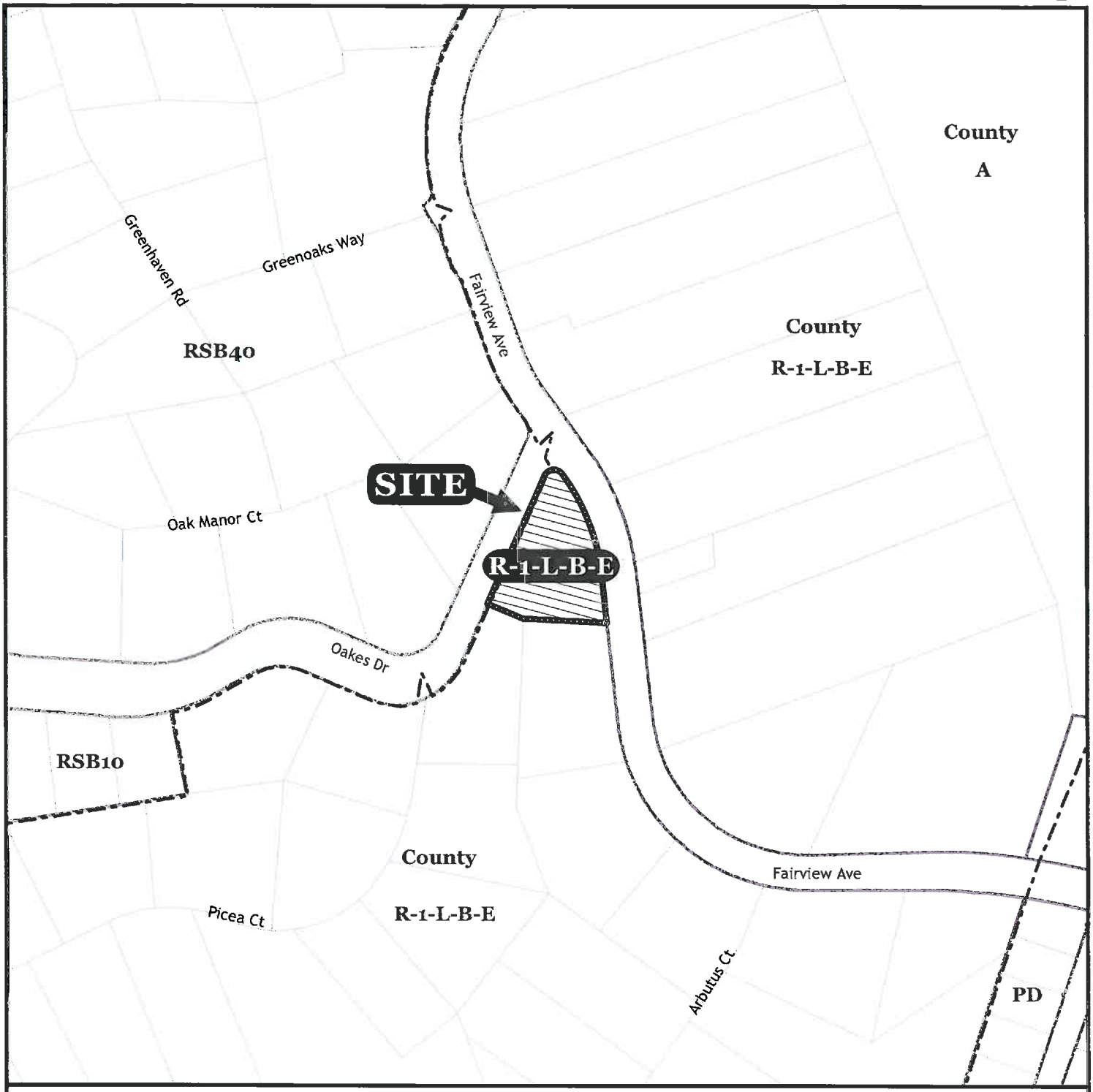
201801820 USA 18-01

27489 Fairview Ave

Mile 0 0.5

N

# Area & Zoning Map




## USA 18-01

*Address:*
***27489 Fairview Ave***

*Applicant:*
***Reiná Murray***

*Owner:*
***Reiná Murray***

0 100 200 300 Feet

**Zoning Classifications**

| | |
|---|---|
| A | Agriculture |
| RSB10 | Single Family Residential, min lot size 10000 sqft |
| RSB40 | Single Family Residential, min lot size 40000 sqft |
| R-1-L-BE | Single Family Residential, Limited Agriculture |
| PD | Planned Development |

**Appendix B3. Out of Area Service Agreement Application** (updated 1/2008)
**Alameda Local Agency Formation Commission**

**1. Name and Address of Applicant (must be public agency):**

City of Hayward
Development Services Department
777 B St.
Hayward, CA 94541

**2. Contact Name and Title:** Allen Baquilar, Senior Civil Engineer
Telephone: 510-583-4111 FAX: 510-583-4191
E-mail Address: allen.baquilar@hayward-ca.gov

**3. Application Initiated By:**

Agency Name: City of Hayward
Resolution No.: 18-061 Date Adopted: 4-17-18

Submit 1 copy of Resolution of Application and 2 copies of proposed out of area service agreement with application.

**4. Property Owner and Location of Property to Be Served (List additional owners/properties on separate sheet if necessary)**

Name of Property Owner/s: Avtar Singh
Address: 27440 Fairview Avenue
City: Hayward State: CA Zip Code: 94542
Assessor Parcel Number/s: 085A-6200-011-00
Name of Property Owner/s: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Assessor Parcel Number/s: _____

**5. Type of Service to Be Provided**

**Check one or more:** ____ Water __X__ Sewer ____ Police ____ Fire ____ Garbage ____
Other/s: _____

## 6. Description of Property to Be Served

6a. Is parcel to be served WITHIN your current Sphere of Influence (SOI)? X Yes __ No

6b. If Yes, provide (a) general description of property location in relationship to current city/district boundary line and (b) attach a project area map showing parcel/s, district and SOI boundaries.

Description: Property is within the Castle Homes Area which the City has an agreement to serve. The property is just outside of the City Boundary but is within the City SOI.

6c. If No, provide (a) description of property location in relationship to the SOI boundary, (b) identify other agencies with jurisdiction over area in which property is located, and (c) attach a project area map showing parcel/s, SOI boundary of agency requesting service, and SOI boundary/ies of other agency's that may provide service.

Description: _____

Other Agencies that could provide service: None

6d. How is the property currently used?

X Residential ____ Commercial ____ Agriculture____ Vacant/Undeveloped

____ Church, school, other public use _____Industrial ____Habitat, Recreation

6e. What is current zoning designation? County: Alameda County

General Plan designation? REDR: Rural Estate Density Residential

Provide the following land use maps with legends for the project site and immediately adjacent parcels, and clearly identify the project site; County General Plan; City General Plan; Existing Land Use Zones; Prezone if applicable; and Community/Specific Plan if applicable.

6f. Are there any development or building applications on file that would authorize a different or higher density on the subject property/ies or adjacent property/ies? No

If Yes, explain and attach a list of projects and application processing numbers.

6g. Is property inhabited? X Yes ___ No If Yes, how many residents? 2

6h. Provide the number of existing dwelling units/buildings on the property.

Single family: X Multi-Family: ____ Commercial/Industrial: _____

Square footage for commercial industrial _____

6i. Are there other service contracts/agreements currently in effect to serve this parcel or adjoining parcels? __ Yes X No

If Yes, (a) explain and (b) attach 2 copies of other agreements or contracts.

_____

_____

_____

_____

6j. Adjacent Land Uses.

| | Existing Land Uses | General Plan Designation | Zoning Designation |
|---|---|---|---|
| North | Residential | Rural Estate Density Residential | County: Alameda County |
| South | Residential | Rural Estate Density Residential | County: Alameda County |
| East | Residential | Rural Estate Density Residential | County: Alameda County |
| West | Residential | Rural Estate Density Residential | RSB40: SFR 40,000 sq ft |

**7. Environmental Review**

This application is subject to the requirements of the California Environmental Quality Act (CEQA). If CEQA review has already been undertaken by another agency, please provide two copies of the environmental documentation including the Notice of Exemption or Notice of Determination and proof of payment of applicable State Fish and Game Department Fees.

7a. Lead Agency. N/A

7b. Responsible Agency/ies. _____

7c. Type of action taken:

____ Exemption ____ Negative Declaration ____ Environmental Impact Report

7d. Date of Certification/Adoption: _____

**8. Contract Service Issues**

8a. Explain how services are to be extended, what the costs of extension will be and how the costs will be financed?

A sewer main extension of approximately 350' is required and will be paid for by the property owner. Construction Drawings will be submitted to the City and Alameda County for review and approvals prior to construction.

8b. Will the provision of services be growth inducing? Explain.
No, the property owner desires to only connect her property to the City's sewer system and ultimately remove the existing septic tank serving the property.

8c. Does the proposed service provider have existing capacity to serve the project site?
Yes, there is capacity to serve the project site.

8d. Will existing customers continue to receive the same or higher level of service if this project is approved? Will the same level of service be provided to the project site as other customers receive?
If approved, the property owner will be able to receive sewer service from Hayward. The project site will receive the same level of service provided as other customers receive

**9. Justification for Out of Area Service Agreement** (must check one box below)

Pursuant to Government Code Section 56133, this application is submitted *(you must check one)*

- ☒ To address a threat to public health or safety (answer question 9a); or
- ☒ In anticipation of a future annexation (answer question 9b)

*Unless there is a threat to public health or safety, the jurisdiction must **justify** why a service agreement is being considered instead of an application for annexation.*

9a. Public Health or Safety Condition

i. Please summarize the nature, extent and duration of the public health or safety emergency (attach additional page(s) if needed) and attach a copy of certification from appropriate Public Health Officials and any additional information verifying existence of emergency situation.
The Alameda County Department of Environmental Health will provide the certification or letters necessary to summarize the public health emergency pertaining to this application.

ii. What alternatives have been explored to mitigate emergency situation in lieu of executing out of agency service agreement?

The Alameda County Department of Environmental Health will provide the certification or letters necessary to summarize the public health emergency pertaining to this application.

ii. Is Interim Emergency Approval (expedited review) requested? __ Yes X No

9b. Other Special Circumstances

What are other special conditions or unique circumstances that justify use of an out of area service agreement in lieu of filing for annexation? Respond to following (use extra sheet of paper if necessary):

Has annexation been considered? X Yes ___ No

Why was it found infeasible?

Residents within the entire Castle Homes neighborhood would need to request annexation.

Annexing individual properties would be unfeasible and contrary to City policies.

What barriers need to be overcome before filing an annexation application?

Castle Homes Area residents must be in favor of annexation and petition the City and LAFCO.

How long would the annexation be anticipated to take? unknown

Is there a contractual obligation? No

Explanation: _____

**10. Public Notice, Disclosure, and Other Requirements**

10a. Provide an 8 ½" X 11" map indicating the project site and identifying all parcels adjacent to and within 300 feet of the project site. Outer boundaries (not adjacent to project site) of large parcels need not be identified. All parcel numbers need to be indicated. (See Appendix E, Exhibit H)

10b. Provide a list of all parcel numbers within the 300 foot radius and include the name and address of the property owner as of the most recent assessment roll being prepared.

10c. Provide signed financial disclosure statement/s (See Appendix E, Exhibit C) pursuant to Government Code Section 56700.1.

10d. Provide one copy of an indemnification agreement (See Appendix E, Exhibit I).

10e. Provide two sets of original mailing labels that separately identify applicants, affected agencies, school districts, registered voters and landowners on project site, property owners within 300

feet of project site, and any other party to which notification must be provided. Labels must be current and complete and in Avery 5160 format.

## 11. Final Comments

11a. List any conditions LAFCo should include in its resolution for approval.

11b. Provide any other comments or justifications regarding the proposal from any affected local agency, landowner or resident.

11c. Enclose all pertinent staff reports and supporting documentation related to this proposal. Note any changes in the approved project that are not reflected in these materials.

## 12. Certification

I hereby certify that the above information and accompanying documents are true and correct to the best of my knowledge. I hereby agree to pay all required filing and processing fees as may be needed to complete this application. Further, I understand that LAFCo will not be process an incomplete application and that LAFCo's adopted Procedures require that specific documentation be submitted as part of this application.

Allen Baquilar, Senior Civil Engineer

Name of Applicant's Authorized Representative

Signature of Applicant's Authorized Representative

2/1/19

Date

**Appendix B3. Out of Area Service Agreement Application** (updated 1/2008)
**Alameda Local Agency Formation Commission**

**1. Name and Address of Applicant (must be public agency):**

City of Hayward
Development Services Department
777 B St.
Hayward, CA 94541

**2. Contact Name and Title:** Allen Baquilar, Senior Civil Engineer

Telephone: 510-583-4111 FAX: 510-583-4191

E-mail Address: allen.baquilar@hayward-ca.gov

**3. Application Initiated By:**

Agency Name: City of Hayward

Resolution No.: 18-061 Date Adopted: 4-17-18

Submit 1 copy of Resolution of Application and 2 copies of proposed out of area service agreement with application.

**4. Property Owner and Location of Property to Be Served (List additional owners/properties on separate sheet if necessary)**

Name of Property Owner/s: Reina Murray

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City: Hayward State: CA Zip Code: 94542

Assessor Parcel Number/s: 425-0500-013-00

Name of Property Owner/s: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Assessor Parcel Number/s: _____

**5. Type of Service to Be Provided**

**Check one or more:** ____ Water __X__ Sewer ____ Police ____ Fire ____ Garbage ____

Other/s: _____

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Description: _____

Other Agencies that could provide service: None

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____ Church, school, other public use _____Industrial ____Habitat, Recreation

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General Plan designation? REDR: Rural Estate Density Residential

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If Yes, explain and attach a list of projects and application processing numbers.

6g. Is property inhabited? X Yes ___ No If Yes, how many residents? 2

6h. Provide the number of existing dwelling units/buildings on the property.

Single family: X Multi-Family: ____ Commercial/Industrial: ____

Square footage for commercial industrial ____

6i. Are there other service contracts/agreements currently in effect to serve this parcel or adjoining parcels? __ Yes X No

If Yes, (a) explain and (b) attach 2 copies of other agreements or contracts.

6j. Adjacent Land Uses.

| | Existing Land Uses | General Plan Designation | Zoning Designation |
|---|---|---|---|
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7a. Lead Agency. N/A

7b. Responsible Agency/ies. ____

7c. Type of action taken:

____ Exemption ____ Negative Declaration ____ Environmental Impact Report

7d. Date of Certification/Adoption: ____

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- ☒ In anticipation of a future annexation (answer question 9b)

*Unless there is a threat to public health or safety, the jurisdiction must **justify** why a service agreement is being considered instead of an application for annexation.*

9a. Public Health or Safety Condition

i. Please summarize the nature, extent and duration of the public health or safety emergency (attach additional page(s) if needed) and attach a copy of certification from appropriate Public Health Officials and any additional information verifying existence of emergency situation.
The Alameda County Department of Environmental Health will provide the certification or letters necessary to summarize the public health emergency pertaining to this application.

ii. What alternatives have been explored to mitigate emergency situation in lieu of executing out of agency service agreement?

The Alameda County Department of Environmental Health will provide the certification or letters necessary to summarize the public health emergency pertaining to this application.

ii. Is Interim Emergency Approval (expedited review) requested? __ Yes X No

9b. Other Special Circumstances

What are other special conditions or unique circumstances that justify use of an out of area service agreement in lieu of filing for annexation? Respond to following (use extra sheet of paper if necessary):

Has annexation been considered? X Yes ___ No

Why was it found infeasible?

Residents within the entire Castle Homes neighborhood would need to request annexation.

Annexing individual properties would be unfeasible and contrary to City policies.

What barriers need to be overcome before filing an annexation application?

Castle Homes Area residents must be in favor of annexation and petition the City and LAFCO.

How long would the annexation be anticipated to take? unknown

Is there a contractual obligation? No

Explanation: _____

**10. Public Notice, Disclosure, and Other Requirements**

10a. Provide an 8 ½" X 11" map indicating the project site and identifying all parcels adjacent to and within 300 feet of the project site. Outer boundaries (not adjacent to project site) of large parcels need not be identified. All parcel numbers need to be indicated. (See Appendix E, Exhibit H)

10b. Provide a list of all parcel numbers within the 300 foot radius and include the name and address of the property owner as of the most recent assessment roll being prepared.

10c. Provide signed financial disclosure statement/s (See Appendix E, Exhibit C) pursuant to Government Code Section 56700.1.

10d. Provide one copy of an indemnification agreement (See Appendix E, Exhibit I).

10e. Provide two sets of original mailing labels that separately identify applicants, affected agencies, school districts, registered voters and landowners on project site, property owners within 300

feet of project site, and any other party to which notification must be provided. Labels must be current and complete and in Avery 5160 format.

## 11. Final Comments

11a. List any conditions LAFCo should include in its resolution for approval.

11b. Provide any other comments or justifications regarding the proposal from any affected local agency, landowner or resident.

11c. Enclose all pertinent staff reports and supporting documentation related to this proposal. Note any changes in the approved project that are not reflected in these materials.

## 12. Certification

I hereby certify that the above information and accompanying documents are true and correct to the best of my knowledge. I hereby agree to pay all required filing and processing fees as may be needed to complete this application. Further, I understand that LAFCo will not be process an incomplete application and that LAFCo's adopted Procedures require that specific documentation be submitted as part of this application.

Allen Baquilar, Senior Civil Engineer

Name of Applicant's Authorized Representative

Signature of Applicant's Authorized Representative

2/1/19

Date

ALAMEDA COUNTY
**HEALTH CARE SERVICES AGENCY**
Colleen Chawla, Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH
Land Use Program
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

February 7, 2019

Ms. Rachel Jones, Executive Officer
Alameda Local Agency Formation Commission
(*Sent via E-mail to:* Rachel.Jones@acgov.org)

Subject: Letter of Support for a municipal sewer connection associated with an Existing Onsite Wastewater Treatment System (OWTS)
27440 Fairview Avenue, Hayward
Assessor Parcel Number: 85A-6200-11

Dear Ms. Jones:

Alameda County Department of Environmental Health (ACDEH) OWTS Program has received a request to support a municipal sewer connection for the subject property from the owners. Based on the review of the documents in the property file, the existing OWTS was approved in 1961 and some modifications may have been completed in 1984.

Due to the age of the existing OWTS and its unknown existing condition, continued use of the OWTS has a potential of creating a **public health and safety hazard.** Therefore ACDEH is in support of the subject property to connect to a municipal sewer system.

Should you have any questions or concerns regarding this correspondence, please call me at (510) 639-1287 or send me an electronic mail message at muhammed.khan@acgov.org.

Sincerely,

Digitally signed by Muhammed Khan
DN: cn=Muhammed Khan, o=Alameda County Environmental Health, ou=Land Use, email=muhammed.khan@acgov.org, c=US
Date: 2019.02.08 16:32:25 -08'00'

Muhammed Khan, Senior REHS
OWTS Technical Compliance Coordinator, Land Use Program

cc: Natali Colom Cruz, ACDEH, OWTS Program *(Sent via E-mail to Natali.Colom@acgov.org)*

ALAMEDA COUNTY
**HEALTH CARE SERVICES AGENCY**
Colleen Chawla, Agency Director

DEPARTMENT OF ENVIRONMENTAL HEALTH
Land Use Program
1131 Harbor Bay Parkway, Suite 250
Alameda, CA 94502-6577
(510) 567-6700
FAX (510) 337-9335

February 7, 2019

Ms. Rachel Jones, Executive Officer
Alameda Local Agency Formation Commission
*(Sent via E-mail to: Rachel.Jones@acgov.org)*

Subject: Letter of Support for a municipal sewer connection associated with an Existing Onsite Wastewater Treatment System (OWTS)
27489 Fairview Avenue, Hayward
Assessor Parcel Number: 425-500-13

Dear Ms. Jones:

Alameda County Department of Environmental Health (ACDEH) OWTS Program has received a request to support a municipal sewer connection for the subject property from the owners. ACDEH possesses no documents in regards to the existing OWTS at the subject property.

Due to the absence of documents, the age of the existing OWTS and its unknown existing condition, continued use of the OWTS has a potential of creating a **public health and safety hazard.** Therefore ACDEH is in support of the subject property to connect to a municipal sewer system.

Should you have any questions or concerns regarding this correspondence, please call me at (510) 639-1287 or send me an electronic mail message at muhammed.khan@acgov.org.

Sincerely,

Digitally signed by Muhammed Khan
DN: cn=Muhammed Khan, o=Alameda County Environmental Health, ou=Land Use, email=muhammed.khan@acgov.org, c=US
Date: 2019.02.08 16:30:16 -08'00'

Muhammed Khan, Senior REHS
OWTS Technical Compliance Coordinator, Land Use Program

cc: Natali Colom Cruz, ACDEH, OWTS Program *(Sent via E-mail to Natali.Colom@acgov.org)*

**ALAMEDA LOCAL AGENCY FORMATION COMMISSION**

**RESOLUTION NO. 2019-XX**

**APPROVAL OF OUT OF AREA SERVICE AGREEEMENT BETWEEN THE CITY OF HAYWARD AND 27440 AND 27489 FAIRVIEW AENUE FOR THE PROVISION OF WASTEWATER SERVICES**

**WHEREAS**, the Alameda Local Agency Formation Commission, hereinafter referred to as the "Commission," is responsible for regulating boundary changes affecting cities and special districts under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

**WHEREAS**, a Resolution of Application (Resolution No. 18-255 dated December 18, 2018) was filed with the Executive Officer of the Alameda Local Agency Commission by the City Council of Hayward, pursuant to Title 5, Division 3, commencing with Section 56000 of the California Government Code;

**WHEREAS**, said resolution is for the purpose of requesting approval of an out of area service agreement (OASA) to extend wastewater services outside the City of Hayward's jurisdictional boundary to properties located at 27440 and 27489 Fairview Avenue (0854-6200-011-00 and 425-0500-013-00).

**WHEREAS**, the Executive Officer has reviewed the proposal and prepared a report with recommendations; and

**WHEREAS**, the Executive Officer's report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

**WHEREAS**, the Commission considered all factors required by law under Government Code Section 56133 and adopted local policies and procedures;

**WHEREAS**, a public meeting was held on May 9, 2019, Alameda LAFCO heard and received all oral and written protests, objections, and evidence which were made, presented or filed and all persons present were given an opportunity to appear and be heard with respect to any matter pertaining to said application.

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. The Commission's determinations on the proposal incorporate the information and analysis provided in the Executive Officer's written report presented on May 9, 2019.

2. The Commission serves as the lead agency under the California Environmental Quality Act (CEQA) in considering the impacts of the proposal. That, the Commission independently finds the action is a project under CEQA, but exempt from further CEQA review under the CEQA Guidelines Code Section 15303(d).

3. The agreement will permit the provision of wastewater services to the properties located at 27440 and 27489 Avenue in the unincorporated community of Fairview of Alameda County.

4. The service agreement will not facilitate a change of land use, promote or induce growth on the property or surrounding properties, or facilitate the delivery of other types of services or functions; and

5. That the request of the City of Hayward for an out of area service agreement between the City of Hayward and the subject property owners for the provision of wastewater service to the properties located at 27440 and 27489 Fairview Avenue (0854-6200-011-00 and 425-0500-013-00) in the unincorporated community of Fairview is hereby approved and authorized subject to any and all terms and conditions as set forth in the service agreement between the City of Hayward and the subject property owners.

6. That the Commission conditions the approval of the out of service area agreement upon the signing from the landowners of a pre-annexation agreement.

**PASSED AND ADOPTED** by the Alameda Local Agency Formation Commission on May 9, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

| APPROVED: | ATTEST: |
|---|---|
| _____ | _____ |
| Ayn Weiskamp | Rachel Jones |
| Chair | Executive Officer |

**AGENDA REPORT**
May 9, 2019
Item No. 8

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Proposed Annexation of the "Bayside Newark Project" to the Union Sanitary District**

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The Commission will consider a change of organization proposal filed by Lennar Homes of California and the FMC Corporation with the Alameda Local Agency Formation Commission (LAFCO) on behalf of two landowners to annex approximately 57.5 acres of territory located within the City of Newark to the Union Sanitary District (USD). The affected territory is within USD's sphere of influence and includes 297 parcels. The purpose of the proposal is to facilitate the planned development of 768 single- and multi-family residential units through public wastewater services. Staff recommends approval with standard terms.

## Background

Alameda LAFCO has received a request from development firms Lennar Homes of California and FMC Corporation with landowner consent seeking approval of a change of organization to annex approximately 57.5 acres of incorporated territory to USD. As submitted, the affected territory is comprised of 297 parcels to be developed for planned residences. The project site is located along Willow Street within the City of Newark with the Cargill solar salt production basins to the west of the territory and the former Ashland Chemical Company and Torian facility on Hickory Street to the east. The County of Alameda Assessor's Office identifies the subject parcels as 537-0856-001 through 537-0856-079; 537-0857-001 through 537-0857-200; 537-0858-001 through 537-0858-012; and 537-0859-001 through 537-0859-003.

### Other Affected Agencies

The affected territory lies within the incorporated City of Newark. It also lies within the boundaries of the following special districts subject to Commission oversight:

- Alameda County Water District
- East Bay Regional Park District
- Alameda County Mosquito Abatement District
- Alameda County Resource Conservation District

* The affected territory also lies within the Newark Unified School District and lies within County Supervisorial District No. 2 (Richard Valle).

**Discussion**

This item is for the Commission to consider approving – with or without modifications – the applicant's submitted change of organization proposal to annex the affected territory to USD. The Commission may also consider applying conditions to an approval so long as it does not directly regulate land use, property development, or subdivision requirements.

**Purpose of Proposal**

The primary purpose of the proposal is to facilitate the development of the affected territory into 768 single- and multi-family residential units consistent with the tentative maps approved by the City of Newark through its adopted Dumbarton Transit Oriented Development (TOD) Specific Plan. The development of the affected territory as contemplated necessitates annexation to USD for wastewater services, otherwise the lack of access to public wastewater services would undermine the intent of the City to develop the Dumbarton TOD.

**Development Potential**

The affected territory as proposed and detailed in Appendix A is planned for medium to high density single- and multi-family residential use. It sits in a former industrial area with nearby open space and residential uses. The City of Newark General Plan designates the affected territory as Residential High Density (RH) which allows up to 25 to 60 units per net acre. Uses are further prescribed with the zoning allowances of 725 to 1,450 square feet of lot area per each dwelling unit. Other compatible uses, such as schools, childcare centers, parks, and religious facilities may also locate in areas with this designation, subject to appropriate permitting requirements by the City.

**Analysis**

Staff has identified two central policy items for the Commission in considering the merits of the proposal under Cortese-Knox-Hertzberg Act of 2000 ("CKH"). These policy items ultimately take the form of Commission determinations and orient the membership to consider stand-alone merits of the (a) timing of the annexation itself, and (b) applying discretionary boundary amendments or approval terms aimed at perfecting the action relative to member preferences in administering LAFCO law in Alameda County.

The timing of the proposed change of organization appears appropriate and is highlighted by the analysis of the factors required for consideration under LAFCO law anytime a jurisdictional change is proposed. The majority of the prescribed factors focus on the impacts of the proposed annexation on the service and financial capacities of the receiving agency, USD. No single factor is determinative and the intent is to provide a uniform baseline for LAFCOs in considering all jurisdictional changes in context to the Commission's own adopted policies and practices. A summary of key conclusions generated in the review of these factors for the boundary change proposal follows with a complete analysis provided in Appendix A.

- The Commission has previously designated USD as the appropriate long-term wastewater provider of the affected territory through the inclusion of the subject lands within the District's sphere of influence. Annexation now implements this expectation through a public process and accommodates the expressed interest of the applicants as evident in their decision to petition LAFCO for application proceedings.

- Annexation of the affected territory to USD for the purpose of establishing permanent public wastewater services going forward is consistent with the adopted residential land use policies of the City of Newark.

- The City of Newark's approval of the 768 single- and multi-unit residential development of the affected territory helps indicate the annexation to USD is appropriate by timing the boundary change with a known and pending development action.

- USD is in agreement with proposed change of organization and states to have available and sufficient capacity to accommodate projected demands within the affected territory at its potential maximum use.

The timing of the change of organization of the affected territory to USD is warranted. Justification is marked by the preceding analysis and highlighted by accommodating the planned development of the affected territory consistent with the City of Newark's land use policies in a manner that reflects available capacities and infrastructure. Additional analysis supporting the conclusion is provided in Appendix A.

As for potential amendments to the proposal to modify the physical boundary, there are none found by staff at this time. Accordingly, no further conditions of approval for the reorganization are proposed.

## Other Mandated Considerations

### Property Tax Exchange

California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement by the affected local agencies before LAFCO can consider a jurisdictional change. Both the City of Newark and USD have agreed to a "no" exchange agreement for this proposal – i.e., USD will not receive any new property tax allocation if annexation is approved and recorded.

### Environmental Review

The City of Newark serves as the lead agency for assessing potential impacts of the proposal under the California Environmental Quality Act (CEQA) given the jurisdictional change is intended to facilitate the development of a City-approved 768 unit development. The City has determined the action qualifies as a project and an Environmental Impact Report was prepared that determines it will have significant impacts on the environment which mitigation measures were made a condition and a statement of overriding considerations was adopted for the project. Staff independently concurs the City has made appropriate determinations.

### Conducting Authority Proceedings (Protest Hearings)

Protest proceeding for the change of organization may be waived by Alameda LAFCO under Government Code Section 56662 should the Commission proceed with approval. The waiver appropriately applies under this statute given the affected territory is uninhabited as defined under LAFCO law and the subject landowners have provided their respective written consent to the underlying proceedings.

## Alternatives for Action

The following alternatives are available to the Commission:

Alternative One (Recommended):
Adopt the draft resolution as identified as Attachment 3 approving the annexation request of the Bayside Newark Project into USD.

Alternative Two:
Continue consideration of the report to a future meeting and provide direction for more information as needed.

Alternative Three:
Disapprove the proposal. Disapproval would statutorily prohibit the initiation of a similar proposal for one year unless a request for reconsideration is filed and approved by the Commission within 30 days.

**Recommendation**

It is recommended the Commission proceed with Alternative Action One.

**Procedures for Consideration**

This item has been placed on the agenda for action as part of a noticed public hearing. The following procedures are recommended for consideration.

1) Receive a verbal report from staff;
2) Invite questions from the Commission;
3) Open the public hearing and invite comments from audience (mandatory); and
4) Close the public hearing, discuss item, and consider recommendation.

Respectfully,

Rachel Jones
Executive Officer

Attachments:
1. Vicinity Maps
2. Application Materials
3. Draft Resolution
4. Environmental Impact Report

## APPENDIX A

## BOUNDARY CHANGE
## ANALYSIS OF MANDATORY FACTORS
## GOVERNMENT CODE SECTION 56668

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

The affected territory consists of 297 parcels totaling 57.5 acres and is considered uninhabited as the area contains no registered voters. The applicant indicates the affected territory contains only two landowners. The affected territory zoning designations are defined by the City of Newark as Residential High Density (RH) which allows up to 25 to 60 units per net acre. Uses are further prescribed with the zoning allowances of 725 to 1,450 square feet of lot area per each dwelling unit. The City has approved the development of 768 residential units and projects a population size totaling 2,504 residents in five years with 3.26 persons per household. The population growth is projected to remain the same for the near future. Total assessed value of the land is estimated at approximately $127.4 million.

**2) The need for municipal services; the present cost and adequacy of municipal 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.**

The City of Newark acts as the primary purveyor of general services to the affected territory. This includes community planning, roads, and public safety. The other pertinent service provider is the Alameda County Water District.

**3) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on local governmental structures.**

Approving the annexation to USD would recognize and strengthen existing economic and social ties between the District and the affected territory. The ties were established when the Commission included the entire area into USD's sphere of influence and signaling the lands would eventually warrant public wastewater service from the District when appropriate.

**4) The conformity of 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 set forth in Government Code Section 56377.**

The affected territory is proposed for the project site of 768 residential units that would receive

wastewater collection and treatment from USD. Approving the proposed change of organization would facilitate the establishment of public wastewater services to the proposed development in accordance with the City of Newark's community planning policies. Similarly, approval would be consistent with the Commission's adopted policies to match urban uses to urban services, such as public wastewater. There are some lands included in the affected territory that qualify as open space and will remain as such and do not conflict with G.C. Section 56377.

**5) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Government Code Section 56016.**

The affected territory does not qualify as "agricultural land" under CKH. Specifically, the affected territory is not used for any of the following purposes: producing an agricultural commodity for commercial purposes; left fallow under a crop rotational program; or enrolled in an agricultural subsidy program.

**6) 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 or unincorporated territory, and other similar matters affecting the proposed boundaries.**

Alameda LAFCO is in receipt of a draft map and geographic description of the affected territory that details the proposed boundaries consistent with the standards of the State Board of Equalization for mapping proposed jurisdictional changes. Approval would be conditioned on a final map and description conforming to the referenced standards. The affected territory does not cross lines of assessment or create islands or corridors of unincorporated territory.

**7) Consistency with the city or county general plans, specific plans and adopted regional transportation plan.**

The City of Newark has found the proposed project is consistent with its General Plan land use designation and Dumbarton TOD Specific Plan of medium to high density residential development.

**8) The sphere of influence of any local agency affected by the proposal.**

The affected territory lies entirely within USD's sphere of influence. It is separately noted the affected territory lies also within Alameda County Water District's sphere of influence. No sphere amendments are needed to accommodate the proposal.

**9) The comments of any affected local agency or other public agency.**

Staff provided notice of the proposal and invitation to provide comments or request approval conditions to other interested agencies. No substantive comments or term requests were received as of date of the agenda report.

**10) 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.**

Information collected and reviewed as part of this indicates USD appears to have established sufficient financial resources and administrative controls to provide public wastewater to the affected territory without adversely impacting existing ratepayers. Information collected and analyzed in the District's financial statements concluded the USD has developed overall adequate financial resources and controls relative to their service commitments.

**11) Timely availability of water supplies adequate for projected needs as specified in Government Code Section 6532.5.**

The proposed annexation to USD is not expected to have an impact on the timely availability of water supplies.

**12) 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.**

The proposed annexation will support the City of Newark's ability to achieve its regional housing need allocation as determined by the Association of Bay Area Governments due to its facilitation in supporting the development of 768 residential units.

**13) Any information or comments from the landowner or owners, voters, or residents of the affected territory.**

The affected territory is uninhabited as defined by LAFCO law (11 registered voters or less). The landowners support the annexation underlying the change of organization and has provided their written consent to the proceedings.

**14) Any information relating to existing land use designations.**

The City of Newark General Plan designates the affected territory as Residential High Density (RH) which allows up to 25 to 60 units per net acre. Uses are further prescribed with the zoning

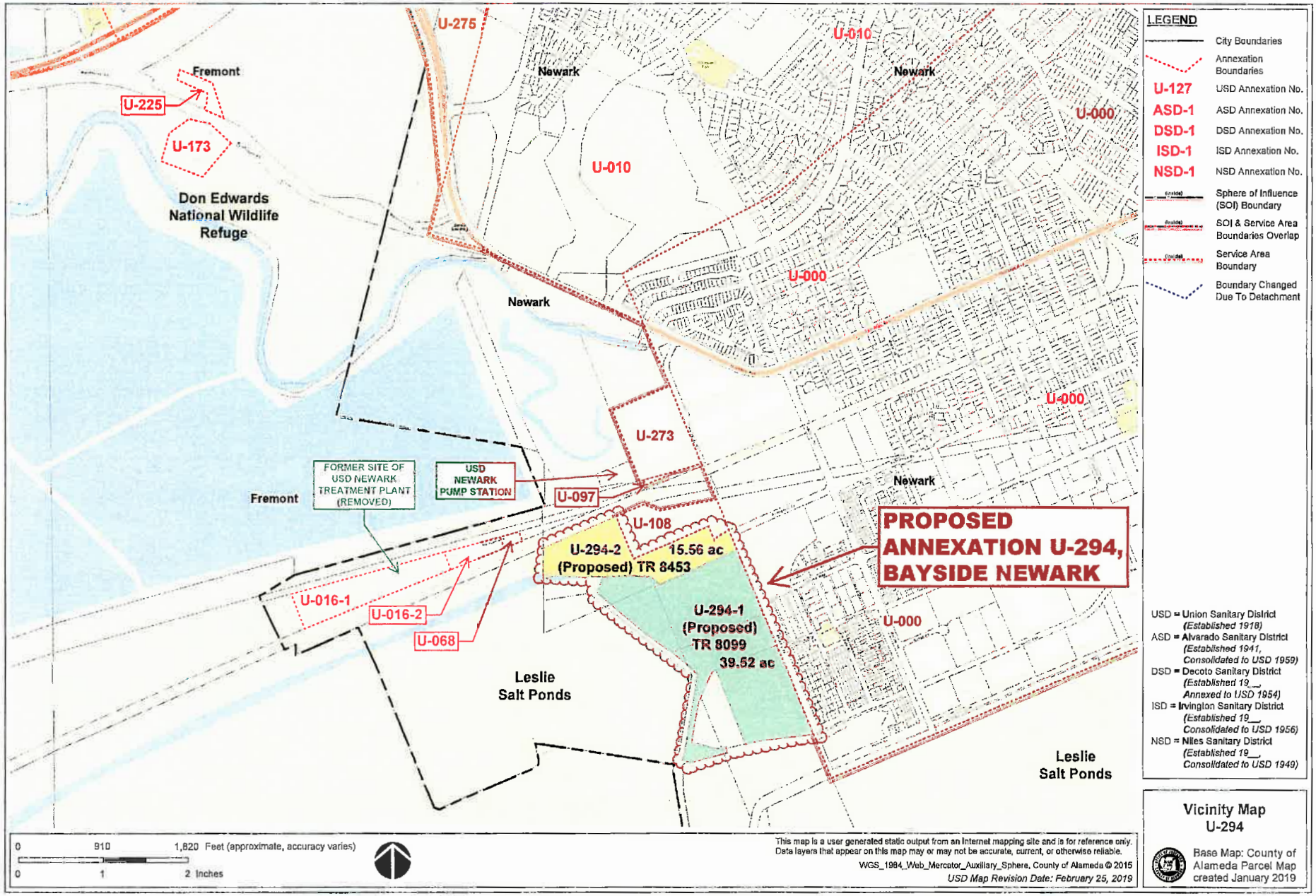
allowances of 725 to 1,450 square feet of lot area per each dwelling unit. Other compatible uses, such as schools, childcare centers, parks, and religious facilities may also locate in areas with this designation, subject to appropriate permitting requirements by the City.

**15) The extent to which the proposal will promote environmental justice.**

There is no documentation or evidence suggesting the proposal will have a measurable effect with respect to promoting environmental justice.

**16) Whether the proposed annexation will be for the interest of the landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.**

Approval of the change of organization would be in the best interest of the current and future landowners and or residents of the affected territory by providing access to reliable public wastewater service going forward.


U-275
U-010
Newark
Fremont
U-225
U-173
Don Edwards
National Wildlife
Refuge
U-000
U-273
FORMER SITE OF
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TREATMENT PLANT
(REMOVED)
USD
NEWARK
PUMP STATION
U-097
U-108
U-294-2
(Proposed) TR 8453
15.56 ac
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ANNEXATION U-294,
BAYSIDE NEWARK
U-016-1
U-016-2
U-068
U-294-1
(Proposed)
TR 8099
39.52 ac
Leslie
Salt Ponds
LEGEND
City Boundaries
Annexation Boundaries
U-127 USD Annexation No.
ASD-1 ASD Annexation No.
DSD-1 DSD Annexation No.
ISD-1 ISD Annexation No.
NSD-1 NSD Annexation No.
Sphere of Influence (SOI) Boundary
SOI & Service Area Boundaries Overlap
Service Area Boundary
Boundary Changed Due To Detachment
USD = Union Sanitary District (Established 1918)
ASD = Alvarado Sanitary District (Established 1941, Consolidated to USD 1959)
DSD = Decoto Sanitary District (Established 19__, Annexed to USD 1954)
ISD = Irvington Sanitary District (Established 19__, Consolidated to USD 1956)
NSD = Niles Sanitary District (Established 19__, Consolidated to USD 1949)
0 910 1,820 Feet (approximate, accuracy varies)
0 1 2 Inches
This map is a user generated static output from an Internet mapping site and is for reference only.
Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
WGS_1984_Web_Mercator_Auxiliary_Sphere, County of Alameda © 2015
USD Map Revision Date: February 25, 2019
Vicinity Map
U-294
Base Map: County of Alameda Parcel Map created January 2019

**Appendix B2. APPLICATION QUESTIONNAIRE** (updated 1/2008)
**Alameda Local Agency Formation Commission**

. **APPLICANT** (Local Agency, Registered Voter, Landowner or 3 Chief Petitioners)

Agency/Individual Name: LENNAR HOMES OF CA & FMC CORPORATION

1.a. Name of Designated Agency Contact or Chief Petitioner.

DON BARNETT - LENNAR HOMES

Address. 2603 CAMINO RAMON #525
SAN RAMON, CA 94583

Phone. (916) 803-3665 FAX. (925) 242-0937 E-Mail. don.barnett@lennar.com

1b. Name 2. STEVE CASAD - FMC CORPORATION

Address. 10 ALMADEN BLVD. 11th floor
SAN JOSE, CA 95113

1c. Name 3. GLENN BROWN - INEGRAL COMMUNITIES

Address. 500 LA GONDA WAY, #102
DANVILLE, CA 94526

**2. NAME/TITLE OF APPLICATION PROPOSAL**

UNION SANITARY DISTRICT ANNEXATION OF BRIDGEWAY (U-294-1) & FMC PARCEL C (U-294-2)

**3. TYPE OF PROPOSAL/PROJECT** (Check all that apply)

| | | |
|---|---|---|
| (X) Annexation | ( ) Consolidation | ( ) Detachment |
| ( ) Formation | ( ) Incorporation | ( ) Exercise of Latent Powers |
| ( ) Disincorporation | ( ) Merger | ( ) Dissolution |
| ( ) Reorganization | ( ) Special Study | ( ) Municipal Service Review |
| ( ) SOI Amendment | ( ) SOI Update | ( ) Initial SOI Determination |
| ( ) Establishment of Subsidiary District | | |

Describe the proposal or proposed change(s) of organization. Provide a justification for each proposed change. Attach extra sheets if necessary.

ANNEX INTO THE UNION SANITARY DISTRICT BOUNDARIES. THE PROPERTIES ARE CURRENTLY LOCATED IN THE SPHERE OF INFLUENCE OF USD AND PROPERTIES NEED TO BE ANNEXED TO PROVIDE SEWER SERVICE FOR APPROVED RESIDENTIAL DEVELOPMENT. SITE IMPROVEMENTS ARE UNDERWAY AND PROPERTIES ARE FULLY ENTITLED BY THE CITY OF NEWARK.

## 4. CERTIFIED RESOLUTION OR PETITION (Attach)

Application Initiated By:

( ) Resolution of Application No.: _____ Date Adopted: _____

**OR**

(X) Landowner/Registered Voter Petition (The Cortese-Knox-Hertzberg (CKH) Act requires that a petition contain the number of signatures required for each type of requested government change.)

## 5. BASIC INFORMATION

5a. Describe the proposal area's general location and boundaries (access road/way, closest county road intersection, road junctions, freeways, railroad lines).

Bounded by Hickory Street, SAM TRANS RAILROAD, Cargill Salt ponds and open space preserve in the Dumbarton TOD located in the City of Newark

5b. Number of acres 57.5+/-; Square Miles _____ in project site.

5c. Number of registered voters 0 Source of information Applicant

5d. Number of dwelling units 0 Source of information Applicant

5e. Number people living on the site 0 Source of information APPLICANT

5f. Assessed Valuation: Land _____ Improvements _____ Total _____

5g. Existing Land Uses

former industrial uses, currently being redeveloped for residential use

5h. Proposed Land Uses

residential, park

5i. Current and proposed zoning and planning designation(s)

Residential zoning and planning designations

5j. Regional Housing Needs Allocation (RNHA) Requirements and Number of Affordable Units Provided

TENTATIVE MAPS APPROVED FOR 768 residential units with is consistent with adopted Dumbarton TOD Specific Plan.

5k. Property Information.

Number of parcels in project site 297 Number of landowners 2

Source of information: Assessors office

Names & Addresses of All Landowners & Associated Parcel Numbers:

| Assessor's Parcel Number/s/Address | | Landowner Name/ Address |
|---|---|---|
| 1. SEE ATTACHED 9289 SEAWIND WY NEWARK, CA | | 1. LENNAR HOMES OF CA 2603 CAMINO RAMON #525 |
| 2. 8787 ENTERPRISE DR. NEWARK, CA | | 2. SAN RAMON, CA 94583 |
| 3. 537-0852-002-08 | | 3. FMC CORPORATION |
| 537-0852-002-07 (Portion) 537-0852-001-02 (Portion) | | 2929 MARKET STREET PHILADELPHIA, PA 19104 |

Applicable Tax Rate Area(s):

| Parcel Number/s | | Tax Rate Area/s |
|---|---|---|
| SEE ATTACHED FOR LENNAR | | |
| | | |
| 537-0852-002-08 FMC | | |
| 537-0852-002-07 (PORTION) FMC | | |
| 537-0852-001-02 (PORTION) FMC | | |

**6. DESCRIPTIONS AND SETTING**

6a. Provide the following land use maps with legends for the project site and immediately adjacent parcels, and clearly identify the project site; County General Plan; City General Plan; Existing Land Use Zones; Prezone if applicable; and Community/Specific Plan if applicable.

SEE ATTACHED

6b. Is the proposed change consistent with the terms and conditions of the affected local agency's General Plan? Yes X No _____ Explain.

The properties have received entitlements for residential development including General Plan, Specific Plan, Zoning and Tentative maps.

6c. With Community or Specific Plans? Yes X No ___ Not Applicable ___ Explain.

Properties are located within the Dumbarton TOD in the City of Newark

6d. Describe the proximity of the site to populated areas.

Properties are adjacent to existing residential neighborhoods and planned residential uses in the Dumbarton TOD.

6e. What are the intended uses of the territory, over the next 5, 10 and 15 years (if different), if application is approved?

Future uses are residential and park which is consistent with intended uses.

6f. Are any other in-process or anticipated development, planning or land use proposals expected for this site within the next two years? Check all that are applicable.

( ) Proposals to LAFCO ( ) Land Use Entitlements from a county or city
(X) Permits from state or federal entity

6g. If applicant is a CITY, Government Code Section 56375 requires that the city prezone territory proposed to be annexed.

Has territory been pre-zoned? Yes X No ___ If yes, what is the pre-zoning designation and what does it mean?

Properties are zoned for residential uses and park. (MEDIUM DENSITY)

6h. Attach copy of certified City Resolution/ Ordinance Number: Bridgeway – 10,463 FMC – 10,887

Date Adopted: Bridgeway, 2/25/16 FMC 1/24/19

6i. If applicant is a DISTRICT, what planning, zoning and subdivision changes are proposed, or have been approved by the city or county?

N/A

6j. What is the estimated future population in the territory?

At end of 5 years Approximately 2,504 At end of 15 years SAME AS 5 At end of 10 years SAME AS 5

Source of Information DUMBARTON TOD – 3.26 persons per household

6k. Have landowners consented to the proposal? Yes X No ___

If yes, how many? 2 % of total landowners? 100
yes, attach originals of Signature Consent Forms.
If no, explain.

6l. How will the proposal affect the physical and economic integrity of agricultural lands, as defined by Section 56016? Explain.
will not affect agricultural lands

6m. How does the proposed change and its anticipated effects conform with LAFCo policies for promoting planned, orderly, efficient patterns of urban development? Explain.
Annexation conforms to LAFCo policies for orderly development because City of Newark prepared a specific plan for Dumbarton TOD AND land is re-use of formerly industrial uses.

6n. Adjacent Land Uses.

| | Existing Land Uses | General Plan Designation | Zoning Designation |
|---|---|---|---|
| North | SAMTRANS TRANSIT CORRIDOR | General INDUSTRY | INDUSTRIAL |
| South | SALT PONDS/Open Space | SALT HARVESTING/OS | OPEN SPACE/RESOURCE PRODUCTION |
| East | RESIDENTIAL | MEDIUM/HIGH/LOW DENISTY | LOW & MEDIUM DENSITY RES. |
| West | SALT PONDS | SALT HARVESTING | RESOURCE PRODUCTION |

6o. How will the proposed change affect mutual social and economic interests of adjacent areas? Explain.
Annexation will provide sewer service to planned residential areas and will create vibrant, livable neighborhoods.

6p. Have interested residents, agencies and/or organizations expressed support or opposition to this proposal. If so, identify interested parties and briefly describe issues. It is not necessary to explaining the support of initiating agency.
The properties have received entitlements from the City of Newark and have went through the public review process including Planning Commission & City Council. The Dumbarton TOD was subject to extensive public outreach & public review.

6q. What is the effect of proposal denial on proposed or approved development if any?
The residential developments currently under construction would not have sewer service to the new homes, and would undermine the intent of the City of Newark to develope the Dumbarton TOD.

6r. Is territory contiguous to the district or city's existing boundary? Yes X No ___

If no, is the area less than 300 acres in size, owned by the city and currently being used for a municipal purpose? Explain.

6s. Do the proposed boundaries create an "island" or pocket of unincorporated territory?
Yes ___ No X

If yes, provide supplemental information explaining how the proposal promotes the orderly growth and development of the community.

6t. Each applicant is required to notify **all** affected local agencies of this proposed change. Have all affected local agencies been informed?
Yes ___ No X (Attach a list of the affected agencies and a verification for each.)
There are no local agencies affected by annexation except USD.

6u. For district formations, district consolidations, incorporations or city consolidations, provide a proposed agency name (optional). N/A

6v. For district formations, provide the name of the Principal Act under which the proposed district would be governed. N/A

6w. Provide a proposed appropriations limit (optional) if applicable. N/A

## 7. PLAN FOR PROVIDING MUNICIPAL SERVICES

N/A ALL MUNICIPAL SERVICES ARE PLANED AND AVAILABLE

7a. Provide a plan for providing services (See Part III, Sections 2.24 and 2.25 of Alameda LAFCO's Guidelines, Policies and Procedures for instructions.)

7b. Provide the name, address, and contact person for all school districts.
N/A

7c. Indicate, which agencies currently provide, affected public services within the proposal territory and which agencies are proposed to provide services.

| Services | Current Agency | Proposed Agency |
|---|---|---|
| Police | City of Newark | no change |
| Fire | Alameda County | no change |
| Water | ACWD | no change |
| Sewer | USD ANNEXATION | USD |
| Garbage | REPUBLIC SERVICES | no change |
| Street Lighting | City of Newark | no change |
| Road Maintenance | City of Newark | no change |
| Flood Control | Alameda County | no change |
| Parks & Recreation | City of Newark | no change |
| Library Services | City of Newark | no change |
| Electricity | PG&E | no change |
| Transit | AC TRANSIT | no change |
| Other | | |

7d. If a change in service provider is proposed, has each local agency provided a statement indicating the desire and ability to furnish services? Yes ___ No X

If yes, a Letter of Agreement from each agency assuming service responsibilities **must be included with the application**. The letter must identify each agency's role and responsibilities as the new service provider and the method for funding additional services (See Part III, Sections 2.24 and 2.25).

If no, explain.

The property is located within the Sphere of Influence of the Union Sanitary District and they are in agreement with the annexation.

7e. If a change in service provider is proposed, are alternative providers available for any of proposed service providers? Yes ___ No ___N/A

If yes, list providers and explain why they are not proposed to provide service.

7f. Will the related land use project require widening or upgrading of existing streets, the construction of new streets, sewers, or other infrastructures? Yes X No ___

If yes, describe how modifications will be financed. (See Part III, Sections 2.24 and 2.25).

Property owners are funding required infrastructure.

7g. List any proposed or required terms, conditions or mitigation measures for the proposal. Use an extra sheet if necessary.

Both properties have entitlements from City of Newark including Conditions of Approval and Mitigation Measures.

## 8. WILLIAMSON ACT LAND CONSERVATION CONTRACTS (agricultural preserves)

Are any agricultural preserves on project site? Yes ___ No X Adjacent parcels? Yes ___ No X

If yes, provide map with site boundaries indicated and contracted lands identified with names and contract numbers.

If yes, has non-renewal formally been requested? _____

If yes, date of request to Alameda County: _____ Date of termination: _____

## 9. SPHERES OF INFLUENCE (SOI)

Government Code Sections 56375.5 and 56376 require that territory be included in the affected local agency's SOI before a Change of Organization is approved by the Commission.

9a. Is a CHANGE in Sphere of Influence boundaries of any local agency required prior to proposal consideration? Yes ___ No X

If yes, Explain.

List affected agencies[1] and provide a contact name and phone number.

| Agency | Contact Name | Phone # |
|---|---|---|
| Union Sanitary District | Rod Schurman | (510) 477-7617 |
| | | |
| | | |
| | | |

9b. Is the proposed territory currently within a local agency's (county, city or special district) SOI? Yes X No ___

If yes, which agency or agencies? Property is located in the City of Newark & within SOI for Union Sanitary District.

[1] See Volume I for a definition of this term.

9c. If a Sphere of Influence initial determination, update or amendment is requested, fully and completely explain each of the following as they pertain to the subject proposal (Government Code Section 56425). If any of the factors are already fully described in the master services plan, the applicable section and page number may be referenced.

- The present and planned land uses in the area subject to the proposed change, including agricultural and open space lands;
- The present and probable need for public facilities and services in the area over the next 10 years;
- The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide;
- All social and economic communities of interest in the area, which may be affected by the project;
- The existence of agricultural preserves or other important agricultural or open space land in the area, which will be included in the SOI, and the effect on maintaining the physical and economic integrity of the resource; and
- The nature, location and extent of any function or classes of services proposed to be provided within the SOI.

9d. A municipal service review (MSR) will need to be completed for affected SOIs pursuant to Government Code Section 56430. If a new agency is being formed, an MSR will need to be prepared. For other types of SOI proposals, please check with the Executive Officer to determine whether an MSR has already been completed.

## 10. COUNTY/CITY/DISTRICT PROPERTY TAX EXCHANGE AGREEMENT

LAFCO has no jurisdiction to act on an **annexation proposal** until resolutions agreeing to an exchange of property tax are passed by **each** of the affected local agencies (Revenue and Taxation Code Section 99). It is the applicant's responsibility to identify which local agencies (cities and special districts) share in the tax distribution in order to properly determine how future revenue exchange agreements should be structured.

10a. List all affected local taxing agencies. N/A

| Agency | Contact Name | Phone # |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

10b. Have <u>all</u> participating local taxing agencies reached agreement? Yes ___ No ___ N/A
(In the case of complex reorganization proposals, multiple agreements may be required)

If yes, attach a certified copy of each local agency's tax exchange resolution and provide the following information:

| Local Agency | Resolution Number | Adoption Date |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

If **No**, Explain.

## 11. SPECIAL REVENUES

11a. Do agencies whose boundaries are being changed have existing bonded debt?

Yes ___ No ___ If yes, please describe: N/A

11b. Will the territory be subject to any new or additional taxes, benefits, charges or fees?

Yes X No ___ If yes, please describe: Sewer Fees for Union Sanitary District.

## 12. ENVIRONMENTAL REVIEW

LAFCo is required to comply with the California Environmental Quality Act (CEQA) for purposes of considering the environmental impact of its actions. If LAFCo is a **RESPONSIBLE** Agency for this application, the applicant **must** submit copies of environmental documents prepared by the Lead Agency and Certified Resolutions or Notices of Exemption or Determination. (See Alameda LAFCO's CEQA Handbook, Adopted CEQA Procedures, and Guidelines, Policies and Procedures, Section 2.23)

Identify the following:

Lead Agency: City of Newark

Responsible Agency/ies:

12a. If LAFCo is a **LEAD** Agency for this application, the applicant **must** submit N/A

- A description of environmental conditions in the project area including topography, agricultural land classification, vegetation, wildlife, land uses, traffic circulation patterns and major water courses and water bodies; and

- A description of how the project might change environmental conditions.

12b. The CEQA document(s) submitted with this application are:

( ) Notice/s of Exemption
( ) Draft Environmental Impact Report
(X) Notice/s of Determination
( ) Findings of Fact and Statement of Overriding Considerations
(X) State Fish and Game Determinations & Fee Receipt
( ) Notice of Exemption
( ) Negative Declaration
(X) Final Environmental Impact Report
( ) Mitigation Monitoring Program
( ) Other _____

| Type of CEQA Review (IS/DEIR/Exemption/other) | Project Description (Actions approved) | Date approved/ certified |
|---|---|---|
| EIR-GATEWAY STATION WEST | 589 residential units | 2011 & 2/24/16 |
| EIR & Addendum | 192 residential units | 2011 & 1/24/19 |
| | | |

12d. The proponent of any project that has the potential to cause an adverse impact on fish or wildlife must pay a State Department of Fish and Game fee based upon the type of environmental determination that is made. The applicant must provide evidence that the appropriate State fee has been paid, or submit the fee to LAFCo (for a list of current fees, see http://www.acgov.org/forms/auditor/currentFeeSchedule.pdf).

( ) No Effect Documentation
(X) Environmental Impact Report
( ) Negative/Mitigated Negative Declaration
(X) Clerk Recorder's Fee

## 13. PUBLIC NOTICE, DISCLOSURE AND OTHER REQUIREMENTS

13a. Provide an 8 ½" X 11" map indicating the project site and identifying all parcels adjacent to and within 300 feet of the project site. Outer boundaries (not adjacent to project site) of large parcels need not be identified. All parcel numbers need to be indicated. (See Appendix E, Exhibit H)

13b. Provide a list of all parcel numbers within the 300 foot radius and include the name and address of the property owner as of the most recent assessment roll being prepared. INCLUDED

13c. Provide signed financial disclosure statement/s (See Appendix E, Exhibit C) pursuant to Government Code Section 56700.1. INCLUDED

13d. Provide one copy of an indemnification agreement (See Appendix E, Exhibit I). INCLUDED

13e. Provide two sets of original mailing labels that separately identify applicants, affected agencies, school districts, registered voters and landowners on project site, property owners and registered voters within 300 feet of project site, and any other party to which notification must be provided. Labels must be current and complete and in Avery 5160 format.

INCLUDED

**14. Final Comments**

14a. List any conditions LAFCo should include in its resolution for approval.

14b. Provide any other comments or justifications regarding the proposal from any affected local agency, landowner or resident.

14c. Enclose all pertinent staff reports and supporting documentation related to this proposal. Note any changes in the approved project that are not reflected in these materials.

INCLUDED

**15. Applicant's Certification**

I hereby certify that the information contained in this application and accompanying documents is true, correct, and accurate to the best of my knowledge. In addition, I hereby agree to pay all required filing and processing fees required by the State of California and Alameda LAFCO, including any expenses for preparation of environmental documentation and planning studies needed to complete this application.

I further understand that Alameda LAFCO will not process an incomplete application and that State law and Alameda LAFCO policies and procedures require that specific material be submitted in conjunction with the application.

Don Barnett - Lennar Homes
Name of Applicant or Authorized Representative

Project Manager
Title of Applicant or Authorized Representative

Don Barnett
Signature of Applicant or Authorized Representative

3/4/19
Date

**ALAMEDA LOCAL AGENCY FORMATION COMMISSION**

**RESOLUTION NO. 2019-XX**

**APPROVAL ANNEXATION OF BAYSIDE NEWARK PROJECT TO THE UNION SANITARY DISTRICT AND WAIVER OF PROTEST PROCEEDINGS**

**WHEREAS**, the Alameda Local Agency Formation Commission, hereinafter referred to as the "Commission," is responsible for regulating boundary changes affecting cities and special districts under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

**WHEREAS**, a petition was filed on behalf of property owners with Lennar Homes of California and FMC-Corporation with the Executive Officer of the Alameda Local Agency Commission, pursuant to Title 5, Division 3, commencing with Section 56000 of the California Government Code;

**WHEREAS**, said application shall be referred to as the Bayside Newark Project to Union Sanitary District Annexation; and

**WHEREAS**, the purpose of requesting approval of an annexation is to provide wastewater services to 57.5 acres of incorporated territory within the City of Newark; and

**WHEREAS**, the subject territory is uninhabited as it contains zero registered voters under Government Code Section 56046 in which all the landowners have provided their written consent to the annexation and that no affected agency has submitted written opposition to a waiver of protest proceedings; and

**WHEREAS**, USD agreed to no exchange of property taxes pursuant to Revenue and Taxation Code Section 99; and

**WHEREAS**, the Executive Officer has reviewed the proposal and prepared a report with recommendations; and

**WHEREAS**, the Executive Officer's report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

**WHEREAS**, the Commission considered all factors required by law under Government Code Section 56668 and adopted local policies and procedures;

**WHEREAS**, a public meeting was held on May 9, 2019, Alameda LAFCO heard and received all oral and written protests, objections, and evidence which were made, presented or filed and all persons present were given an opportunity to appear and be heard with respect to any matter pertaining to said application.

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. The Commission's determinations on the proposal incorporate the information and analysis provided in the Executive Officer's written report presented on May 9, 2019.

2. The Commission certifies it has reviewed and considered the information and conclusions contained in the Environmental Impact Report and related environmental documentation prepared for Bayside Newark Project and certified by the City of Newark (Lead Agency), and, in exercise of its independent judgement adopt as its own the findings the determinations outlined in the EIR.

3. The agreement will permit the provision of wastewater services to the Bayside Newark Project located in the City of Newark.

4. Approval would be conditioned on a final map and geographic description conforming to the standards of the State Board of Equalization.

5. The subject territory is uninhabited as it contains zero registered voters under Government Code Section 56662 in which all the landowners have provided their written consent to the annexation and that no affected agency has submitted written opposition to a waiver of protest proceedings; therefore, LAFCO does hereby waive the protest proceedings for this annexation action in accordance with the provisions of Government Code Section 56663; and

6. As allowed under Government Code 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defect, error, irregularity, or omission.

**PASSED AND ADOPTED** by the Alameda Local Agency Formation Commission on May 9, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

| APPROVED: | ATTEST: |
|---|---|
| _____ | _____ |
| Ayn Weiskamp | Rachel Jones |
| Chair | Executive Officer |

# DUMBARTON TRANSIT ORIENTED DEVELOPMENT SPECIFIC PLAN

# FINAL ENVIRONMENTAL IMPACT REPORT
(STATE CLEARINGHOUSE NO. 2010042012)

JULY 2011

PREPARED FOR:

CITY OF NEWARK
37101 NEWARK BOULEVARD
NEWARK, CA 94560

PREPARED BY:

RBF CONSULTING
500 YGNACIO VALLEY ROAD, SUITE 270
WALNUT CREEK, CA 94596

IN ASSOCIATION WITH:
MONK & ASSOCIATES
FEHR & PEERS

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# 9 RESPONSE TO COMMENTS

## 9.1 INTRODUCTION

The Dumbarton Transit Oriented Development (TOD) Draft Environmental Impact Report (Draft EIR) was circulated for a 45-day public review period beginning May 18, 2011, and ending July 1, 2011, as assigned by the State of California Governor's Office of Planning and Research State Clearinghouse and consistent with the California Environmental Quality Act Guidelines (CEQA Guidelines). Copies of the document were distributed to state, regional and local agencies, as well as organizations and individuals, for their review and comment.

Section 15088(a) of the CEQA Guidelines states that:

> "The lead agency shall evaluate comments on environmental issues received from persons who reviewed the Draft EIR and shall prepare a written response. The lead agency shall respond to comments received during the noticed comment period and any extension and may respond to late comments."

In accordance with Section 15088(a) of the CEQA Guidelines, the City, as the lead agency, has evaluated the comments received on the Draft EIR for the Dumbarton TOD Specific Plan and has prepared written responses to the comments received.

All comments on the Draft EIR, and the responses thereto, are presented in this document. Section 9.4 provides a list of all those who submitted comments on the Draft EIR during the public review period. Section 9.5 contains all of the comments received on the Draft EIR along with responses to each. These responses include identifying text revisions in the Draft EIR. Text revisions resulting from comments on the Draft EIR, as well as staff-initiated text revisions, are presented in Chapter 10 (Revisions to Draft EIR). Revisions to the Draft EIR text are indicated by underline text (underline) for text additions and strike out (~~strike out~~) for deleted text. Revised figures and tables are identified with the word "revised" in front of the figure or table number. It is important to note that none of the revisions are significant new information that would result in any new significant environmental impacts (including without limitation new environmental impacts from a new mitigation measure) or a substantial increase in the severity of any environmental impacts, nor do any of the revisions impose a new mitigation measure that the project applicants have declined to implement or adopt. Instead, they merely provide clarification or make minor modifications to an adequate EIR. Therefore, recirculation of the Draft EIR is not required pursuant to CEQA Guidelines Section 15088.5 (b).

## 9.2 CONTENTS OF FINAL EIR

The Final EIR is composed of the following elements:

- Draft EIR and Appendices
- List of persons, organizations and public agencies that commented on the Draft EIR
- Copies of all comments received
- Written responses to those comments
- Revisions to the Draft EIR resulting from comments

## 9.3 CERTIFICATION OF FINAL EIR AND APPROVAL PROCESS

For a period of at least ten days prior to any public hearing during which a lead agency will take action to certify an EIR, the Final EIR must be made available to, at a minimum, trustee and responsible agencies that provided written comments on the Draft EIR. Pursuant to Section 15090(a) of the CEQA Guidelines, the Final EIR must be certified before the lead agency can take action on the project.

Following Final EIR certification, but prior to taking action on a project, the lead agency must prepare a Mitigation Monitoring and Reporting Program (MMRP). Before approving (or conditionally approving) the project, the lead agency must also prepare written CEQA Findings for each significant impact identified for the project, accompanied by a brief explanation of the rationale for the finding, in accordance with Section 15091 of the CEQA Guidelines. If significant environmental impacts that cannot be reduced to a less than significant level are identified for the project, the lead agency must prepare a Statement of Overriding Considerations, pursuant to Section 15093 of the CEQA Guidelines. Four significant and unavoidable traffic impacts were identified for the Dumbarton TOD Specific Plan.

Certification of the Final EIR may occur at a public hearing independent of project approval or during the same hearing. Prior to approval of the project, the lead agency must adopt the CEQA Findings, Statement of Overriding Considerations, and MMRP. Certification of the Final EIR must be the first in this sequence of approvals.

## 9.4 LIST OF COMMENTORS

All commentors on the Draft EIR are listed below.

### 9.4.1 PUBLIC AGENCIES

Comment Letter #1 Gregor Blackburn, U.S. Department of Homeland Security, Federal Emergency Management Agency

Comment Letter #2 Eric Mruz, U.S. Department of the Interior, Fish and Wildlife Service

Comment Letter #3 Gary Arnold, California Department of Transportation

Comment Letter #4 Moses Stities, California Public Utilities Commission

Comment Letter #5 Mary Rose Cassa, San Francisco Bay Regional Water Quality Control Board

Comment Letter #6 Robert Shaver, Alameda County Water District

Comment Letter #7 Beth Walukas, Alameda County Transportation Commission

Comment Letter #8 Al D. Bunyi, Union Sanitary District

Comment Letter #9 Hilda Lafebre, San Mateo County Transit District

Comment Letter #10 Timothy Doherty, Bay Conservation and Development Commission

Comment Letter #11 Irina P. Torrey, San Francisco Public Utilities Commission

### 9.4.2 GENERAL PUBLIC

Comment Letter #12 Benny Dehghi, Honeywell International, Inc.

Comment Letter #13 Michael Patrick Durkee, Allen Matkins Leck Gamble Mallory & Natsis, LLP

Comment Letter #14 Margaret Lewis

Comment Letter #15 Dean Lewis

Comment Letter #16 Carin High, Citizens Committee to Complete the Refuge

## 9.5 RESPONSES TO INDIVIDUAL COMMENTS

Each of the comment letters submitted on the Draft EIR and responses to the comments in the letters are provided on the following pages. Each comment is identified with a two part numbering system. The first number corresponds to the number assigned to the comment letter. The second number corresponds to the order of the comment within the letter identified. For example, Comment 7-5 refers to the seventh comment letter received and the fifth comment identified in the letter.

## Comment Letter #1

U.S. Department of Homeland Security
FEMA Region IX
[illegible]
Oakland, CA 94607-4052

FEMA

May 25, 2011

Terrance Grindall, Community Development Director
City of Newark
37101 Newark Boulevard
Newark, California 94560

Dear Mr. Grindall:

This is in response to your request for comments on the Notice of Completion and Availability of Draft Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan.

Please review the current effective countywide Flood Insurance Rate Maps (FIRMs) for the County of Alameda (Community Number 060001) and City of Newark (Community Number 060009), Maps revised August 3, 2009. Please note that the City of Newark, Alameda County, California is a participant in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65. 1-1

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map. 1-2

- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any ***development*** must not increase base flood elevation levels. **The term *development* means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials.** A hydrologic and hydraulic analysis must be performed *prior* to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways. 1-3

www.fema.gov

- All buildings constructed within a coastal high hazard area, (any of the "V" Flood Zones as delineated on the FIRM), must be elevated on pilings and columns, so that the lowest horizontal structural member, (excluding the pilings and columns), is elevated to or above the base flood elevation level. In addition, the posts and pilings foundation and the structure attached thereto, is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. 1-4

- Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at http://www.fema.gov/business/nfip/forms.shtm. 1-5

**Please Note:**

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The City of Newark floodplain manager can be reached by calling Ray Collier, Chief Building Official, at (510) 578-4261. The Alameda County floodplain manager can be reached by calling Hank Ackerman, Department of Public Works Engineering and Construction, at (510) 670-5553. 1-8

If you have any questions or concerns, please do not hesitate to call Sarah Owen of the Mitigation staff at (510) 627-7050.

Sincerely,

Gregor Blackburn, CFM, Branch Chief
Floodplain Management and Insurance Branch

cc:
Ray Collier, Chief Building Official, City of Newark
Hank Ackerman, Department of Public Works/Engineering and Construction, Alameda County
Ray Lee, State of California, Department of Water Resources, North Central Region Office
Sarah Owen, Floodplanner, CFM, DHS/FEMA Region IX
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX

www.fema.gov

**Response to Comment Letter #1, Gregor Blackburn, U.S. Department of Homeland Security, Federal Emergency Management Agency**

1-1 This comment addresses the Flood Insurance Rate Map (FIRM) for the Specific Plan area. The commentor references FIRM map number 060001060009. However, the correct FIRM map number for the Specific Plan area is 06001C0443G as referenced on page 4.8-25 of the Draft EIR.

As noted on page 4.8-25, according to the FIRM map, the Specific Plan area is partially located within a 100-year tidal flood zone; portions of the Cargill property are classified as Zone AE, as is some of the western portion of FMC's property. The remaining properties are classified as Zone X, which indicates that the area has 0.2 percent annual chance of flooding or is in an area of one percent annual flood with average depths of less than one foot or within drainage areas less than one square mile.

1-2 This comment states that buildings constructed in a riverine floodplain must be elevated so that the lowest floor is at or above the Base Food Elevation level in accordance with the effective FIRM map. The proposed project would be required to comply with Section 15.40.51 of the City's Municipal Code, which has flood improvement standards for lands within special hazard flood areas as defined by the Federal Emergency Management Agency (FEMA). As noted on page 4.8-25, the proposed project includes the import of approximately 500,000 to 1,000,000 cubic yards of fill material to elevate future structures within a 100-year flood hazard area. Therefore, the proposed project would ensure that the lowest floor elevation of future structures within the Specific Plan area is at or above the Base Flood Elevation level in accordance with the effective FIRM map.

1-3 Comment noted. The Specific Plan area is not located within a Regulatory Floodway.

1-4 This comment addresses buildings constructed within a coastal high hazard area. As noted on page 4.8-25 of the Draft EIR, portions of the Specific Plan area are located within a 100-year tidal flood zone. However, the Specific Plan area is not located within a coastal high hazard area.

1-5 Comment noted. If future development within the Specific Plan area modifies existing special flood hazard areas, data will be submitted to FEMA for a FIRM revision.

1-6 This comment states that many communities have adopted floodplain management building requirements that are more restrictive that the minimum federal standards. The proposed project would be required to comply with Section 15.40.51 of the City's Municipal Code, which provides flood improvement standards for lands within special hazard flood areas as defined by FEMA.

**Comment Letter #2**

# United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Francisco Bay National Wildlife Refuge Complex
9500 Thornton Avenue
Newark, California 94560

In Reply Refer To:

July 1, 2011

Terrence Grindall
Community Development Director
City of Newark
Newark, California 94560-3796

Subject: Comments on the Dumbarton Transit-Oriented Development Draft Environmental Impact Report (DEIR)

Dear Mr. Grindall:

The U.S. Fish and Wildlife Service (Service) would like to comment on the Dumbarton Transit-Oriented Development Draft Environmental Impact Report.

The Project site is located near the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge). As a nearby landowner, we have concerns that the Project may affect listed species, migratory birds, and their habitats despite what is indicated in the environmental analysis in the DEIR. At issue are the potential effects of the Project on the endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), California clapper rail (*Rallus longirostris obsoletus*), and listed vernal pool species, as identified under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*). We are also very troubled about the fill of waters of the United States and loss of potential vernal pool habitat. Below are some specific areas of concern. 2-1

*Effects to Migratory Birds.*
The Project is located near salt ponds and the Mowry Ponds of the Refuge. These ponds provide habitat for waterfowl and shorebirds which are protected under the Migratory Bird Treaty Act. Constructing a trail, dense housing, and associated infrastructure (e.g., lighting, roads) adjacent to these ponds will result in significant disturbance to migratory birds. Nearby housing would likely increase disturbance and predation of migratory birds by nuisance species and house pets. 2-2

*Effects to Listed Species.*
Given the Project site's proximity to the San Francisco Bay, there may be high potential for this area to have wetland and vernal pool habitats. The DEIR notes that 2-3

7.2 acres of waters of the United States/State will be filled. The DEIR also reports that no formal wetland delineation has been conducted, nor have biological surveys for the salt marsh harvest mouse and California clapper rail. We are concerned that more wetlands will be lost than known. We recommend that you coordinate with the Service's Sacramento Fish and Wildlife Office during your formal review of the Project site. We also recommend that you conduct a formal assessment of potential vernal pool habitat in the area. Vernal pools around the southern San Francisco Bay are extremely rare, virtually destroyed by human development. The Baylands Ecosystem Habitat Goals Report (1999) indicates that this area has opportunities to restore historic tidal marsh/upland transitional habitat and associated vernal pool habitat. Due to the potential to impact to a variety of listed species, we suggest the analysis include all direct and indirect effects including, but not limited to, construction of the Proposed Project and increased presence of predators (e.g., Norway rats, California gulls, feral cats, red foxes, raccoons, skunks) that prey on California clapper rails and salt marsh harvest mice; and the construction of buildings, lighting, and roads adjacent to the salt marsh that may create artificial perches for raptors that prey on these species. Furthermore, the Project site essentially isolates the Plummer Creek restoration area between development and salt ponds, leaving little buffer for listed species and other wildlife in the restored area. We recommend that the trails and development be moved east of Hickory Street to provide buffer for the Plummer Creek property and the salt ponds. 2-3 Cont'd

*Effects from Noise, Lighting and Vibration.*

We recommend evaluating construction noise, lighting and vibration that may displace these species temporarily and or permanently from the area. Construction activities should be timed not to occur during sensitive breeding and nesting periods for these species. In addition, lighting and noise impacts could also affect species after construction is complete. Construction within the project area could affect individuals through increased noise and vibrations from equipment and construction activities. Operation of construction equipment could result in displacement of species from protective cover and their territories. These disturbances likely would disrupt normal behavior patterns of breeding, foraging, sheltering, and dispersal, and likely result in the displacement of species from their territory in the areas where their habitat is disturbed. Displaced species may have to compete for resources in already occupied habitat, and may be more vulnerable to predators. Disturbance could cause short-term effects such as failure to breed, nest abandonment, lower numbers of eggs/young, juvenile abandonment, and overall lower juvenile survivorship. Buffers such as fencing, walls, and slopes should be placed between developed areas and wildlife habitat. 2-4

*Effects Due to Sea Level Rise.*

We recommend you evaluate the potential for the project to preclude the landward advance of the marsh in the face of sea level rise which may result in the eventual elimination of the existing salt marsh and the loss of an important buffer to coastal flooding. The San Francisco Bay Conservation and Development Commission has developed sea-level rise maps that indicate the Project site could be flooded or underwater based in a mid-century sea level rise of 16 inches scenario. The Project should consider building farther away from the baylands or analyze the potential need for additional flood protection due to sea level rise scenarios. 2-5

USFWS 3

*Effects Due to Transit System and Roads.*
It is unclear how the area will be affected by the Dumbarton Rail Service, should rail service begin. The Project should look at the cumulative effects of the rail service project as well as its own. We remain concerned about the capacity of Thornton Avenue to handle the increased traffic volume along this thoroughfare resulting from this Project. 2-6

Thank you for considering our comments. Please keep us informed of the Project review process, especially any and all future opportunities to provide comments. If you have any questions, please contact me at 510 792-0222 x125.

Sincerely,

Eric Mruz
Manager, Don Edwards San Francisco Bay
National Wildlife Refuge

cc:
Cay C. Goude, U.S. Fish and Wildlife Service, Sacramento, CA

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**Response to Comment Letter #2, Eric Mruz, U.S. Department of Interior, Fish and Wildlife Service**

2-1 This comment summarizes the concerns of the U.S. Fish and Wildlife Service (USFWS) that follow in the letter and are responded to below.

2-2 This comment addresses the effects of the proposed project on migratory birds. Most birds, including waterfowl, shorebirds, passerine birds (e.g., warblers, flycatchers, swallows) and raptors are protected under the Federal Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989). The Migratory Bird Treaty Act makes it unlawful to "take" (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs or young. Because birds are able to, in almost all cases, fly away or avoid being injured from construction-related activities, take is most unlikely to occur from construction-related activities. However, nesting birds including incubating birds, their eggs and young are susceptible to being injured from undue disturbance and those actions that could physically harm the nest and its occupants. Thus, from a practical standpoint with respect to construction-related impacts, take associated with nesting birds could occur in the absence of protective measures to ensure that nesting birds are not impacted. In California, all nesting birds are also protected under the California Fish and Game Code (Sections 3503, 3503.5, 3800 and 3513). In order to prevent take of migratory birds, and similarly to ensure that no impacts to nesting birds occur that would be violation of the California Fish and Game Code, preconstruction surveys would be conducted prior to any earth-moving, construction, or other project-related activities that occur during the nesting season (March 1 through September 1). If active nests are identified during these surveys, appropriate protective nesting buffers would be erected in accordance with Mitigation Measure 4.3-2 identified in the Draft EIR.

2-3 The commentor is concerned about the project's effect on waters of the U.S./State, including vernal pool habitats, and the federally listed salt marsh harvest mouse (*Reithrodontomys raviventris*) and California clapper rail (*Rallus longirostris obsoletus*). Below is a discussion of the mitigation measures that are included in the Draft EIR to ensure that impacts to sensitive resources are minimized and/or mitigated to less than significant levels.

Since the project area is composed of 19 parcels with many different land owners, many of whom may not have immediate development plans, the Draft EIR was prepared at a program-level and site-specific biological studies have not been conducted for this phase of the project (with the exception of the Torian properties). Therefore, regarding waters of the U.S./State, the Draft EIR specifies in Mitigation Measure 4.3-6 that prior to any development or parcel-specific site planning that a formal wetland delineation be conducted according to the 1987 U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual and the Regional Supplement to the USACE Wetland Delineation Manual: Coast Region (2008) prior to City approval of any specific development proposal. During the wetland delineation, if vernal pools are identified, they would be noted as areas requiring further study and/or consideration for protection from potential project impacts. This text has been added to Mitigation Measure 4.3-6. Refer to Chapter 10 (Revisions to Draft EIR) of this Final EIR. Similar to impacts to wetlands, mitigation for impacts to vernal pools may include the purchase of mitigation credits from an approved mitigation bank, onsite creation of vernal pool habitat, or offsite creation of habitat.

Similarly, surveys for special-status plants would be necessary in any vernal pool or wetland habitats prior to impacting such habitats. These surveys are included in Mitigation Measure 4.3-5 in the Draft EIR.

Based on July and October surveys of the project area, it is the biological consultants' opinion that with the exception of Parcel E, which may support a fresh water wetland, that other areas within the project site supporting wetland vegetation are too brackish or saline to support special-status vernal pool invertebrates or special-status vernal pool plants.

The Draft EIR includes mitigation requirements for impacts to waters of the U.S./State. Permits would be required from the USACE and the California Regional Water Quality Control Board (RWQCB) prior to filling or otherwise impacting waters of the U.S./State, respectively (waters include wetlands). These two agencies would also require mitigation for such impacts that would include replacement of any impacted feature such that there is no net loss of wetland functions and services. Typically, such mitigation includes replacing impacted wetlands at a minimum 1:1 (replacement to impacts) ratio. Refer to Mitigation Measure 4.3-6 in the Draft EIR for a full description of the mitigation requirements.

The Torian property has been studied by several salt marsh harvest mouse biologists over the years and a determination was made that it does not provide the habitat components suitable for the species because it is not a historic salt marsh and does not provide the contiguous salt marsh habitat necessary to support the species. However, in an abundance of caution and to meet the standards of care required by CEQA, the Torian property would be required to implement protective measures prior to development to ensure that impacts to the salt marsh harvest mouse would not occur should it enter the project site. These protective measures would include hand removal of pickleweed onsite under the supervision of a permitted salt marsh harvest mouse biologist and installation of mouse-proof fencing around any potentially suitable salt marsh harvest mouse habitat (refer to "Preconstruction Measures" specified in Mitigation Measure 4.3-1). Although it is unlikely that the remaining properties within the project area provide the necessary habitat components to support the salt marsh harvest mouse, the Draft EIR includes mitigation (Mitigation Measure 4.3-1) requiring that a "Habitat Assessment" for the salt marsh harvest mouse be conducted prior to any site-specific development (with the exception of the Torian property as referenced above). If during the Habitat Assessment it is determined that the salt marsh harvest mouse could reside on a site within the project area, a protective cat-proof fence would be established separating the developed project site from any suitable salt marsh harvest mouse habitat that would be preserved as part of the project.

The project site does not provide suitable habitat for the California clapper rail. Monk & Associates' biologists made this determination because there are no tidal channels within the project area for clapper rails to forage. Additionally, pickleweed (*Salicornia virginica*) and other marsh vegetation is very limited in distribution within the project area, is short statured, and does not provide the concealment that clapper rails need to move unobtrusively through the project area. Also, there is no cordgrass (*Spartina* spp.) within the project area which is another preferred clapper rail cover type. Accordingly, there is no "escape cover" provided by the project area. Therefore, clapper rails, which are secretive by nature and typically associated heavy cover (i.e., escape cover), are not expected to occur on or use the project area. While there is an offsite tidal channel northwest of/adjacent to the project area that may provide habitat for the clapper rail, it is Monk & Associates' experience and expectation that if clapper rails used this tidal channel they would not venture out of the safety of the tidal channel's dense vegetative cover. During periods of flooding and/or high

tide the clapper rail could be expected to use the top of the channel's bank but would not venture far from escape cover.

Monk & Associates' clapper rail studies (for example, Gallinas Creek in Marin County) have found that California clapper rail distribution is typically restricted to areas dominated by marsh vegetation. Other studies of other closely related rail species, while not completely germane, are nonetheless helpful in shedding light on where rails spend their time. A close niche equivalent to the California clapper rail that lives in southern California is the light-footed clapper rail (*Rallus longirostris levipes*). The light-footed clapper rail has been studied to an extent that its distribution within the marsh system is well understood. Telemetry data of light-footed clapper rail distribution found that they spend $\geq$90 percent of a day in cordgrass (*Spartina foliosa*), and used the upland fringe at the edge of the marsh for roosting during the highest tides (Zembal et. al. 1989).[1] Monk & Associates understands that this comparison may or may not be reflective of California clapper rail distribution, but believes it is likely that such distributional data are reflective of California clapper rail use of marshes. In conclusion, Monk & Associates believes that California clapper rails will seek refuge in uplands, but typically those uplands located immediately adjacent to their preferred marsh habitats.

The project area, which is a non-tidal site that provides low quality, short stature marsh vegetation, would not provide the escape cover (concealment) clapper rails need. Nor does the project area vegetation provide nesting opportunities. At most, the vegetation onsite provides only limited foraging habitat for the extremely rare occurrence that clapper rails would need to venture out of the adjacent tidal channel – should they be present in this channel to begin with. It is unknown whether or not clapper rails even reside in this offsite channel. Therefore, based on all of these factors it is unlikely that clapper rails are onsite and would be impacted by the project.

Finally, the commentator states that the proposed project "essentially isolates the Plummer Creek restoration area between development and salt ponds, leaving little buffer for listed species and other wildlife in the restored area." The commentator, therefore, recommends moving all

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1 Richard Zembal, Barbara W. Massey, and Jack M. Fancher 1989. The Journal of Wildlife Management, Vo. 53, no. 1 (Jan. 1989). pp. 39-42

proposed trails and development to east of Hickory Street. However, as noted above and below in Response 2-4, the Draft EIR includes mitigation measures to reduce the impacts of the project to listed species and other wildlife, including from construction noise and lighting from permanent structures, and the Specific Plan for the project includes standards to ensure that impacts to sensitive species would be minimized.

2-4 The commentor recommends evaluating construction noise, lighting and vibration that may displace sensitive species temporarily and/or permanently from the area.

It should be noted that the project area is not located in a remote, rural area removed from urban noise. The project area is located in an industrial area where some industrial operations currently take place and noise associated with these facilities occurs. A police shooting range also occurs within the boundaries of the project area. Thus, wildlife currently present within the project area is acclimated to high levels of existing ambient noise disturbances. It should also be noted that the discharge of firearms can be particularly disturbing to wildlife, particularly birds. Owing to existing ambient industrial and shooting range noise, wildlife now found in the area would be acclimated to this noise. As the project area builds out over an extended number of years, wildlife would continue to acclimate to this disturbance. Acclimation by wildlife to consistent ambient noise is a well-recognized behavioral response by wildlife to continual and consistent forms of disturbance. Species that would acclimate poorly to high levels of ambient noise would be unlikely to use the area now or in the future.

The additional ambient noise levels generated by a developed project area would be unlikely to result in disturbance that would discourage wildlife use of adjacent wildlife habitats any more than occurs today. In light of the amount, type and extent of existing disturbance, most birds and mammals that reside in the area today have a high tolerance for noise related disturbance. Regardless, mitigation measures have been included in the Draft EIR to protect nesting birds from the effects of noise and vibration. Preconstruction nesting bird surveys would be conducted prior to any earth-moving or construction activities associated with the project. The nesting period for birds (March 1 through September 1) also corresponds with the mating/breeding season for many mammal species; therefore, restrictions on construction times would benefit both nesting birds and some breeding mammal species. Refer also to Response 2-2.

With regard to lighting, the Specific Plan proposes lighting standards "to ensure that lighting . . . does not create excessive "spillover" light and glare into adjacent residential areas and habitat areas, including the adjacent Refuge." Thus, the Specific Plan includes standards to ensure that impacts to sensitive species are minimized. In addition, as noted above, the project area is not located in a remote, rural area removed from urban lighting. The project area is located in an industrial area where some industrial operations currently take place and lighting associated with these facilities occurs.

2-5 This comment suggests that the project consider building farther away from the baylands or analyze the potential need for additional flood protection due to sea level rise. Sea level rise is addressed on page 4.6-27 of the Draft EIR. Minor revisions have been made to the Draft EIR to acknowledge the sea level rise mapping that has been completed by the Bay Conservation and Development Commission (BCDC) (refer to Chapter 10 of this Final EIR).

Based on the mapping conducted by BCDC and acknowledged in the Draft EIR, a portion of the Specific Plan area could be affected by sea level rise. As addressed in the Draft EIR, the forecasted sea level rise could increase flood related impacts, especially from storm-surge induced flood events. Section 15.40.51 of the City's Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

The BCDC forecast expressly notes that it does not account for existing shoreline protection or wave activity and that, where necessary, future levees are an appropriate mechanism for protecting against flood damage from rises in sea levels. Ultimately, the National Oceanic and Atmospheric Agency, FEMA, the USACE, cities, counties and flood control districts are responsible for protecting the public and the San Francisco Bay ecosystem from flood hazards. The City's Municipal Code flood elevation standards would protect the Specific Plan area based upon flood risks as determined by FEMA, the City and these other regional and local agencies.

The Draft EIR provides a reasonable range of alternatives, and includes alternatives to the proposed project that would preserve open space adjacent to the baylands. Alternatives 2 and 3 would concentrate development

adjacent to the City, preserving the western portion of the Specific Plan area in open space. The project, as well as the alternatives, will be considered by the City Council prior to taking action on the Specific Plan.

2-6 This comment states that it is unclear how the area would be affected by the Dumbarton Rail Service and expresses concern regarding the capacity of Thornton Avenue to handle increased traffic volumes. Thornton Avenue is projected to carry increased levels of traffic with the project. The potential impact of additional traffic on Thornton Avenue was analyzed in the Draft EIR. Table 4.14-13 (Future Year 2035 Plus Project Conditions with Mitigation) of the Draft EIR indicates that three segments of Thornton Avenue would be impacted by project traffic. The Level of Service (LOS) at the intersections of Thornton Avenue with Cherry Street, Newark Boulevard and Cedar Boulevard would degrade to LOS D, E or F in the future regardless of the project, although the project would increase the delay at these intersections by approximately five to 15 seconds. The potential mitigation measures would include widening Thornton Avenue to accommodate the additional volumes. However, due to the built out nature of the City, limited right-of-way is available to widen Thornton Avenue. Widening this roadway to reduce levels of congestion would also have potential secondary impacts to bicycle and pedestrian travel by creating longer crossing distances and a less-comfortable environment for walking or bicycling. As a result, impacts to the three intersections are identified in the Draft EIR as significant and unavoidable. The project goals support managing congestion and reducing automobile trips by orienting uses around the future transit station.

It should also be noted that, as stated in the Draft EIR on pages 3-1 and 3-19, implementation of the proposed Specific Plan would not be dependent in any way upon the proposed Dumbarton Rail Corridor (DRC) transit service (or the transit station), which is a separate project undergoing separate environmental review by other public agencies. Moreover, due to the uncertain timeline and funding status of the DRC Project, it would be speculative to include the project in the cumulative context of this environmental analysis. The DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time.

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Comment Letter #3



STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY EDMUND G. BROWN JR., Governor

**DEPARTMENT OF TRANSPORTATION**
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5541
FAX (510) 286-5559
TTY 711

*Flex your power!*
*Be energy efficient!*

July 1, 2011

ALAVAR008
SCH#2010042012

Mr. Terrence Grindall
City of Newark
37101 Newark Boulevard
Newark, CA 94569

Dear Mr. Grindall:

**Dumbarton Transit-Oriented Development Specific Plan – Draft Environmental Impact Report**

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the Dumbarton Transit-Oriented Development project. The following comments are based on the Draft Environmental Impact Report.

***Forecasting***

In Table 4.14-6 Dumbarton TOD Specific Plan Generation Estimates on page 4.14-37 uses AM and PM peak hour trip rates for Townhouse/Condo use of 0.29 and 0.35 respectively. However, based on the Institute of Transportation Engineer Trip Generation 8th edition, AM and PM peak hour trip rates for this use are 0.44 and 0.52 respectively. As a result, the peak hour traffic volumes have been underestimated. Please revise the analysis accordingly. 3-1

In Figure 4.14-6, Project Trip Distribution, please use distinctively different symbols to differentiate the Residential trip Distribution and Neighborhood Commercial Distribution. 3-2

***Operations***

Please show queue lengths for all study locations and scenarios. In particular, left and right turn storage lengths should be reviewed for any possible impacts onto mainline operations. 3-3

Under the Future Year 2035 Plus Project condition, there are significant impacts to the Interstate (I) 880 Northbound ramps/Mowry Avenue. Please provide mitigation measures to reduce these impacts. 3-4

Also, under the Future Year 2035 Plus Project condition, there is significant impact to Jarvis Avenue/Newark Boulevard intersection. The Department believes this impact may impact adjacent intersections. Therefore, please include State Route 84 Westbound and Eastbound ramps/Newark Boulevard in the analysis. 3-5

***Transportation Demand Management***
In addition to the Transportation Demand Management (TDM) measures proposed, the Department recommends providing additional measures due the high availability of transit within the area of the proposed project. Some of these measures can include, lower parking ratios, unbundling parking spaces, car-sharing programs, transit subsidies, private shuttle services, etc. to reduce the number of vehicles miles traveling on local roadways and State facilities. To start, we also recommend that the City of Newark refer to, "Reforming Parking Policies to Support Smart Growth," a Metropolitan Transportation Commission study funded by the Department, for sample parking ratios and strategies that support compact growth and Transit Oriented Development. 3-6

Should you have any questions regarding this letter, please call Yatman Kwan of my staff at (510) 622-1670.

Sincerely,

GARY ARNOLD
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

**Response to Comment Letter #3, Gary Arnold, California Department of Transportation**

3-1 This comment states that peak hour traffic volumes have been underestimated and peak hour trips for townhouse/condo use should be based on the Institute of Transportation Engineers (ITE) *Trip Generation* 8th Edition. The ITE *Trip Generation* 8th Edition was used to calculate trip generation estimates for the Specific Plan. Fitted curve equations were used for townhouse/condo uses rather than the average rate and are more appropriate according to the criteria provided in ITE's *Trip Generation Manual.*

3-2 The commentor requests that different symbols to differentiate the residential trip generation and neighborhood trip generation be used. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

3-3 The commentor requests that queue lengths be shown for all study intersections and scenarios. Traffic-related impacts are typically assessed in terms of qualitative measures that describe operational conditions within a traffic stream. The intersection analysis used in the Draft EIR is based on the operational analysis methodology outlined in the Highway Capacity Manual (HCM) 2000 Transportation Research Board Special Report 209, Chapter 16. The HCM methodology defines intersection Level of Service (LOS) as a function of delay in terms of seconds per vehicle (sec/veh). Although traffic-related impacts can also be assessed in terms of vehicle queue lengths, this level of detail extends beyond the requirements for a program-level EIR.

3-4 Mitigation language has been added to the Draft EIR explaining how impacts at the intersection of Interstate 880 (I-880) Northbound Ramps/Mowry Avenue would be reduced to less than significant levels as requested by the commentor. Refer to Chapter 10 (Revisions to Draft EIR) of this Final EIR.

3-5 The commentor requests that the Draft EIR analyze the intersections of State Route 84 (SR-84) Westbound and Eastbound Ramps/Newark Boulevard. The Draft EIR included an analysis of intersections determined the most likely to be impacted by additional traffic in the project area.

Based on the professional judgment applied by the City and EIR consultant team, the intersections of the SR-84 Westbound and Eastbound Ramps/Newark Boulevard were not determined to have a significant increase in traffic requiring their inclusion as study intersections in the Draft EIR. Based on Figure 4.14-6 (Project Trip Generation) in the Draft EIR, these intersections would only carry one percent of the total traffic generated by the project. As a result, they were not included in the analysis.

The future year conditions at the intersection of Jarvis Avenue/Newark Boulevard without the project would operate at LOS F in the AM and LOS E in the PM with moderate vehicle queues. Because the Jarvis Avenue/Newark Boulevard intersection is over 740 feet from the intersection with the SR-84 Eastbound Ramps, it is not anticipated that the queues would impact operations of the on and off-ramp intersections. Implementation of the proposed project would not degrade the LOS at the Jarvis Avenue/Newark Boulevard intersection and would increase the delay by a few seconds. Therefore, the project would not result in a significant impact compared to future no project conditions.

3-6 This comment recommends providing Transportation Demand Management (TDM) measures beyond those proposed in the Specific Plan. The comment is noted. The City will consider these additional measures, including lower parking ratios, unbundling parking spaces, car sharing programs, transit subsidies, private shuttle services, etc., in coordination with relevant agencies.

## Comment Letter #4

STATE OF CALIFORNIA — Edmund G. Brown Jr., *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

July 1, 2011

Terrance Grindall
City of Newark
37101 Newark Boulevard
Newark, CA 94560

Re: Notice of Completion, Draft Environmental Impact Report (DEIR)
Dumbarton Transit Oriented Development (TOD) Specific Plan
SCH# 2010042012

Dear Mr. Grindall:

As the state agency responsible for rail safety within California, the California Public Utilities Commission (CPUC or Commission) recommends that development projects proposed near rail corridors be planned with the safety of these corridors in mind. New developments and improvements to existing facilities may increase vehicular traffic volumes, not only on streets and at intersections, but also at at-grade highway-rail crossings. In addition, projects may increase pedestrian traffic at crossings, and elsewhere along rail corridor rights-of-way. Working with CPUC staff early in project planning will help project proponents, agency staff, and other reviewers to identify potential project impacts and appropriate mitigation measures, and thereby improve the safety of motorists, pedestrians, railroad personnel, and railroad passengers.

The Transportation/Circulation section of the DEIR *failed* to evaluate traffic safety issues to numerous at-grade railroad crossings located within the proposed project boundaries. Any increase in traffic or pedestrians to the at-grade crossings by this project need to be evaluated for potential impacts to safety and hazards. 4-1

In general, the major types of impacts to consider are collisions between trains and vehicles, and between trains and pedestrians. Measures to reduce adverse impacts to rail safety need to be considered in the DEIR. General categories of such measures include:

- Installation of grade separations at crossings , i.e., physically separating roads and railroad track by constructing overpasses or underpasses
- Improvements to warning devices at existing highway-rail crossings
- Installation of additional warning devices
- Improvements to traffic signaling at intersections adjacent to crossings, e.g., traffic preemption
- Installation of median separation to prevent vehicles from driving around railroad crossing gates

- Prohibition of parking within 100 feet of crossings to improve the visibility of warning devices and approaching trains
- Installation of pedestrian-specific warning devices, channelization and sidewalks
- Construction of pull out lanes for buses and vehicles transporting hazardous materials
- Installation of vandal-resistant fencing or walls to limit the access of pedestrians onto the railroad right-of-way
- Elimination of driveways near crossings
- Increased enforcement of traffic laws at crossings
- Rail safety awareness programs to educate the public about the hazards of highway-rail grade crossings

4-1 Cont'd

Commission approval is required to modify an existing highway-rail crossing or to construct a new crossing. 4-2

Please forward the *revised* Traffic Impact Study to ensure that the at-grade railroad crossings adjacent and in near proximity to the project site are included in the analysis. This will allow us to complete our review of the DEIR; otherwise the *level of significance* can not be determined without such an analysis specific to the at-grade railroad crossings. 4-3

Please add the CPUC as a Responsible Agency for this project to the noted list of agencies in the DEIR. 4-4

Thank you for your consideration of these comments. If you have any questions, please contact me at (415) 713-0892 or email at [redacted].

Sincerely,

Moses Stites
Rail Corridor Safety Specialist
Consumer Protection and Safety Division
Rail Transit and Crossings Branch
180 Promenade Circle, Suite 115
Sacramento, CA 95834-2939

**Response to Comment Letter #4, Moses Stites, California Public Utilities Commission**

4-1 This comment states that the Draft EIR fails to evaluate traffic safety issues associated with numerous at-grade railroad crossings located within the project area. At-grade railroad crossing safety is important to the City of Newark. As a program-level EIR, the Draft EIR for the proposed Dumbarton TOD Specific Plan has been prepared for project area land use changes and the planning document that would guide future development within the area. Site-specific plans to develop individual properties within the Specific Plan area and improvement plans to construct required infrastructure to support the development have not been prepared, but would be at a later time. Once sufficient detail is known about a project such as the land use type, amount, and site access locations, it would be possible to estimate the volume of traffic generated by the project, the effect of that traffic on nearby rail crossings, and the likely pattern of pedestrian and bicycle activity at nearby rail crossings. The City will consider the California Public Utilities Commission's (CPUC's) recommendations for rail crossings for project-level analyses and coordinate with the CPUC in regard to the specific types of data and analyses to be provided.

4-2 This comment states that CPUC approval is required to modify an existing highway-rail crossing or to construct a new crossing. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

4-3 The commentor requests a copy of the revised Traffic Impact Study to ensure that the at-grade railroad crossings adjacent and in near proximity to the project area are included in the analysis. Refer to Response 4-1.

4-4 The commentor requests that the CPUC be included on the list of responsible agencies included in the Draft EIR. Chapter 3 (Project Description) of the Draft EIR has been revised to include this request and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

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## Comment Letter #5



**Kristie Wheeler - Fwd: Water Board comments on Draft EIR for Dumbarton Transit Oriented Development Specific Plan**

**From:** "TERRENCE GRINDALL" <TERRENCE.GRINDALL@newark.org>
**To:** "Kristie Wheeler" <KWHEELER@rbf.com>
**Date:** 6/30/2011 6:56 PM
**Subject:** Fwd: Water Board comments on Draft EIR for Dumbarton Transit Oriented Development Specific Plan
**Attachments:** Dumbarton NOP comments 4-30-10.pdf; CH2MHill_Fig2-4.pdf; CH2MHill_Fig2-3.pdf

Terrence

Begin forwarded message:

**From:** "Mary Rose Cassa" <MCassa@waterboards.ca.gov>
**To:** "TERRENCE.GRINDALL@newark.org" <TERRENCE.GRINDALL@newark.org>
**Cc:** "rangarajan.sampath@acwd.com" <rangarajan.sampath@acwd.com>, "Steven Inn" <steven.inn@acwd.com>, "mmetcalf@ashland.com" <mmetcalf@ashland.com>, "penny_streff@cargill.com" <penny_streff@cargill.com>, "pete@discoversolutions.com" <pete@discoversolutions.com>, "Shawn.tollin@fmc.com" <Shawn.tollin@fmc.com>, "johno@gvakm.com" <johno@gvakm.com>, "benny.dehghi@honeywell.com" <benny.dehghi@honeywell.com>, "rhahn@jones-hamilton.com" <rhahn@jones-hamilton.com>, "jroseman@trumark-co.com" <jroseman@trumark-co.com>, "Cherie MCcaulou" <CMccaulou@waterboards.ca.gov>
**Subject: Water Board comments on Draft EIR for Dumbarton Transit Oriented Development Specific Plan**

Terrence,

Regional Water Board staff have reviewed primarily Sections 4.7 and 4.8 of the Draft EIR (May 2011). We find that it is lacking in addressing the issues we raised on the Notice of Preparation listed below (see our comments on the NOP attached).

- Potential threat to human health, water quality, and the environment from disturbance of soil and groundwater pollution during project construction

5-1

- Potential threat to human health, water quality, and the environment from residual soil and groundwater pollution during project operation (occupancy and use, based on a changed land use)

- Potential impact on deeper aquifers (Newark Aquifer and deeper) from soil and groundwater pollution as a result of construction and changed land use

The descriptions of the contaminated sites are inconsistent, lack necessary details, and do not provide an overview of contamination in the area. The potential human health risks, ecological risks and degradation of state waters are understated (see attached Figures 2-3 and 2-4 from a report by CH2M HILL). The EIR should include an assessment of the impacts attributed by volatile organic compounds

5-2

associated with excavation and construction. As an example, the San Francisco PUC's recent pipeline replacement project encountered volatile organic compounds, arsenic and other chemicals of concern during trench work and dewatering.

5-2 Cont'd

We recommend revising "Mitigation Measure 4.7-1a as follows:

From (existing):
"Prior to the issuance of a building permit for an individual property within the Specific Plan area with residual environmental contamination, the agency with primary regulatory oversight of environmental conditions at such property ("Oversight Agency") shall have determined that the proposed land use for that property, including proposed development features and design, does not present an unacceptable risk to human health...."

To (revised):
"Prior to the issuance of grading or building permit for an individual property within the Specific Plan area with known, suspected, or potential residual environmental contamination, the property owner shall contract a qualified, environmental consultant to 1) summarize available information regarding the magnitude and extent of soil and groundwater contamination at the subject property; 2) summarize potential risks to human health and the environment posed by the contamination with respect to the proposed redevelopment; 3) propose additional investigation as needed to fill data gaps; 4) develop remedial options to address the identified risks and tentatively select the most appropriate option, as well as procedures for proper management (e.g., reuse and or disposal) of contamination soil and groundwater that may be encountered during redevelopment; and 5) submit a report to the overseeing agency for review and regulatory approval."

5-3

We are available to meet with you and discuss our comments. If you have questions, please contact Cherie McCaulou at (510) 622-2342 (email address cmccaulou@waterboards.ca.gov.

Regards,

Mary Rose Cassa

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Mary Rose Cassa, PG
Senior Engineering Geologist
Toxics Cleanup Division
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612
510-622-2447

file: 'C:\Documents and Settings\KWHEELER\Local Settings\Temp\XPgrpwise\4F0CC6E5WALNGW-G... 7/1/2011

**California Regional Water Quality Control Board**
**San Francisco Bay Region**

Linda S. Adams
*Secretary for Environmental Protection*

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
http://www.waterboards.ca.gov/sanfranciscobay

Arnold Schwarzenegger
*Governor*

Date: April 30, 2010
File Nos. 01S0024, 01S00294, 01S0157, 1S0131, 01S010038 (ccm)

Terrence Grindall (terrence.grindall@newark.org)
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA, 94560

SUBJECT: Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County

Dear Mr. Grindall:

Thank you for the opportunity to comment on the Notice of Preparation that we received on April 1, 2010, for the proposed Dumbarton TOD Specific Plan. Regional Water Board staff oversee the investigation and cleanup of five sites (listed below) in the proposed project area, pursuant to California Water Code Section 13304, where hazardous substances have been discharged and deposited into waters of the State and have created a condition of pollution and nuisance. Additionally, the Alameda County Water District oversees numerous other cleanup sites in the TOD area (see the State's GeoTracker database https://geotracker.waterboards.ca.gov).

We are submitting comments to ensure that the environmental documentation under the California Environmental Quality Act (CEQA) adequately addresses the soil and groundwater pollution, and to ensure that appropriate mitigation measures pertaining to releases of hazardous substances at the Dumbarton TOD project are implemented.

Environmental Conditions and Regulatory Oversight of Cleanup Sites in Project Area

Contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol), dioxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by our agency.

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054.

- Former Baron-Blakeslee, 8333 Enterprise, SCR Order R2-2005-0004

Investigation and cleanup of the sites have been conducted independently by individual property owners rather than a collaborated joint effort. The cleanup standards approved for these sites were based on continued industrial/ commercial land and not residential use. If the land use changes, revised cleanup standards will have to be developed and amended SCR Orders will have to be adopted by the Water Board. The majority of the property proposed for the TOD is currently vacant.

Implications of Proposed Change in Land Use
While the Regional Water Board does not approve or disapprove specific development projects, we are often asked if a proposed future use is compatible with residual site contamination. Based upon the known residual concentrations remaining at these sites, we recommend the following:

1. Environmental risk assessment for the entire project area, conducted prior to development: Information on the preparation of environmental risk assessments can be found in several documents, including the Regional Water Board's interim final ESLs ("Application of Environmental Screening Levels and Decision Making at Sites With Impacted Soil and Groundwater" – May 2008 and updates). This document can be accessed from our website at www.waterboards.ca.gov/sanfranciscobay/esl.shtml.

2. Additional remediation for future sensitive land uses such as residential: To be suitable for future sensitive land use, the property needs (1) remediation to a level that allows unrestricted use or (2) risk management to assure that the future residents will not be exposed to unhealthy levels of contamination. Regarding the second option, we are generally reluctant to approve a risk management approach at residential sites, particularly single-family residential, and would only do so if the residual contamination was modest, the project design minimized potential exposure, and the local agency (City of Newark) played an active role in tracking and enforcing risk management measures. Special considerations may be needed for placement of underground structures and utility corridors in areas of soil and groundwater pollution exists, ability to incorporate groundwater remediation into new underground structures for enhancement of groundwater remediation, and location and design of above-ground treatment systems.

3. Capped areas: Currently, two capped areas exist at FMC's property: the elemental phosphorous pit area in Parcel A, and the ethylene dibromide and 1,2-dichloroethane (1,2-DCA) area in Parcels B and I. Neither area is suitable for development at this time. Active source removal should be seriously considered. Additionally, a capped area exists at the Jones-Hamilton site that contains elevated pentachlorophenol, 1,2-DCA, and dioxins. In a letter dated February 26, 2008, we approved a Feasibility Study/Corrective Action Plan dated November 12, 2007, for cap removal, soil excavation (10,500 $yd^3$) to a depth of ten feet

below grade, and groundwater pumping around well P-1 to remove a 1,2-DCA hot spot at the northwest corner of the former waste water impoundment. This work is currently on hold, pending the outcome of the City of Newark's Dumbarton TOD Specific Plan.

4. Protection of groundwater: Residual pollution left in place must be adequately managed to ensure that the impacted groundwater does not further deteriorate. The proposed project must incorporate mitigation measures to prevent further migration of pollutants from soil to groundwater and also prevent further migration to deeper aquifers in the project area, such as the Newark Aquifer. These deeper aquifers are actively managed by the Alameda County Water District as part of its water supply system.

5. Risk and construction management plans: To manage any significant residual pollution, a Risk Management Plan and a Construction Management Plan would be essential. Possible elements of a risk management plan include: a deed restriction prohibiting supply wells or sensitive site uses (e.g. residential use), requirement for vapor barriers and passive ventilation systems to mitigate possible vapor migration into new buildings (generally not allowed for residential use), special procedures and precautions for handling and transporting contaminated materials, a health and safety plan for construction workers who will be doing subsurface work at the site; notification and protection of existing residents in the area.

6. Mitigation measures: Pre- and post-development mitigation measures may be required to reduce exposure to pollutants in soil, vapors, dusts, groundwater during grading, construction, dewatering etc.; address potential vapor intrusion of pollutants to indoor air; and prevent further migration of pollutants.

7. Long-term monitoring and ongoing cleanup: The residual pollution will require continued monitoring long after the project is built out. In addition, ongoing compliance with cleanup orders, existing land use covenants, etc. will be required.

Given this context, the EIR should address the following issues:

- Potential threat to human health, water quality, and the environment from disturbance of soil and groundwater pollution during project construction
- Potential threat to human health, water quality, and the environment from residual soil and groundwater pollution during project operation (occupancy and use, based on a changed land use)
- Potential impact on deeper aquifers (Newark Aquifer and deeper) from soil and groundwater pollution as a result of construction and changed land use

The Regional Water Board staff looks forward to working with the City of Newark and other stakeholders to address the existing soil and groundwater pollution and move the redevelopment project forward. We would very much appreciate being kept up to date on the progress of your project in order that we can budget adequate staff time for your project.

If you have questions, please contact Cherie McCaulou of my staff at (510) 622-2342 (email address cmccaulou@waterboards.ca.gov.

Sincerely,

Bruce H. Wolfe
Executive Officer

cc:
Ashland, Inc., Attn: Mark Metcalf (nametcalf@ashland.com)
SHH LLC, Attn: Peter Schneider (pete@discoversolutions.com)
FMC Corporation, Attn: Shawn Tollin (shawn.tollin@fmc.com)
Henry Khatchaturian, c/o John Olenchalk (johno@gvakm.com)
Cargill, Inc., Attn: Penny Streff (penny_streff@cargill.com)
Jones-Hamilton Co., Attn: Ray Hahn (rhahn@jones-hamilton.com)
Trumark Commercial, Attn: Jessica Roseman (jroseman@trumark-co.com)
Honeywell International Inc., Attn: Benny DeHgh (benny.dehghi@honeywell.com)
Alameda County Water District, Attn: Steven Inn (steven.inn@acwd.com)

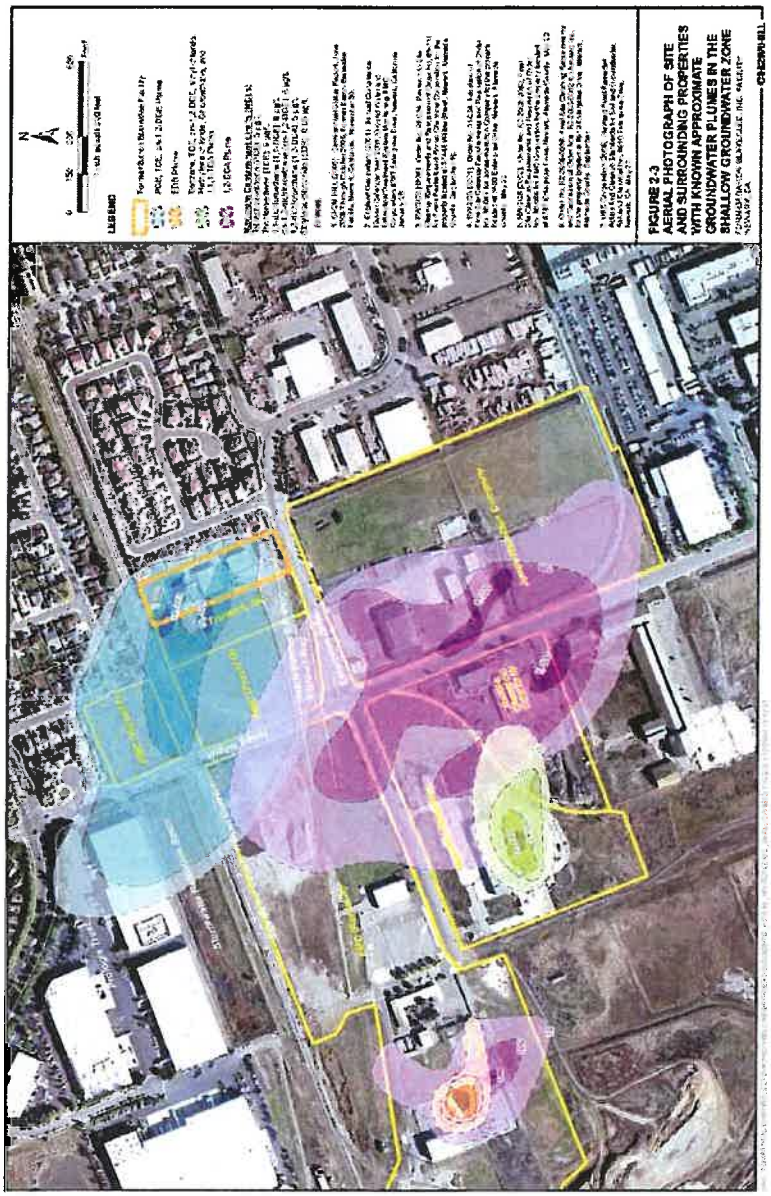
FIGURE 2-3
AERIAL PHOTOGRAPH OF SITE AND SURROUNDING PROPERTIES WITH KNOWN APPROXIMATE GROUNDWATER PLUMES IN THE SHALLOW GROUNDWATER ZONE

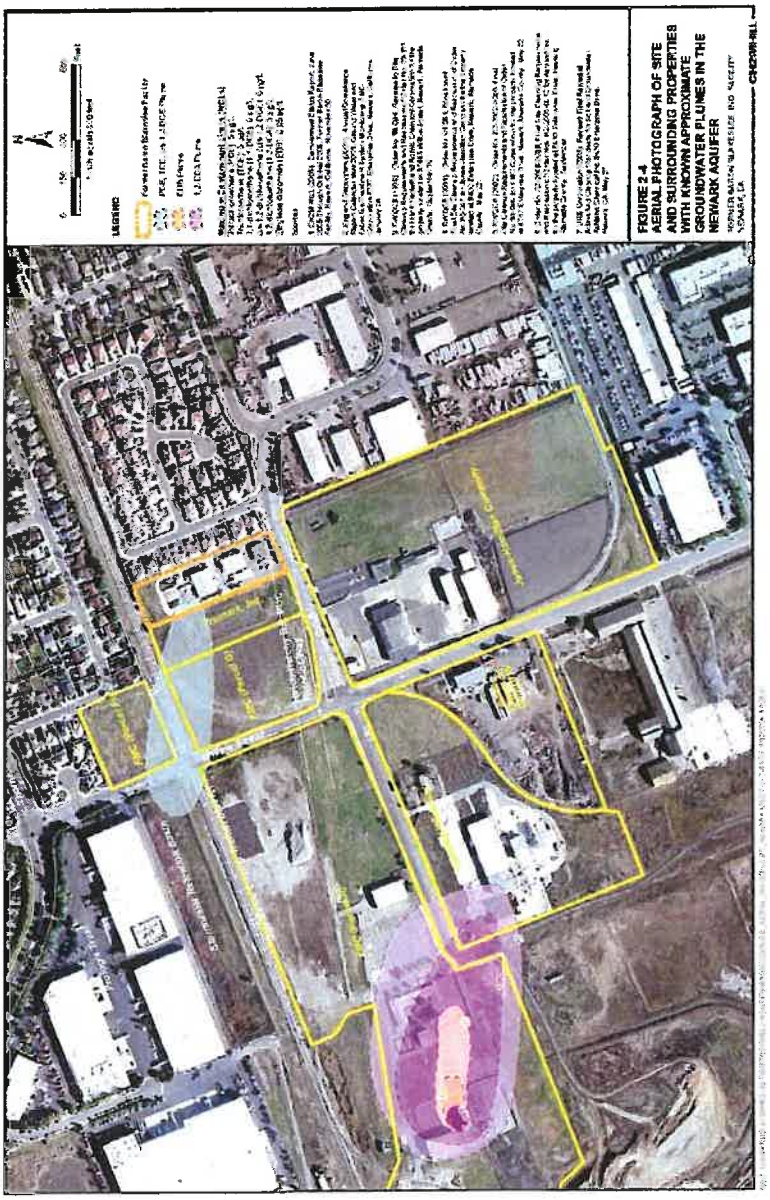
FIGURE 2-4
AERIAL PHOTOGRAPH OF SITE
AND SURROUNDING PROPERTIES
WITH KNOWN APPROXIMATE
GROUNDWATER PLUMES IN THE
NEWARK AQUIFER

**Response to Comment Letter #5, Mary Rose Cassa, San Francisco Bay Regional Water Quality Control Board**

5-1 The commentor states that the Draft EIR is lacking in addressing potential threats to human health, water quality and the environment during project construction and operation, and potential impacts on deep aquifers from soil and groundwater pollution as a result of construction and changed land use. Section 4.7 (Hazards and Hazardous Materials) of the Draft EIR provides a discussion of the existing environmental conditions within the Specific Plan area and descriptions of the properties within the area that are subject to contamination at a level of detail necessary for the general public and decision makers to gain an understanding of the significant impacts of the proposed project. It acknowledges the extent of past contamination of properties within the Specific Plan area and remedial activities that have taken place or that are ongoing. It further identifies the potential impacts of the project consistent with the CEQA thresholds of significance, including hazards to the public and the environment, and recommends mitigation to reduce these impacts to a less than significant level.

5-2 The commentor states that the descriptions of the contaminated sites are inconsistent, lack necessary detail and do not provide an overview of contamination in the area, without presenting any evidence or other support for those assertions. This comment also states that the potential health risks, ecological risks and degradation of state waters are understated. Again, no substantiation of that assertion is provided. The commentor states that the Draft EIR should include an assessment of impacts attributed by volatile organic compounds (VOCs) associated with excavation and construction. In response, as noted above in Response 5-1, the Draft EIR provides an accurate discussion of existing conditions with the Specific Plan area and descriptions of the contaminated properties at a level of detail that informs the general public and decisions makers about the potential significant environmental effects of proposed activities consistent with the requirements of CEQA. With regard to VOCs, the Draft EIR properly identifies the presence of this substance in groundwater and soils within the Specific Plan area and concludes that it would create a significant hazard to the public or the environment. This impact would be potentially significant but mitigable with implementation of specific measures identified in the Draft EIR.

5-3 This comment recommends revising Mitigation Measure 4.7.1a to provide greater detail. Mitigation Measure 4.7-1 has been revised accordingly and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

## Comment Letter #6

ALAMEDA COUNTY WATER DISTRICT

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(510) 668-4200 • FAX (510) 770-1793 • www.acwd.org

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Manager of Administrative Services

June 29, 2011

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Boulevard
Newark CA 94560-3796

Dear Mr. Grindall:

Subject: Draft Environmental Impact Report for the Dumbarton Transit-Oriented Development Specific Plan

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the "Draft Environmental Impact Report (DEIR) for the Dumbarton Transit-Oriented Development Specific Plan."

ACWD has reviewed the DEIR and would appreciate your consideration of the following comments:

1. Groundwater:

   a. Drilling Permit Requirement: As required by ACWD's Well Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling activities for wells, exploratory holes, and other excavations. Application for a permit may be obtained from ACWD's Engineering Department, at 43885 South Grimmer Boulevard, Fremont or online at http://www.acwd.org/engineering-drilling_permit.php5. Before a permit is issued, a cash or check deposit is required in a sufficient sum to cover the fee for issuance of the permit or charges for field investigation and inspection. All permitted work requires scheduling for inspection; therefore, all drilling activities must be coordinated with ACWD prior to the start of any field work. 6-1

   b. Geotechnical Investigation: Reference is made to Mitigation Measure 4.5-1 (page 4.5-11). The mitigation measure requires future developers to have a design-level geotechnical investigation performed. As previously mentioned, ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Newark under ACWD Ordinance No. 2010-01. 6-2

e. Soil Improvements: Reference is made to Mitigation Measure 4.5-1 (pages 4.5-11 to 4.5-12). The mitigation measure lists a number of possible soil improvement techniques that may be employed depending on recommendations of the design-level geotechnical engineering investigation. Some of the techniques include supporting structures on deep foundations, such as piles or piers, installing wick drains, and injecting grout.

Piers, piles, and grout are frequently installed similar to wells and exploratory holes. If the annular space between the excavation or borehole wall and the support pier or pile is not properly sealed, it can act as a vertical conduit and may create preferential pathways that allow pollutants to rapidly infiltrate the subsurface and impact groundwater. Wick drains can also create preferential pathways that can impact groundwater since they remain in place after the dewatering activities are completed. 6-3

Soil improvement techniques that intersect an aquifer or may impact the integrity of any aquitard located directly above an aquifer are regulated as other excavations under ACWD's Ordinance No. 2010-01. Therefore, ACWD requests that the project geotechnical engineer(s) coordinate with ACWD prior to beginning any soil improvement measures to ensure compliance with ACWD Ordinance No. 2010-01.

d. Cleanup Sites: Reference is made to section 4.7.12, Hazards and Hazardous Materials, Existing Conditions (pages 4.7-1 to 4.7-22). The project area includes properties where at least seven (7) known major Spills, Leaks, Investigation, and Cleanup sites exist. To date, the risk posed to human health and the environment from the contamination at these sites is not fully assessed and work is in progress. ACWD provides assistance and local oversight for the cleanup and restoration of these sites in coordination with the Regional Water Quality Control Board – San Francisco Bay Region under a Cooperative Agreement. Therefore, any proposed development in the vicinity of these sites should be coordinated with ACWD and the Regional Board. Accordingly, we request that Mitigation Measure 4.7-1a in the DEIR be modified to recognize ACWD's involvement in the investigation and cleanup of these sites. 6-4

e. Grading Permit: Reference is made to Mitigation Measure 4.7-1b (page 4.7-29). ACWD's records indicate the existence of over 150 wells located within the project area. Therefore, ACWD requests a mitigation measure that requires project proponents to develop a plan for the protection of wells that must be reviewed and approved by ACWD prior to issuance of demolition and grading permits to ensure compliance with ACWD Ordinance No. 2010-01. 6-5

f. Dewatering: Reference is made to Section 4.8, Hydrology, Drainage and Water Quality (pages 4.8-1 to 4.8-28). The DEIR acknowledges that groundwater is very shallow within the project area; however, the DEIR does not address any temporary or permanent dewatering activities that may be required. ACWD requests that the following potentially significant impacts related to dewatering activities be addressed by the EIR: 6-6

1) The project area includes areas where known Spills, Leaks, Investigation, and Cleanup sites exist. The EIR should address the potential impacts that dewatering activities and construction may have on the investigation and cleanup of these sites.

2) Since groundwater is an important component of ACWD's water resources, it is critical that the amount of water that may be extracted by dewatering be estimated and documented in the EIR. Alternative designs should be evaluated that would minimize the amount of dewatering required during and subsequent to construction. Groundwater losses due to dewatering should be measured and may be subject to a replenishment assessment fee. Mitigation measures should be proposed to replace all significant losses of ACWD's water supplies. S-6 Cont'd

3) ACWD regulates the installation and destruction of dewatering wells under ACWD's Ordinance No. 2010-01. ACWD permits are required for dewatering well installations and destructions.

g. Groundwater Quality: Reference is made to section 4.8.1.4, Water Quality, Groundwater Quality (pages 4.8-4 to 4.8-5). The DEIR should be updated to reflect that production from the Newark Desalination Facility has been increased to approximately 12.5 million gallons per day beginning on August 24, 2010. Also, review of water quality data by ACWD in this area indicates that groundwater in the proposed redevelopment area has a potential beneficial use, contrary to what is stated in the DEIR. The DEIR should recognize that protecting the shallow water bearing zone is also critical for protecting the Newark Aquifer, in which ACWD operates high capacity production wells for potable water supply and aquifer reclamation. This increased use of groundwater for a beneficial use further emphasizes the need to restore impacted groundwater at cleanup sites. S-7

h. Well Protection/Destruction: Reference is made to section 4.8.1.4, Water Quality, Groundwater Quality (page 4.8-4). The DEIR states that groundwater is "currently monitored by 32 wells" in the specific plan area. ACWD records indicate there are over 150 wells in the project area. Therefore, ACWD requests a mitigation measure that requires project proponents to develop a plan for the protection of wells that must be reviewed and approved by ACWD prior to issuance of demolition and grading permits to ensure compliance with ACWD Ordinance No. 2010-01. S-8

In order to protect the groundwater basin, each well located within the property must be in compliance with ACWD Ordinance No. 2010-01. If the well(s) are to remain, a letter so indicating must be sent to ACWD and will require a permit for inactive classification if the wells will not be used for a period of twelve (12) months. If the well(s) are: 1) no longer required by any regulatory agency; 2) no longer monitored on a regular basis; or 3) damaged, lost, or the surface seal is jeopardized in any way during the construction process, the well must be destroyed in compliance with ACWD Ordinance No. 2010-01. In addition, any abandoned wells located within the project area must be properly destroyed prior to construction activities. S-9

2. Recycled Water: Reference is made to the draft Dumbarton TOD Specific Plan, Recycled Water (pages 128 to 131). As the proposed project is within the area that could be served by a future recycled water project in accordance with a joint ACWD and Union Sanitary District Recycled Water Master Plan, the Specific Plan correctly includes provisions for use of recycled water for non-potable uses such as irrigation of large landscape areas. However, the Specific Plan should also state that the installation of recycled water distribution system ("purple pipe"), designed to accommodate a future recycled water supply, within existing and new streets within the project area may be a condition of water service to the project. Such recycled water infrastructure, if required, shall be installed at the time of the development of the project site, and in the interim period before recycled water supply becomes available, this separate recycled water distribution system may be supplied using potable water via connections to ACWD's distribution system. The EIR should also address any potential environmental impacts, if any, which may result from the installation of the recycled water infrastructure along with the project. 6-10

3. Potable Water:

   a. Water System Infrastructure: Reference is made to the draft Dumbarton TOD Specific Plan, Potable Water (pages 126 to 127). In order to extend the public water distribution system to meet project water service requirements and adequately integrate the project into ACWD's water system, significant offsite improvements will be required. While the draft Specific Plan indicates a water transmission main connection of the existing railroad right-of-way may be required, ACWD has stated that at least one additional water main connection between the North side of the existing railroad right-of-way and the project site at either Willow Street or Hickory Street will be required. Based on the information provided in the draft Specific Plan, it appears that a connection within Willow Street is most likely. In addition, one or more new water mains will need to be constructed across the existing San Francisco Public Utilities Commission (SFPUC) right-of-way. The construction of such railroad and SFPUC crossings may result in impacts to the environment. The EIR should include this required connection and address any associated environmental impacts that may arise from its construction. Other onsite and offsite water system extensions and/or improvements may similarly be required in order to meet fire flow requirements or other ACWD standards and requirements. The City and project proponents should coordinate closely with ACWD throughout the planning and development of the project. 6-11

   Also on page 127, the draft Specific Plan identifies specific diameter sizes for water mains to be installed within the project's "backbone streets" and local streets. However, ACWD shall determine the water main sizing at the time of improvement plan review. In general, well-grided "backbone streets" typically would be provided with 12-inch diameter distribution mains, while well-grided residential streets typically would be provided with 8-inch diameter distribution mains. 6-12

h. Hazards and Hazardous Materials: The DEIR identifies several hazards and hazardous materials sites within the project area. The ability to install a public water system within the project area would be conditioned upon confirmation that the soil or groundwater does not pose a risk to health and safety either during installation of the public water system or during long-term operation and maintenance of such a system. Any mitigations required to eliminate such hazards or potential hazards, such as clean fill corridors or other mitigations, need to be identified and described in the EIR. 8-13

4. ACWD Contacts: The following ACWD contacts are provided so that the City can coordinate with ACWD as needed during the CEQA process:

   - Eric Cartwright, Water Resources Planning, at (510) 668-4206, or by e-mail at eric.cartwright@acwd.com, for coordination regarding water supply issues.
   - Steven Inn, Groundwater Resources Manager at (510) 668-4441, or by e-mail at steven.inn@acwd.com, for coordination regarding ACWD's groundwater resources.
   - Rangarajan Sampath, Groundwater Resources Engineer at (510) 668-4411, or by e-mail at rangarajan.sampath@acwd.com for coordination regarding cleanup sites.
   - Michelle Myers, Well Ordinance Supervisor, at (510) 668-4454, or by e-mail at michelle.myers@acwd.com for coordination regarding groundwater wells and drilling permits.
   - Ed Stevenson, Development Services Manager, at (510) 668-4472, or by e-mail at edstevenson@acwd.com, for coordination regarding public water systems and water services.

Thank you for the opportunity to comment on the Draft Environmental Impact Report for the Dumbarton Transit-Oriented Development Specific Plan at this time.

Sincerely,

Robert Shaver
Assistant General Manager - Engineering

rs/tf
By PDF
cc: Steven Inn, ACWD
Eric Cartwright, ACWD
Ed Stevenson, ACWD
Michelle Myers, ACWD
Rangarajan Sampath, ACWD

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**Response to Comment Letter #6, Robert Shaver, Alameda County Water District**

6-1 This comment states that a drilling permit is required in accordance with the Alameda County Water District's (ACWD's) Well Ordinance prior to any subsurface drilling activities for wells, exploratory holes and other excavations. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

6-2 This comment references Mitigation Measure 4.5-1, which requires design-level geotechnical investigations for individual properties when development is proposed, and states that ACWD regulates the construction, repair and destruction of wells, exploratory holes and other excavations. Mitigation Measure 4.5-1 has been amended to note this and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

6-3 This comment identifies concerns with soil improvement techniques that might be required pursuant to Mitigation Measure 4.5-1 and the potential for such techniques to intersect an aquifer or impact the integrity of any aquitard located directly above an aquifer. Mitigation Measure 4.5-2 has been added to require the project geotechnical engineer(s) to coordinate with the ACWD to ensure compliance with ACWD Ordinance No. 2010-01." Refer to Chapter 10 of this Final EIR.

6-4 This comment references pages 4.7-1 through 4.7-22 of the Draft EIR regarding existing conditions relative to hazardous materials within the Specific Plan area. The comment states that ACWD provides assistance and local oversight for the cleanup and restoration of contaminated sites in coordination with the San Francisco Bay Regional Water Quality Control Board (SFRWQCB) and requests a revision to Mitigation Measure 4.7-1a to recognize ACWD's involvement in the investigation and cleanup of these sites. Mitigation Measure 4.7-1a has been revised accordingly and is provided in Chapter 10 of this Final EIR.

6-5 This comment references Mitigation Measure 4.7-1b and states that ACWD records indicate that there are over 150 existing wells within the Specific Plan area. While there is no evidence provided regarding the exact number of wells within the Specific Plan area, nevertheless, any existing wells, whatever the number, should be protected as required by law. The

comment requests a mitigation measure that requires project applicants to develop a plan for the protection of wells subject to the review and approval of the ACWD prior to issuance of demolition and/or grading permits. Mitigation Measure 4.5-3 has been added accordingly and is included in Chapter 10 of the Final EIR.

6-6 This comment requests that proposed dewatering activities be addressed in the Draft EIR. As a program-level EIR, the Draft EIR for the proposed Dumbarton TOD Specific Plan has been prepared for project area land use changes and the planning document that would guide future development within the area. Site-specific plans to develop individual properties within the Specific Plan area and improvement plans to construct required infrastructure to support the development have not been prepared. Thus, the extent of dewatering activities needed for the proposed project have not been determined. However, implementation of Mitigation Measure 4.3-2 would ensure compliance with ACWD Ordinance No. 2010-01, which includes regulations pertaining to the installation and destruction of dewatering wells.

6-7 This comment references pages 4.8-4 and 4.8-5 of the Draft EIR and suggests that information in the Draft EIR be updated to reflect that production from the Newark Desalination Facility has increased to approximately 12.5 million gallons per day beginning in August 2010. The comment also states that a review of water quality data by ACWD indicates that groundwater within the Specific Plan area has a potential beneficial use contrary to the Draft EIR. It also requests that the Draft EIR recognize that protecting the shallow water bearing zone is critical for protecting the Newark Aquifer. The Draft EIR notes, based upon substantial evidence, the increasing salinity of the Newark Aquifer within the Specific Plan area due to tidal intrusion and the brackish nature of the shallow water bearing zone that the shallow water zone is not itself usable as a potential drinking water source. With that said, revisions to information provided in Section 4.8 (Hydrology, Drainage, and Water Quality) of the Draft EIR regarding groundwater quality have been made and are provided in Chapter 10 of this Final EIR.

6-8 This comment states that there are over 150 wells within the Specific Plan area. Refer to Response 6-5, above.

6-9 This comment states that in order to protect the groundwater basin, each

well within the Specific Plan area must be in compliance with ACWD Ordinance 2010-01. If wells are to remain, a letter indicating this must be submitted to ACWD. A permit would be required for inactive classification if the wells would not be used for a period of 12 months. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

6-10 This comment references the Recycled Water section of the Dumbarton TOD Specific Plan and requests reference in the Specific Plan that the installation of a recycled water distribution system may be made a condition of providing water service to future, specific projects within the Specific Plan area. This reference will be added to the Specific Plan as requested. The comment also states that the Draft EIR should address any potential impacts that may result from installation of recycled water infrastructure. Unless and until such infrastructure is required, and the details known regarding its location and design, any such impacts would be too speculative and uncertain to be analyzed at this time. As a program-level EIR, the Draft EIR for the proposed Dumbarton TOD Specific Plan has been prepared for project area land use changes and the planning document that would guide future development within the area. Site-specific plans to develop individual properties within the Specific Plan area and improvement plans to construct required infrastructure to support the development have not been prepared. Thus, consistent with CEQA Guidelines Section 15168(c), the Draft EIR recognizes that subsequent activities undertaken pursuant to the Specific Plan would be examined in light of the program EIR to determine if additional environmental review would be required.

6-11 This comment states that at least one additional water main connection would be required for the project, most likely within Willow Street. The comment also states that one or more new water mains would need to be constructed across the existing San Francisco Public Utilities Commission (SFPUC) right-of-way. The commentor states that the Draft EIR should include the required connection and address any associated impacts that may arise from its connection. Potential impacts associated with crossing the SFPUC right-of-way for required storm drainage lines are identified in the Draft EIR. Mitigation Measure 4.8-4b would reduce this impact to less than significant and has been revised to include new water mains. Refer to Chapter 10 of this Final EIR.

6-12 This comment states that ACWD would determine water main sizing at the time of improvement plan review. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

6-13 This comment states that the ability to install a public water system within the project area would be conditioned upon confirmation that the soil or groundwater does not pose a risk to health or safety during installation of the system or during long-term operation and maintenance of such a system. It also states that any mitigation measures required to eliminate hazards need to be identified in the Draft EIR. Section 4.7 (Hazards and Hazardous Materials) addresses the project's potential impacts associated with existing contamination within the project area and identifies mitigation to reduce impacts to the public and environment to a less than significant level.

**Comment Letter #7**

ALAMEDA County Transportation Commission
1333 Broadway, Suites 220 & 300 • Oakland, CA 94612 • PH: (510) 208-7400
www.AlamedaCTC.org

**Commission Chair**
Mark Green, Mayor · Union City

**Commission Vice Chair**
Scott Haggerty, Supervisor · District 1

**AC Transit**
Greg Harper, Director

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Supervisors
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Joyce R. Starosciak, Councilmember

**Executive Director**
Arthur L. Dao

July 1, 2011

Mr. Terrance Grindall
City of Newark
3700 Newark Blvd.
Newark, CA 94560

Subject: Comments on the Draft Environmental Impact Report (DEIR) for the Dumbarton Transit Oriented Development (TOD) Specific Plan

Dear Mr. Grindall: Terrance

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed Dumbarton Transit Oriented Development (TOD) Specific Plan. The Dumbarton TOD would provide a comprehensive policy and regulatory framework to guide future development and redevelopment within an approximately 205-acre Dumbarton TOD Specific Plan area. The proposed Specific Plan is intended to establish the allowable land uses, development regulations, design guidelines, necessary infrastructure improvements and an implementation plan to direct future development and redevelopment of the Dumbarton TOD Specific Plan area. Implementation of the proposed Specific Plan would allow a mix of residential, office, retail, public/quasi-public, and park and open space uses to develop in close proximity to planned regional public transit. Additionally, the Dumbarton TOS Specific Plan is an identified Priority Development Area (PDA) and is consistent with the Countywide Transportation Plan identification of PDAs and transit oriented development.

Many of the roadway impacts are identified as significant and unavoidable, because of limited right-of-way for widening and other constraints. This means that ways of encouraging non-auto modes of travel need to be planned for and implemented through the Specific Plan. In this regard, the Alameda County Transportation Commission (Alameda CTC) respectfully submits the following comments:

- The Alameda CTC encourages cities to consider a comprehensive Transit Oriented Development (TOD) Program, which would include environmentally clearing all access improvements necessary to support the TOD land use development as part of the environmental document. This includes any identified additional transit service and bicycle and pedestrian improvements. 7-1

- Pages 4.14-51 through 4.14-53 state that there will be an increase in demand for public transit due to the Dumbarton TOD project. While the Alameda Countywide Transportation Plan and the DEIR both identify Dumbarton Rail service as a potential solution to accommodate transit in the study area, the timeframe for the actual implementation of the rail service is not known and is at best a long term solution. The DEIR also states that transit service through AC Transit is assumed as an alternative solution, but states that the suggested improvements would be outside the City of Newark's jurisdiction and would require AC Transit approvals, causing the improvements to not be feasible and therefore significant and unavoidable. Given the overall size and importance of this project to the region and its need for transportation options, it is requested that the City collaborate with AC Transit as early as possible in the development process to identify appropriate mitigation measures and a plan for providing transit to the project site. In today's current funding environment, it cannot be assumed that AC Transit will be able to assume the full burden of implementing additional service to the project site and that the project should be encouraged to contribute its fair share. Also, Alameda CTC is in the process of updating the Countywide Transportation Plan and developing a Transportation Expenditure Plan, which potentially could help fund transit service in the County. 7-2

- Pages 4.14-52 through 4.14-55, which address the Pedestrian and Bicycle aspects of the project, should also identify pedestrian and bicycle routes documented in the Alameda Countywide Bicycle and Pedestrian Plans. Both Plans are currently being updated and are defining bicycle and pedestrian access to Transit Priority Zones and PDAs. 7-3

- The DEIR should consider the use of TDM measures, in conjunction with roadway and transit improvements, as a means of attaining acceptable levels of service. Whenever possible, mechanisms that encourage ridesharing, flextime, transit, bicycling, telecommuting and other means of reducing peak hour traffic trips should be considered. 7-4

Once again, thank you for the opportunity to comment on the DEIR for the Dumbarton TOD Specific Plan. Should you have any questions or require any additional information, please do not hesitate to contact me at (510) 208-7405.

Sincerely,

Beth Walukas
Deputy Director of Planning

Cc: Laurel Poston, Assistant Transportation Planner
File: CMP- Environmental Review Opinions - Responses - 2011

**Response to Comment Letter #7, Beth Walukas, Alameda County Transportation Commission**

7-1 This comment states that the Alameda County Transportation Commission (ACTC) encourages cities to consider a comprehensive Transit Oriented Development (TOD) Program, which would include environmentally clearing all access improvements necessary to support the TOD land use development as part of the environmental document. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers. It should also be noted that the proposed project location could take advantage of the proposed Dumbarton Rail Corridor (DRC) Project and encourage transit as an alternative to automobile use, and that the Specific Plan includes a number of elements designed to reduce depending upon automobiles, including trails, bicycle facilities and the placement of housing within walking distance of employment, transit and entertainment. However, it should also be noted, as stated in the Draft EIR on pages 3-1 and 3-19, the project is not dependent in any way upon proposed DRC transit service (or the transit station), which is a separate project undergoing separate environmental review by other public agencies. Moreover, due to the uncertain timeline and funding status of the DRC Project, it would be speculative to include the project in the cumulative context of this environmental analysis. The DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time. As a result, at this time alternative transit service would need to be provided to accommodate the demand generated by the site.

7-2 The commentor requests that the City collaborate with Alameda County Transit (AC Transit) as early as possible in the development process to identify appropriate mitigation measures and a plan for providing transit to the project area. Mitigation Measure 4.14-2 requires the City to coordinate with AC Transit to improve bus service to the Specific Plan area, which would reduce impacts related to transit to less than significant. However, ultimate implementation would be under AC Transit's jurisdiction and cannot be guaranteed. As a result, the impact would remain significant and unavoidable.

Comments regarding the importance of the Dumbarton Rail Project and coordination among agencies are noted.

7-3 This comment requests that pedestrian and bicycle routes documented in the Alameda Countywide Bicycle and Pedestrian Plans be identified in the Draft EIR. The Countywide Bicycle and Pedestrian Plans were adopted in 2006 and are currently being updated. The 2006 Bicycle Plan contains a proposed Countywide Class III bicycle route that extends from Thornton Avenue southbound across SR-84 to the intersection with Willow Street. The route then travels on Willow Street south to Central Avenue and runs east until it intersects with the railroad tracks where a proposed section of the Bay Trail parallel to the tracks would continue the route. Other planned Countywide routes in the vicinity include a proposed Class III route that continues east on Central Avenue and a proposed north-south Class II route that runs along Newark Boulevard, Brittany Avenue and Cherry Street. Alameda County also adopted a Pedestrian Master Plan in 2006 that identifies areas of Countywide significance for capital pedestrian projects. Thornton Avenue, Cherry Avenue and Willow Street are all part of the proposed Bay Trail spine and, therefore, corridors of Countywide significance for pedestrian projects.

Chapter 4.14 (Traffic) of the Draft EIR has been revised to include additional language describing these plans. Refer to Chapter 10 (Revisions to Draft EIR) of this Final EIR.

7-4 This comment states that the Draft EIR should consider the use of Transportation Demand Management (TDM) measures. The City will consider additional measures beyond those proposed in the Specific Plan, including mechanisms that encourage ridesharing, flextime, transit, bicycling, telecommuting and other means to reduce peak hour traffic trips.

Comment Letter #8

Directors
Manny Fernandez
Tom Handley
Pat Kite
Anjali Lath
Jennifer Toy

Officers
Richard B. Currie
General Manager
District Engineer
David M. O'Hara
Attorney

July 1, 2011

City of Newark
Economic Development and Planning
37101 Newark Blvd.
Newark, CA 94560-3796

Attention: Mr. Terrence Grindall

RE: Draft Environmental Impact Report (DEIR)
Dumbarton Transit Oriented Development

Dear Mr. Grindall:

Thank you for notifying and giving Union Sanitary District (USD) the opportunity to review the Draft Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan. The proposed development of approximately 206.7-acre Dumbarton TOD Specific Plan Area includes a maximum of 2,500 residential units on 149 acres, 35,000 square feet of retail on 5 acres, 195,000 square feet of commercial on 7.2 acres, transit station on 6.1 acre, 16.3 acres of parks and open space and 23.1 acres of miscellaneous development. The development area is located in Union Sanitary District's Newark Basin.

Based on our review, it appears that our meetings and conversations with you and your consultant(s) before and during the preparation of the DEIR have been very productive. The issues and concerns that we anticipate together with the proposed mitigation measures were all included and discussed in the DEIR. While USD's Alvarado Treatment Plant in Union City has enough capacity to treat the wastewater discharge from the proposed project, a major concern was the anticipated capacity deficiency of the sanitary sewer lines adjacent to the project area including USD's twin 33-inch forcemains that transmit wastewater from the Newark and Irvington Basins to our treatment plant in Union City. We do have some minor comments and/or corrections on the DEIR pages 3-12, 3-38, 4.12-18 and 4.12-19. Please refer to the attached. 8-1

The Newark Basin Master Plan Update is currently in progress and will reflect the anticipated wastewater discharge from the proposed TOD development. The updated master plan will identify collection capacity deficiencies and will contain recommendation on what sanitary sewer system improvements will be necessary to accommodate the project. The work on the 8-2

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updated master plan started last year as planned but completion and the release of the final report is now anticipated in summer of 2012 instead of June this year. 8-2 Cont'd

A review of our current boundaries and the TOD project area reveals that some portions of the Cargill and FMC properties located west of the development are outside USD boundary. These areas will need to be annexed to USD for us to be able to legally serve the future residential units on the properties. Annexation of these areas may be deferred until development plans are submitted to the City and USD. It should be noted that annexation process may take anywhere from six months to a year. 8-3

Again, we thank you for the opportunity to review and comment on the TOD DEIR. We look forward to working with the City on this project. If you have any questions or if I can be of further help, you may call me at (510) 477-7617.

Truly yours,

Al D. Bdnyi, P.E.
Associate Engineer

Cc: Rollie Arbolante
Sami Ghossain
Jesse Gill
File

Attachment

ADB:adb

interspersed non-native trees consisting of ornamental fig (*Ficus* sp.), Mexican fan palm (*Washingtonia robusta*), London plane (*Platanus acerifolia*), eucalyptus (*Eucalyptus* sp.), Peruvian pepper (*Schinus molle*), and pine (*Pinus* sp.). Common animal species expected to inhabit the ruderal habitat within the Specific Plan area include western scrub jay (*Aphelocoma californica*), American crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), American robin (*Turdus migratorius*), European starling (*Sturnus vulgaris*) and Brewer's blackbird (*Euphagus cyanocephalus*). The biological resources of the Plan area are described in detail in Chapter 4.3.

### Rights-of-Way and Utility Easements

The Specific Plan area contains several rights-of-way and transportation and utilities easements. The northern portion of the Specific Plan area is underlain by the Hetch Hetchy Pipeline, which travels from east to west. The City and County of San Francisco owns the Hetch Hetchy Pipeline, and the San Francisco Public Utilities Commission (SFPUC) maintains a 110-foot right-of-way and right control over crossings and other uses within this right-of-way. The DRC runs in an east-west direction generally along the northern edge of the Specific Plan area, almost parallel to the Hetch Hetchy Pipeline. The DRC has a 100-foot wide right-of-way owned by the San Mateo County Transit District. The ~~Fare Pay Discharger~~ ~~Authority (FPDA)~~ owns and operates two 36-inch sanitary sewer force mains serving the City of Newark that run through the Specific Plan area within a 30 foot wide easement, partially within the Hickory Street right-of-way. The Alameda County Flood Control F-1 Canal flows from east to west along the Specific Plan area's southern boundary, providing the main drainage outlet to the San Francisco Bay for a large part of the City of Newark. A tributary to this canal, the F-6 ditch generally flows from north to south along the Specific Plan area's easterly boundary and runs north along the west side of Willow Street for a distance of about 1,300 feet. Pacific Gas and Electric (PG&E) transmission lines traverse the Specific Plan area from north to south and PG&E maintains a 25 foot wide easement underneath the lines and surrounding the towers that the support the high-voltage lines.

Union Sanitary District (USD)

### ASHLAND INC. PROPERTY

The Ashland Inc. property occupies approximately 10.29 acres located southeast of the terminus of Enterprise Drive (8610 Enterprise Drive). The Ashland property is generally flat and has a gentle slope downward toward the southern rear portion of the property. The surface elevation ranges from approximately nine to 11 feet above MSL. Ashland operated a chemical packaging and distribution facility on the property from 1973 until 2000. Currently, the property is vacant, enclosed by

portion of Newark, north through the Specific Plan area, across (beneath) the Hetch Hetchy Pipeline and Southern Pacific Railroad (SPRR) and into parallel 36-inch and 42 inch trunk gravity mains that flow to the west in the SPRR right-of-way (SPRR Mains). The SPRR Mains combine into a single 48 inch gravity sewer main that continues to the Newark Pump Station near the northwest corner of the Specific Plan area. Wastewater is pumped from the station through twin 33-inch force mains to the Alvarado Treatment Plant, approximately five miles to the north. In addition to the Willow Street 36-inch, there is a 14-inch gravity line in Enterprise Drive (Enterprise Drive 14-inch) that flows from east to west before turning to the northwest to run diagonally across the FMC property. This line is in disrepair, is shallow and only serves as a redundant line to the Willow Street 36-inch and the SPRR Mains, in the event of excessive surcharging in those lines.

Dual 33 inch force mains owned and operated by the ~~East Bay Dischargers Authority (EBDA)~~ traverse the Specific Plan area generally from south to north and at a depth of approximately five feet within the existing right-of-way for Hickory Street between the Tenaya and Ashland properties to the east and Cargill property to the west, then follow FMC's property southern boundary before heading northerly again (~~EBDA~~ Mains). The ~~EBDA~~ Mains do not serve the Specific Plan area but carry wastewater from the Irvington Pump Station near the Fremont Boulevard Interchange at Interstate 880 to the Newark Pump Station. These pipes may be sensitive to movement and subject to failure should heavy construction occur over or in the vicinity of the pipelines. Mitigation measures may therefore be necessary as part of the implementation of the Specific Plan to protect the ~~EBDA~~ Mains or project proponents may consider the option of replacing the ~~EBDA~~ Mains within the Hickory Street right-of-way working closely with the USD.

In general, most new connections to the existing wastewater collection system are anticipated to be made to the Willow Street 36 inch gravity main. A new 12-inch gravity sewer main may be required to the areas located west of the ~~EBDA~~ Mains to avoid potential conflicts with those pipelines. There is no particular limit to the number of connections that can be made. However, it is anticipated that improvements may be required to both the 36 inch gravity trunk sewer in Willow Street and possibly the 42-inch gravity trunk sewer in the SPRR due to future development associated with the Dumbarton TOD Specific Plan and deficiencies in these lines identified by the USD.

The Newark Pump Station recently underwent an 11 million dollar upgrade and it is anticipated that no further upgrades would be needed to serve the proposed Dumbarton TOD Specific Plan area. However, the force mains that convey flow

A 14-inch gravity line in Enterprise Drive ultimately flows to the Newark Pump Station after crossing the FMC property and the Hetch Hetchy Pipeline. This line is in disrepair, is shallow, and only serves as a redundant line to the mains in Willow Street and the SPRR in the event of excessive surcharging in those lines. The Enterprise Drive line and the Willow Street main are the only two sewer lines near the project area to cross the Hetch Hetchy Pipeline.

Dual 33-inch force mains, operated by ~~East Bay Dischargers Authority (EBDA)~~, traverse the site generally from south to north. These mains carry wastewater from the Irvington Pump Station (near the Fremont Boulevard and Interstate 880 interchange) to the Newark Pump Station, but do not serve the project area. These pipes are sensitive to movement and their joints are subject to failure should heavy construction or intense uses occur over or in the vicinity of the pipeline. In general, additional structural mitigation measures may need to be installed at selected locations or, as an alternative, these lines could be replaced in a new alignment within Hickory Street. The nature of the structural mitigation measures or replacement mains would be determined in conjunction with USD.

No additional improvements to the Newark Pump Station are anticipated, however, force mains conveying flow from the station to the Alvarado Treatment Plant may be undersized for buildout of the Specific Plan. An additional line or an equalization basin near the station would be needed. Required improvements, ~~schedules for their implementation, and funding options~~ will be addressed in the USD Sewer Master Plan, which is scheduled for publication in ~~June, 2011~~. In general, most new connections to the existing wastewater collection service would be provided along the 36-inch Willow Street gravity main. A new 12-inch gravity sewer main may be required to provide service to the areas located west of the EBDA mains to avoid a potential conflict with new mains crossing EBDA mains.

The following policies will be included as a part of the General Plan Amendment for the Dumbarton TOD Specific Plan project:

- Expand the wastewater collection system such that it is adequate to serve the new development in the project area.
- Amend sewer fees and/or other financing mechanisms if necessary such that project area project sponsors pay their fair share of the costs for sewer main improvements.
- The USD was scheduled to begin updating their Sewer Master Plan in the fall of 2010, with a document available by ~~June of 2011~~. As part of the updating

process, USD will gather information on planning activities at each city within its boundaries (Fremont, Newark and Union City) to help guide the Master Plan. It is important that the City of Newark continues to engage in this process and is forthright with respect to the Specific Plan, so that the Sewer Master Plan can provide concrete documentation of the upgrades required to implement the Specific Plan.

Implementation of Mitigation Measure 4.12-2 would reduce impacts to the wastewater system to less than significant.

*Mitigation Measure*

4.12-2 Prior to approval of any tentative map within the Dumbarton TOD Specific Plan area, additional necessary improvements, if any, beyond those already included in the USD Master Plan and updated fee program, shall be determined regarding proposed new connections (from such tentative map development) and then existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit. Improvements shall be consistent with requirements in the Sewer Master Plan (anticipated to be available in June 2014). The City and USD shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which such improvements are necessary.

Level of Significance After Mitigation: Less Than Significant.

**WATER SUPPLY**

**4.12-3 Sufficient water supplies are available to serve the proposed project from existing entitlements and resources. No new or expanded entitlements would be required.**

Level of Significance Before Mitigation: Less Than Significant

*Impact Analysis*

The Dumbarton TOD Specific Plan area is located within the water service area of ACWC. Pursuant to SB 610, a WSA was prepared for the proposed project. The WSA relies on the 2010 Draft Urban Water Management Plan (UWMP) data to analyze and report water supply reliability and the 2005 UWMP to document

**Response to Comment Letter #8, Al D. Bunyi, Union Sanitary District**

8-1 This comment suggests revisions to Section 4.12 (Public Services and Utilities ) of the Draft EIR to replace references to the East Bay Dischargers Authority with Union Sanitary District (USD), as well as modifications to the date of completion of the USD Sewer Master Plan. These revisions are included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

8-2 This comment addresses the Newark Basin Master Plan Update and corrects the anticipated completion date on pages 4.12-18 and 4.12-19 of the Draft EIR. Refer to Chapter 10 of this Final EIR.

8-3 Comment noted regarding the Cargill and FMC properties requiring annexation to USD prior to development. Clarification has been provided in Chapter 3 (Project Description) of the Draft EIR to describe the process. Refer to Chapter 10 of this Final EIR.

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**Comment Letter #9**

samTrans

BOARD OF DIRECTORS 2011

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July 1, 2011

Mr. Terrence Grindall
Community Development Director
City of Newark
37101 Newark Blvd
Newark, CA 94560

RE: Notice of Completion and Availability of Draft Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan

Dear Mr. Grindall:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the Dumbarton TOD Specific Plan. SamTrans is the owner of the railroad right of way north of the project limits and is currently in the process of planning a commuter rail service on these rail road tracks, the Dumbarton Rail Corridor (DRC) Project.

SamTrans supports the Newark City TOD program and looks forward to working together with the City of Newark in the planning and implementation of our respective projects. As one of the proposed DRC station locations is in Newark City, we would like to offer the following comments:

1. The Dumbarton TOD Program DEIR indicates that "The DRC Project is not a part of the Dumbarton TOD Specific Plan and the Specific Plan is not dependent in any way upon implementation of the DRC Project." However, we recommend that traffic and transportation effects of the implementation of the DRC rail service as well as the indirect land use effect be discussed in the final EIR. 9-1

   Traffic impacts could be substantially different with and without the DRC project. It might be reasonable for the Final EIR to analyze the implications of this difference in terms of traffic impacts and projected transit mode share for the TOD area. Intuitively, the TOD area would be more attractive to residents and businesses with the DRC project completed. The Final EIR should address the relationship between the provision of transit service and land development and consider how the development of the TOD area could be different with and without the DRC project.

2. Since the Specific Plan and the DRC Project are interrelated, the inclusion of each project into the No-Build condition for the other should be considered. 9-2

**SAN MATEO COUNTY TRANSIT DISTRICT**
1250 San Carlos Ave. – P.O. Box 3006
San Carlos, CA 94070-1306 (650)508-6200

Many elements of the Specific Plan would affect ridership of the DRC and/or traffic conditions near the station. In addition, if they are deemed reasonable and foreseeable, they should be considered in the station area planning included in the DRC Project. These elements to be considered include:

- According to the Specific Plan, the Newark transit station is planned to have 500 parking spaces at full build (phased over time) and a shared parking agreement between the station and future adjacent uses is encouraged. How would this affect DRC ridership?
- The majority of new residential units within the Specific Plan are within ½ mile (ten minute) walking distance of proposed transit station platform location. The Plan also includes a bus station hub in overall planning of the Station. These elements should be considered in the DRC planning, design, and ridership analysis.
- The Specific Plan contains street improvements – Willow St, Hickory St, Central Ave, and Enterprise Dr. – which comprise the backbone circulation plan. The Specific Plan also contains street upgrades and intersection improvements per City of Newark's General Plan Circulation Element (1989, updated 2007). The inclusion of these improvements in the traffic model would affect the DRC traffic analysis.

3-2 Cont'd

Additionally, it may be warranted that the DRC Project be included in the evaluation of cumulative impacts. Specifically for noise, cumulative impacts scenario is based on roadway traffic noise only and uses FHWA's Traffic Noise Model (TNM). The cumulative scenario may need to be revised to include the combined effect of traffic noise and the DRC train noise. Freight and commuter rail operations at or near the Dumbarton Rail Transit Station may generate levels of ground vibration that would expose residential dwellings and other receptors on the Specific Plan site to levels that exceed applicable thresholds. This issue should be discussed even if brief.

3-3

We want to reiterate our support to the City of Newark on its TOD initiative and remain available for coordinating very closely our mutual planning efforts for the Dumbarton TOD and the Dumbarton Rail Corridor projects. Please feel free to contact me at 650-622-7842 if you have any questions.

Sincerely,

Hilda Lafebre, DBIA
Manager, Capital Project & Environmental Planning

Ec: Aidan Hughes, Interim Executive Officer- Planning & Development
William Hurrell, WSA
Cathy LaFata, LBG
Larry Pesesky, LBG

SAN MATEO COUNTY TRANSIT DISTRICT
1250 San Carlos Ave. – P.O. Box 3006
San Carlos, CA 94070-1306 (650)508-6200

**Response to Comment Letter #9, Hilda Lafebre, San Mateo County Transit District**

9-1 The comment requests discussion of the impacts of the Dumbarton Rail Corridor (DRC) Project in the Draft EIR for the Dumbarton TOD Specific Plan. As stated in the Draft EIR on pages 3-1 and 3-19, implementation of the proposed Specific Plan would allow a mix of residential, office, retail, park and recreational open space uses in close proximity to planned future transit service along the DRC. At the same time, the project is not dependent in any way upon proposed DRC transit service (or the transit station), which is a separate project undergoing separate environmental review by other public agencies. Moreover, due to the uncertain timeline and funding status of the DRC Project, it would be speculative to include the project in the cumulative context of this environmental analysis. The DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time.

Comments regarding the attractiveness of development within the Specific Plan area to residents and businesses with the DRC project completed are noted.

9-2 This comment states that since the Dumbarton TOD Specific Plan and DRC Project are interrelated, the inclusion of each project in the no-build condition for the other should be considered. As described in Response 9-1, the DRC and the transit station are not reasonably foreseeable future activities of the project that must be studied by this EIR at this time.

9-3 This comment suggests that it may be warranted that the DRC Project be included in the evaluation of cumulative impacts, specifically for noise. Noise analysis associated with future rail use are included in Chapter 4.10 (Noise) of the Draft EIR and mitigation measures are included to address potential impacts.

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## Comment Letter #10

July 1, 2011

Terrence Grindall,
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, California, 94560

SUBJECT: Draft Environmental Impact Report on Dumbarton Transit Oriented Development Specific Plan, BCDC Inquiry File No.AL.FT.7025.1
SCH# 2010042012

Dear Mr. Grindall:

The San Francisco Bay Conservation and Development Commission (BCDC) appreciates the opportunity to review and comment on the *Draft Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan* (DEIR), dated May 2011. Although our Commission has not had the opportunity to review the DEIR, these staff comments are based on BCDC's law, the McAteer-Petris Act and the provisions of its *San Francisco Bay Plan* (Bay Plan).

**Jurisdiction and Authority**. As a permitting authority along the San Francisco Bay shoreline, BCDC is responsible for granting or denying permits for any proposed fill (earth or any other substance or material, including pilings or structures placed on pilings, and floating structures moored for extended periods), extraction of materials or change in use of any water, land or structure within the Commission's jurisdiction. Generally, BCDC's jurisdiction over San Francisco Bay extends from the Golden Gate to the Sacramento River and includes tidal areas up to the mean high tide level, including all sloughs, and in marshlands up to five feet above mean sea level; a shoreline band consisting of territory located between the shoreline of the Bay and 100 feet landward and parallel to the shoreline; salt ponds; managed wetlands (areas diked from the Bay and managed as duck clubs); and certain waterways tributary to the Bay. The Commission can grant a permit for a project if it finds that the project is either (1) necessary to the health, safety or welfare of the public in the entire Bay Area, or (2) is consistent with the provisions of the McAteer-Petris Act and the Bay Plan. The McAteer-Petris Act provides for fill in the Bay for water-oriented uses where there is no alternative upland location and requires that any fill that is placed in the Bay is the minimum that is necessary for the project. The McAteer-Petris Act also requires that proposed projects include the maximum feasible public access consistent with the project to the Bay and its shoreline. 10-1

Since our initial letter, dated May 4, 2010, indicating that the project is outside of the Commission's jurisdiction staff has conducted a more detailed analysis of the extent of BCDC jurisdiction in the project vicinity. As stated in the McAteer-Petris Act, BCDC jurisdiction extends to certain waterways tributary to the Bay, "consisting of all areas that are subject to tidal action, including submerged lands, tidelands, and marshlands up to five feet above mean sea level, on, or tributary to, the listed portions of the following waterways: Plummer Creek in Alameda County, to the eastern limits of the saltponds...." In addition to the stretches of Plummer Creek located along the southern and southeastern portion of the project there are areas, located at the northwestern corner of the project site, that may be within BCDC's bay jurisdiction. Staff recommends that the EIR clarify the extent of the project site, as depicted in Figure 3-2, that may be within BCDC's jurisdiction. 10-2

**Public Access.** Section 66602 of the McAteer-Petris Act states, in part, that "existing public access to the shoreline and waters of the San Francisco Bay is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided." Furthermore, the McAteer-Petris Act authorizes the placement of fill in the Bay only for water-oriented uses or minor fill for improving shoreline appearance or public access. 10-3

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If any projects identified in the DEIR are within BCDC's jurisdiction, then the EIR should consider that BCDC's public access requirements include, "maximum feasible access to and along the waterfront and on any permitted fills should be provided in and through every *new* development in the Bay or on the shoreline."

**Transportation and Land Use.** The general goals described for the area defined in the DEIR are goals that, if met in a way that protects the ecological resources along the shoreline, BCDC supports. These goals include, the development of transit-oriented development that "allows for a mixed of residential, office, retail, public/quasi-public, and park and open space uses to develop in close proximity to planned regional public transit." In pursuit of these goals, the City of Newark should continue coordinating with the Association of Bay Area Government's (ABAG) Focus program, a joint effort of ABAG, the Bay Area Air Quality Management District (BAAQMD), the Metropolitan Transportation Commission (MTC) and BCDC. 10-4

**Sea Level Rise and Safety of Fills.** It appears that some areas within the plan area and along the adjacent shoreline may be vulnerable to projected sea level rise. BCDC has conducted an assessment of the region's exposure to sea level rise which is based on a projected 16-inch sea level rise at mid century (2050) and 55-inch sea level rise at the end of the century (2100). However, on page 4.6-27 the DEIR indicates that BCDC expects climate change to raise sea level between 12 and 36 inches by the year 2100. Therefore, the EIR should clarify the source of the 12 and 36 inch sea level rise projections. 10-5

Bay Plan findings and policies anticipate the need for planning associated with safety of fills and sea level rise. The safety of fills findings state, in part, "structures on fill or near the shoreline should be above the highest expected water level during the expected life of the project...Bay water levels are likely to increase in the future because of a relative rise in sea level... Relative rise in sea level is the sum of: (1) a rise in global sea level and (2) land elevation change (lifting and subsidence) around the Bay." Bay Plan policies on safety of fills state, in part, "local governments and special districts with responsibilities for flood protection should assure that their requirements and criteria reflect future relative sea level rise and should assure that new structures and uses attracting people are not approved in flood prone areas or in areas that will become flood prone in the future, and that structures and uses that are approvable will be built at stable elevations to assure long-term protection from flood hazards." Projects in BCDC jurisdiction that involve bay fill must be consistent with the Bay Plan policies on the safety of fill and sea level rise. 10-6

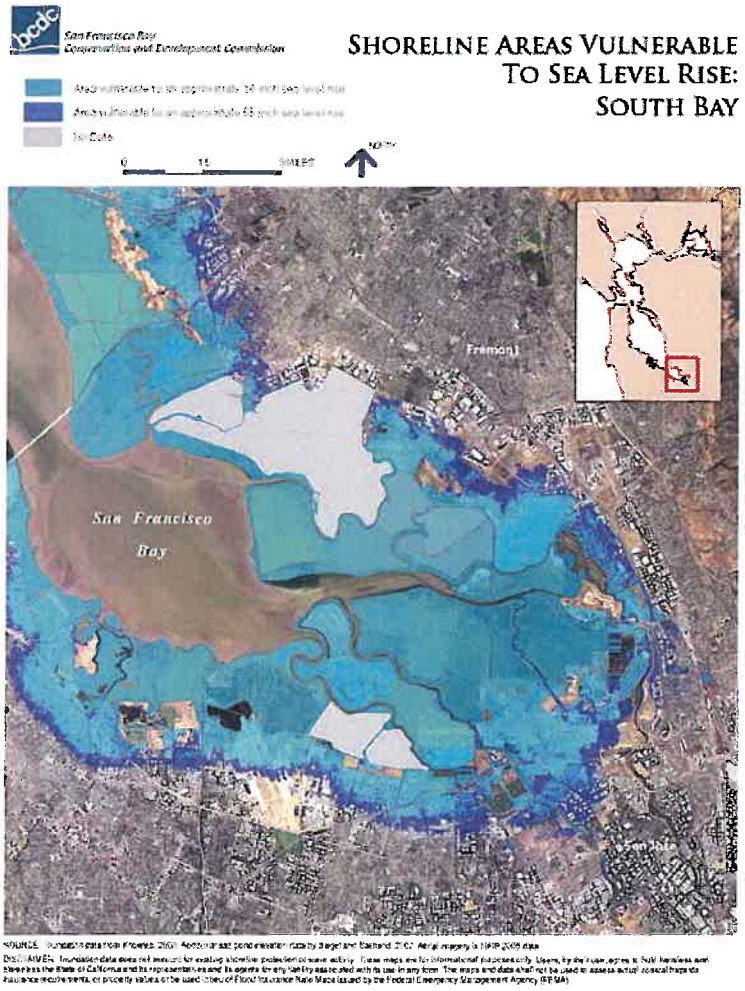
The DEIR process is an opportunity to design the future project so that it can be more resilient to sea level rise related impacts. Therefore, the EIR should discuss the potential for inundation and its impacts on land use, transportation, hydrology, water quality, hazards, infrastructure and utilities and public services. Please see the attached maps that identify areas that may be exposed to sea level rise in the vicinity of the plan area. These maps are part of a draft BCDC staff report that analyzes vulnerabilities to climate change in the Bay and along the shoreline. 10-7

Thank you again for the opportunity to review and comment on the *Draft Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan*. If you have any questions please contact me directly at (415) 352-3667.

Sincerely,

TIMOTHY DOHERTY
Coastal Planner

TD/emc


San Francisco Bay
Conservation and Development Commission
SHORELINE AREAS VULNERABLE
TO SEA LEVEL RISE:
SOUTH BAY
Fremont
San Francisco
Bay

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**Response to Comment Letter #10, Timothy Doherty, Bay Conservation and Development District**

10-1 This comment summarizes the Bay Conservation Development Commission's (BCDC's) jurisdiction and authority along the San Francisco shoreline. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

10-2 This comment states that since providing the City with an initial letter regarding BCDC's jurisdiction over the project area in May 2010, they have conducted further analysis of the extent of their jurisdiction over the area. Following receipt of Comment Letter #10, City staff requested additional clarification regarding BCDC jurisdiction. BCDC staff confirmed that the waterway in the northwest portion of the project area, referred to as the barge canal, is considered part of the Bay and BCDC has jurisdiction over a shoreline band located between the shoreline and 100 feet landward and parallel to the shoreline for public access purposes. Plummer Creek is not considered part of the Bay but is referred to as "Certain Waterways," which cannot be filled without a BCDC permit. The project does not propose any fill of these waters. Page 4.9-23 of the Draft EIR has been revised to clarify this and is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

10-3 Comment noted regarding the McAteer-Petris Act and placement of fill in the Bay. As noted on page 3-25 of the Draft EIR, the proposed project includes a perimeter trail surrounding the Specific Plan area, as well as the construction of a 6.5-acre park that would be located adjacent to this area, which would preserve public access and views of the shoreline. Furthermore, the project does not propose to place fill within the Bay.

10-4 Comment acknowledged regarding BCDC's support of transit-oriented development that "allows for a mix of residential, office, retail, public/quasi public, and park and open space uses in close proximity to planned regional public transit." The City will continue to coordinate with the Association of Bay Area Governments (ABAG) Focus program.

10-5 This comment asks for clarification regarding the source of sea level rise projections. The projections for sea level rise within the project area in the Draft EIR were derived from the San Francisco Bay Plan and the BCDC's

Shoreline Areas Vulnerable to Sea Level Rise Central Bay South Inundation Map and were included in Section 4.6 (Greenhouse Gas Emissions) of the Draft EIR. However, according to the BCDC staff report, *Living with a Rising Bay: Vulnerability and Adaptation in San Francisco Bay and on the Shoreline*, released in April 2009, climate projections for the Bay Area suggest that sea level may rise between 15 to 55 inches by the year 2100. Page 4.6-27 of the Draft EIR has been revised to correct the sea level rise projection and is included in Chapter 10 of this Final EIR.

10-6 This comment states that the Bay Plan findings and policies anticipate the need for planning associated with safety of fills and sea level rise. As noted in Response 2-5, sea level rise is addressed on page 4.6-27 of the Draft EIR. Minor revisions have been made to the Draft EIR to acknowledge the sea level rise mapping that has been completed by the BCDC (refer to Chapter 10 of this Final EIR). Based on the mapping conducted by BCDC and acknowledged in the Draft EIR, a portion of the western area of Specific Plan could be affected by sea level rise. As addressed in the Draft EIR, the forecasted sea level rise could increase flood related impacts, especially from storm-surge induced flood events. Section 15.40.51 of the City's Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

The BCDC forecast expressly notes that it does not account for existing shoreline protection or wave activity and that, where necessary, future levees are an appropriate mechanism for protecting against flood damage from rises in sea levels. Ultimately, the National Oceanic and Atmospheric Agency, FEMA, USACE, cities, counties and flood control districts are responsible for protecting the public and the San Francisco Bay ecosystem from flood hazards. The City's Municipal Code flood elevation standards would protect the Specific Plan area based upon flood risks as determined by FEMA, the City and these other regional and local agencies.

As addressed in Response to Comment 10-2, any future development within 100 feet of barge canal would be required to comply with the BCDC's San Francisco Bay Plan.

10-7 This comment suggests that the Draft EIR discuss the potential for inundation and its impacts on land use, transportation, hydrology, water

quality, hazards, infrastructure, and utilities and public services. As noted in Responses 2-5 and 10-6, sea level rise is addressed on page 4.6-27 of the Draft EIR and considers the potential for inundation within the Specific Plan area as a result of sea level rise. The Draft EIR provides a reasonable range of alternatives, and includes alternatives to the proposed project that would preserve open space adjacent to the baylands. Alternatives 2 and 3 would concentrate development adjacent to the City, preserving the western portion of the Specific Plan area in open space. The project, as well as the alternatives, will be considered by the City Council prior to taking action on the Specific Plan.

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**Comment Letter #11**

San Francisco Water Power Sewer

Services of the San Francisco Public Utilities Commission

Bureau of Environmental Management
1145 Market Street Suite 500
San Francisco, CA 94103
T 415.934.57
F 415.934.57

July 1, 2011

By Electronic Mail

Terrence Grindall, Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560

RE: Dumbarton Transit Oriented Development Specific Plan;
Draft Environmental Impact Report May 2011

Dear Mr. Grindall,

Under the provisions of Section 15082 of the CEQA Guidelines, the San Francisco Public Utilities Commission (SFPUC) hereby submits comments on the May 2011 Draft Environmental Impact Report (DEIR) for the Dumbarton Transit Oriented Development Specific Plan.

The Dumbarton Transit Oriented Development Specific Plan, as currently proposed, conflicts with the SFPUC right-of-way and pipelines, specifically at the Newark Valve Lot location. Parkland along the right-of-way can be created as long as it does not interfere with SFPUC operations or affect SFPUC pipelines. However, such use of SFPUC is only permitted upon issuance of a lease by the SFPUC. The SFPUC has leased parking lots in other locations; however the Newark Valve Lot is not available for such use. Any fill over SFPUC pipelines is not allowed. 11-1

On page 4.3-33 the DEIR states "Accordingly, this site is not likely to support CTS [California tiger salamander]." This conclusion is not valid. The SFPUC was issued a U.S. Fish and Wildlife Service (USFWS) Biological Opinion which covered portions of the Newark Valve Lot as part of the larger Water System Improvement Program (WSIP) Bay Division Pipeline Number 5 Project. The Biological Opinion assumes presence of CTS and the SFPUC has incurred agency-required mitigation related to this impact. Please contact the SFPUC if you would like to receive a copy of this Biological Opinion. Additionally, the City of Newark was on the distribution list for the Bay Division Pipeline Number 5 Project CEQA documents throughout all phases of Environmental Review process including the DEIR and RTC. The CEQA documents are available on-line at: http://goo.gl/bAaul. Refer to the site-specific biological impacts for further details on the presence of CTS. 11-2

The SFPUC appreciates the opportunity to comment on the DEIR for the Dumbarton Transit Oriented Development Specific Plan. Please contact me at 415.554.3232 if you have any questions about the above comments.

Sincerely,

Barry Pearl

for Irina P. Torrey, AICP, Manager
Bureau of Environmental Management
San Francisco Public Utilities Commission

Edwin M. Lee
Mayor
Francesca Vietor
President
Anson Moran
Vice President
Ann Moller Caen
Commissioner
Art Torres
Commissioner
Vince Courtney
Commissioner
Ed Harrington
General Manager

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**Response to Comment Letter #11, Irina P. Torrey, San Francisco Public Utilities Commission**

11-1 This comment states that the Dumbarton TOD Specific Plan currently conflicts with the San Francisco Public Utility Commission's (SFPUC's) right-of-way and pipelines, specifically the Newark Valve Lot location. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

11-2 The commentor states that the Draft EIR's conclusion that the project area is not likely to support California tiger salamander (CTS) is not valid. The commentor is basing this on a Biological Opinion the U.S. Fish and Wildlife Service (USFWS) issued the SFPUC for their Bay Division Pipeline Number 5 Project.

Monk & Associates has multiple staff members that are both USFWS and California Department of Fish and Game (CDFG) permitted CTS biologists. They routinely conduct surveys for all distinct populations of the CTS, have located many previously unidentified CTS breeding sites and have an extensive reporting history for CTS both with CDFG and USFWS. The closest known CTS population to the project area is in Fremont (i.e., the former the Pacific Commons project site) and was originally discovered and reported to CDFG and USFWS by Monk & Associates in March 1997. Two of Monk & Associates' permitted CTS biologists surveyed the project area for the Draft EIR and assessed the suitability of the project area for CTS. One of these biologists worked with the known CTS population in Fremont. It is Monk & Associates' professional opinion that the project area does not provide suitable aestivation (over-summering) or breeding habitat for the CTS.

For almost a century, the project area has been a site for industrial production. It is located in between residential and industrial lands on the eastern project boundary and Cargill bittern basins on the western project boundary. Wildlands, Inc. Plummer Creek Wetland Mitigation Project, a restored area of tidal wetlands and associated uplands, is located at the project site's southwestern corner. CTS are not known to occur at the Plummer Creek Wetland Mitigation Project Site (personal communication between S. Lynch, Monk & Associates, and C. Tambini, Wildlands, Inc., July 5, 2011). The extensive surrounding developments and the brackish to salt

water habitats provide an effective barrier to CTS immigration into the project area.

There are no fresh water habitats onsite that are of the size or depth to remain inundated long enough for CTS larvae to metamorphose. Pool value for reproduction is positively correlated with depth. Breeding is typically not observed in pools with a maximum depth of less than 22 centimeters (Trenham et. al 2008). Research has shown that CTS larvae need ponded water through the month of May (minimum) to allow larvae time to fully metamorphose.[2] CTS larvae first start to emerge from breeding pools as early as May, but if the water in the pool persists, CTS larvae will remain in the pools in their aquatic phase (with gills) through June or early July (Monk & Associates personal observations).

Due to the absence of suitable breeding habitat within the project area, the distance of the project area from known CTS populations (3.8 miles is the closest known recorded population), and all the barriers to migration in this industrialized area of Newark, there is no possibility that CTS occur within the project area. Therefore, development of the proposed project would not impact CTS.

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[2] USFWS (U.S. Fish and Wildlife Service), 2005. Endangered and threatened wildlife and plants; designation of critical habitat for the California tiger salamander, central population; final rule (50 CFR Part 17, August 23, 2005).

## Comment Letter #12

Honeywell

Honeywell
7525 West 190th Street
Torrance, CA 90505
310-512-2296

July 1, 2011

Terrence Grindall
Community Development Director
City of Newark Community Development Department
37101 Newark Boulevard
Newark, CA 94560

Subject: Comments on the Draft Environmental Impact Report (SCH#2010042012)
Dumbarton Transit-Oriented Development Specific Plan
Newark, California

Dear Mr. Grindall:

This letter is in response to the Draft Environmental Impact Report (EIR) for the Dumbarton Transit Oriented Development Specific Plan (SCH #2010042012). Honeywell International Inc. (Honeywell) has reviewed the document and provides the following comments as allowed under the provisions of the California Environmental Quality Act (CEQA) and accompanying Guidelines.

### Project Understanding

The proposed Dumbarton Transit Oriented Development (TOD) Specific Plan (project) would provide a comprehensive policy and regulatory framework to guide future development and redevelopment within the approximately 205-acre Dumbarton TOD Specific Plan area. The proposed Specific Plan would establish the allowable land uses, development regulations, design guidelines, necessary infrastructure improvements, and an implementation plan to direct future development and redevelopment of the Dumbarton TOD Specific Plan area. Implementation of the proposed Specific Plan would allow a mix of residential, office, retail, public/quasi-public, and park and open space uses to be developed in close proximity to planned regional public transit.

The Draft EIR analyzes the potential effects that may occur on the environment as a result of the adoption and implementation of the proposed Dumbarton TOD Specific Plan. The information contained within this Draft EIR will be reviewed and considered by the City of Newark prior to its action to approve, disapprove, or modify the proposed project.

### Comments

**Comment No. 1:** *General Comments on the Draft EIR.*

(a) The specific issues and recommendation outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's *Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County* issued on April 30, 2010 should be

12-1

identified and addressed within the Draft EIR. This would include requiring the following items prior to development: an environmental risk assessment for the entire project area, evaluation of additional remediation for future sensitive land uses such as residential, protection of groundwater, risk and construction management plans, and mitigation measures as well as addressing long-term monitoring and ongoing cleanup requirements after development. 12-1 Cont'd

(b) Honeywell has ongoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts pursuant to Final Site Cleanup Requirements (SCR) Order R2-2007-0005 issued by the California Regional Water Quality Control Board (RWQCB) that affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001). 12-2

(c) The *2008 Newark Area Two Concept Plan*, the *2010 Conceptual Land Use Plan*, and the *2011 Dumbarton TOD Specific Plan* identifies the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) for medium or high density residential development or park space. Honeywell would like to confirm that, due to the presence of shallow impacted groundwater, buildings constructed on these properties will adhere to the *2008 Newark Area Two Concept Plan* description of medium density residential buildings within a half-mile of the station as townhomes that are attached at the sides with a separate garage for each unit tucked under the living spaces and higher-density residential buildings are described as having ground-floor retail development. 12-3

(d) The Draft EIR contains the traditionally separate discussion of hazardous materials and water quality. While these are generally addressed as separate resource areas, the area associated with the Dumbarton TOD Specific Plan is unique in its history of contamination and cleanup efforts. A literal reading of the setting sections appears to suggest that soil and groundwater remediation efforts are concluded or not necessary. We suggest a more detailed general discussion of the current ongoing cleanup efforts and cross-reference between Sections 4.7, Hazardous Materials, and 4.8, Hydrology, Drainage, and Water Quality, for continuity of information. 12-4

(e) The Draft EIR should fully disclose current and future conditions in the area to meet its obligations under CEQA for determining potential environmental impacts associated with the City of Newark's approval of the Dumbarton TOD Specific Plan Draft EIR. 12-5

**Comment No. 2:** *Page 2-5, Executive Summary, Section 2.4 Significant Impacts, 8th Bullet, states the following:*

- Hazards and Hazardous Materials – The public and/or environment could accidentally be exposed to hazardous materials during construction and operation of future development allowed by the Specific Plan.

**Honeywell's Comment:** Please add the following language to this bullet item:

> As outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's *Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County* issued on April 30, 2010, "contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol), dioxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by the California Regional Water Quality Control Board, San Francisco Bay Region:
>
> - FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
> - Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
> - SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
> - Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054
> - Former Baron-Blakeslee, 8333 Enterprise, SCR Order R2-2005-0004"
>
> Ongoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts are occurring pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB that affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001).

12-8

**Comment No. 3:** *Page 3-11, Section 3.3.3. Site Characteristics, Overview, Paragraph 1, states the following:*

> The approximately 205-acre Dumbarton TOD Specific Plan area is currently primarily vacant and unused with the exception of a chemical blending and distribution facility located in the northeastern corner, a storage area for base-rock and tractor trailers used in construction projects located in the northeastern portion, and a dog training facility and a police firing range located in the south central portion.

**Honeywell's Comment:** Please replace this paragraph with the following revised paragraph and additional verbiage:

> The approximately 205-acre Dumbarton TOD Specific Plan area is currently primarily vacant and unused with the exception of a virgin chemical storing, repackaging, and distribution facility located in the northeastern corner, a storage area for base-rock and tractor trailers used in construction projects located in the northeastern portion, and a dog training facility and a police firing range located in the south central portion.

12-7

As outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's *Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan, Newark, Alameda County* issued on April 30, 2010, "contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol), dioxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by the California Regional Water Quality Control Board, San Francisco Bay Region:

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054
- Former Baron-Blakeslee, 8333 Enterprise, SCR Order R2-2005-0004"

12-7 Cont'd

Ongoing groundwater and soil vapor monitoring and cleanup efforts are occurring pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB that affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001).

**Comment No. 4:** *Page 3-14, Section 3.3.3, Enterprise Drive LLC (Trumark Commercial) Property states the following:*

The approximately 2.14-acre Enterprise Drive LLC (Trumark Commercial) property is located at 8375 Enterprise Drive in the northeastern portion of the Specific Plan area. The Enterprise Drive LLC property is a level, vacant lot with ruderal vegetation that is enclosed by fencing. It is approximately ten to 15 feet above MSL with a gentle slope to the southwest towards San Francisco Bay. There is a Hetch Hetchy Pipeline with a 110-foot right-of-way owned by the SFPUC in southern portion of property. The chemical blending and distribution facility located on the adjacent Gallade property uses a portion of the Enterprise Drive LLC property for parking and storage. Groundwater underneath the property and site soils have been impacted with COCs from past uses associated with the adjacent Gallade property. There is a groundwater monitoring well on the property and current activities consist of groundwater monitoring.

**Honeywell's Comment:** Please replace the following three sentences:

The chemical blending and distribution facility located on the adjacent Gallade property uses a portion of the Enterprise Drive LLC property for parking and storage. Groundwater underneath the property and site soils have been impacted with COCs from past uses associated with the adjacent Gallade property. There is a

12-8

groundwater monitoring well on the property and current activities consist of groundwater monitoring.

With the following:

Past uses associated with the adjacent Gallade property have impacted groundwater underneath the central and northern portions of the property and site soils in the northeast portion of the property with COCs. There are several groundwater monitoring wells on the property and soil and groundwater monitoring and remediation activities are ongoing pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB.

12-8 Cont'd

**Comment No. 5:** *Page 3-15, Section 3.3.3, Gallade Enterprises LLC Property states the following:*

The approximately 2.3-acre Gallade property is located at 8333 Enterprise Drive in the northeast corner of the Specific Plan area. The level Gallade property has an elevation of approximately 11 feet above MSL. The property is currently developed with three structures (an office and two warehouses) and a parking area. The majority of the site is either covered by buildings or paving, although a small portion contains ruderal habitat. A portion of the Hetch Hetchy Pipeline located underneath the property adjacent to the southern boundary. Gallade Chemical, Inc. currently uses the site for the storage, blending, packaging, and distribution of virgin chemical products. Past uses contaminated onsite soils and groundwater, as well as groundwater downgradient (westward) of the property with COCs. Groundwater, soil-vapor, and ambient air monitoring is conducted semiannually onsite and at nearby properties.

**Honeywell's Comment:** Please replace the following three sentences:

Gallade Chemical, Inc. currently uses the site for the storage, blending, packaging, and distribution of virgin chemical products. Past uses caused contamination of onsite soils and groundwater, as well as groundwater downgradient (westward) of the property with COCs. Groundwater, soil-vapor, and ambient air monitoring is conducted semiannually onsite and at nearby properties.

With the following:

Gallade Chemical, Inc. currently uses the site for the storage, repackaging, and distribution of virgin chemical products. Historical operations at the site caused contamination of onsite soils and groundwater, as well as groundwater downgradient (westward) of the property, with COCs. These contamination affects portions of the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001). This property is currently undergoing groundwater and soil vapor monitoring and cleanup activities pursuant to the Final SCR Order R2-2007-0005 issued by the RWQCB and monitoring and reporting pursuant to the

12-9

Department of Toxic Substances Control (DTSC) Hazardous Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459. 12-9 Contd

**Comment No. 6:** *Page 3-30, Section 3.6.1, Permitted Land Uses states the following:*

Land uses within the Dumbarton TOD Specific Plan would be regulated by the application of permitted, conditionally permitted, and/or administratively permitted uses designated by the zoning district applied to each parcel (i.e., LDR, POS and C). Except as otherwise provided in the Dumbarton TOD Specific Plan, permitted uses, development standards, processing requirements, and other regulations are as specified by the City of Newark Zoning Ordinance.

Honeywell's Comment: As required by the DTSC Hazardous Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459, a Covenant to Restrict Use of Property, Environmental Restriction was issued for the Former Baron-Blakeslee Facility located at 8333 Enterprise Drive in Newark, California. The covenant prohibits the following uses of the property: residence, including any mobile home or factory-built housing, constructed or installed for use as residential human habitation; a hospital for humans; a public or private school for persons under 21 years of age; and a day care center for children. These provisions, and any other restrictions identified in the Covenant to Restrict Use of Property, should be included in the discussion of land use regulation as well as the requirements for the termination or partial termination of the covenant. 12-10

**Comment No. 7:** *Page 3-40, Section 3.7, Intended Uses of the EIR, Second Paragraph states the following:*

Other agencies with jurisdiction over approvals necessary or desirous to the project include, without limitation, the following:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- California Department of Fish and Game
- California Department of Toxic Substances Control
- California Regional Water Quality Control Board
- Bay Area Air Quality Management District
- Alameda County Water District
- Alameda County Flood Control and Water Conservation District
- East Bay Dischargers Authority
- Union Sanitary District
- San Francisco Public Utilities Commission
- San Francisco Water Department
- San Mateo County Transit District
- San Mateo County Transportation Authority

**Honeywell's Comment:** Please add Alameda County Department of Environmental Health and the U.S. Environmental Protection Agency (EPA) to the list of agencies that may provide approval for the project. 12-11

**Comment No. 8:** *Pages 4.7-11 through -14, Section 4.7.1.2, Existing Conditions, Hazardous Materials Sites, FMC Corporation (8787 Enterprise Drive).*

**Honeywell's Comment:** Portions of the FMC property, APNs 092-0100-004-02 and 092-0101-001, have been contaminated from historical operations that occurred at the former Baron Blakeslee, Inc. facility, located at 8333 Enterprise Drive (now owned by Gallade Chemical). These properties, APNs 092-0100-004-02 and 092-0101-001, are undergoing groundwater and soil vapor monitoring and cleanup efforts pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB. The Final SCR Order R2-2007-0005 requires semiannual groundwater and soil vapor monitoring for a network of wells located on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), and FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) and railroad properties, as well as north, west and east of the Gallade property in residential and public properties. Remediation consists of the following three tasks: in situ thermal remediation for the former tank farm area located on the northern portion of the Gallade and Trumark properties; in situ treatment for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) a. and railroad properties; and soil excavation in the former process building area of the Gallade property. The in situ thermal remediation activities were completed from March 2010 to January 2011 and the final remediation completion report will be submitted in August 2011. The in situ chemical oxidation remediation activities began in the fall of 2010 and are ongoing. Soil excavation in the former process building area of the Gallade property will begin upon completion of building demolition and slab removal. 12-12

**Comment No. 9:** *Pages 4.7-14 through -16, Section 4.7.1.2, Existing Conditions, Hazardous Materials Sites, Gallade Property (Baron-Blakeslee; 8333 Enterprise Drive), paragraphs three, four, five and six, state the following:*

> Due to known soil and groundwater contamination and the risks associated with potential exposure to contaminants onsite, remedial action for soils, soil vapor, and groundwater was warranted. Order No. R2-2007-0005 specified that the Gallade property would have to be remediated in accordance with the cleanup plan discussed in finding 11 of the Order. Like the FMC Corporation property, the Gallade property water areas also consist of the shallow groundwater zone and the Newark Aquifer. The Revised Feasibility Study and Remedial Action Plan (RAP) were submitted to RWQCB on January 31, 2006, and has been implemented consistent with the Order described above. Soil excavation and in situ thermal treatment of shallow soil and groundwater were proposed as the preferred remediation technologies for the site. The RAP also contained a risk management plan.

A semi-annual status report was submitted in December 2006, and again in August 2007. In the July 2008-December 2008 semi-annual status report, it was concluded that the VOC plume in the shallow zone groundwater appeared to be stable. VOC concentrations at the monitoring wells onsite remained consistent with previously observed concentrations, which were still above standards set forth in finding 11 of the RWQCB Order.

Soil-vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for vinyl chloride at non-residential soil vapor wells onsite.

The report recommended continuation of the semiannual groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil-vapor monitoring at all residential and non-residential soil-vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.

**Honeywell's Comment:** Please replace the abovementioned four paragraphs with the following:

This property is currently undergoing groundwater and soil vapor monitoring and groundwater and soil cleanup activities pursuant to the Final SCR Order R2-2007-0005 issued by the RWQCB and monitoring and reporting pursuant to the DTSC Waste Post Closure Facility Permit. Facility EPA ID Number CAD07464459. The Final SCR Order R2-2007-0005 was based on a Revised Feasibility Study and Remedial Action Plan that was submitted to RWQCB on January 31, 2006, which also included a risk management plan.

The Final SCR Order R2-2007-0005 requires semiannual groundwater and soil vapor monitoring for a network of groundwater and soil vapor monitoring wells located on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) and railroad properties, as well as north, west and east of the Gallade property in residential and public properties. Groundwater and/or soil vapor plumes have been detected on or about these properties. Remediation consists of the following three tasks: in situ thermal remediation for the former tank farm area located on the northern portion of the Gallade and Trumark properties; in situ treatment for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001), and railroad properties; and soil excavation in the former process building area of the Gallade property upon completion of building demolition and slab removal. 12-13

The current semiannual status report, the 2010 Second Semiannual Status Report, was submitted in January 2011 and concluded that the VOC plume in the shallow zone groundwater appeared to be stable and soil-vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for TCE, PCE, vinyl chloride, and cis-1,2-DCE at soil vapor wells located outside residential areas. The report recommended continuation of the semiannual

groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil-vapor monitoring at all residential and non-residential soil-vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.

12-13 Cont'd

The in situ thermal remediation activities were completed from March 2010 to January 2011 and the final remediation completion report will be submitted in August 2011. The in situ chemical oxidation remediation activities began in the fall of 2010 and are ongoing. The soil excavation beneath the former process building will occur upon completion of building demolition and slab removal.

**Comment No. 10:** *Pages 4.7-22 and -23, Section 4.7.1.2 Existing Conditions, Hazardous Materials Sites, Trumark (8375 Enterprise Drive) states the following:*

A Phase I was prepared for the Trumark site on July 20, 1998, by Lowney Associates. According to the Phase I, the Trumark site was owned between 1961 and 1971 by the Barr Manufacturing Corporation. The type of manufacturing performed by the corporation is not clear.

The Phase I Report identified onsite soil and groundwater concerns. It should be noted that the Phase I states that the Gallade facility (discussed above) is located adjacent to the Trumark site, and that groundwater beneath the Trumark site has been significantly impacted from VOCs generated by from the Gallade facility. The VOC concentrations are consistent with the offsite source at the Gallade facility. The Phase I indicates that VOCs are also present in on-site soils. No organochlorine pesticides, PCBs or petroleum fuels were detected in soil samples collected from the site. Concentrations of arsenic, chromium and lead appeared to be consistent with background levels found in Bay Area soils. Two VOCs, TCE and PCE, were detected in the soil samples. Contaminants such as TPH, MTBE, arsenic, chromium and lead were also detected in soil samples discussed in the Phase I report.

The Phase I indicates that the Health Risk Assessment (HRA) performed for the Gallade facility indicated that there is no significant risk to human health at the Trumark site to future workers who may be exposed through VOCs that volatize from ground water, migrate through the soil, and accumulate in future buildings that might be constructed onsite. The HRA concluded that there is no significant risk to human health at the site as a result of the releases at the adjacent Gallade facility. In addition, the RWQCB and the Newark Fire Department indicated that there would not be any development restrictions at the site as a result of the impacted ground water.

However, it should be noted that the general conclusions drawn in the Phase I indicate that the site might only be developed with industrial or commercial use.

The Phase I indicates that more remediation would be necessary if significant soil contamination is detected during construction; all contamination materials would need to be handled appropriately. The Phase I also suggested that an onsite monitoring well may need to be relocated to accommodate future development. It would be the responsibility of the property owner to destroy and replace the well.

**Honeywell's Comment:**

The central and northern portion of the Trumark property are currently undergoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB. The monitoring and cleanup efforts are addressing soil and groundwater contamination from the former Baron Blakeslee Facility operation. An additional site investigation should be conducted to determine if any sources are contributing to soil and/or groundwater from the historical land uses and ownership.

To address the soil and groundwater contamination from the former Baron Blakeslee, Inc. facility operations, an in situ thermal remediation was conducted from March 2010 through January 2011 for the former tank farm area located on the northern portion of the Gallade and Trumark properties and an in situ chemical remediation began in the fall of 2010 for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001), and railroad properties and treatment is ongoing. These activities are conducted under the oversight of the RWQCB.

Please provide the reference for the HRA identified in the Phase I, as well as the approval from the RWQCB. Based on the information presented, it appears that the conclusions of the HRA were for development with industrial or commercial use and the conclusions may not be reliable for residential development. A Human Health Risk Assessment was conducted for the former Baron Blakeslee, Inc. facility as part of the revised Feasibility Study and Remedial Action Plan under SCR Order No R2-2005-0004, dated March 16, 2005, issued by the RWQCB. In summary, soil, soil vapor and groundwater at some locations in the onsite area are recommended for remediation and/or risk management prior to redevelopment of the Site for commercial or residential uses. Concentrations of VOCs in soil and soil vapor in offsite areas do not appear to exceed acceptable risk and hazard levels for human health for future residential or commercial uses, under existing soil and site conditions. Since groundwater was evaluated only at a screening level for the vapor intrusion pathway, the vapor intrusion environmental screening levels (ESLs) are proposed as cleanup goals for this pathway. If construction and excavation workers are exposed to study area soils, soil vapor, or groundwater (both onsite and offsite) under current or future conditions, they should be adequately protected under an appropriate site-specific Health and Safety Plan. 12-14

We request that a copy of the preliminary final EIR to be sent to our office for review and comment to ensure that no confusion exists over the intent and purpose of these comments. Additionally, we look forward to receiving your response to our comments at least ten days prior to your certification of the EIR.

Thank you for the opportunity to review and comment. Please feel free to call the undersigned at (310) 512-2296, should you have any questions about this submittal.

Sincerely,

Benny Dehghi
Honeywell Remediation Manager
Honeywell International Inc.

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**Response to Comment Letter #12, Benny Dehghi, Honeywell International, Inc.**

12-1 This comment suggests additional mitigation to address specific issues and recommendation outlined in comments provided to the City in response to the Notice of Preparation from the San Francisco Bay Regional Water Quality Control Board (SFRWQCB). Refer to Mitigation Measure 4.7-1a, which is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR.

12-2 Comment noted regarding Honeywell's ongoing groundwater and soil vapor monitoring and groundwater and soil cleanup efforts pursuant to Final Site Cleanup Requirements that affects portions of the Gallade property, the Trumark property and several of FMC's parcels.

12-3 Comment noted regarding previous planning for the project site and the limitations associated with residential development on the Gallade, Trumark and FMC properties. The Specific Plan's development standards for Medium Density Residential, Park and Recreational Open Space and Restricted Use would govern these properties and supercede previous planning efforts.

12-4 This comment suggests that more detailed general discussion of current ongoing cleanup efforts and cross reference Section 4.7 (Hazards and Hazardous Materials) and Section 4.8 (Hydrology, Drainage, and Water Quality). The comment is noted and additional detail is provided regarding cleanup efforts in response to specific comments in the letter. Refer to Responses 12-7 through 12-14.

12-5 This comment states that the Draft EIR should fully disclose current and future conditions in the area to meet the requirements of CEQA. The City has provided full disclosure, to the best of its knowledge, of existing conditions within the Specific Plan area, identified potential environmental impacts that might result from development within the area, and identified measures that would mitigate any potential environmental impacts to a less than significant level.

12-6 This comment suggests a more detailed description of hazards and hazardous materials impacts associated with the proposed project provided in the Executive Summary on page 2-5. As the list provided on this page is a summary of impacts in a variety of environmental topics, it would not be

appropriate to add the detail suggested. Furthermore, the language suggested summarizes current cleanup efforts within the Specific Plan area not project impacts.

12-7 This comment requests the replacement of a paragraph in Chapter 3 (Project Description) of the Draft EIR on page 3-11 with a revised paragraph and additional language regarding current cleanup efforts within the Specific Plan area. Chapter 10 of this Final EIR includes the suggested revision.

12-8 This comment requests the replacement of language in Chapter 3 on page 3-14 describing the Trumark property. Chapter 10 of this Final EIR includes the suggested revision.

12-9 This comment requests the replacement of language in Chapter 3 on page 3-15 describing the Gallade property. Chapter 10 of this Final EIR includes the suggested revision.

12-10 This comment addresses the summary of permitted land uses within the Specific Plan area in Chapter 3 on page 3-30. The comment states that, as required by the Department of Toxic Substance Control Hazardous Waste Post Closure Facility Permit, a Covenant to Restrict Use of Property was issued for the former Baron-Blakeslee Facility. The covenant prohibits residential uses, hospital for humans, public or private schools for persons under 21, and day care facilities for children. This covenant would take precedence over land uses included in the City's Zoning Ordinance and the proposed Specific Plan. However, the covenant includes a provision that would allow it to be modified should it be demonstrated that other uses would be safe.

12-11 This comment requests that the Alameda County Department of Environmental Health and the U.S. Environmental Protection Agency be added to the list of responsible agencies in Chapter 3 on page 3-40. Chapter 10 of this Final EIR includes the requested revision.

12-12 This comment provides an update on the status of current cleanup efforts on the Gallade property that have affected the FMC property at 8787 Enterprise Drive. The update is further addressed in Response 12-13.

12-13 This comment requests replacement of four paragraphs beginning on page 4.7-15 with four new paragraphs addressing existing conditions on the Gallade property and updating the status of current cleanup efforts. Chapter 10 of this Final EIR includes the requested revision.

12-14 This comment provides information regarding the Trumark property. The comment requests that a reference be provided for the Health Risk Assessment discussed in the Phase I ESA. The Phase I ESA was prepared prior to the Final SCR Order R2-2007-0005 and prior to residential uses being contemplated on the site. Therefore, the Health Risk Assessment is not relevant to the proposed project. Contamination on the Trumark property is currently undergoing cleanup efforts in accordance with Final SCR Order R2-2007-0005.

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Comment Letter #13

Allen Matkins

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Direct Dial: 415.273.7455 File Number: 370038-00002/SF15432.03

*VIA ELECTRONIC MAIL AND FAX (510.578.4265)*

July 1, 2011

Mr. Terrence Grindall
Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560

*Re: Comments on the Dumbarton TOD Draft Environmental Impact Report*

Dear Mr. Grindall:

On behalf of Integral Communities, thank you for this opportunity to comment on the Dumbarton Transit Oriented Development (TOD) Specific Plan ("Project") Draft Environmental Impact Report ("DEIR"). We commend the City, City Staff and its consultants on a well-prepared and legally compliant document. We appreciate Staff's professionalism in working with the many different property owners involved with the Project and its planning, and recognize that Staff's methodical approach has produced a balanced and thorough analysis of the Project's environmental impacts that meets the requirements of the California Environmental Quality Act ("CEQA").

Our limited comments are set forth below.

***1. The Project's Benefits***

As described in the DEIR, the Project is the culmination of a long and careful planning process. In 1999, the City adopted the Newark Area Two Specific Plan (1999 Specific Plan), which included all of the land comprising the project site west of Willow Street, as well as land that is not part of the project site to the north, south and east. The 1999 Specific Plan envisioned a campus of the Ohlone Community College surrounded by multi-level office and R&D buildings on the current Project site. To that end, the 1999 Specific Plan changed the land use designation under the General Plan for all land within its planning area to a combination of Special Industries and Limited Industrial (the zoning designations for the 1999 Specific Plan area were in turn changed to High Technology Park and Limited Industrial). However, after adoption of the 1999 Specific Plan, the Community College located elsewhere, and no office or R&D buildings were built. 13-1

This Project presents an opportunity to re-purpose that land in a manner that benefits the City in many ways, including without limitation each of the following:

*a.* This Project provides unique "smart growth" planning opportunities. It creates diverse, connected, safe, and walkable neighborhoods with convenient access to public transportation (in particular the planned Dumbarton Rail Corridor and transit center), to existing employment centers, to parks and open space, and to commercial services. This Project will create a new community with a distinct identity, architectural style and sense of place, while preserving a connection to and compatibility with existing neighborhoods. These Project characteristics implement the General Plan's goals of "maintaining a desirable quality of life in the community through preservation of the small town neighborhood atmosphere," and "high quality development that establishes the City's character as distinctive from that of other cities in the Bay area." (General Plan Goals 1 and 2, p. 2-3.)

*b.* This Project provides for a rich and vibrant mix of housing types and densities, ranging from single-family detached to multi-family housing (in numbers (quantities) that help the City meet its state-mandated housing needs), and in doing so effectuates key General Plan goals and policies. For example, Housing Element Goal 2 provides as follows: "Provide housing opportunities for households with a wide range of incomes." (General Plan Housing Element, p. 62.) Land Use Element Goal 3, Program 9 provides: "Provide zoning districts that provide standards for multi-use development as well as for unique combinations of similar uses, such as single- with multi-family uses." (General Plan Land Use Element, p. 3-8.) This Project's mix of housing types and densities is key not only to meeting the varied housing needs of the community, but also to creating a vibrant and sustainable community in which a wider range of income levels have similar access to the community's unique character and significant amenities.

13-1 Cont'd

*c.* This Project provides the planning foresight and preparation to effectuate a transit-oriented community. The trend towards transit-oriented development throughout the Bay Area, and the State, is inevitable and laudable. Recent legislation from Sacramento, such as AB 32 and SB 375, strongly encourages transit-oriented development in order to create more sustainable and environmentally-friendly communities. The market is responding. More and more people are choosing to live in new developments that move away from the automobile and toward public transit. (*See*, "Transit-Oriented Development – New Places, New Choices in the San Francisco Bay Area," A Study by the Metropolitan Transportation Commission (attached).) Well-planned communities – like this Project – can provide greater convenience and affordability, while reducing dependence on the automobile for routine travel needs. Developers, transit agencies, community organizations, cities and counties are collaborating on scores of transit-oriented development projects throughout California in recognition of this market demand, including the Contra Costa Centre Transit Village in Pleasant Hill, the transit village in Richmond, and the downtowns in Hayward, Santa Rosa, and Redwood City.

For all of these reasons, we respectfully submit that the Project has outstanding benefits and will be a source of pride for the entire community.

***2. The Project's Alternatives***

Appropriate to the environmental analysis that must take place in the DEIR, the City has provided a reasonable range of alternatives that allow for a comparative review of the Project with other development scenarios in an effort to reduce environmental impacts while still effectuating the goals of the Project. The DEIR's alternatives provide a useful comparison to the Project and help to bring into focus the comparative value of the Project with other potential development options. Ultimately, this discipline leads to a decision of the City in which it must use all of this information and choose that one development that the City determines best meets the demands of CEQA, while attaining the goals of the Project.

As set forth above, this Project provides a unique combination of a mix of housing types and densities essential to a balanced and vibrant community, while also providing the sheer numbers of potential transit riders essential to a successful public transit system. The Project's goals and objectives relative to the desired mix of housing types and densities reflects and effectuates key General Plan goals and policies. Housing Element Goal 2 provides as follows: "Provide housing opportunities for households with a wide range of incomes." (General Plan Housing Element, p. 62.) Land Use Element Goal 3, Program 9 provides: "Provide zoning districts that provide standards for multi-use development as well as for unique combinations of similar uses, such as single- with multi-family uses." (General Plan Land Use Element, p. 3-8.) Upon final inspection, the DEIR's alternatives fall short in meeting these key Project and General Plan goals. 13-2

Alternative 1, the "no project/no build" alternative, fails all of the Project's goals because there would be no Project. Alternative 2, the "high density" alternative, allows for the same overall number of residential units as the Project (2,500), but all of the units would be high density in nature, thereby failing to provide the mix of housing types and densities sought by the General Plan and needed to make the development successful and sustainable. Alternative 3, the "medium density" alternative, also allows for the same overall number of residential units as the Project, but limits all of the units to medium density. Again, this Alternative does not provide for the needed mix of residential types and densities.

For these reasons, we respectfully submit that only the Project best meets the demands of CEQA while attaining the goals of the Project.

Again, we commend the City and City Staff for a very well-prepared document. Thank you for this opportunity to comment on the DEIR.

Respectfully submitted,

Michael Patrick Durkee

MPD:kem
Attachment

cc: Integral Communities
Property Owners

**Response to Comment Letter #13, Michal Patrick Durkee, Allen Matkins Leck Gamble Mallory & Natis, LLP**

13-1 This comment summarizes the benefits of the proposed project. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

Included as an attachment to the comment letter and referenced in this comment was "Transit-Oriented Development – New Places, New Choices in the San Francisco bay Area, A Study by the Metropolitan Transportation Commission." This document is included in the Appendices of this Final EIR.

13-2 This comment states that the Draft EIR provided analysis of a reasonable range of alternatives and only the proposed project would meet the demands of CEQA while attaining the goals of the project. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

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Comment Letter #14

30 June 2011

RECEIVED
JUN 30 2011
CITY CLERK

RECEIVED
JUL - 1 2011
COMMUNITY DEVELOPMENT

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Blvd.
Newark CA 94560

Re: Comments to the DEIR Newark TOD Area 2

Dear Mr. Grindall:

A number of items in this DEIR were missing, misleading, confusing and downright headache-inducing to the point of causing nightmares and searching for monsters under the bed. 14-1

Is the Area 2 TOD a joint project with all landowners in accordance? Do they all agree to have their private property rezoned/planned for residential? Will each property owner be required to cleanup their property to meet residential standards? Is there a city regulation that requires this? Will Area 2 be developed as one project? What is the timeline? Who is paying the upfront costs for the DEIR and other studies? 14-2

The DEIR states that between 500,000 and a million cubic yards of fill will be needed to raise the site above the 100 year flood hazard done. Will this be done by individual landowners? Will the project be funded using redevelopment? Part of Area 2 is under the 2001 redevelopment plan area. What does the city envision for redevelopment on Area 2 in light of state government crackdown on redevelopment? 14-3

What form of transit does the city envision for Area 2 TOD? Area 2 is isolated from services no matter what the city promises will come to their little development. Will Newark force grocery stores or other services to locate in Area 2? The DEIR states that development may take years or even decades. Commercial development will not come until there is enough population to support it. Does this mean it may be decades before businesses and services come to Area 2? 14-4

Who owns the rail line to the Union City intermodel station? Does SamTrans have rights over this segment or only as far as the Newark wye? How would riders from a proposed Area 2 train station connect with Amtrak or the Capitol Corridor or other passenger trains? Are they expected to bicycle to Fremont or Union City to catch a train? Would Amtrak, the Capitol Corridor or the ACE train go out of their way to run to the proposed Area 2 station? 14-5

The DEIR consultants neglected to mention the vernal pool habitat on Willow near Thornton. I believe this is an historic vernal pool complex. It contains a beautiful field of Downingia that last time I checked a few weeks ago was very lush. If the consultants only visited the site in the summer months they missed the flowers. I have photos in case you need them. 14-6

The DEIR consultants did not discuss impacts to the Plummer Creek mitigation site which is part of Area 2. What will be the impacts to this important mitigation site from construction activities on Area 2? What are future plans for the Plummer Creek mitigation site as far as ownership/management? Is the current owner, Wildlands aware of the Area 2 TOD proposal? If so, what was their response? 14-7

**By what criteria is the barge canal an area of visual significance as the DEIR claims? What is the plant and wildlife community? Does the City envision the barge canal as a tourist attraction or a photographic destination?** 14-8

**When will a wetland delineation map be prepared for Area 2 TOD? Who will pay for it? The DEIR states that wetland credits could be obtained from an approved mitigation bank. Where is an approved mitigation bank near Area 2? Explain what is meant by "an approved in-lieu mitigation entity". What kind of wetlands would be considered out-of-kind? Where could wetlands be created on site and where off site? All these different combinations are mentioned in the DEIR but there is no explanation as to what they mean or how they would be applied.** 14-9

**What studies were used to determine the distance construction equipment needed to avoid nesting birds? Did the consultants consider birds and other wildlife and plant communities on the Wildlands site? Did the consultants consider or advocate a development buffer on the north and eastern sides of the Plummer Creek mitigation site where housing is planned? Is a trail planned to include the Plummer Creek levees or any part of the mitigation site?** 14-10

**What criteria were used to determine sea level rise is speculation as stated in the DEIR? What proof can the city provide that regional and local governments would be available to protect urbanized areas? How would Newark protect its own residents and property? Who would bear the cost?** 14-11

**Alternate sites exist in the city where housing can be built. There is no need to select a contaminated site within the 100 year flood hazard zone which will need hundreds of thousands of cubic yards of fill on unstable soils. A site where residents will be warned against digging too deep in their yards due to contaminated soils or groundwater.** 14-12

**Area 2 should remain zoned as general industrial. It is surrounded by industrial uses. It is far from shopping and other services residents need. There is no public transportation available save the occasional bus. Area 2 is not suitable for housing or public parks. The city would be ill-served by continued push for residential in this location.** 14-13

**Sincerely,**

Margaret Lewis

**Margaret Lewis**
**36102 Spruce St.**
**Newark, CA 94560**

**Response to Comment Letter #14, Margaret Lewis**

14-1 This comment states the opinion that the Draft EIR is missing information and misleading but does not raise specific issues. Therefore, it is noted and included in the record for review by the public and decision makers.

14-2 This comment asks questions regarding the project's property owners, timing for development and the payment of costs associated with the Draft EIR. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

14-3 This comment asks about the fill needed to raise the project area above the 100-year flood hazard elevation and whether the project would be funded by redevelopment money. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

14-4 This comment asks what type of transit the City envisions for the project area and states that it is isolated from services. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

14-5 This comment asks who owns the rail right-of-way to the Union City intermodal station and questions other aspects of future rail service. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

14-6 The commentor states that the Draft EIR neglected to mention the vernal pool habitat on Willow Street near Thornton Avenue. Refer to Responses 2-3 and 16-3, which address vernal pool habitat.

14-7 The commentor asks what would be the project impacts to the Plummer Creek Mitigation Site, which is part of Area 2. The Plummer Creek Mitigation Site is located outside of the Specific Plan area. The commentor may be confusing the City's General Plan Area 2 with the Specific Plan area, which are different.

The owner of the Plummer Creek Mitigation Site, Wildlands, Inc., is aware of the project since they are an adjacent landowner and have been notified of the proposed Specific Plan.

14-8 This comment asks about the barge canal. The Newark General Plan refers to the barge canal – a man-made canal – as an area of visual significance. The Draft EIR simply references this designation of the General Plan. The barge canal is not within the Specific Plan and there is no proposal for its use or development as part of the project.

14-9 The commentor asks "when will a wetland delineation map be prepared for Area 2 TOD? Who will pay for it?" A wetland delineation has been prepared for the Torian property. Wetland delineations for the remaining properties within the Specific Plan area will be prepared on a parcel by parcel basis as development plans are prepared.. The individual landowners would be responsible for paying for the wetland delineation on his/her property. Refer also to Response 16-10.

The commentor also asks: "where is an approved mitigation bank?" It is premature to identify a mitigation bank as credits in a particular bank could be sold out at the time it is necessary for a project applicant (landowner) to purchase credits. A mitigation bank would be found when it is necessary to mitigate for future impacts to waters of the U.S./State. An approved "in-lieu mitigation entity" is a mitigation bank or an approved mitigation site with a designated conservator that will manage the site in perpetuity.

Out-of-kind wetlands are mitigation wetlands (that are created or preserved) that are of a different type than the wetland impacted. For example, if a seasonal freshwater wetland would be impacted by a project and it was mitigated for by preserving tidal wetland habitat that would be "out-of-kind" mitigation.

It is premature to determine where wetlands would be created at this time. It would be determined at the time a landowner applies for permits to fill wetlands on his/her property.

14-10 Refer to Responses 2-2, 16-7 and 16-8, regarding the commentor's question, "What studies were used to determine the distance construction equipment needed to avoid nesting birds?"

The commentor asks "Did the consultants consider birds and other wildlife and plant communities on the Wildlands' site?" Yes, they were considered and the proposed Specific Plan would not impact sensitive communities, special-status species, or nesting birds on the Wildlands' site. Refer to Response 2-4.

The commentor also asks "Did the consultants consider or advocate a development buffer on the north and eastern sides of the Plummer Creek mitigation site where housing is planned?" There are no specific site development plans at this time so it is not known whether there will be a buffer or not. Furthermore, no buffer would be necessary to mitigated impacts.

Regarding the question whether a trail is planned that would include the Plummer Creek levees or any part of the mitigation site, there is not a trail planned as part of the proposed Specific Plan. There may be trail developed as required public access on the perimeter of Plummer Creek mitigation site, but it is not a part of the proposed project. The project does propose a perimeter trail around the Specific Plan area, but not adjacent to the Plummer Creek mitigation site.

14-11 This comment asks what criteria were used to determine that sea level rise is speculation as stated in the Draft EIR. Sea level rise is addressed on page 4.6-27 of the Draft EIR, and it is acknowledged that a portion of the western Specific Plan area may be affected by sea level rise. Refer to Response 10-5 and 10-6.

14-12 This comment states that sites exist in the City where housing can be built. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

14-13 This comment states the opinion that the project area should remain zoned for industrial use. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

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Comment Letter #15

30 June 2011

Terrence Grindall
Community Development Director
City of Newark
37101 Newark Blvd.
Newark CA 94560

RECEIVED
JUN 30 2011
CITY CLERK
JUL - 1
COMMUNITY DEVELOPMENT

Re: Comments to the DEIR Newark TOD Area 2

Dear Mr. Grindall,

My comments will be short. Area 2 is highly polluted with chemical residues from the chemical plants that existed in that area. Some of the parcels, you show as housing, have deed restrictions that would prevent their use for housing. Clean-up of these restricted sites would be prohibitive and perhaps impossible to meet requirements for housing use. Even to clean most of the area in Area 2 to commercial or industrial standards would be very costly. This is the wrong place for housing, with the parks, train station, etc., that are proposed in the DEIR. 15-1

As regards the "train station": I will quote from the Federal Register, November 1, 2006, Volume 71, Number 211, pages 64332-643334.

"Service will consist of six daily trains originating from Union City in the morning peak period and traveling westward across the Dumbarton Rail Corridor. The trains converge with the existing Caltrain line in the West Bay. From the Caltrain line, three of the trains will travel north to San Francisco while the other three trains will travel south to San Jose. During the afternoon peak period, all trails will travel eastbound back to Union City. The three new stations plus the Centerville Station in Fremont would be directly served by DRC trains; *the Capitol Corridor trains would also be served by the Union City Intermodal, Newark and Centerville stations.*" 15-2

I added the italics to the last sentence. Federal Funding has already said that the station be multi-use. Placing the station in Area 2 does not meet the criteria of serving the Capitol Corridor trains. Placing the station on a site such as the pallet company grounds on Central Avenue, or other close site, would be an ideal spot for a station that could serve not only the DRC trains, but the Capitol Corridor trains, the ACE trains and even the Amtrak trains.

It is a waste of money and resources to build the station in Area 2. It is doubtful that it would ever generate enough income to even come close to covering expenses. This area should be used for industrial purposes. Move some of the businesses from the Central Avenue sites to Area 2 and put housing around a station in the Central Avenue area. 15-3

Sincerely yours,

Dean Lewis

Dean Lewis
36102 Spruce St.
Newark, CA 94560

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**Response to Comment Letter #15, Dean Lewis**

15-1 This comment states that Area 2 is polluted with chemical residue, some properties have deed restriction preventing residential uses, clean up of the restricted sites would be prohibitive, and this is the wrong place for housing, parks and a train station. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

15-2 This comment addresses the proposed transit station and states that locating the station within Area 2 does not meet the criteria of serving Capitol Corridor trains. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

15-3 This comment states that it would be a waste of money to building the transit station in Area 2. The comment does not address the adequacy of the Draft EIR or otherwise raise an environmental concern. However, it is noted and included in the record for review by the public and decision makers.

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## Comment Letter #16

CITIZENS COMMITTEE TO COMPLETE THE REFUGE

453 Tennessee Lane, Palo Alto CA 94306 Tel 650 493-5540 Fax 650 494-7640 Horvance@refuge.org

Terrence Grindall, Community Development Director
City of Newark
37101 Newark Boulevard
Newark, CA 94560

July 1, 2011

Re: Dumbarton Transit Oriented Development Specific Plan (TOD) Draft Environmental Impact Report (DEIR)

Dear Mr. Grindall,

This responds to the Dumbarton TOD DEIR dated May 2011. The Citizens Committee to Complete the Refuge (CCCR) thanks you for the opportunity to provide comments. Based just upon our review of the DEIR it is evident the DEIR does not adequately describe the baseline biological conditions or fully disclose potential significant impacts to biological resources and does not provide adequate mitigation measures. We urge the City of Newark to correct the flaws of this DEIR and re-circulate a more thorough document. Our comments are as follows:

The DEIR states that the "intention of this Draft EIR is to inform decision makers, public agencies, and the general public about the proposed Dumbarton TOD Specific Plan and its potential effects on the environment" and that the DEIR identifies possible measures to mitigate or avoid potentially significant environmental effects associated with the project." CCCR is concerned that the DEIR is so general in its description of the biological resources that exist within the project boundaries that it is impossible for decision makers, public agencies or the public to fully understand the impacts that may occur to biological resources or whether the mitigation measures proposed are adequate. 16-1

The consultant for the biological resources section of the DEIR was on site only in the months of July and October 2009. These are inappropriate times to assess the flora of seasonal wetland habitats or to determine the areal extent of wetlands. Why weren't the biological consultants on site in the winter and spring months? 16-2

The DEIR p.4.3-4 states "At this cursory level of site examination it was not possible to conclusively determine whether or not federally or state listed plant or animal species or "waters of the U.S.," which includes wetlands, are present on the project site parcels. Hence, further site specific biological studies would be necessary prior to any future development proposal." 16-3

This is exemplified by at least one error in, Figure 4.3-1 "Vegetation Communities" that depicts parcel E as "Anthropogenic ruderal" when in fact a portion this site supports *Downingia pulchella* and is ponded for more than two weeks in normal rainfall years. There have been documented accounts of the occurrence of *Downingia* as well as that of *Myosurus minimus*. Both species are California natives and both are often associated with vernal pool habitats. [Please see attached photos and Calflora records.] Clearly a portion of parcel E may potentially be jurisdictional wetlands under Section 404 of the Clean

Water Act and is definitely a water of the state. Had the consultant been to the project site during the appropriate time of year this would have been obvious. 16-3 Cont'd

This is further confirmed by the consultant's statement on page 4.3-15 "in order to substantiate this premise [special status plants species are unlikely to occur], special-status plant surveys would need to be conducted at the appropriate time of year (when target species are flowering) in order to determine if these species are present or absent. It is recommended that such surveys be conducted well before any development is planned on a specific parcel so that the results of the surveys can be incorporated into the project plan." If the purpose of the specific plan DEIR is to disclose to decision makers, public agencies, and the public potential impacts of the specific plan, and to propose measures that would avoid or mitigate those impacts, why wasn't baseline information provided in this DEIR? The proposal to assess each parcel as projects come forward is a very piece-mealed approach to planning and defeats the purpose of a specific area plan. A more responsible and appropriate approach would be to identify and avoid areas of significant biological resources early in the process while flexibility still exists rather than attempting to do it later when other surrounding parcels have already been developed. 16-4

Page 4.3-20 – Point Reyes Bird's Beak has been identified in the vicinity of the project in the LaRiviere Marsh of the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge). 16-5

Page 4.3-21 – Contra Costa Goldfields – there has been a 2004 documented report of *Lasthenia* near the project location – please see attached Calflora report. 16-6

Page 4.326 – Northern Harrier – The DEIR should establish a default buffer for nesting birds. The U.S. Fish and Wildlife USFWS recommended a buffer distance of 600' in their comment letter to the SFPUC DEIR for the Hetch Hetchy pipeline replacement project. Any buffer distance should be approved by the California Department of Fish and Game (CDFG) as well as the U.S. Fish and Wildlife USFWS (USFWS). 16-7

Page 4.3-26 – Red-tailed Hawk – Rather than focusing on the "minimal area necessary to protect the nest site" and "minimal avoidance requirements" the DEIR should be focused on implementing measures that will avoid "take" i.e. abandonment of active nests.

Page 4.3-33 – Wildlife Movement Corridors – The DEIR accurately states the "project site functions as a local wildlife corridor," but fails to consider that vacant lands adjacent to the Refuge or tidal sloughs may provide important escape habitat for tidal marsh species as sea level rises. 16-8

Page 4.3-36 – "The exception would be the Torian property since it has been studied by several salt marsh harvest mouse biologists over the years and a determination has been made that this property does not provide the habitat components suitable for the salt marsh harvest mouse." We question this assumption in light of the fact that the Plummer Creek Mitigation Bank has successfully established tidal marsh habitat nearby. 16-9

Page 4.3-37 – Clean Water Act – The DEIR will piece-meal impacts to waters of the U.S. Rather than identifying and disclosing the extent of waters of the U.S. and State and providing a over-arching program of avoidance and minimization, the City proposes to review each site individually and require each applicant to avoid (or not) or mitigate for impacts to wetlands and waters. At best this could result in a patch-work of preserved and fragmented habitats, at worst none of the wetlands or waters will be preserved on-site. Exhibit 2.1 of the Specific Plan depicts the latter situation. Figure 4.3-1 of the DEIR identifies areas of wetlands that could be enhanced or restored that would have connectivity with 16-10

off-site wetlands. Why wasn't an alternative conceptual specific plan developed that could incorporate habitat preservation into the Specific Area provided in the DEIR? 16-10 Cont'd

Mitigation Measure 4.3-1 – Is it not possible that the salt marsh harvest mouse (SMHM) could migrate onto the Torlan property? What would prohibit their movement onto the site?

It must be required that CDFG and the USFWS confirm no impacts to the salt marsh harvest mouse would occur from development of any given project site. 16-11

We fully concur that mitigation for impacts to SMHM should occur at a ratio required by CDFG and USFWS.

A *permitted CDFG/USFWS SMHM* biologist should be onsite to perform vegetation clearing to ensure no mice are harmed.

The integrity of any SMHM fencing should be inspected on a weekly basis by a qualified biologist.

Mitigation Measure – 4.3-2 – Nesting raptors – In their 2009 comments regarding the Bay Division Pipeline Reliability Upgrade Project DEIR, the USFWS recommended that a buffer of 600' be provided to avoid wildlife disturbance - that is the distance we propose for the Dumbarton TOD. 16-12

The DEIR is flawed in its disclosure of potential adverse impacts of short-term and long-term impacts on wildlife within the project area. The DEIR fails to adequately discuss the impacts of glare, noise, vibration, and human disturbance on wildlife species or how those impacts might disrupt nesting, roosting, and foraging activities.

Light pollution is documented to have serious adverse impacts for a wide range of wildlife ranging from invertebrates to mammals. It disrupts migratory patterns, foraging capabilities, predation, nesting, breeding, etc. (Longcore and Rich, "Ecological Light Pollution" Front Ecol Environ 2004; 2(4): 191-198). Longcore and Rich report the findings of Buchanan (1998 "Low-illumination prey detection by squirrel treefrogs," J Herpetology 32: 270-74) in which three different species of amphibians forage at different illumination intensities. As an example the squirrel treefrog (*Hyla squirrela*) forages only between $10^{-1}$ lux and $10^{-3}$ lux under natural conditions, while the western toad (*Bufo boreas*) only forages at illuminations between $10^{-1}$ and $10^{-5}$ lux. 16-13

Evidence suggests light pollution affects the choice of nesting sites in the black-tailed godwit, with choice locations being the farther away from roadway lighting (De Molenaar et al 2000, in Longcore and Rich). Buchanan found frogs he was studying stopped their mating calls when the lights of a nearby stadium were turned on.

Sufficient evidence exists that demonstrates artificial lights have adverse impacts on wildlife. The project as proposed may locate night lighting right next to the Plummer Creek Mitigation Bank that may be turned over to the Refuge and other areas currently within the Refuge boundaries. How will be adverse impacts of street and residential lighting and window glare be mitigated?

Noise impacts to wintering, migratory, and breeding birds are not adequately mitigated. The focus of the noise impact analysis is the noise generated by construction related activities and not on the on-going, daily increases in noise levels that will result once the project has been constructed. This is a significant flaw in the EIR and must be rectified and fully mitigated.

Studies of the impacts of the effects of anthropogenic noise suggest the noise interferes with territorial vocalization (i.e. impacts to birds in breeding season) and the density of passerines occupying suitable habitat. These studies provide evidence that anthropogenic impacts on wildlife are not speculative, can be significant, and should be analyzed and avoided or fully mitigated. (Fuller, Warren, and Gaston. 2007. "Daytime noise predicts nocturnal singing in urban robins." Biol Lett 2007 August 22: 368-370 and Bayne, Habib, and Boutin. October 2008. "Impacts of Chronic Anthropogenic Noise from Energy-Sector Activity on Abundance of Songbirds in the Boreal Forest." Conservation Biology 22 (5): 1186-1193) 16-14

The DEIR proposes as a possible mitigation for seismic hazards dynamic deep compaction and deep foundations such as piles. The DEIR does not discuss the adverse impacts of vibration on wildlife species. 16-15

Page 4.3-58 – Mitigation sites should be managed in perpetuity and a funding mechanism should be provided to ensure long-term management of mitigation sites. 16-16

Mitigation Measure 4.3-4 – See mitigation measure 4.3-3 above. 16-17

Mitigation Measure 4.3-5 – Mitigation measures for special status species must be developed before any ground altering activities and special-status plant reports should be reviewed and approved by CDFG. 16-18

Mitigation Measure 4.3-6 – The individual project proponent must first demonstrate that the non-water dependent activity has avoided, then minimized impacts to waters of the U.S. The final acreage of any mitigation required will be determined by CDFG, the Corps of Engineers and the Regional Water Quality Control Board. 16-19

Page 4.3-69 – Proposals to plant trees adjacent to the Refuge should first be coordinated with the Refuge to avoid the introduction of perching sites for predatory species. 16-20

The DEIR does not consider the adverse impacts of the specific area plan on plant and wildlife habitat immediately adjacent to the Specific Area. Impacts must be identified and mitigated. 16-21

Other comments:

Sea Level Rise: We are extremely disappointed with the City's treatment of the issue of sea level rise: 16-22

According to the San Francisco Bay Conservation and Development Commission (BCDC) climate change is expected to raise sea levels between 12 and 36 inches by the year 2100. The Specific Plan area is approximately two miles east of the San Francisco Bay and a portion of the site is within a Federal Emergency Management Agency (FEMA) 100-year flood zone. The BCDC forecasted rise in sea level could increase flood related impacts, especially from storm surge-induced flood events. Section 15.40.51 of the City's Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. Among other things, these standards require building pads of all occupied structures to be a minimum of 11.25-feet above sea level with the finished floor being a minimum of six inches above the building pad. In addition, the City requires that the top of curb grades for residential streets must be no less than ten-feet above sea level throughout the City (Section 16.08.06 Newark Municipal Code). Additionally, the effects related to sea level rise are speculative at this time, the Specific Plan does not lie within BCDC's jurisdiction, and the BCDC forecast and any related policies are intended as guidance regarding potential future flood risks and are not directly applicable to the Specific Plan area. If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

16-22 Cont'd

The BCDC forecast expressly notes that it does not account for existing shoreline protection or wave activity and that, where necessary, future levees are an appropriate mechanism for protecting against flood damage from rises in sea levels. Ultimately, the National Oceanic and Atmospheric Agency, FEMA, the United States Corps of Engineers, cities, counties and flood control districts are responsible for protecting the public and the Bay ecosystem from flood hazards. The City's Municipal Code flood elevation standards would protect against flood risks to the Specific Plan area based upon flood risks as determined by FEMA, the City and these other regional and local agencies.

The threat of sea level rise is not speculative. Areas of the Dumbarton TOD would be inundated should the levees of the salt ponds fail. Those levees are not built to flood control standards and could fail in a seismic event as indicated in the geotechnical section of the DEIR. It would be in the public interest for the City to plan for sea level rise at a local level. The Shoreline Study in the south bay has taken much longer than originally anticipated, funding for flood protection is currently hard to come by, and it isn't clear how soon the planning process for shoreline protection in southern Alameda County will take place. The City of Newark should not place additional residents in harms' way on the hope that regional shoreline protection will occur.

Stockpiling of fill – The DEIR states some 500,000 cubic yards of fill will be necessary to implement the Specific Area Plan. Where will this material be stockpiled? How long will the material be stockpiled? Will this be done at the individual project level? What impacts will occur to City streets and who will bear the responsibility of repair to City streets should that become necessary?

16-23

CCCR Comments Dumbarton TOD DEIR July 1, 2011 5

Wind turbines – We support renewable energy in concept, but the siting of any proposed wind turbine should be coordinated with the Refuge to avoid adverse impacts to avian species and bats. 16-24

Who bears the responsibility of monitoring and enforcing air quality mitigation measures? If the City, is there staff and funding available to ensure mitigation measures are implemented and complied with? 16-25

The DEIR does not adequately disclose baseline conditions, potential significant impacts, or mitigation measure. The inadequacies of this DEIR must be corrected and re-circulated. 16-26

Thank you for the opportunity to provide comment. We wish to receive copies of comment letters to this DEIR, a copy of the corrected DEIR, and final EIR.

Sincerely,

Carin High

Carin High
Vice Chairperson

Photos taken Spring 2010 by Jana Sokale

OBSERVATION DETAIL

ABOUT THIS RECORD

CalFlora ID: eb15440

Owned: owned

Added to CalFlora: 2010-07-20

Source: East Bay CNPS Rare and Unusual Plants Database

Source Primary ID: 43725

OBSERVATION DATA

Taxon Name: V. Dioscoreophyllum cabicheila (Hallaise) Diels ex Engler

Observer: Diane Lake, Barbara Ertter, Lee Ellis et al. (profile)

Contributor's Collection: Newark

Date: 2004-04-10

County: Alameda

Point Location: 37.51393, -122.02333 (Google Maps)

Natural Status: wild

LOCATION INFORMATION

Location Name: Nick

Location Description: Newark. Vacant lot on Willow near Thornton. N of RR tracks

Lat/Long: Local Plants, B

Photos: No photos available

INTERPRETATION PARAMETERS

Record Kind: secondary source of compiled records

Observation Date Precision: Day

Data Quality: Documented. There is a voucher for this observation or evidence of an expert confirmation

Please address questions about this record to the source, East Bay CNPS Rare and Unusual Plants Database

Note that CalFlora presents observations data from diverse sources. Some records may be multiple observations of the same plant populations or duplicate reports from different sources. Please carefully and critically review data for your particular application

CalFlora information on California plants for education, research and conservation. [data application, 2011] Berkeley, California: The CalFlora Database [a non-profit organization]

Available: http://www.calflora.org/. (Accessed: Jan 30, 2011)

OBSERVATION DETAIL

About Calflora

ABOUT THIS RECORD

CalfloraID 4615444

Dataset obsqpd

Added to Calflora 2010-07-20

Source East Bay CNPS Rare and Unusual Plants Database

Source's Unique ID 29123

OBSERVATION DATA

Taxon Name

Collectors Oakland Lake, Barbara Ertter, Lee Ellenwood

Collector's Collection Newark

Date 2004-04-10

County Alameda

Plant Locations T7S R2W S33 ...

Natural Status wild

LOCATION INFORMATION

Location Name N/A

Location Description Newark. Vacant lot on Willow near Thornton. N of ISR tracks.

Notes Local Rarity: B.

Elevation No elevation available

INTERPRETATION PARAMETERS

How and Why this Observation Was Made secondary source of compiled records

Documentation Documented. There is a voucher for this observation or evidence of an expert confirmation.

Please address questions about this record to the source East Bay CNPS Rare and Unusual Plants Database

Note that Calflora contains observation data from diverse sources. Some records may be multiple observations of the same plant population or duplicate reports from different sources. Please carefully and critically review data for your particular application.

Caution

GetHelp For information on Calflora's plans for education, research and observation field applications, visit Berkeley, California. The Calflora Database is constantly under

Available at

OBSERVATION DETAIL
ABOUT THIS RECORD:
DATA
OBSERVATION DATA
Date 2024-04-10
LOCATION INFORMATION
Location Name Park
Natural Status wild
INTERPRETATION PARAMETERS

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**Response to Comment Letter #16, Carin High, Citizens Committee to Complete the Refuge**

16-1 This comment expresses concern that the Draft EIR is so general in its description of existing biological resources within the Specific Plan area that it is impossible for decision makers, public agencies or the public to fully understand the impacts that may occur or whether mitigation measures identified would be adequate. While the Draft EIR has a broad brush approach to describing the plant communities and wildlife habitats within the Specific Plan area, the background research completed for the Draft EIR provided a thorough understanding of the special-status species (i.e., threatened, endangered, rare) issues in the Newark area and what special-status species and sensitive resources (e.g., wetlands) would need to be addressed for any future development proposal. It is standard practice for program-level EIRs to provide general baseline biological conditions and require site-specific surveys for individual parcels (project sites) as development proposals arise. Since it may be many years before the project site is at complete build-out, it is logical to wait to conduct site-specific focused surveys until the time development is proposed so that the biological studies are not outdated and need to be repeated.

16-2 This comment addresses the time of year the biological consultants surveyed the project area. The biological consultants conducted surveys to record baseline biological conditions as required by the CEQA Guidelines. Since the biological surveys were general in nature and were not to focus on blooming periods or to conduct a wetland delineation it was not necessary to be on the project site during the winter or spring months. Since the Draft EIR was prepared at a program-level with many different parcels that would be developed at different time over many years, site-specific and species-specific focused surveys were not conducted and are not necessary at this stage in the project. Rather such surveys would be conducted in the future prior to the development of the individual parcels as detailed in mitigation measures identified in the Draft EIR.

16-3 The commentor mentions that Figure 4.3-1 (Vegetation Communities) in the Draft EIR does not show an area of wetland vegetation on Parcel E. This is a mapping error. The biological consultants did identify this area of wetland vegetation during their October 2009 field studies and located it on the field maps; however, this information did not get transferred onto the final graphic prepared for the Draft EIR. Figure 4.3-1 has been updated and

is included in Chapter 10 (Revisions to Draft EIR) of this Final EIR. At the time Monk & Associates' biologists were on the project site, Parcel E supported an area of cracked soils that was partially vegetated with Bermuda grass (*Cynodon dactylon*), pigweed (*Chenopodium* sp.), and English plantain (*Plantago lanceolata*). This most likely is the area the commentor is referring to.

16-4 The commentor asks why baseline information was not provided in the Draft EIR and states that more detailed analysis is required. However, the analysis in a program-level EIR should be tailored to the first tier of the planning process, with the understanding that additional detail may be needed and if so would be provided when specific second-tier development proposals are under consideration. The detailed evaluation of environmental impacts and mitigation measures may be properly deferred until later in time when environmental review is conducted for such specific second-tier development proposals that would implement the program. Also refer to Response 16-1.

16-5 This comment states that the Point Reyes Bird's Beak (*Cordylanthus maritimus palustris*) has been identified in the vicinity of the site. Table 4.3-1 (Special-Status Species Known to Occur Near Dumbarton TOD Specific Plan Area) contained in the Draft EIR confirms this statement. Furthermore, on page 4.3-18, the Draft EIR concludes that there is marginally suitable habitat for the species within the project area.

16-6 This comment states that there is a 2004 documented report of Contra Costa goldfields (*Lasthenia conjugens*) near the project area. This sighting has not been reported to California Department of Fish and Game's Natural Diversity Database (CNDDB); thus, the EIR's biological consultants, Monk & Associates, were not aware of this sighting. After the commentor brought this sighting to Monk & Associates attention, the reported observer, a botanist known to them and someone that they frequently work with, was contacted and confirmed the 2004 sighting on a vacant lot north of the railroad tracks near Willow Street (personal communication between S. Lynch of Monk & Associates and D. Lake, July 5, 2011). Since the portion of Parcel E that Monk & Associates identified as supporting wetland vegetation is also known to support *Downingia pulchella*, a seasonal wetland plant, this habitat may also provide suitable habitat for Contra Costa goldfields. Therefore, the Draft EIR description of Contra Costa goldfields has been modified as has Table 3 contained in Appendix B of the Draft EIR to show that potential habitat is present within the project site boundaries.

The impacts and mitigation measures presented in the Draft EIR for special-status plants already address impacts to state and federally listed threatened and endangered plant species should they be found on the project site. Thus, if Contra Costa goldfields were found on the project site, avoidance and mitigation measures as presented in the Draft EIR would be implemented. Refer to Chapter 10 of this Final EIR for revisions noted above.

16-7 The commentor states that the Draft EIR should establish a default buffer for nesting birds. The commentor also states that rather than focusing on the minimal area necessary to protect the nest site and minimal avoidance requirements, the Draft EIR should focus on implementing measures that would avoid "take." It is the biological consultant's experience that certain birds become adapted to noise and adapt better to disturbance than others. Therefore, in urbanized areas such as the project site, a 300-foot non-disturbance buffer would be all that is warranted for non-listed, nesting raptors. Even then, if monitoring during construction indicates that nesting raptors appear well acclimated to disturbance (for example, red-tailed hawks that routinely nest near freeways, factories, or in the case of the project site, gun ranges) and can tolerate a smaller nesting buffer, a qualified raptor biologist may make a recommendation to reduce the buffer size and through continued monitoring of adult raptor nesting behavior would be able to ensure that disturbance does not result in nest site inattentiveness, or in the extreme, nest abandonment. In this fashion, site-specific nesting buffers can be established that ensure that construction related activities do not result in take of the nesting birds, their eggs or young. As the commentor notes, the U.S. Fish and Wildlife Service (USFWS) recommended a buffer distance of 600 feet for the Hetch Hetchy pipeline replacement project, however, it should be noted that the area of concern at Hetch Hetchy was far less disturbed than the project site and does not have the same urbanized setting. Regardless, buffers must be established that would protect the nest site and nesting attempt such that there is no take of the nesting birds. Such buffers are routinely established by qualified raptor biologists with demonstrated experience working with nesting raptors. It is Monk & Associates' experience that USFWS and CDFG typically allow qualified raptor biologists to set site-specific nest site buffers that are tailored to site conditions for non-listed raptor species provided that ongoing monitoring continues to demonstrate that the nesting raptors are not being unduly disturbed by a proposed project.

16-8 The commentor states that the Draft EIR fails to consider that vacant lands adjacent to the Refuge or tidal sloughs may provide important escape habitat for tidal marsh species as sea level rises. What the commentor does not consider; however, is that if the sea level rises and floods the project site it would also flood these adjacent habitats.

16-9 The commentor questions the Draft EIR's conclusion that the Torian property does not provide habitat for the salt marsh harvest mouse "in light of the fact that the Plummer Creek Mitigation Bank [sic] has successfully established tidal marsh habitat nearby." To confirm that tidal marsh habitat has been successfully constructed on the nearby Plummer Creek Wetland Mitigation Project (it is not a "mitigation bank" but rather a mitigation "project" that was built in 2000-2001 as mitigation for several Alameda County projects), Monk & Associates contacted Wildlands, Inc. and received confirmation that 8.85 acres of tidal wetlands has been constructed on the Plummer Creek Wetland Mitigation property (personal communication between S. Lynch of Monk & Associates, Inc. and C. Tambini, July 5, 2011). However, there is no evidence that these wetlands provide salt marsh harvest mouse habitat. Notwithstanding, if salt marsh harvest mice are present on the Plummer Creek Wetland Mitigation Project property, they could move to the Cargill and/or Torian properties, although they likely would not survive there. Accordingly, mitigation identified in the Draft EIR for the salt marsh harvest mouse has been revised to reflect this and is included in Chapter 10 of this Final EIR.

16-10 The commentor states that the Draft EIR would piece-meal impacts to waters of the U.S./State. The Draft EIR does not piece-meal impacts but rather looks at the project at a program-level since complete site buildout would not occur for many years and not all the parcels would be developed at the same time. It would not be practical to require a wetland delineation at this stage of the development review process because the U.S. Army Corps of Engineers' (USACE) jurisdictional map has a validity period of only five years and after the five year period a new wetland delineation would be required. By requiring individual land owners to complete a wetland delineation of their property prior to site development ensures that this step in the environmental review process is completed.

The commenter asks, "why wasn't an alternative conceptual specific plan developed that could incorporate habitat preservation into the Specific Area provided in the Draft EIR?" The Draft EIR provides a reasonable range of

alternative, and includes alternatives to the proposed project that would preserve open space adjacent to the baylands. Alternatives 2 and 3 would concentrate development adjacent to the City, preserving the western portion of the Specific Plan area in open space. The project, as well as the alternatives, will be considered by the City Council prior to taking action on the Specific Plan.

16-11 The commenter asks, "is it not possible that the salt marsh harvest mouse could migrate onto the Torian property? What would prohibit their movement onto the site?" It is possible for the salt marsh harvest mouse to migrate onto the Torian property, if it is present in the area. However, the habitat on the Torian property in its existing condition is not suitable for the salt marsh harvest mouse and it would likely not survive there. There is not enough cover to protect this mouse from aerial predators such as the red-tailed hawk (which is known from the area) and there is not enough pickleweed for food and cover. However, in an abundance of caution and to meet the standards of care required by CEQA, the Torian property would be required to implement protective measures prior to development to ensure that impacts to the salt marsh harvest mouse would not occur should it enter the project site (refer "Preconstruction Measures" specified in Mitigation Measure 4.3-1).

The commentor states: "it must be required that CDFG and the USFWS confirm no impacts to the salt marsh harvest mouse would occur from development of any given project site." Mitigation Measure 4.3-1 in the Draft EIR does not require confirmation from CDFG and USFWS for the "Habitat Assessment" results if the study is completed by a permitted salt marsh harvest mouse biologist. The biologist conducting the Habitat Assessment is required by Mitigation Measure 4.3-1 to hold both a federal Recovery Permit and a State MOU authorizing work with the salt marsh harvest mouse because these are the biologists authorized by CDFG and USFWS that have direct experience evaluating the species' habitats and would be able to use their best judgment in determining what site conditions constitute suitable salt marsh harvest mouse habitat.

The commentor states that the following language should be added to the EIR: "A *permitted CDFG/USFWS SMHM* biologist should be onsite to perform vegetation clearing to ensure no mice are harmed." Also, "The integrity of any SMHM fencing should be inspected on a weekly basis by a

qualified biologist." Both of these items have been added to Mitigation Measure 4.3-1. Refer to Chapter 10 of this Final EIR.

16-12 Refer to Response 16-7, which discusses buffers for nesting raptors.

16-13 This comment states that the Draft EIR is flawed in its disclosure of impacts on wildlife in the project area. No impacts are expected to occur to specially protected wildlife species; however, measures are required to protect nesting birds. Refer to Responses 2-2 and 2-4 that address nesting birds, construction, noise and vibrations.

To minimize potential impacts to wildlife from increased artificial lighting, all street and building lights adjacent to the Plummer Creek Mitigation Project would meet the "full-cutoff" classification defined by the Illuminating Engineering Society of North America (IESNA). A full-cutoff lighting fixture is one in which "the luminous intensity (measured in candelas) at or above an angle of 90° above nadir (i.e., the angle that points directly downward, or 0°, from the lamp) is zero, and the luminous intensity (measured in lumens) at or above a vertical angle of 80° above nadir does not exceed 10 percent of the luminous flux (measured in lumens) of the lamp or lamps in the lighting fixture."[3] Such fixtures minimize "light trespass" onto adjacent areas, ensuring that light is focused onto the area requiring illumination (i.e., ground) and not into adjacent natural areas. This would ensure that there are minimal if any lighting impacts to adjacent areas.

The project does propose lighting along the trail near the Plummer Creek Mitigation site, however, the Specific Plan proposes lighting standards "to ensure that lighting . . . does not create excessive 'spillover' light and glare into adjacent residential areas and habitat areas, including the adjacent Refuge." Thus, the Specific Plan includes standards to ensure that impacts to sensitive species are minimized. Finally, the Draft EIR has been prepared at a program-level and the future development of a trail may be subject to further environmental review and future studies.

16-14 This comment addresses noise impacts to birds. Refer to Response 2-4.

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3 NLPIP (National Lighting Product Information Program). 2003 (revised February 2007). NLPIP Lighting Answers. Volume 7, Issue 2.

16-15 The commentor states that the Draft EIR does not discuss the adverse impacts of vibration on wildlife species. The commenter references the possibility of dynamic deep compaction as a possible mitigation for seismic hazards. While common species could be disturbed by dynamic deep compaction, the project site does not provide habitat for special-status wildlife species and nesting birds would not be impacted because compaction and pile driving would not be conducted during the nesting season.

16-16 This comment states that mitigation sites should be managed in perpetuity and funding mechanisms should be provided to ensure long-term management. Mitigation Measure 4.3-6 has been revised accordingly and is included in Chapter 10 of this Final EIR.

16-17 The commentor references Mitigation Measure 4.3-4 and states see Mitigation Measure 4.3-3, above. It is unclear what is meant by this comment and, therefore, it is noted.

16-18 This comment references Mitigation Measure 4.3-5. This measure provides detailed mitigation for special-status plant species recommendations for submitting survey reports to CDFG (and/or USFWS).

16-19 This comment references Mitigation Measure 4.3-6. Project applicants would be required to avoid jurisdictional areas to the extent practicable while otherwise meeting the project objectives. The Draft EIR states that impacts to waters of the U.S./State would be mitigated at a minimum 1:1 ratio (impacts:replacement), but the final acreage of any mitigation required for impacts to waters of the U.S./State would be determined by USACE and the Regional Water Quality Control Board at the time permits are issued for the project. Impacts to drainages/tributaries regulated pursuant to Section 1602 of California Fish and Game Code would be subject to regulation by CDFG. If there would be impacts to CDFG regulated areas, mitigation would be prescribed as approved by CDFG at the time a 1602 Agreement is issued.

16-20 The commentor requests that proposals to plant trees adjacent to the Refuge should first be coordinated with the Refuge to avoid the introduction of perching sites for predatory species. This requirement has been added to Mitigation Measure 4.3-8 in the Draft EIR and is included in Chapter 10 of this Final EIR.

16-21 The commentor states that the Draft EIR does not consider the adverse impacts of the Specific Plan on plant and wildlife habitat immediately adjacent to the Specific [Plan] area. Impacts on adjacent properties were considered and are not anticipated. Refer also to Response 2-3 regarding fencing of sensitive habitats.

16-22 This comment expresses disappointment regarding the City's treatment of the issue of sea level rise. Refer to Responses 2-5, 10-5 and 10-6.

16-23 This comment asks about stockpiling fill material necessary to implement the proposed project, how long the material would be stockpiles and would fill be done at the individual project-level. The comment also asks what impacts would occur to City streets and who will bear the responsibility to repair streets if necessary. Given that City streets are designed to carry legal loads, no damage or impact is expected. If damage were to occur as a result of overloads, the transporter would be responsible for the damage.

16-24 The commentor states that renewable energy is supported in concept but the siting of any proposed wind turbine should be coordinated with the Refuge to avoid adverse impacts to avian species and bats. This comment is noted.

16-25 This comment asks who is responsible for monitoring and enforcing air quality mitigation. If the City, is there staff and funding available to ensure mitigation measures are implemented? The City would be responsible to ensure mitigation measures identified in the Draft EIR are implemented. If staffing is unavailable, the project applicant would be responsible to pay the cost of contract staff to perform mitigation monitoring.

16-26 This comment summarizes that the Draft EIR does not adequately disclose baseline conditions, potentially significant impacts, or mitigation measures. Responses 16-1 through 16-25 respond to the comments regarding the inadequacy of the Draft EIR.

# 10 REVISIONS TO DRAFT EIR

Subsequent to the public release of the Draft EIR, revisions have been made to the EIR as a result of staff initiated changes and comments received. Those pages with revisions are identified below and follow this list of errata pages. It is important to note that none of the revisions are significant new information that would result in any new significant environmental impacts (including without limitation new environmental impacts from a new mitigation measure) or a substantial increase in the severity of any environmental impacts, nor do any of the revisions propose a new mitigation that the project applicants have declined to implement or adopt. Instead, they merely provide clarification or make minor modifications to an adequate EIR. Therefore, recirculation of the Draft EIR is not required pursuant to CEQA Guidelines Section 15088.5 (b).

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| Page 3-11 | Text amended to update current cleanup efforts within the Specific Plan area. |
| Page 3-13 | Text amended to replace references to East Bay Dischargers Authority with the Union Sanitary District (USD) and change the reference to a 36-inch sanitary sewer main to a 38-inch sanitary sewer main. |
| Pages 3-14 – 3-16 | Text amended to update descriptions of Trumark and Gallade properties. |
| Pages 3-38 & 3-39 | Text amended to replace references to the East Bay Dischargers Authority with the USD. |
| Page 3-40 | Text amended to reference that portions of the Cargill and FMC properties within the Specific Plan area are outside of the USD boundaries and would have to be annexed prior to development. |
| Pages 3-41 & 3-42 | Text amended to strikeout the East Bay Dischargers Authority as an agency with jurisdiction over the proposed project and add U.S. Environmental Protection Agency, California Public Utilities Commission (CPUC), Alameda County Department of Environmental Health and Bay Conservation and Development Commission (BCDC). |
| Page 4.3-5 | Figure 4.3-1 revised to show location of an area of wetland vegetation on Parcel E. |
| Page 4.3-22 | Text amended to update information about the Contra Costa goldfields. |

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| Pages 4.3-50 – 4.3-53 | Mitigation Measure 4.3-1 amended to clarify requirements to mitigated potential impact to the salt marsh harvest mouse. |
| Page 4.3-60 | Text amended to reference Contra Costa goldfields as one of several special-status plant species for which the project site may have suitable habitat. |
| Pages 4.3-65 – 4.3-67 | Mitigation Measure 4.3-6 amended to reference protection of vernal pools and add language regarding long-term protection of wetlands not impacted by the project and/or new wetlands created. |
| Page 4.3-69 | Mitigation Measure 4.3-8 amended to require coordination of tree replacement with the Don Edwards San Francisco Bay National Wildlife Refuge. |
| Pages 4.5-11 & 12 | Mitigation Measure 4.5-1 amended to note that the Alameda County Water District (ACWD) regulates the construction, repair and destruction of wells, exploratory holes and other excavations and add Mitigation Measures 4.5-2 and 4.5-3 to address coordination with ACWD and require well protection plan. |
| Page 4.6-27 | Text amended to address a revision to the estimate of sea level rise by climate change. |
| Pages 4.7-15 – 4.7-17 | Text amended to update current cleanup efforts associated with the Gallade property. |
| Pages 4.7-30 & 4.7-31 | Mitigation Measure 4.7-1a amended to include additional mitigation language. |
| Page 4.8-4 | Text amended to update the amount of water treated at the Newark Desalination Facility and note beneficial use of groundwater. |
| Page 4.8-23 | Mitigation Measure 4.8-4b amended to add reference to new water mains that may cross over the Hetch Hetchy Pipeline. |

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| Page 4.8-25 | Text was amended to reference Section 15.40.51 of the City's Municipal Code, which includes the City's flood improvement standards. |
| Page 4.9-23 | Text amended to clarify BCDC jurisdiction over development on within the project area. |
| Pages 4.12-18 & 19 | Text amended to replace references to the East Bay Dischargers Authority with the Union Sanitary District (USD) and update the anticipated completion date of the Sewer Master Plan by USD. Mitigation Measure 4.12-2 amended to update the anticipated completion date of the Sewer Master Plan by USD. |
| Pages 4.14-19 & 20 | Text amended to reference the Alameda County Bicycle and Pedestrian Plans. |
| Page 4.14-71 | Mitigation Measure 4.14-1b amended to add mitigation for the intersection of I-880 NB Ramps/Mowry Avenue. |
| Appendices | Page 2 of Table 3 contained in Appendix B updated to show potential habitat present for Contra Costa goldfields. |

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## 3.3.3 SITE CHARACTERISTICS

### OVERVIEW

The approximately 205-acre Dumbarton TOD Specific Plan area is currently primarily vacant and unused with the exception of a virgin chemical ~~blending~~ storing, repackaging and distribution facility located in the northeastern corner, a storage area for base-rock and tractor trailers used in construction projects located in the northeastern portion, and a dog training facility and a police firing range located in the south central portion.

As outlined in the California Regional Water Quality Control Board, San Francisco Bay Region's (RWQCB's) *Comments on the Notice of Preparation of an Environmental Impact Report for the Dumbarton Transit Oriented Development (TOD) Specific Plan, Newark, Alameda County* issued on April 30, 2010, "contaminated soil and groundwater exist within the proposed TOD, and include high concentrations of chlorinated solvents, metals, flammable materials (i.e., elemental phosphorous), phenols (pentachlorophenol) doxins/furans, poly aromatic hydrocarbons (PAHs) and petroleum hydrocarbons. Soil and groundwater remediation are required at the sites (listed below), pursuant to Site Cleanup Requirements (SCR) Orders issued by the California Regional Water Quality Control Board, San Francisco Bay Region:

- FMC Corporation, 8787 Enterprise Drive, SCR Order R2-2002-0060
- Ashland Inc., 8610 Enterprise Drive, SCR Order R2-2005-0038
- SHH, LLC, 37445 Willow Street, SCR Order R2-2008-0081
- Jones-Hamilton, 8400 Enterprise Drive, SCR Order R2-2001-0054
- Former Baron-Blakeslee, 8333 Enterprise Drive, SCR Order R2-2005-0004"

Ongoing groundwater and soil vapor monitoring and cleanup efforts are occurring pursuant to Final SCR Order R2-2007-0005 issued by RWQCB that affects portions of the Gallade property, Trumark property and FMC's properties.

In general, the Specific Plan area is characterized by large, open, expansive, weedy fields that contain remnants of the former industrial development that previously existed in the area. Most of the Specific Plan area is enclosed by fencing and access is restricted. Within the Specific Plan area, Hickory Street, which runs north to south, is currently an unpaved, unimproved public right-of-way. Central Avenue currently terminates at Willow Street from the east and does not yet further extend into the Specific Plan Area. Enterprise Drive, which runs east to west between

of-way owned by the San Mateo County Transit District. The ~~East Bay Dischargers Authority (EBDA)~~ Union Sanitary District (USD) owns and operates two 36~~8~~-inch sanitary sewer force mains serving the City of Newark that run through the Specific Plan area within a 30-foot wide easement, partially within the Hickory Street right-of-way. The Alameda County Flood Control F-1 Canal flows from east to west along the Specific Plan area's southern boundary, providing the main drainage outlet to the San Francisco Bay for a large part of the City of Newark. A tributary to this canal, the F-6 ditch generally flows from north to south along the Specific Plan area's easterly boundary and runs north along the west side of Willow Street for a distance of about 1,300 feet. Pacific Gas and Electric (PG&E) transmission lines traverse the Specific Plan area from north to south and PG&E maintains a 25-foot wide easement underneath the lines and surrounding the towers that the support the high-voltage lines.

### ASHLAND INC. PROPERTY

The Ashland Inc. property occupies approximately 10.29 acres located southeast of the terminus of Enterprise Drive (8610 Enterprise Drive). The Ashland property is generally flat and has a gentle slope downward toward the southern rear portion of the property. The surface elevation ranges from approximately nine to 11 feet above MSL. Ashland operated a chemical packaging and distribution facility on the property from 1973 until 2000. Currently, the property is vacant, enclosed by fencing and predominantly covered with concrete and asphalt paving. Soil and shallow groundwater under the property have been impacted with chemicals of concern (COCs) and groundwater monitoring wells are located on the property. Current activities consist of site risk assessments, quarterly groundwater level measuring, and semi-annual groundwater sampling.

### CARGILL PROPERTY

Cargill's approximately 54.5-acre property is located on the western portion of the Specific Plan area. Although the property is predominantly flat with surface elevations ranging from about eight to ten feet above MSL, it has two relatively small bedrock outcroppings approximately 30 to 35 feet above MSL. Historically, the property has mostly been undeveloped, however, some portions of the property have been in use for years.

From 1929 to approximately 1969, FMC and its predecessor Westvaco, leased a portion of the property from Leslie Salt (Cargill purchased Leslie Salt in 1979). This portion, formerly known as the Leslie Salt/FMC Magnesia Waste Pile site, was remediated pursuant to a Department of Toxic Substance Control (DTSC)

Remedial Action Order. In 1991, the Department of Health Services (DHS), the predecessor of DTSC, issued a Certification of Completion of remediation. The City issued case closure for the site in 2002.

Between 1969 and 1995, the Newark Sportsman's Club leased approximately 18 acres of land to operate a recreational outdoor shooting range. That use, which left surficial and shallow deposits of lead shot and clay pigeon debris, was voluntarily cleaned up beginning in 1994, under Regional Water Quality Control Board (RWQCB) Order #94-096. The RWQCB certified case closure in 2004.

In addition, from 1975 to the present, the City Police Department has leased a portion of property to operate a pistol range. A Phase II Soil and Groundwater investigation performed for the City indicated lead concentrations in shallow soils in the berm area. Given the shallow nature of the materials, excavation and removal of the upper three feet of soil (approximately 405 tons) was identified as the most effective and economical remedial method. Upon cessation of use as a pistol range, the City will be responsible for remedial actions at this site.

One of two hills on the western side of the property is an outcropping of serpentine bedrock that contains naturally occurring asbestos (NOA). These naturally occurring materials are not regulated as a hazard if left in place. However, at such time as the site is to be modified or developed, all earthmoving and trenching in the area of the rock outcrop should be performed in compliance with regulatory requirements then in effect.

## ENTERPRISE DRIVE LLC (TRUMARK COMMERCIAL) PROPERTY

The approximately 2.14-acre Enterprise Drive LLC (Trumark Commercial) property is located at 8375 Enterprise Drive in the northeastern portion of the Specific Plan area. The Enterprise Drive LLC property is a level, vacant lot with ruderal vegetation that is enclosed by fencing. It is approximately ten to 15 feet above MSL with a gentle slope to the southwest towards San Francisco Bay. There is a Hetch Hetchy Pipeline with a 110-foot right-of-way owned by the SFPUC in southern portion of property. ~~The chemical blending and distribution facility located on the adjacent Gallade property uses a portion of the Enterprise Drive LLC property for parking and storage. Groundwater underneath the property and site soils have been impacted with COCs from past uses associated with the adjacent Gallade property. There is a groundwater monitoring well on the property and current activities consist of groundwater monitoring.~~ Past use associated with the adjacent Gallade property have impacted groundwater underneath the central and northern portions of the property and site soils in the north northeastern

portion of the property with COCs. There are several groundwater monitoring wells on the property and soil and groundwater monitoring and remediation activities are ongoing pursuant to Final SCR Order R2-2007-0005 issued by the RWQCB.

## FMC CORPORATION PROPERTY

FMC's property consists of approximately 47.3 acres of land generally located south of the railroad tracks bordering the northern portion of the Specific Plan area at 8787 Enterprise Drive. The relatively flat FMC property is approximately 11 feet above MSL. The majority of site is enclosed by fencing.

Chemical manufacturing related industrial uses occurred at the FMC property from 1929 through 2002. However, approximately eight acres of the property located near the intersection of Willow Street and Enterprise Drive have never been developed or actively used. This land consists of APNs 092-0100-004-02, 092-0101-001, and 92-0115-011 (refer to Figure 3-3). Features left-over from past industrial uses on the site consist of storage, office, and warehouse buildings, fencing, and paved parking areas. Other site features consist of asphalt caps over impacted soil and a groundwater extraction and treatment system. PG&E towers and high voltage power lines and an associated 25-foot wide easement traverse the western portion of the property from north to south. A portion of the Hetch Hetchy Pipeline is underneath the northeastern portion of the property and has a 110-foot right-of-way owned by the SFPUC. Currently, there are limited personnel stationed onsite in the office building to provide security. Other current onsite activities consist of semi-annual groundwater monitoring and operation and maintenance of the groundwater extraction and treatment system

## GALLADE ENTERPRISES LLC PROPERTY

The approximately 2.3-acre Gallade property is located at 8333 Enterprise Drive in the northeast corner of the Specific Plan area. The level Gallade property has an elevation of approximately 11 feet above MSL. The property is currently developed with three structures (an office and two warehouses) and a parking area. The majority of the site is either covered by buildings or paving, although a small portion contains ruderal habitat. A portion of the Hetch Hetchy Pipeline located underneath the property adjacent to the southern boundary. ~~Gallade Chemical, Inc. currently uses the site for the storage, blending, packaging, and distribution of virgin chemical products. Past uses contaminated onsite soils and groundwater, as well as groundwater downgradient (westward) of the property with COCs. Groundwater, soil vapor, and ambient air monitoring is conducted semiannually~~

~~onsite and at nearby properties.~~ Gallade Chemical, Inc. currently uses the site for the storage, repackaging and distribution of virgin chemical products. Historical operations at the site caused contamination of onsite soils and groundwater, as well as groundwater downgradient (westward) of the property, with COCs. This contamination affects portions of the Gallade property, the Trumark property and the FMC Corporation's properties. This property is currently undergoing groundwater and soil vapor monitoring and cleanup activities pursuant to Final SCR Order R2-2007-0005 issued by RWQCB and monitoring and reporting pursuant to the Department of Toxic Substance Control (DTSC) Hazardous Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459.

## JONES-HAMILTON COMPANY PROPERTY

The approximately 21.27-acre Jones-Hamilton property is located at 8400 Enterprise Drive in the northeastern portion of the Specific Plan area, southeast of the intersection of Enterprise Drive and Willow Street. From 1956 to 2001, Jones-Hamilton operated a chemical manufacturing, blending and packaging facility at the property. Currently, the eastern half of the property is undeveloped and the western half is paved with either asphalt or concrete. Onsite soils and groundwater beneath the property have been impacted with COCs. A slurry wall and an asphalt cap encapsulate onsite impacted soils located on the southwestern portion of the site. In addition, extraction wells are present to create an inward gradient. Current onsite activities consist of groundwater monitoring.

## SHH LLC PROPERTY

The SHH LLC property covers approximately 6.11 acres in the northeastern portion of the Specific Plan area at 37445 Willow Street. The SHH LLC property is level with a surface elevation of approximately nine to 11 feet above MSL. Foster Chemical Company manufactured, packaged and distributed chemicals at the site from 1975 to 1987. Prior to that time, the land had been leased for a period of time by the E.J. Lavino Brick Company for the storage of bricks. Currently, the site consists of predominantly vacant unpaved land although a 6,000-square-foot warehouse is onsite. Current activities consist of the storage of reclaimed asphalt, concrete debris, and gravel used to manufacture base-rock for construction projects and empty tractor trailers. In addition, groundwater monitoring is currently conducted on a semi-annual basis. Onsite soils and shallow zone groundwater have been impacted with COCs.

### Water

The Alameda County Water District (ACWD) supplies water to the Specific Plan area. Due to the amount of development proposed by Dumbarton TOD Specific Plan, it is subject to the requirements of Senate Bills 610 (SB 610) and 221 (SB 221), which require the preparation of a Water Supply Assessment (WSA). The ACWD prepared a WSA for the proposed Dumbarton TOD Specific Plan and determined that demand associated with development proposed by the Dumbarton TOD Specific Plan would be consistent with planning assumptions and is included in ACWD's forecast and water supply planning.

Water is delivered to the Specific Plan area through a 16-inch transmission main in Central Avenue at the south end of the site that creates a loop by extending up Willow Street and connecting to an existing 12-inch main in Enterprise Drive. There are also 16-inch transmission mains stubbed at the south end of Hickory Street and at Willow Street, just north of the DRC tracks. The existing looped system in Central Avenue and Enterprise Drive would be extended westerly to include Hickory Street. In order to serve the Specific Plan area, a 16-inch connection between the transmission mains south and north of the tracks may be required to maintain adequate pressure and redundancy in the system.

Within the Specific Plan area, future development would be required to install distribution mains within the street network to serve fire and domestic water needs. It is anticipated that new distribution mains in "backbone" streets would be ten inch or 12-inch in diameter and distribution mains in local streets would be eight inch or ten inch in diameter. A water model would need to be performed based on final land plans, building types, water demands, fire flow requirement, and phasing, to establish final, actual line sizes in each street, and to determine whether the 16-inch connection between mains south and north of the railroad tracks described above would be required.

### Sanitary Sewer

The City, ~~including~~ and the majority of the Specific Plan area, is within the service boundaries of the Union Sanitary District (USD), which also serves the cities of Fremont and Union City. The District owns and maintains a system that consists of gravity and pressure pipes, pumping facilities, detention facilities and the Alvarado Treatment Plant, which is located in Union City, north of the Specific Plan area.

The Specific Plan area is primarily served by a 36-inch trunk gravity main in Willow Street (Willow Street 36-inch), which carries wastewater flows from the southwest

portion of Newark, north through the Specific Plan area, across (beneath) the Hetch Hetchy Pipeline and Southern Pacific Railroad (SPRR) and into parallel 36-inch and 42-inch trunk gravity mains that flow to the west in the SPRR right-of-way (SPRR Mains). The SPRR Mains combine into a single 48-inch gravity sewer main that continues to the Newark Pump Station near the northwest corner of the Specific Plan area. Wastewater is pumped from the station through twin 33-inch force mains to the Alvarado Treatment Plant, approximately five miles to the north. In addition to the Willow Street 36-inch, there is a 14-inch gravity line in Enterprise Drive (Enterprise Drive 14-inch) that flows from east to west before turning to the northwest to run diagonally across the FMC property. This line is in disrepair, is shallow and only serves as a redundant line to the Willow Street 36-inch and the SPRR Mains, in the event of excessive surcharging in those lines.

Dual 33-inch force mains owned and operated by the USD ~~East Bay Dischargers Authority (EBDA)~~ traverse the Specific Plan area generally from south to north and at a depth of approximately five feet within the existing right-of-way for Hickory Street between the Torian and Ashland properties to the east and Cargill property to the west, then follow FMC's property southern boundary before heading northerly again (~~EBDA~~ USD Force Mains). The ~~EBDA~~ USD Force Mains do not serve the Specific Plan area but carry wastewater from the Irvington Pump Station near the Fremont Boulevard Interchange at Interstate 880 to the Newark Pump Station. These pipes may be sensitive to movement and subject to failure should heavy construction occur over or in the vicinity of the pipelines. Mitigation measures may therefore be necessary as part of the implementation of the Specific Plan to protect the EBDA Mains or project proponents may consider the option of replacing the EBDA Mains within the Hickory Street right-of-way working closely with the USD.

In general, most new connections to the existing wastewater collection system are anticipated to be made to the Willow Street 36-inch gravity main. A new 12-inch gravity sewer main may be required to the areas located west of the EBDA Mains to avoid potential conflicts with those pipelines. There is no particular limit to the number of connections that can be made. However, it is anticipated that improvements may be required to both the 36-inch gravity trunk sewer in Willow Street and possibly the 42-inch gravity trunk sewer in the SPRR due to future development associated with the Dumbarton TOD Specific Plan and deficiencies in these lines identified by the USD.

The Newark Pump Station recently underwent an 11 million dollar upgrade and it is anticipated that no further upgrades would be needed to serve the proposed

Dumbarton TOD Specific Plan area. However, the force mains that convey flow from the station to the Alvarado Treatment Plant may be undersized for the buildout conditions associated with the Union Sanitary District Master Plan. An additional line may be needed or, alternatively, an equalization basin near the pump station may be constructed and utilized to detain wastewater during peak times. The District has land near the Newark Pump Station for this purpose, but has not constructed a basin.

Portions of the Cargill and FMC properties within the Specific Plan area are not currently located within the boundaries of the USD and, therefore, they would need to be annexed to the USD when development proceeds within these properties. The annexation process could take between six months and a year.

### IMPLEMENTATION

The Dumbarton TOD Specific Plan identifies the necessary infrastructure improvements to support the proposed land uses, as well as the funding options for the improvements and the phasing of the improvements. Necessary infrastructure improvements include, but are not limited to: roadways/sidewalks and utility systems (i.e., water supply/distribution, sewer, storm drainage). Funding options include, but are not limited to: special districts and fees, community facilities districts (CFDs), redevelopment funds, special assessment districts, area of benefit fees, infrastructure financing districts, and landscaping and lighting districts.

### PHASING

The Specific Plan is intended to be built over time and in various phases. At the same time, there are no requirements within the Specific Plan for parcels to be developed in any particular order so long as supporting infrastructure is available or made available to accommodate new development. The ultimate phasing of the Specific Plan buildout would be highly dependent upon the timing of available land, the market demand for various product types and the availability of financing and funds for the installation of infrastructure.

## 3.7 INTENDED USES OF THE EIR

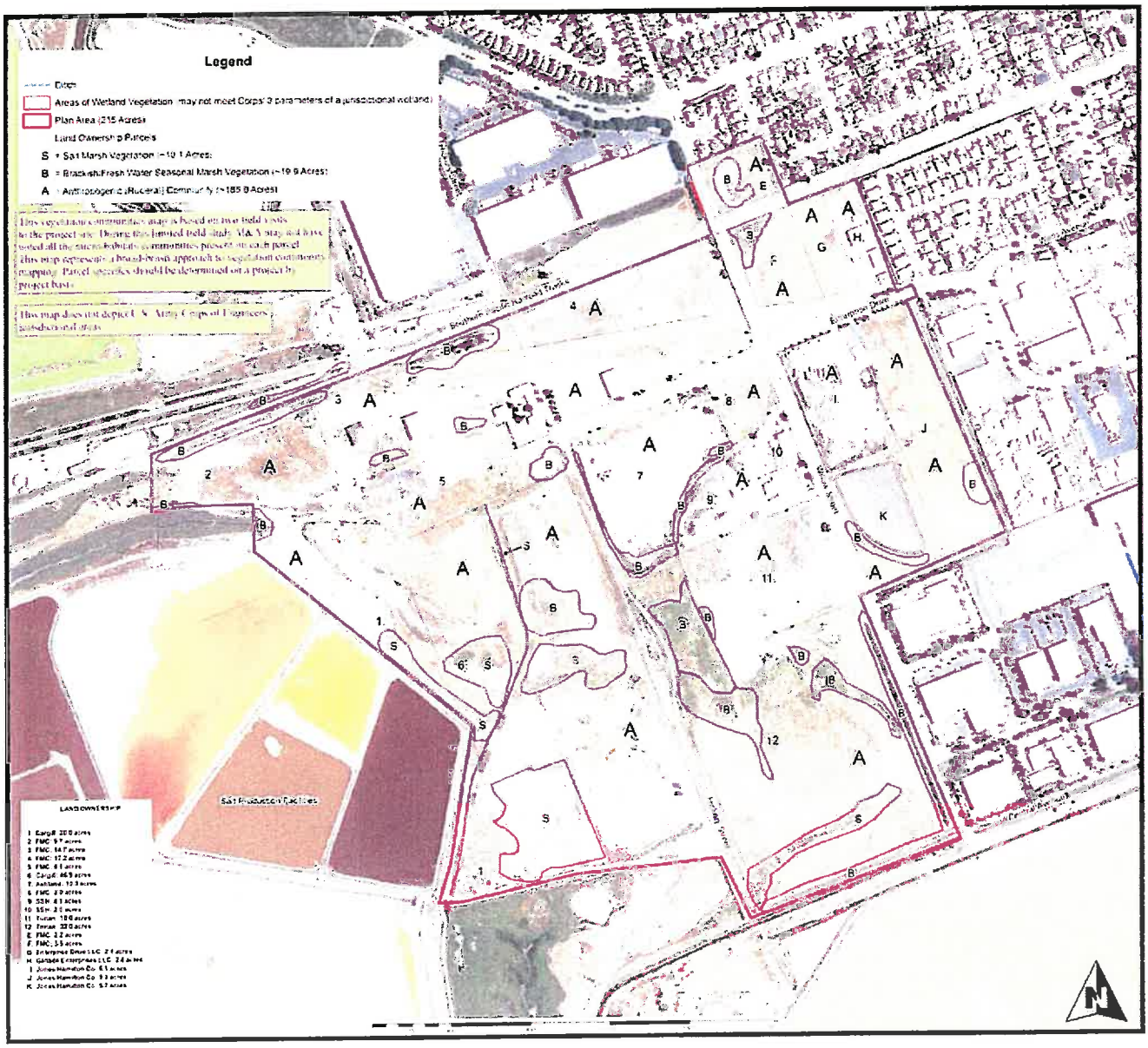
This EIR has been prepared at the program-level under CEQA Guidelines Section 15168 to assess and document the environmental impacts of the Dumbarton TOD Specific Plan. Wherever possible, however, additional development-level information has been produced so that this EIR can be used on specific development proposals. Therefore, subsequent activities undertaken pursuant to

the Specific Plan would be examined in the light of this EIR to determine whether any additional environmental document must be prepared. (14 CCR § 15168(c).) Under Government Code Section 65457, any residential development project, including any subdivision or zoning change, that is undertaken to implement and is consistent with the Dumbarton TOD Specific Plan is exempt from further CEQA analysis, unless an event specified in Public Resources Code Section 21166 occurs, in which case a Supplemental EIR or other CEQA document may be required. As a program-level EIR, the EIR serves as the primary environmental document for the proposed land use designations, zoning districts, and future development that would be undertaken in the Dumbarton TOD Specific Plan area. Development that does not require discretionary review would not be subject to further environmental documentation.

This EIR provides the environmental information and evaluation necessary for the range of development evaluated in this EIR. This EIR provides the foundational CEQA compliance documentation upon which the City's, responsible agencies', and all other applicable agencies' consideration of and action on all necessary and/or desirous permits, approvals and other grants of authority (collectively, "approvals") shall be based. This includes without limitation all those approvals set forth in this EIR, as well as any additional approvals necessary and/or desirous to such project planning, development, construction, operation and maintenance (e.g., any development plans, construction approvals, grading permits, building permits, architectural review, certificates of occupancy and any other development related approvals). Other agencies with jurisdiction over approvals necessary or desirous to the project include, without limitation, the following:

- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- U.S. Environmental Protection Agency
- California Department of Fish and Game
- California Department of Toxic Substances Control
- California Regional Water Quality Control Board
- California Public Utilities Commission
- Bay Conservation and Development Commission
- Bay Area Air Quality Management District
- Alameda County Water District
- Alameda County Flood Control and Water Conservation District
- Alameda County Department of Environmental Health

- ~~East Bay Dischargers Authority~~
- Union Sanitary District
- San Francisco Public Utilities Commission
- San Francisco Water Department
- San Mateo County Transit District
- San Mateo County Transportation Authority




Source: Monk & Associates, 2011

RBF CONSULTING

Not to scale

JN 40-100390

Dumbarton TOD Specific Plan EIR

## Vegetation Communities

**Revised Figure 4.3-1**

Contra Costa goldfields is known from only 20 extant occurrences. Eleven of these occurrences are from areas east and south of the City of Fairfield in Contra Costa County. The species has also been recorded in Alameda, Napa, and Solano Counties and has been extirpated from Santa Barbara, Santa Clara, and Mendocino Counties (CDFG 2007). Monk & Associates biologists have also found it on a property in Sonoma County. The species is found in vernal pools (Northern Basalt Flow, Northern Claypan, and Northern Volcanic Ashflow), swales, and moist depressions and flats in cismontane woodland and valley and foothill grassland between 0 and 470 meters elevation in clay or loam soils. Historical observations included many occurrences in the transition zone between vernal pools and tidal marshes on the eastern side of the San Francisco Bay. Development, agriculture land conversion, overgrazing, non-native invasive plants, and creek channelizing threaten nearly all remaining populations of this species (CNPS 2007). Critical habitat for this species was declared in August 2003.

A total of three occurrences within five miles of the project site are noted on the CNDDB. Two of these are located in vernal pool complexes approximately five miles to the southeast and one is located within one-mile north of the project. However, the nearer occurrence is historic (1895) and is presumed extirpated as that area is now near the center of the City. Another known occurrence of this plant in Alameda County (not reported to the CNDDB as of this writing) is a 2005 reported occurrence within 0.5 mile of the project site on a terrace lot north of the railroad tracks near Willow Street (personal communication between S. Lynch of Monk & Associates and D. Lake, July 5, 2011). ~~Because t~~This species requires vernal pool habitat. While most of the project site does not provide suitable habitat conditions for this special-status plant species, one small area of wetland vegetation in the northern portion of the project site (Parcel E; refer to Figure 4.3-1) may provide suitable habitat for this species. Prior to impacting the wetland vegetation areas on Parcel E, surveys would be necessary to determine the presence or absence of this plant species. Surveys would need to be conducted during this plant's flowering period in order for the surveys to follow CDFG and CNPS specified survey guidelines.

~~that is not found on the project site, this species is not likely to occur within the confines of the project boundaries.~~

### Prostrate (Vernal Pool) Navarretia

Vernal pool navarretia (*Navarretia prostrata*) is a CNPS List 1B.1 species. It has no state or federal status. Like all navarretia species, the prostrate navarretia is a

biologists hold permits/authorizations from the USFWS and CDFG allowing them to work with the salt marsh harvest mouse; Monk & Associates biologists have over 15 years of experience working with this endangered mammal.

Based on Monk & Associates' field survey, it is unlikely that the project site parcels provide the necessary habitat components to support a salt marsh harvest mouse population (that is, one hundred percent cover or, at a minimum, 60 percent pickleweed cover; a cover depth of 30 to 50 centimeters at summer maximum; complexity in the form of fat hen and alkali heath or other halophytes [salt-tolerant plants]). However, since the field survey was general, at the time specific development proposals are developed for parcels within the project site that support salt marsh vegetation, specifically, pickleweed, these parcels shall be evaluated further as to their suitability for the salt marsh harvest mouse. It may be possible that some of the pickleweed dominated areas could support the salt marsh harvest mouse. Hence, development of such parcels could constitute a potentially significant adverse impact on the salt marsh harvest mouse. ~~The Torian property is an exception to this impact. The Torian property has been studied by several salt marsh harvest mouse biologists over the years (Live Oak Associates biologists, Zentner and Zentner biologists and Monk & Associates) and a determination has been made that this property does not provide the habitat components suitable for the salt marsh harvest mouse (that is, the Torian property is not a historic salt marsh, and does not to provide the contiguous salt marsh habitat necessary to support this species).~~ This impact could be mitigated to a less than significant level with Mitigation Measure 4.3-1.

*Mitigation Measure*

4.3-1 In order to avoid potentially impacting the salt marsh harvest mouse, prior to any site grading or development of properties within the Specific Plan area, a federal and state permitted salt marsh harvest mouse biologist shall conduct a "Habitat Assessment" to determine if the parcel where work is proposed provides suitable habitat for the salt marsh harvest mouse. The exception to this requirement would be the Torian property since two Habitat Assessments have been prepared for the property (by Live Oak Associates and Zentner and Zentner), which concluded that the property does not provide suitable habitat for the salt marsh harvest mouse. However, the Torian property shall implement protective measures, such as hand removal of pickleweed onsite and installation of mouse-proof exclusion fencing, prior to site development as further described below under "preconstruction measures." ~~where this would be~~

~~unnecessary because it has already been studied.~~ If a qualified, CDFG and USFWS permitted salt marsh harvest mouse biologist renders a conclusion that no impacts to the salt marsh harvest mouse would occur from development of the project site, the standards of care dictated by CEQA will be met and no further action shall be warranted.

However, if the permitted biologist believes the project could impact the salt marsh harvest mouse or if the biologist that prepares the assessment does not hold current permits from CDFG and USFWS that allow work with the salt marsh harvest mouse, then the Habitat Assessment prepared for the project site parcels would need to be submitted to USFWS and CDFG for their review and comment. These two agencies administer the FESA and CESA (respectively) and oversee the protection of this species. If the non-permitted biologist determines that habitat conditions are not suitable for the salt marsh harvest mouse, and the USFWS and CDFG (the regulatory agencies with jurisdictional authority over this listed species) concur with these findings in writing via a letter or email, then no further regard for the salt marsh harvest mouse would be necessary.

However, if a permitted biologist determines that the project site's habitat conditions are suitable for the salt marsh harvest mouse, and the project applicant wishes to pursue development of the parcel, the Habitat Assessment shall be submitted to the USFWS and CDFG and these agencies will be contacted to determine if they will allow a live-trapping study on the parcel to determine this mouse's presence or absence.

Since the salt marsh harvest mouse is a "fully protected" mammal species pursuant to CDFG Code §4700, CDFG typically does not allow live-trapping for this species (unless it is a research proposal) since live-trapping/handling the animals constitutes "harassment" (a form of "take" under the Endangered Species Acts). If CDFG and/or USFWS do not allow a trapping study to determine the salt marsh harvest mouse's presence/absence, yet they believe that habitat conditions on a project site are suitable to support this mouse, they typically assume this mouse's presence on the site and require the project applicant to enlist in precautionary preconstruction methods to avoid take of this state and federal listed mouse. Since "take" of fully protected mammals is not allowed under California Fish and Game Code, an "incidental take" permit cannot be issued authorizing take of this species; hence, the need for precautionary preconstruction measures as described below. In

addition to the measures detailed below, it shall be necessary to preserve/acquire suitable habitat for the salt marsh harvest mouse at a minimum 1:1 mitigation ratio (that is, for each acre of habitat impacted, one acre of suitable habitat onsite or offsite shall be preserved) or at a ratio as required by CDFG and USFWS. Any salt marsh harvest mouse habitat preserved onsite shall be separated from development by installing a cat-proof fence to protect the salt marsh harvest mouse from cats and other mammalian predators.

Preconstruction measures would include hand removal of all suitable salt marsh vegetation from the project area and excluding the suitable habitat area from the remainder of the project area by installing "mouse-proof" fencing. These methods are described in detail below and would only be necessary and/or allowed if:

- A permitted biologist determines that suitable habitat is present on the project site and,
- USFWS and CDFG concur with this determination and do not allow live-trapping to determine the mouse's presence/absence, but require vegetation stripping to remove suitable habitat conditions.

As approved by the CDFG and USFWS, all suitable vegetation that could support the salt marsh harvest mouse within the proposed development footprint shall be removed by hand prior to the initiation of grading or other construction activities. This will remove the attraction of the development site to salt marsh harvest mouse. A ~~qualified~~ permitted CDFG/USFWS salt marsh harvest mouse biologist shall be onsite to monitor vegetation clearing to ensure no mice are harmed. The area that is cleared for the development would be minimized to the extent possible. The vegetation would be stockpiled in an area away from the work activities. In addition, a mouse-proof fence shall be installed and maintained around the cleared area to prevent mice from entering the work area. Fencing has to be climb-proof (for example, smooth plastic, not silt fencing) and installed in such a manner so that the salt marsh harvest mouse cannot dig under the fence. The salt marsh harvest mouse is known to be an agile climber, often climbing vegetation to escape rising tidal waters, but rarely digs extensively. Regardless, fencing material must account for both behaviors.

The optimal salt marsh harvest mouse fence shall be constructed using eight-millimeter plastic sheeting that is sandwiched between wooden stakes and buried in a minimum six-inch deep trench. The stakes shall screw together firmly sandwiching the plastic in place. It is mandatory to sandwich the plastic between stakes if the fence is to last through even moderate winds. The finished installed fence shall be three feet above the ground. Plastic sheeting is smooth and non-climbable, and by burying the sheeting and stapling it to the ground at three inch intervals, it prevents rodents from going underneath the fence. However, the integrity of plastic fencing only lasts for a couple of months, or perhaps three months at the longest. Accordingly, the timeframe for completing the project must be within a three-month window or the fencing shall be replaced. The integrity of the salt marsh harvest mouse fencing shall be inspected on a weekly basis by a qualified biologist.

Prior to installing the salt marsh harvest mouse fence, all vegetation must be cleared from alongside the fence line route. Vegetation removal shall be pre-approved by CDFG and USFWS. Once the vegetation has been removed and the exclusion fencing installed, an "as-built" report, complete with photographs, shall be prepared by a qualified biologist and submitted to the City Community Development Department.

Level of Significance After Mitigation: Less Than Significant

**4.3-2 Future development of the project site allowed by the Dumbarton TOD Specific Plan could have a potentially significant adverse impact on nesting raptors.**

Level of Significance Before Mitigation: Potentially Significant

*Impact Analysis*

Suitable nesting habitat for white-tailed kite, red-tailed hawk, northern harrier, and burrowing owl occurs on the project site. Since the burrowing owl is a California species of special concern that has formal CDFG mitigation requirements, impacts and mitigation for the burrowing owl are discussed under Impact 4.3-3 below.

The white-tailed kite is fully protected under CDFG Code (§3511). The northern harrier is a state species of special concern. The white-tailed kite, the red-tailed hawk, and the northern harrier are also protected under the Migratory Bird Treaty

*Impact Analysis*

The project site provides suitable habitat for special-status plant species. Suitability does not infer presence only that conditions are present which could support these species. To prove absence of these species formal surveys must be conducted at appropriate times of the year. Some of tThe parcels within the project site boundaries provide suitable habitat for: brittlescale, San Joaquin saltbush, Congdon's tarplant, Hoover's button-celery, caper-fruited tropidocarpum, saline clover, Contra Costa goldfields, and Point Reyes bird's beak. Future development activities within the project site could result in the loss of these species. Until such time that formal surveys are conducted that prove absence of these species, impacts on these species are regarded as potentially significant pursuant to CEQA. These impacts could be mitigated to levels considered less than significant by Mitigation Measure 4.3-5.

*Mitigation Measure*

4.3-5 Prior to City approval of any specific development, special-status plant surveys shall be conducted in appropriate habitats during the appropriate period in which the species are most identifiable. These surveys shall be in compliance with all CDFG (2000), USFWS (1996), and CNPS (2001) published survey guidelines. Project construction shall not be initiated until all special-status plant surveys are completed and subsequent mitigation, if necessary, is implemented.

If special-status plant species are found during surveys, those individuals or populations shall be avoided to the maximum degree possible. If avoidance is not possible while otherwise obtaining the project's objectives, then other suitable measures and mitigation shall be developed in consultation with the agencies that are responsible for protection of that plant species based on its protection status [i.e., City (protected by CEQA), CDFG (protected by California law/regulation), or USFWS (protected by federal law/regulation)]. Appropriate mitigation prescriptions for impacts on special-status plants shall be included as conditions of project approval as detailed below.

Special-status plant surveys shall be completed as described above prior to breaking ground on any parcel within the project site. A special-status plant survey report that includes the methods used, survey participants, and findings shall then be prepared and submitted to the City demonstrating absence of special-status plants at least 30 days prior to

*Mitigation Measure*

4.3-6 Wetland mitigation shall, to the extent not already completed, require a wetland delineation conducted according to the 1987 USACE Wetland Delineation Manual (U.S. Army Corps of Engineers 1987) and the Regional Supplement to the USACE Wetland Delineation Manual: Coast Region (Corps 2008) prior to City approval of any specific development proposal. During the wetland delineation if vernal pools are identified they shall be noted as areas requiring further study and/or consideration for protection from potential project impacts. This delineation shall be submitted to the USACE for verification. Once that map is "verified," the full extent of waters of the U.S./State would be known and the extent of impacts on regulated areas ascertained.

Authorization from the Corps and the RWQCB (for example, a Nationwide Permit and a Certification of Water Quality) shall be obtained as necessary/required by these agencies prior to filling any waters of the U.S./State on the project site.

Impacts shall also be minimized by the use of Best Management Practices (BMPs) to protect preserved waters of the U.S./State and to ensure that water quality standards are not compromised in preserved wetlands and other waters within the watershed. These practices can include installing orange construction fencing buffers, straw waddles to keep fill from entering preserved/avoided wetlands and other waters, and other protective measures. During project construction, a biological monitor shall be onsite to monitor the integrity of any preserved wetlands and other waters during mass grading or filling of the project site.

For those wetland areas that are not avoided, mitigation compensation wetlands shall be completed. As approved by the USACE and the RWQCB, the project applicant may purchase mitigation credits from an approved mitigation bank or an approved in-lieu fee mitigation entity at a minimum 1:1 ratio.

As an alternative to the purchase of credits in a mitigation bank, wetlands may be created onsite and, if so, shall have an equal or higher functional value than those wetlands affected by the project (known as in-kind replacement). If wetlands cannot be created in-kind and onsite, other alternatives shall include off-site and/or out-of-kind. In any case, mitigation requirements for wetland areas that are not avoided shall be

that all impacted wetlands are replaced at a minimum 1:1 ratio (for each square foot of impact, one square foot of wetland would be restored/created) or at a ratio determined by the RWQCB and USACE at the time permits are issued. Mitigation requirements would be based upon the existing conditions of the wetlands impacted. Where practicable, wetland plant/animal populations shall be relocated from the wetlands that would be impacted to any re-created wetlands. Topsoils shall also be removed from wetlands that would be impacted if practicable, and placed into the re-created wetlands. These topsoils would contain a seed bank of the impacted plant species which would germinate with fall/winter hydration of the re-created wetlands.

If wetlands are restored/created, adequate compensation shall include creating wetlands at a suitable location that meet the following performance standards:

- The wetlands shall remain inundated or saturated for sufficient duration to support a predominance of hydrophytic vegetation.
- The wetlands shall exhibit plant species richness comparable to existing wetlands.
- The wetlands shall replace the lost wetlands at a minimum ratio of one acre created for each acre, or fraction thereof, permanently impacted.
- The developer shall provide for the protection of the mitigation areas in perpetuity. either through deed restrictions or conservation easements.
- The developer shall establish a five-year program to monitor the progress of the wetland mitigation toward these standards. At the end of each monitoring year, an annual report shall be submitted to the City, the RWQCB, and the USACE. This report shall document the hydrological and vegetative condition of the mitigation wetlands, and shall recommend remedial measures as necessary to correct deficiencies.
- The USACE and other regulatory agencies generally require that wetlands not impacted by the proposed project and any new wetlands created to mitigate project impacts be set aside in perpetuity, either through deed restrictions or conservation easements. If a perpetual deed restriction is used to preserve the wetland preserve site the land owner and any assignees/transferees of the title of the property shall

assume liability for the perpetual management of the preserved lands. The deed restriction shall provide the allowed and prohibited uses of the preserved site and these uses shall be approved by the RWQCB and the Corps. If a conservation easement is established, a non-wasting management endowment (non-wasting infers that principal may not be used to pay for management actions, only interest on the principal sum may be used) shall be established in concert with the grantee of the conservation easement and shall be large enough to pay for necessary management actions. In lieu of a management endowment, other financial assurances may be provided that otherwise are found acceptable to the grantee of the conservation easement. An example of an alternative funding source would be via a Geologic Hazards Assessment District (GHAD). Home Owners' Associations and Landscape Lighting Districts are not suitable funding entities as funds collected via these entities can be distributed City wide at the discretion of the City. In contrast, GHADs must be used within the taxing district where the funds are acquired.

Level of Significance After Mitigation: Less Than Significant

## WILDLIFE CORRIDORS

**4.3-7 Future development of the project site allowed by the Dumbarton TOD Specific Plan would have a less than significant impact on wildlife corridors.**

Level of Significance Before Mitigation: Less Than Significant

*Impact Analysis*

As noted in the setting section, the project site open space does not constitute a wildlife movement corridor per se, although local wildlife likely use the area to move to and from the project site's ruderal habitat to local subdivisions. The loss of this area for movement is not a significant adverse impact as these species, raccoons, rats, skunk, ~~opposums~~opossums, are capable of moving through developed areas.

*Mitigation Measure*

4.3-7 No mitigation required.

California species that are native to the Newark area (for example, redwood trees are native to California but not to Newark).

Replacement trees planted adjacent to the Don Edwards San Francisco Bay National Wildlife Refuge should first be coordinated with the Refuge to avoid the introduction of perching sites for predatory species.

A Tree Management Plan shall be prepared for any project on any project site parcel where tree removal occurs. Preparation of this plan and subsequent planting and monitoring shall be a condition of project approval and shall be tied to a security bond or cash deposit posted by the developer with the City. This plan shall include a planting detail that specifies where all trees would be planted on the subject parcel. The methods used to plant trees shall also be specified. Adequate measures shall be established to minimize predation of planted trees by rodents including, but not limited to, pocket gophers (*Thomomys bottae*) and/or California ground squirrels (*Spermophilus beecheyi*).

All planted trees shall be provided with a buried, irrigation system that shall be maintained over a minimum three-year establishment period. The irrigation system shall be placed on automatic electric or battery operated timers so that trees are automatically watered during the dry months of the establishment period. At the end of the three-year establishment period, the irrigation system could be removed, if necessary. The planted trees' health shall be monitored annually for five years by a qualified biologist or arborist. Annual monitoring reports shall be submitted to the City.

At the end of a five-year monitoring period, at least 80 percent of planted trees shall be in good health. If the numbers of planted trees falls below an 80 percent survival rate, additional trees shall be planted to bring the total number of planted trees up to 100 percent of the original number of trees planted. Irrigation and follow-up monitoring shall be established over an additional three year period after any replanting occurs. Any replanting and follow-up monitoring shall be reported in annual reports prepared for the City, Community Development Department. A performance bond, letter of credit, or other financial instrument shall be established to pay for any remedial work that might need to occur, if the prior effort fails.

structures and safety of people present at the time of the earthquakes. Moreover, ground motion has the potential to initiate secondary events such as liquefaction or landslides, which could also threaten the integrity of structures placed on the site and the safety of people present at the time of the earthquakes. There is a low potential for liquefaction at the Enterprise Drive LLC (Trumark Properties) property. However, Torian, Cargill, and possibly other properties within the Specific Plan area are underlain by potentially liquefiable soils. Landslides are a possibility at the northern rock outcrop on Cargill's property and also along levees.

The likelihood of ground shaking and seismic-related liquefaction and landslide impacts can be reduced if future development is constructed in accordance with the recommendations of a geotechnical engineering report and the CBC. Using standard construction techniques and following the recommendations of a site-specific geotechnical investigation and applicable codes and requirements, structures can be designed and built to withstand the geologic hazards listed above. Although some structural damage is not typically avoidable, building codes and local construction requirements help to protect against building collapse and personal injury during seismic events. Future development would be required to comply with applicable regulations, such as the CBC, and the requirements of the Newark General Plan Environmental Safety Element. The following mitigation measure requires a design-level geotechnical investigation for all future development in the Dumbarton TOD Specific Plan area to further reduce potential ground shaking and seismic-related liquefaction and landslide hazards to less than significant.

*Mitigation Measure*

4.5-1 The ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations located within the City of Newark under ACWD Ordinance No. 2010.01. Future developers within the Specific Plan area shall have a design-level geotechnical engineering investigation performed for their individual property or properties prior to its (their) development. The mitigation measures specified by the design-level geotechnical engineering investigations shall become conditions to the issuance of grading permits for such individual property. The design-level geotechnical engineering investigations shall only address each specific individual property proposing construction, unless future developers mutually agree to include more than one property in a single investigation.

The design-level geotechnical engineering investigations shall take into consideration the specific locations and types of development, as well as specific soil and rock conditions identified by subsurface investigation and laboratory testing. The likely mitigation measure recommendations of the design-level geotechnical engineering investigations regarding the design and construction of project-related development are regularly employed, have known and proven efficacy, and could include without limitation, one or more of the following:

- Removing the soft/loose soil by excavating the soil and backfilling the excavation with compacted soil, thus densifying the soft/loose soil;
- Supporting structures on deep foundations, such as piles or piers;
- Improving the soft/loose soils by various methods, such as dynamic deep compaction, constructing surcharge fills, installing wick drains, grouting, and other methods;
- Strengthening structures to withstand seismic shaking and differential ground settlement; and/or,
- Other methods as determined by the geotechnical engineer in the geotechnical report to be prepared for the sites.

4.5-2 Prior to any soil improvement measures and/or dewatering activities, the project geotechnical engineer(s) shall coordinate with the ACWD to ensure compliance with ACWD Ordinance No. 2010-01.

4.5-3 Prior to construction, the project applicant shall develop a plan, reviewed and approved by ACWD, for the protection of wells prior to issuance of demolition and grading permits to ensure compliance with ACWD Ordinance No. 2010-01.

Level of Significance After Mitigation: Less Than Significant.

## SOIL EROSION

**4.5-2 Future development of the project site allowed by the Dumbarton TOD Specific Plan could result in substantial soil erosion or the loss of topsoil.**

While there is broad agreement on the causative role of GHGs to climate change, there is considerably less information or consensus on how climate change would affect any particular location, operation, or activity. The IPCC has published numerous reports on potential impacts of climate change on the human environment. These reports provide a comprehensive and up-to-date assessment of the current state of knowledge on climate change. Despite the extensive peer review of reports and literature on the impacts of global climate change, the IPCC notes the fact that there is little consensus as to the ultimate impact of human interference with the climate system and its causal connection to global warming trends.

The following climate change effects could affect the proposed project. However, the type and degree of the impacts that climate change would have on humans and the environment is difficult to predict at the local scale.

- Sea Level Rise. According to the San Francisco Bay Conservation and Development Commission (BCDC) climate change is expected to raise sea levels between 15 to 55 inches ~~12 and 36 inches~~ by the year 2100. The Specific Plan area is approximately two miles east of the San Francisco Bay and a portion of the site is within a Federal Emergency Management Agency (FEMA) 100-year flood zone. According to the Shoreline Areas Vulnerable to Sea Level Rise Central Bay South Inundation Map (BCDC 2008), ~~t~~The BCDC forecasted rise in sea level in the western portion of the Specific Plan area and could increase flood related impacts, especially from storm surge-induced flood events. Section 15.40.51 of the City's Municipal Code has flood elevation standards for lands within special flood hazard areas as defined by FEMA. Among other things, these standards require building pads of all occupied structures to be a minimum of 11.25-feet above sea level with the finished floor being a minimum of six-inches above the building pad. In addition, the City requires that the top of curb grades for residential streets must be no less than ten-feet above sea level throughout the City (Section 16.08.06 Newark Municipal Code). Additionally, the effects related to sea level rise are speculative at this time, the majority of the Specific Plan area does not lie within BCDC's jurisdiction, and the BCDC forecast and any related policies are intended as guidance regarding potential, future flood risks ~~and are not directly applicable to the Specific Plan area~~. If sea level rise was determined to be a significant threat, protective measures such as levees installed by regional and local governments would be available to protect urbanized areas.

closed according to DTSC requirements.[6] As of 2007, Gallade Enterprises LLC owned and operated a virgin-chemical-product storage and distribution facility at the site.

Since 1993, several phases of environmental characterization have been conducted at the site. Previous investigations have indicated that soil and groundwater at the site and groundwater downgradient (westward) from the site have been impacted by VOCs. Chemicals of potential concern (COPCs) include trichloroethene (TCE), tetrachloroethene (PCE), cis-1,2-dichloroethene (cis-1,2-DCE), 1,1,1-trichloroethane, (1,1,1-TCA), 1,1-dichloroethene (1,1-DCE), methylene chloride, and Freon-113. Based on the frequency of detection, the concentrations detected, and the toxicity, PCE and TCE are considered the primary COPCs in soil, and TCE is considered the primary COPC in groundwater.[7]

This property is currently undergoing groundwater and soil vapor monitoring and groundwater and soil cleanup activities pursuant to the Final SCR Order R2-2007-0005 issued by the RWQCB and monitoring and reporting pursuant to the DTSC Waste Post Closure Facility Permit, Facility EPA ID Number CAD07464459. The Final SCR Order R2-2007-0005 was based on a Revised Feasibility Study and Remedial Action Plan that was submitted to RWQCB on January 31, 2006, which also included a risk management plan.

The Final SCR Order R2-2007-0005 requires semiannual groundwater and soil vapor monitoring for a network of groundwater and soil vapor monitoring wells located on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140-006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001) and railroad properties, as well as north, west and east of the Gallade property in residential and public properties. Groundwater and/or soil vapor plumes have been detected on or about these properties. Remediation consists of the following three tasks: in situ thermal remediation for the former tank farm area located on the northern portion of the Gallade and on a portion of the Trumark properties; in situ treatment for the shallow groundwater on the Gallade property (APN 092-0140-005), the Trumark Property (APN 092-0140006), FMC Corporation's properties (APNs 092-0100-004-02 and 092-0101-001), and railroad properties; and soil excavation in the former process building area of the Gallade property upon completion of building demolition and slab removal.

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[6] Final Site Cleanup Requirements Order No. R2-2007-0005, January 29, 2007
[7] Ibid

The current semiannual status report, the 2010 Second Semiannual Status Report, was submitted in January 2011 and concluded that the VOC plume in the shallow zone groundwater appeared to be srable and soil-vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for TCE, PCE, vinyl chloride, and cis-1,2-DCE at soil vapor wells located outside residential areas. The report recommended continuation of the semiannual groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil-vapor monitoring at all residential and non-residential soil-vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.

The in situ thermal remediation activities were completed from March 2010 to January 2011 and the final remediation completion report will be submitted in August 2011. The in situ chemical oxidation remediation activities began in the fall of 2010 and are ongoing. The soil excavation beneath the former process building will occur upon completion of building demolition and slab removal.

~~Due to known soil and groundwater contamination and the risks associated with potential exposure to contaminants onsite, remedial action for soils, soil vapor, and groundwater was warranted. Order No. R2-2007-0005 specified that the Gallade property would have to be remediated in accordance with the cleanup plan discussed in finding 11 of the Order. Like the FMC Corporation property, the Gallade property water areas also consist of the shallow groundwater zone and the Newark Aquifer. The Revised Feasibility Study and Remedial Action Plan (RAP) were submitted to RWQCB on January 31, 2006, and has been implemented consistent with the Order described above. Soil excavation and In situ thermal treatment of shallow soil and groundwater were proposed as the preferred remediation technologies for the site. The RAP also contained a risk management plan.~~

~~A semi-annual status report was submitted in December 2006, and again in August 2007. In the July 2008 December 2008 semi-annual status report, it was concluded that the VOC plume in the shallow zone groundwater appeared to be stable. VOC concentrations at the monitoring wells onsite remained consistent with previously observed concentrations, which were still above standards set fourth in finding 11 of the RWQCB order.~~

~~Soil vapor monitoring revealed that industrial and/or residential environmental screening level criteria were exceeded for vinyl chloride at non-residential soil vapor wells onsite.~~

~~The report recommended continuation of the semiannual groundwater monitoring per the site cleanup requirements detailed in the Order, and to continue semiannual soil-vapor monitoring at all residential and non-residential soil-vapor wells to define long-term trends and evaluate potential concerns of vapor intrusion in adjacent residential properties.~~

### Jones-Hamilton (8400 Enterprise Drive)[8]

Based on RWQCB Order No. 98-067, the Jones-Hamilton Company operated a chemical blending and packaging facility that handled and stored various chemical compounds at the site since 1956. These chemical compounds included gasoline, sodium bisulfate, hydrochloric acid, arsenic acid, chromic acid, cupric acid, formaldehyde, triethanolamine, pentachlorophenol, a variety of surfactants, and a variety of hydrocarbon-based solvents. Previous activities include the operation of two hazardous waste management units (surface impoundments), the loading and unloading of a variety of raw waste liquids and recovered chlorinated chemical products, and the storage and distribution of these chemicals onsite. Unauthorized releases of some of these chemicals reportedly occurred during the past years of operation.

The site is located within the Niles Cone groundwater basin and the Shallow Zone. Onsite and offsite investigations of the site confirmed that significant shallow groundwater pollution has occurred below the site. Pentachlorophenol (PCP) and 1,2- DCA were found in the shallow groundwater zone (0-20 feet) beneath the site at concentrations of up to 1,000 ppb and 2,000 ppb, respectively. The main source of the PCP was the impoundment areas onsite. Additional chemical compounds, such as 1,1,1-trichloroethane, 1,1-dichloroethane, benzene, chloroform, ethylbenzene, methylene chloride, 1,2 dichlorobenzene, aphthalene, toluene, 2-butanone, truchlorotrifluoroethane, xylene, 4-methylphenol, and benzic acid were found at low concentrations.

The RWQCB order states that polluted soil has been excavated in the vicinity of the two surface impoundments. The two surface impoundments were closed October 1, 1988. Closure involved encapsulation by a slurry wall followed by a synthetic liner, clay, and an asphalt cover, with groundwater extraction wells to create an inward gradient. However, VOCs are still present in soils onsite.

---

[8] RWQCB Order No. 98-067, July 1998

multiple property owners, and as such, properties within the Specific Plan area with any residual contamination would be remediated and developed on a case-by-case basis with regulatory oversight.

In addition to meeting applicable Federal, State, and local standards, the following mitigation measures, would reduce impacts to a less than significant level.

*Mitigation Measures*

4.7-1a Prior to the issuance of grading or building permit for an individual property within the Specific Plan area with known, suspected, or potential residual environmental contamination, the property owner shall, to the extent such activities have not previously been performed by the property owner pursuant to the requirements of the San Francisco Bay Regional Water Quality Control Board (RWQCB) or other overseeing agency under applicable environmental laws (Oversight Agency), do all of the following: 1) summarize available information regarding the magnitude and extent of soil and groundwater contamination at the subject property; 2) perform a data gap analysis; 3) based on the results of the data gap analysis, determine whether any additional investigation is needed to fill data gaps and, if so, propose and perform such investigation with the approval of the Oversight Agency; 4) provide either a Health Risk Assessment (HRA) or Feasibility Study (FS) containing an HRA to summarize potential risks to human health and the environmental posed by the contamination with respect to the proposed development; 5) based on the HRA or as set forth in the FS, develop remedial options to address the identified risks based upon the proposed development, which remedial option may include engineering or institutional controls, and tentatively select the most appropriate remedial option to ensure that the proposed development will not present an unacceptable risk to human health or the environment as required by applicable environmental laws, as well as procedures for proper management of contaminated soil and groundwater that may be encountered during development; and 6) submit a report to the Oversight Agency for review and regulatory approval of the proposed remedial plan, including engineering and/or institutional controls, under applicable environmental laws.

~~Prior to the issuance of a building permit for an individual property within the Specific Plan area with residual environmental contamination, the agency with primary regulatory oversight of environmental conditions at such property~~

~~("Oversight Agency") shall have determined that the proposed land use for that property, including proposed development features and design, does not present an unacceptable risk to human health, including, if applicable, through the use of institutional controls, site-specific mitigation measures, a risk management plan and deed restrictions based upon applicable risk-based cleanup standards. Remedial action plans, risk management plans and health and safety plans shall be required as determined by the Oversight Agency for a given property under applicable environmental laws, if not already completed, to prevent an unacceptable risk to human health, including workers during and after construction, from exposure to residual contamination in soil and groundwater in connection with remediation and site development activities and the proposed land use.~~

4.7-1b Prior to grading permit issuance, areas to be graded shall be cleared of debris, significant vegetation, pre-existing abandoned utilities, buried structures, and asphalt concrete.

4.7-1c Prior to the import of a soil to a particular property within the Specific Plan area as part of that property's site development, such soils shall be sampled for toxic or hazardous materials exceeding applicable Environmental Screening Levels for the proposed land use at such a property as required by the Oversight Agency prior to importing to such a property.

4.7-1d Areas containing Naturally Occurring Asbestos (NOA) within the Dumbarton TOD Specific Plan area shall be confirmed prior to grading permit issuance. Prior to grading or construction of a particular property containing NOA, an application from the Bay Area Air Quality Management District shall be required for projects over one-acre in size. Dust control and an NOA air monitoring program shall be required. Additionally, the following general construction practices shall be adhered to for those properties containing NOA:

- The site shall be maintained in a wet condition to prevent airborne dust. Onsite soil shall be wetted during grading and trenching operations.
- Over excavation and removal of NOA material to one foot below utility is recommended for utility corridors.

Materials) for a description of the various COCs associated with past onsite uses within the Specific Plan area.

## GROUNDWATER QUALITY

The Basin is characterized by fresh groundwater in eastern portion that transitions into brackish groundwater in the western portion, including the Specific Plan area. This is the result of past over drafting of the Newark Aquifer and other deeper aquifers, which caused an easterly flow and seawater intrusion from the San Francisco Bay toward inland areas.

Both the shallow zone and the Newark Aquifer groundwater are brackish to saline due to saltwater intrusion from the San Francisco Bay. Since the 1960s, ACWD has managed the Basin to prevent any additional seawater intrusion and has an on-going program to pump trapped brackish groundwater back to San Francisco Bay through the District's Aquifer Reclamation Program (ARP) wells. Since September 2003, much of the water pumped from the ARP wells is treated at the Newark Desalination Facility. This facility treats up to ~~five~~ 12.5 million gallons per day utilizing reverse osmosis to remove salts and other impurities from the brackish groundwater. Treated water is blended with untreated local water and provided as a supply for the water distribution system.

As described in Section 4.7, groundwater in the shallow zone and to a much more limited extent the Newark Aquifer under a portion of the Specific Plan area has been impacted with chemicals of concern (COCs) ~~as discussed further in Section 4.7. However, as noted previously, both the shallow zone and Newark Aquifer within the immediate vicinity of the Specific Plan area do not have a current beneficial use due to high salinity from saltwater intrusion from the Bay and in the shallow zone, low yields.~~ However, water quality data from ACWD in this area indicates that groundwater has a potential beneficial use. The shallow water bearing zone is critical for protecting the Newark Aquifer, in which ACWD operates high capacity wells for potable water supply and aquifer reclamation. Extensive soil and groundwater remediation has taken place at various properties within the Specific Plan area and groundwater is currently monitored by ~~32~~ approximately 150 wells. Pump and treat groundwater activities have also been terminated as certain properties, in lieu of in-situ and natural attenuation remedies, as the pumping activity could potentially create a downward gradient from the Shallow Zone to the underlying Newark Aquifer and result in downward migration of COCs within the Newark Aquitard.

outfall into the Line F-1 channel, the existing human-created tidal channel that is tributary to Newark Slough, and existing City facilities in Willow Street). The hydrology reports shall be subject to review and approval by the City Engineer.

If the hydrology reports determine that the existing facilities do not have adequate stormwater conveyance and capacity to serve the proposed development, then the project applicant shall develop a detailed stormwater detention plan for the retention/detention of stormwater runoff on the project site. The stormwater detention facilities shall be designed with adequate capacity to ensure that that stormwater generated on the project site during a peak storm event is retained at a rate that would ensure that discharges from the site do not exceed pre-construction levels. All detention facilities shall be developed in conformance with the City's standards and the standards of the Alameda County Flood Control and Water Conservation District. The plans and specifications of the proposed detention facilities shall meet the standards of the City Engineering Department as an adequate engineering product. The construction of stormwater detention facilities may be phased to correspond with development of the project site over time, provided that adequate detention is provided at all times to ensure that runoff from the site does not exceed pre-construction levels.

4.8-4b Plans submitted for grading permits for future projects requiring storm drainage lines and water mains that cross the Hetch Hetchy Pipeline shall include measures to ensure that there is sufficient room for ~~future storm drainage lines~~these infrastructure improvements to pass over Hetch Hetchy Pipeline (i.e., placement of additional fill).

Level of Significance After Mitigation: Less Than Significant

## FLOOD HAZARD

**4.8-6 The proposed project could place housing within a 100-year flood hazard area, or place within a 100-year flood hazard area structures which could impede or redirect flood flows.**

Level of Significance Before Mitigation: Less Than Significant

*Impact Analysis*

The FIRM map panel that covers the project area (06001C0443G) shows that a portion of the Specific Plan area is located within a 100-year tidal flood zone. A portion of the Cargill property is classified as Zone AE, as are some of the western portions of FMC's property. In the event of 100-year flooding conditions, water up to an elevation of 8.24 (29 NGVD) feet above sea level would flood the area. The remaining properties are classified as Zone X, indicating that this area has 0.2 percent annual chance of flooding, or is an area of one percent annual chance flood with average depths of less than one foot or with drainage areas less than one square mile. It also indicates areas protected by levees from one percent annual chance flood.

Flooding could damage property and structures within the Specific Plan area, and pose a severe hazard to public safety. According to the Specific Plan, approximately 500,000 to one million cubic yards of fill material would be imported to the site to elevate future structures above the 100-year flood hazard area in compliance with FEMA, ACFC, and City requirements. The proposed project would be required to to comply with Section 15.40.51 of the City's Municipal Code, which has flood improvement standards for lands within special hazard flood areas as defined by FEMA. Therefore, while the proposed Specific Plan would place housing and other structures within a 100-year flood hazard area, the proposed placement of fill to raise the site elevation would reduce the impact to a less than significant level.

Due to the significant quantity of fill material required to raise elevations across the site, a long-term staged import fill operation may be needed which may include the need for interim rough grading and stockpiling plans. Additionally, because portions of the Specific Plan area are underlain with Bay Mud, surcharging may be required to create viable sites. Nonetheless, impacts would remain less than significant.

the Bay." In the immediate vicinity, the existing Bay Trail Plan calls for it to be extended along Thornton Avenue, down Willow Street, and continue along Central Avenue to the east.

### SAN FRANCISCO BAY PLAN

The San Francisco Bay Plan was completed and adopted by the San Francisco Bay Conservation and Development Commission (BCDC) in 1968 and was transmitted to the California Legislature and Governor in 1969. In those actions the Commission completed the original charge given to it in the provisions of the McAteer-Petris Act of 1965. The Act created the Commission and mandated its study of the Bay and the preparation and submittal of a final report to the California Legislature in 1969.

The San Francisco Bay Plan includes policies to guide future uses of the Bay and shoreline and maps that apply these policies to the present Bay and shoreline. Portions of the City are located under with the jurisdiction of BCDC and are within the San Francisco Bay Plan, including areas north, west and south of the project area. The Specific Plan area is not located within the San Francisco Bay Plan jurisdiction. A waterway in the northwestern portion of the Specific Plan area, referred to as the barge canal, is considered part of the Bay and BCDC has jurisdiction over a shoreline band located between the shoreline and 100 feet landward and parallel to the shoreline for public access purposes. Plummer Creek is not considered part of the Bay but is referred to as "other waters," which cannot be filled without a BCDC permit.

## 4.9.3 ENVIRONMENTAL ANALYSIS

### 4.9.3.1 THRESHOLDS OF SIGNIFICANCE

According to the Appendix G of the CEQA Guidelines, the Dumbarton TOD Specific Plan would have a significant impact on land use if it would:

- Physically divide an established community;
- Conflict with any applicable plan, policy, or regulation of a government agency with jurisdiction over land within the City of Newark that has been adopted for the purpose of avoiding or mitigating an environmental effect; and/or
- Conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan.

A 14-inch gravity line in Enterprise Drive ultimately flows to the Newark Pump Station after crossing the FMC property and the Hetch Hetchy Pipeline. This line is in disrepair, is shallow, and only serves as a redundant line to the mains in Willow Street and the SPRR in the event of excessive surcharging in those lines. The Enterprise Drive line and the Willow Street main are the only two sewer lines near the project area to cross the Hetch Hetchy Pipeline.

Dual 33-inch force mains, operated by ~~East Bay Dischargers Authority (EBDA);~~ USD traverse the site generally from south to north. These mains carry wastewater from the Irvington Pump Station (near the Fremont Boulevard and Interstate 880 interchange) to the Newark Pump Station, but do not serve the project area. These pipes are sensitive to movement and their joints are subject to failure should heavy construction or intense uses occur over or in the vicinity of the pipeline. In general, additional structural mitigation measures may need to be installed at selected locations or, as an alternative, these lines could be replaced in a new alignment within Hickory Street. The nature of the structural mitigation measures or replacement mains would be determined in conjunction with USD.

No additional improvements to the Newark Pump Station are anticipated; however, force mains conveying flow from the station to the Alvarado Treatment Plant may be undersized for buildout of the Specific Plan. An additional line or an equalization basin near the station would be needed. Required sanitary sewer improvements, ~~schedules for their implementation, and funding options~~ will be addressed in the USD Sewer Master Plan, which is scheduled for publication in ~~June, 2011~~ the summer of ~~2011~~2012. In general, most new connections to the existing wastewater collection service would be provided along the 36-inch Willow Street gravity main. A new 12-inch gravity sewer main may be required to provide service to the areas located west of the EBDA mains to avoid a potential conflict with new mains crossing EBDA mains.

The following polices will be included as a part of the General Plan Amendment for the Dumbarton TOD Specific Plan project.

- Expand the wastewater collection system such that it is adequate to serve the new development in the project area.
- Amend sewer fees and/or other financing mechanisms if necessary such that project area project sponsors pay their fair share of the costs for sewer on force main improvements.

- The USD ~~was~~ is scheduled to begin updating their Sewer Master Plan in the fall of 2010 and anticipate completion, with a document available by ~~June of~~ the summer of ~~2011~~2012. As part of the updating process, USD will gather information on planning activities at each city within its boundaries (Fremont, Newark and Union City) to help guide the Master Plan. It is important that the City of Newark continues to engage in this process and is forthright with respect to the Specific Plan, so that the Sewer Master Plan can provide concrete documentation of the upgrades required to implement the Specific Plan.

Implementation of Mitigation Measure 4.12-2 would reduce impacts to the wastewater system to less than significant.

*Mitigation Measure*

4.12-2 Prior to approval of any tentative map within the Dumbarton TOD Specific Plan area, additional necessary improvements, if any, beyond those already included in the USD Master Plan and updated fee program, shall be determined regarding proposed new connections (from such tentative map development) and then-existing or proposed wastewater facilities. Such improvements shall be installed prior to issuance of a building permit. Improvements shall be consistent with requirements in the Sewer Master Plan (anticipated to be available in ~~June~~ the ~~S~~summer of 2012). The City and USD shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which such improvements are necessary.

Level of Significance After Mitigation: Less Than Significant.

WATER SUPPLY

**4.12-3 Sufficient water supplies are available to serve the proposed project from existing entitlements and resources. No new or expanded entitlements would be required.**

Level of Significance Before Mitigation: Less Than Significant

*Impact Analysis*

The Dumbarton TOD Specific Plan area is located within the water service area of ACWC. Pursuant to SB 610, a WSA was prepared for the proposed project. The

## 4.14.2.3 EXISTING BICYCLE AND PEDESTRIAN FACILITIES

### PEDESTRIAN FACILITIES

The Specific Plan Area currently has minimal pedestrian connections and amenities. Sidewalks currently exist along Willow Street south of the Willow Street/Thornton Avenue intersection, along Enterprise Drive approximately 280 feet west of the Allepo Drive/Enterprise Drive intersection to the eastern City limit, and along Central Avenue east of Willow Street. Sidewalks do not exist along Willow Street on either side of the project frontage. The Specific Plan includes pedestrian improvements that are further discussed ~~in Section 4.14.5.3~~under Impact 4.14-3, below.

The County of Alameda has developed Countywide Bicycle and Pedestrian plans that were adopted in 2006 and are currently being updated. The Countywide Pedestrian Plan identifies areas of Countywide significance for capital pedestrian projects. Thornton Avenue, Cherry Avenue and Willow Street are all part of the proposed Bay Trail spine and, therefore, areas of Countywide significance for pedestrian projects.

### BICYCLE FACILITIES

Bicycle facilities include bike paths (Class I), bike lanes (Class II) and bike routes (Class III) (*Highway Design Manual*, Caltrans). Bike paths are paved trails that are separated from roadways. Bike lanes are lanes on roadways designated for use by bicycles. These lanes are designated by pavement striping, pavement legends and signage. Bike routes are roadways that are designated for bicycle use by signs only and may or may not include additional pavement width for cyclists. Class II bike lanes currently exist along Thornton Avenue between the northern City limit and Hickory Street and a Class III bike route between Hickory Street and Willow Street. Class III bike routes currently exist along Willow Street from Cedar Boulevard to Hickory Street and along Enterprise Drive between Willow Street and Filbert Street. Figure 4.14-4 (Existing Bicycle Facilities) displays the existing bicycle facilities. The Specific Plan includes bicycle improvements that are further discussed ~~in Section 4.14.5.4~~under Impact 4.3-4, below.

The 2006 Countywide Bicycle Plan contains a proposed Countywide Class III bicycle route that extends from Thornton Avenue southbound across SR 84 to the intersection with Willow Street. The route then travels on Willow Street south to Central Avenue and runs east until it intersects with the railroad tracks where a

proposed section of the Bay Trail parallel to the tracks would continue the route. Other planned Countywide routes in the vicinity include a proposed Class II route that continues east on Central Avenue and a proposed north-south Class II route that runs along Newark Boulevard, Brittany Avenue to Cherry Street.

### 4.14.2.4 EXISTING ROADWAY VOLUMES

Figure 4.14-5 (Existing Peak-Hour Intersection Volumes) illustrates the existing AM/PM peak-hour traffic volumes for the study area intersections. Where available, intersection counts were obtained from the City. These counts were conducted in 2006 and 2007. New traffic data at selected intersections was obtained in May 2010, where prior information was not available. The intersection of Cedar Boulevard/Newark Boulevard was counted in both data sets as a control location, which showed minimal change in peak-hour volumes between 2006 and 2010. New traffic counts are provided in Appendix G (Traffic Data).

Avenue. However, due to the built out nature of the City, limited right-of-way is available at the intersection. The City would need to exercise eminent domain to obtain the right-of-way, resulting in impacts to the land owner on the southwest corner of the intersection. Additionally, potential secondary impacts (such as increased pedestrian crossing distances and impacts to bicyclists in the corridor) would occur with the improvement. Therefore, this improvement is not feasible and the impact is considered significant and unavoidable.

Cherry Street/Mowry Avenue: Mitigation measures were identified at this intersection as part of the Area 3 and 4 Environmental Impact Report. The measures proposed included the addition of a second left-turn lane on the westbound approach, and resulting in realignment of the east and westbound approaches and modification to the traffic signal. The operations of the intersection were tested with these mitigation measures; these improvements are not sufficient to mitigate the project's impact; additionally, right-of-way to widen this approach may be needed. Therefore, other mitigation measures were identified, as described below.

The westbound approach at the intersection of Cherry Street/Mowry Avenue shall be restriped to include a right turn and a through-right turn lane. The proposed mitigation measures would allow the intersection to operate at LOS E during the AM peak-hour and LOS F with improved delay during the PM peak-hour.

I-880 NB Ramps/Mowry Avenue: The intersection of I-880 NB Ramps/Mowry Avenue shall be restripe to include a left/right share lane resulting the northbound approach having a final lane configuration of a left-turn lane, a left and right shared lane, and dual right turn lanes. The proposed mitigation measures would allow the intersection to operate at an acceptable LOS B during the AM peak-hour and LOS C during the PM peak-hour.

Table 4.14-13 illustrates intersection LOS and average vehicle delay results under Future Year 2035 Plus Project (Buildout) conditions. LOS calculation worksheets are provided in Appendix G.

## Table 3

## Special-Status Plants with Potential to Occur in the City of Newark Concept Plan Area Two

| Family<br>Taxon<br>Common Name | Status* | Flowering Period | Habitat | Area Locations | Probability on Project Site |
|---|---|---|---|---|---|
| *Cirsium fontinale fontinale*<br>Fountain thistle | Fed: FE<br>State: CE<br>CNPS: List 1B.1 | May-October | Serpentine seeps and streams in chaparral openings, cismontane woodland or valley and foothill grassland. Elevation 46-175 meters. | On CNPS 9-quad search. | None. No suitable habitat on properties in project area. No impacts expected. |
| *Helianthella castanea*<br>Diablo helianthella | Fed: -<br>State: -<br>CNPS: List 1B.2 | March-June | Broadleafed upland forest; chaparral; cismontane woodland; coastal scrub; riparian woodland; valley and foothill grassland. Elevation 60-1300 meters. | On CNPS 9-quad search. | None. No suitable habitat on properties in project area. No impacts expected. |
| *Holocarpha macradenia*<br>Santa Cruz tarplant | Fed: FT<br>State: CE<br>CNPS: List 1B.1 | June-October | Coastal prairie; coastal scrub; valley and foothill grassland; [often clay, sandy]. Elevation 10-220 meters. | On CNPS 9-quad search. | None. No suitable habitat on properties in project area. No impacts expected. |
| *Lasthenia conjugens*<br>Contra Costa goldfields | Fed: FE<br>State: -<br>CNPS: List 1B.1 | March-June | Valley and foothill grassland (mesic); vernal pools; cismontane woodlands; playas. Elevation 0-470 meters. | Only source of information for this site is from a collection made in 1895 (Occurrence No. 13) in "Newark." | Low. Very little seasonal wetland habitat onsite. Surveys would be necessary to determine plant's presence/absence. See text. |
| *Lessingia hololeuca*<br>Woolly-headed lessingia | Fed: -<br>State: -<br>CNPS: List 3 | June-October | Broad-leaved upland forest; coastal scrub; lower montane coniferous forest; valley and foothill grassland; [clay, serpentinite]. Elevation 15-305 meters. | On CNPS 9-quad search. | None. No suitable habitat on properties in project area. No impacts expected. |
| *Micropus amphibolus*<br>Mount Diablo cottonweed | Fed: -<br>State: -<br>CNPS: List 3.2 | March-May | Broad-leaf upland forest; chaparral; cismontane woodland; valley and foothill grassland. Elevation 45-825 meters. | On CNPS 9-quad search. | None. No suitable habitat on properties in project area. No impacts expected. |

# Appendix H

# Transit-Oriented Development – New Places, New Choices in the San Francisco Bay Area, A Study by the Metropolitan Transportation Commission

TRANSIT-ORIENTED DEVELOPMENT
New Places, New Choices
IN THE SAN FRANCISCO BAY AREA

*New Places, New Choices: Transit-Oriented Development in the San Francisco Bay Area*
November 2006


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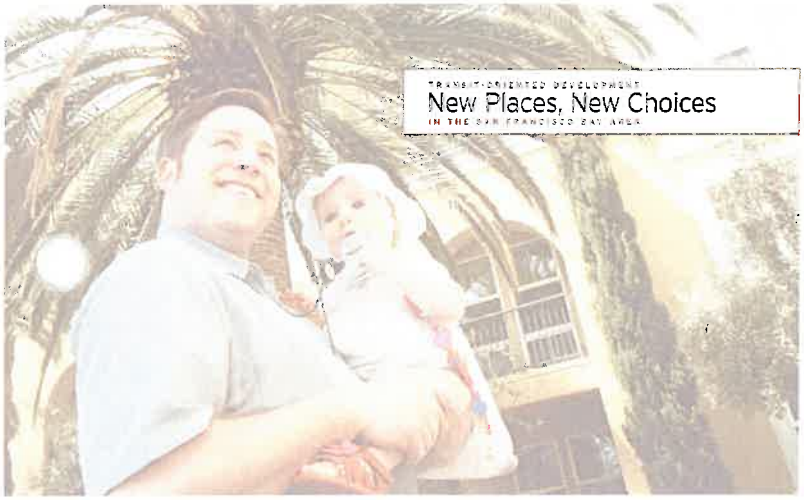
TRANSIT-ORIENTED DEVELOPMENT
New Places, New Choices
IN THE SAN FRANCISCO BAY AREA

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## New Places, New Choices

"Now available for sale or rent in the San Francisco Bay Area: Attractive, affordable homes with modern amenities in vibrant neighborhoods. All units offer excellent public transit access for gridlock-free commutes to employment centers. Convenience is key, with shops, restaurants and retail services just steps away, and walking and biking opportunities galore. Autos are optional, and any savings in gasoline, parking, maintenance and insurance costs are yours to keep. Experience the benefits of a transit-oriented lifestyle at one of the exciting new developments taking shape in Redwood City, San Jose, Pleasant Hill, Jack London Square in Oakland, Richmond, San Francisco, Santa Rosa, Vallejo, Hayward, the San Pablo Avenue Corridor in the East Bay... and in many other locations throughout the region. Come see if this new style of living is the right choice for you."

## Introduction

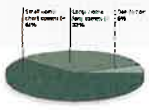
## TOD: One Strategy, Many Benefits

### What Is Transit-Oriented Development?

## TOD Benefits: Housing

**For Many, TOD Is Right Size, Right Place, Right Price**

**Demand for the TOD Lifestyle**



## TOD Benefits: Mobility

**Enhancing Transit Access, Maximizing Transit Assets**

**Demand for Housing and Jobs Near Transit**

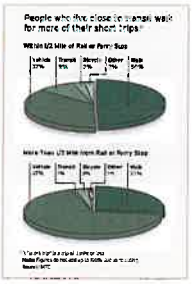
## TOD Benefits: Environment

**Living and Traveling Lighter on the Land**

**Keys to Success for TODs**

## TOD Benefits: Healthier Living

**Walking and Cycling Your Way to Better Health**



# Measuring the Benefits of TOD

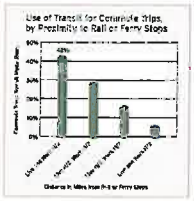
Using data gathered from over 15,000 households, the researchers developed two complementary models of each resident of the travel behavior of Bay Area residents who live in close proximity to rail and ferry stops in the region. The results, published in *Characteristics of Rail and Ferry Station Area Residents in the San Francisco Bay Area: Findings from the 2000 Bay Area Travel Survey*, published in September 2006, clearly indicate that station area residents make significantly fewer daily vehicle trips, drive less, and walk and bike much more than people living farther from these facilities.

The study does recognize that lifestyle factors, the tendency for individuals with a high propensity for using transit to live in TODs, may also contribute to these travel behaviors. Still, the study concludes that "[e]ven though many non-[ferry transit] single-driver people who prefer to drive less [live] in [rail station] areas, or whether it enables a greater amount of such travel options, this research demonstrates that policies to support transit-supportive development patterns, as well as the important link among transit, walkability, pedestrian-friendly built environment and travel behavior, can be a success in the Bay Area."

Here are (quickly) some of the study's key findings, which provide a kind of rough gauge for measuring the potential benefits of individual TOD projects.

## Proximity Matters

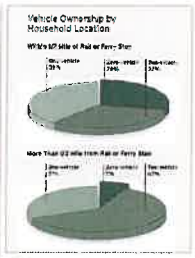
Bay Area residents who live within a half-mile of rail or ferry stops are about times as likely to use transit, three times as likely to bike, and twice as likely to walk as are those who live at greater distances.




## Transit Favored for Commute

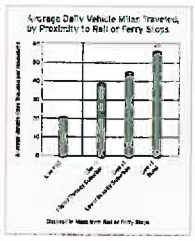
People who both live and work close to transit use it relatively more to travel to their jobs. Individuals who were working within a half-mile of rail stations and ferry terminals use transit for 42 percent of their work commute trips, while people who neither live nor work within a half-mile of such facilities use transit for only 4 percent of their work commute trips.





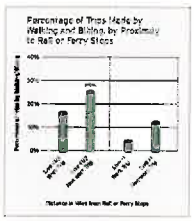

## Fewer Cars Owned

Almost [illegible] households within a half-mile of rail or ferry stations do not have a car. They are "car-[illegible] households." This means that fewer parking spaces are needed in these areas, allowing more room to be devoted to housing, parks, amenities and [illegible].




## Less Driving

People living near transit log fewer miles in the cars they do own. These households produce about half of the vehicle miles of travel of their suburban and rural counterparts. This dramatically reduces the level of [illegible] associated with a typical household.




## More Walking and Biking

People living close to transit also walk and bike far more of their trips. Those who live within a half-mile of rail and ferry stops walk or bike [illegible] percent of their work trips and 25 percent of their non-work trips, walking or biking to local stores, schools and shopping. A healthy lifestyle, this compares with 4 percent and 12 percent, respectively, for people farther from transit. Walk and bike trips help reduce [illegible].

## The Challenges for TOD

### Fulfilling TOD's Promise Will Take Careful Planning

While TOD offers housing, travel and livability options and opportunities, it also presents its own set of challenges. Mitigating or eliminating these stumbling blocks will require thoughtful and coordinated planning and implementation. Issues include the following:

- Infill and infill development may cause local traffic congestion, if not properly planned. To minimize this impact, the travel alternatives must be safe, convenient and affordable, and amenities such as grocery stores and restaurants must be developed in concert with new housing and offices.
- TODs are more complicated for developers to achieve in terms of financing and marketing since they do not fit the most established mold that has been most commonly used in the last few decades. They also require more complex and integrated planning and earlier and frequent participation by the public, community groups and transit agencies.
- TOD can accelerate gentrification. High-density, TOD living tends to attract singles, two-earner households, commuters, creatives, empty nesters and typically higher than the community area. While the build-out of some benefits, rate housing will help mitigate this effect, additional efforts to minimize displacement of existing residents, and limit their numbers may be needed.
- Existing urban areas may not have sufficient infrastructure – including water, electricity, sewers, schools and parks – to serve higher densities, and may need to invest in additional facilities. Other

support to schools, of course, is not just the physical capacity, but the quality of the school itself. Urban areas with perceived or actual low local school quality can find it difficult to attract families with young children, for whom school quality is often a decisive factor in choosing where to live. As for physical infrastructure, it is usually less expensive to provide public facilities and utilities in existing developed areas than to build new infrastructure for the greater sprawl that reaching them at the urban fringe.

- Some desirable TOD sites in the Bay Area have the toxic or underused industrial sites, brownfields or large parking lots. Other types of utilities, all potential multiple owners, may be expensively fragmented. Successful development can overcome these



## Moving Forward

### Supporting TOD at the Regional Level

[illegible] the key role in planning and building TOD belongs to cities, developers and transit operators, regional agencies also have a critical role to play. The Association of Bay Area Governments (ABAG), the Bay Area Air Quality Management District (BAAQMD), the Bay Area Metro and Development Commission (BCDC) and the Metropolitan Transportation Commission (MTC) have joined together to advance the [illegible] of transit-oriented development. All of these agencies agree that TOD is a vital piece of our future as a region.

TOD is at the heart of a regional growth strategy [illegible] encouraging compact development patterns that focus growth in downtowns, town centers and along the region's transit corridors. The "Smart Growth Strategy," [illegible] developed by the regional agencies mentioned above with the input of more than 2,000 Bay Area residents who participated in a series of workshops held throughout the region. (See Appendix A, page 36.)

In keeping with the Strategy, ABAG has developed a program to promote transit-oriented development (TOD) in multimodal corridors, and particularly heavily used rail corridors. Targeted corridors in the East Bay include San Pablo Avenue and International Boulevard/East 14th Street through Oakland and East Lee Line. On the Peninsula, ABAG is focusing on El Camino Real through San Mateo and Santa Clara counties. The goal is to revitalize key corridors and transform them into vibrant, livable "main streets" with new housing, shops, services and amenities all served by some of the all major Bay Area rail and bus transit.

All this support will be a big help, MTC in 2004 made

[illegible] regional planning policy requiring TOD as part of the planning requirements for new Bay Area transit extensions, including regional discretionary funds. (See Appendix B, page 38.) The nearly [illegible] billion in transit investments over the next 25 years. Consequently, MTC has initiated a grant program to help local governments make their plans for housing, shops and services in the vicinity of [illegible] stations more transit-friendly. MTC's Bay Area Transportation for Livable Communities Program and Housing Incentive Program [illegible] have been important catalysts in revitalizing communities and fostering TOD style projects.

Acting together as the Joint Policy Committee, the [illegible] agencies also have [illegible] a major initiative to review and update the 2002 Smart Growth Strategy. Known as "The Bay Area Challenge," the effort is engaging local governments and other stakeholders in building consensus around the location of regional priority areas for housing and other infill development. Another goal is to identify open space and other priority conservation areas deserving of protection from future development.

### Taking TOD to the Next Level: How You Fit In

Whether you are a resident looking for your next home, a developer planning to build a [illegible] or someone else, the result [illegible] of successful TOD will take working to facilitate it. The Web is a great tool to help in making TOD the standard practice in the Bay Area. For details on how you can get involved, consult the [illegible] listed at the back of this report.

## The Appeal and Diversity of Bay Area TOD

In pockets around the region, TOD is leaping off the pages of planning textbooks and manifesting in the real world. From Vallejo and Santa Rosa in the North Bay to San Jose in the South Bay, and San Francisco in the West Bay to Oakland and Pleasant Hill in the East Bay, TOD is combating long commutes and traffic, revitalizing neighborhoods, and fostering a more convenient lifestyle while also addressing the region's chronic housing shortage, particularly in the realm of affordable housing. In this section we profile 10 Bay Area projects that illustrate the variety – and the appeal – of the TOD development pattern. Using words, maps and photos, we spotlight a few of the many new places offering new choices to the region's residents.

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DOWNTOWN

## Hayward

*Residents of new housing units in downtown Hayward are six times more likely to commute regularly by transit (18 percent) than residents citywide (3 percent).*

**Downtown Hayward has achieved a good balance of commercial, residential and civic development – all transit-oriented**

[illegible] BART, downtown Hayward has become [illegible] with a mix of retail, commercial and civic facilities. Development, including over 700 new housing units, the streets and sidewalks of the area around Hayward BART have come back to life.

The transit-oriented development of downtown Hayward has been a collaborative effort. The city of Hayward's Core Area Plan (1992), set the stage for growth, while BART and the Hayward Redevelopment Authority [illegible] land to facilitate projects in close proximity to the station.

All parties recognized the need to balance development of [illegible] residential and civic land uses in the downtown core area. Today, a new city hall and public plaza (2000), streetscape improvements, new retail and residential development have that balance for the long term.

Residents of Hayward's new transit-oriented housing now have a short walk each day to a full service supermarket, drugstore and a variety of [illegible]. In addition to [illegible] retail businesses such as Big Lots and Ace Hardware, nighttime dining and entertainment options also [illegible] in the vicinity of BART. Most notably known as a center such as Cinema Place opens in 2007.

In addition to serving commuters, the new development near Hayward BART has helped transit ridership. Residents of these transit-oriented [illegible] commute by bus and rail at a rate about 6% times higher than the citywide average.

The next generation of transit-oriented development is planned for the industrial lands of the Cannery Area, west of downtown. Development [illegible] to include [illegible] units, including 60 affordable units within walking distance of both the Hayward and BART stations. Residents will be well served with a new elementary school and an expanded Cannery Park. The combination of [illegible] civic facilities, parks and family entertainment venues demonstrates that true transit-oriented development is not just for young professionals and empty nesters, but can become complete, lively, friendly communities.

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## Hayward – Downtown

**Transit:**
- **Hayward BART Station:** BART; AC Transit
- Hayward Amtrak Station: Capitol Corridor rail service; AC Transit

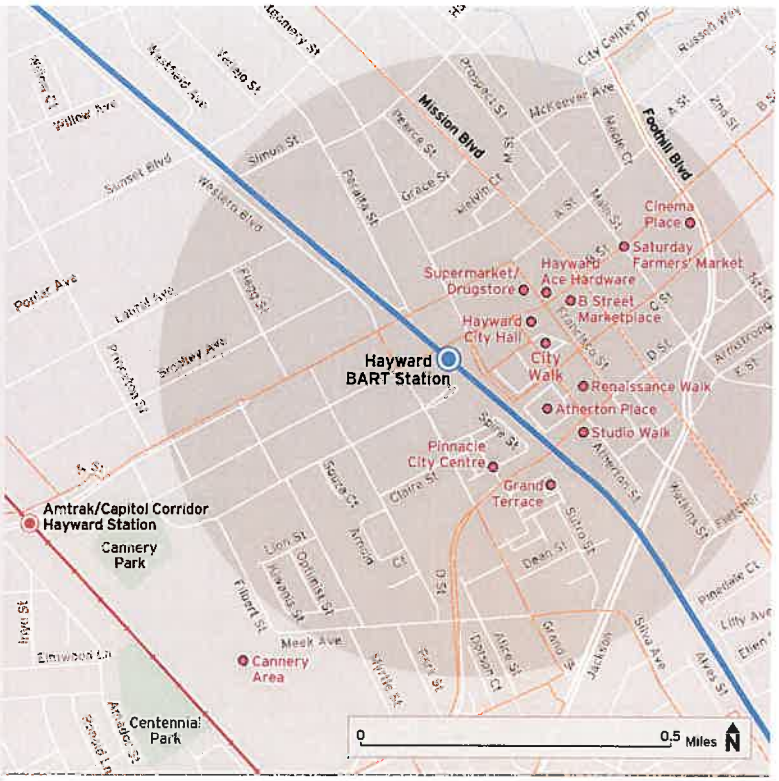
**Development highlights:**
- **Atherton Place:** 83 units (Sares-Regis Homes, 1995)
- **Pinnacle City Centre Apartments:** 192 units (Legacy Partners, 2000)
- **City Walk:** 77 townhomes (The Olson Company, 2003)
- **Renaissance Walk:** 46 condos (22 affordable) (The Olson Company, 2004)
- **Studio Walk:** 70 lofts (Ryland Homes)
- Grand Terrace Apartments: 235 townhouses (Pulte Homes)

**Amenities:**
- New streetlights, signalized crosswalks, **sidewalk landscaping and street furniture** on B Street retail corridor linking BART to the downtown core
- **New city hall and public plaza** (1998)
- **New Albertson's supermarket/Sav-On drugstore** (2002)
- **Hayward Ace Hardware store**
- Newman Park and Giuliani Plaza
- **Saturday Farmers' Market** at B Street and Main

**Planning:**
- *Hayward Core Area Plan* (1992)
- *The Cannery Area Design Plan* (2001)
- *Hayward General Plan* (2002)

**Innovations:**
- City provides **rebates for façade improvements** on B Street and other pedestrian corridors
- **Shared parking structure** for city hall and downtown retail, lined with ground-floor retail on B Street

**Future development:**
- **Cinema Place:** Entertainment complex (2007)
- **Cannery Area:** Mixed-use development with 850 residential units (127 affordable); planning entitlements have been approved for 735 of these units
- **New Burbank Elementary School** (2008)
- **Expanded Cannery Park** (2008)
- **Offices** planned for 0.75 acre parcel west of city hall
- **Senior housing complex** with 60 units combined with new offices for nonprofit developer Eden Housing




DOWNTOWN
# Hayward

Legend
- BART Line and Station
- Amtrak/Capitols Line and Station
- Bus Line
- Project/Amenity

JACK LONDON SQUARE

## Oakland

**Jack London Square is evolving into a transit-accessible, 24-hour, urban residential neighborhood**

Situated on the Oakland waterfront between Oak and Clay streets, Jack London Square was the original home of the Port of Oakland. In the 1960s, the Port moved its maritime functions to a larger terminal in the outer harbor and in the 1970s, a major redevelopment project brought shops, hotels, offices and restaurants to Jack London Square. The area's central location draws customers from throughout the Bay Area to dining and entertainment venues such as Yoshi's jazz nightclub and the Jack London Cinema.

During the 2nd term of the 1990s, residents began to settle in larger numbers near Jack London Square, drawn by the area's proximity to downtown Oakland's cultural and excellent regional transit connections. This pattern continues today. Much of the area is within walking distance of both the Lake Merritt BART station and the Oakland Amtrak Station, which provides Capitol Corridor commuter rail service to San Jose and Sacramento, as well as Amtrak intercity rail, and Local AC Transit bus connections. Nearby, at the foot of Clay Street, Alameda/Oakland Ferries depart for 13 daily roundtrips to the Ferry Building in San Francisco.

Prior to 2000, most residential development in the area involved the renovation and conversion of old warehouse buildings into condominiums and live/work lofts. As designed to accommodate a similar

[illegible] access for more walking paths, [illegible] Square.

[illegible] Square, along with retail and restaurants, as the old rental terminal into a public market and culinary exhibition center to be located near the Jack station. All of this development, particularly retail [illegible] offices, condos and entertainment venues, will benefit from good regional transit connections as well as plans to enhance pedestrian access to the waterfront via the San Francisco Bay Trail.

## Oakland – Jack London Square

### Transit:

- **C.L. Dellums Amtrak Station:** Capitol Corridor rail service; Amtrak Coast Starlight & San Joaquins; AC Transit
- **Oakland Ferry Terminal:** Alameda/Oakland Ferry; AC Transit
- **Lake Merritt BART Station:** BART; AC Transit

### Development highlights:

- **Fourth Street Lofts:** 37-unit warehouse conversion (1992)
- **Brick House Lofts:** Warehouse converted to 13 for-sale live/work units and ground-floor retail/office (Horizon Pacific, 1999).
- **New Market Lofts:** Former Safeway headquarters and warehouse building converted to 46 live/work units and four office condos (Urban Bay Properties, 2001)
- **Aqua Via:** 100 apartments in nine-story Art Deco building (Embarcadero Pacific and Urban Development, 2006)
- **The Sierra:** 229 residential units and two levels of retail and live/work space in a 12-story building (Crescent Heights, 2003)
- **The Landing:** 282 apartments in a multiple-building site at Alice Street and Embarcadero (Legacy Partners, 2001)
- **The Allegro:** Five-story, 312-unit rental project at 240 Third Street (SNK Development, 2001)

### Amenities:

- Sunday Jack London Square Farmers' **Market**
- **Jack London Cinema**
- **Waterfront restaurants** and cafes
- **Nightclubs** including Yoshi's at Jack London Square
- Proximity to downtown Oakland offices and retail

### Planning:

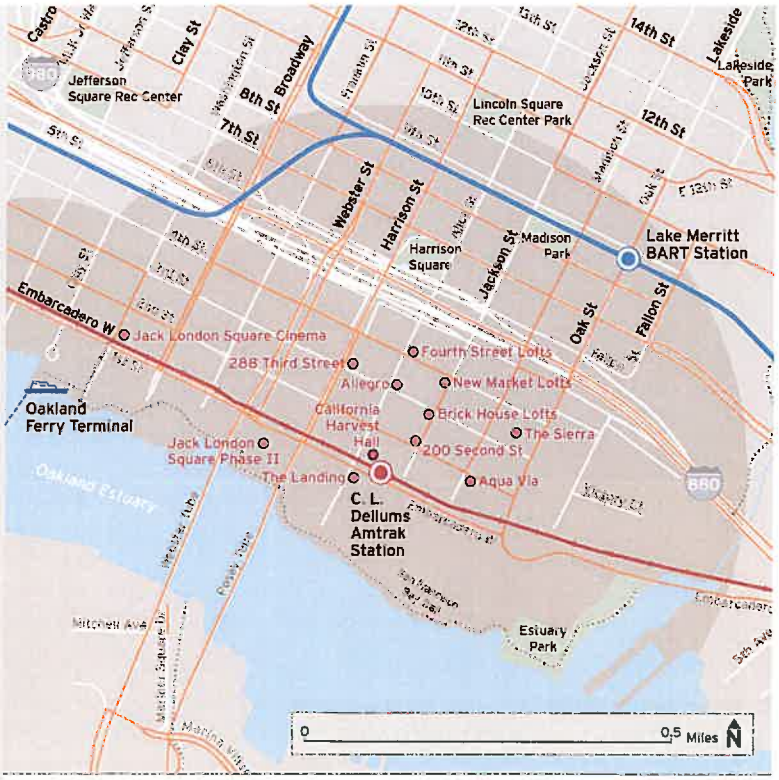
- *Land Use and Transportation Element, Oakland General Plan* (adopted 1998)
- *Oakland Estuary Policy Plan* (adopted 1999)

### Innovations:

- **Adaptive reuse** of light industrial and warehouse buildings for residential and live/work purposes

### Future development:

- **200 Second Street:** 74 condos and live/work units, retail space in six-story structure (Metrovation, 2006)
- **288 Third Street:** 91 for-sale units in new six-story warehouse-type building under construction (Signature Properties, 2007)
- **Jack London Square Phase II:** New office building, multi-theater cinema, hotel/conference center and California Harvest Hall – a new public market, culinary school and chefs' hall of fame (Jack London Square Partners, LLC)

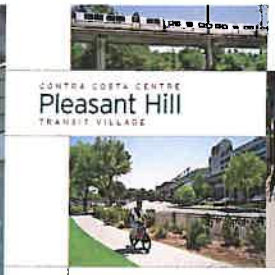



JACK LONDON SQUARE

# Oakland

Legend

- BART Line and Station
- Amtrak/Capitols Line and Station
- Ferry Terminal and Route
- Bus Line
- Trail
- Project/Amenity



CONTRA COSTA CENTRE

## Pleasant Hill

TRANSIT VILLAGE

**In the heart of suburban Contra Costa County lies one of the Bay Area's most successful TOD projects**

Pleasant Hill was the first suburban BART station to see significant development activity in the 1970s and 1980s. The Contra Costa County Redevelopment Agency (CCCRA) acquired and assembled parcels of land for future transit redevelopment around the perimeter of the BART parking lots. By the mid-1980s, the Pleasant Hill Station area had emerged as a major employment center and activity node, with 3.5 million square feet of office space rented by companies such as Wade Rose Postal Communications and Bank of the West, 4,000 new housing units established or planned, residential presence.

The second generation of transit-related development in the late 1990s brought new amenities to Pleasant Hill, allowing for structural office and retail development, including the Coggins Square affordable housing project. New streetlights, landscaping and public art enhanced pedestrian connections leading to the BART station, including the improved Iron Horse Trail, which links cyclists and pedestrians to areas north and south.

While development proceeded around the station area, controversy stalled the original plans to construct a mixed-use town center on the BART parking lots. To develop a consensus plan for this highly transit-active site, CCCRA, BART and the developers invited stakeholders to a six-day charrette planning process in 2003. The resulting design principles and final development plan for the 20-acre site included a new central plaza, transit station, a mixed-use development with 400 residential units, 50,000 square feet of retail space, and 1,000 parking spaces in a structure. The plan also called for the relocation of the existing BART parking lot to the north side of the station, to create a more pedestrian-friendly environment around the station.

## Pleasant Hill – Contra Costa Centre Transit Village

**Transit:**

- **Pleasant Hill BART Station:** BART, Benicia Breeze, County Connection, Fairfield-Suisun Transit, Livermore Amador Valley Transit (Wheels)

**Development highlights:**

- **Vodafone Plaza:** 200,000-square foot office building with ground-floor restaurant (Taylor Widrow, 1991)
- **Iron Horse Lofts:** 54 market-rate townhouses (Holliday Development, 2001)
- **Coggins Square:** 87 units of affordable housing adjacent to Iron Horse Lofts (Bridge Housing, 2001)

**Amenities:**

- **The Iron Horse Trail:** Bicycle/pedestrian path connects to Martinez, Concord, Walnut Creek and San Ramon
- **Major employers:** Bank of the West, John Muir/Mt. Diablo Health, Nextel Communications, Vodafone
- **Embassy Suites Hotel**

**Planning:**

- *Pleasant Hill BART Station Area Specific Plan* (1983)
- *Pleasant Hill BART Redevelopment Plan* (1984)
- *Pleasant Hill BART Specific Plan* (as amended in 1998)
- *Pleasant Hill BART Station Property Regulating Plan* (2002)
- *Pleasant Hill BART Final Development Plan* (2005)

**Innovations:**

- **Formation of a Joint Powers Authority** (Pleasant Hill Leasing Authority) by BART, the Contra Costa County Redevelopment Agency and Contra Costa County to manage negotiations with private developers
- **Innovative land lease:** BART property leased to developers for 100-year term
- **Collaborative charrette planning process** used to involve stakeholders and develop consensus plan

**Future development:**

- **Contra Costa Centre Transit Village** will include 209,000 square feet of offices, a 20,000-square foot convention center, over 35,000 square feet of retail space and over 550 housing units (20 percent affordable). (Pleasant Hill Transit Village, LLC, a consortium of Millennium Partners and Avalon Bay Communities)
- **Affordable housing** on Las Juntas Swim Club parking lot, east of BART station (Contra Costa Co. Redevelopment Agency)

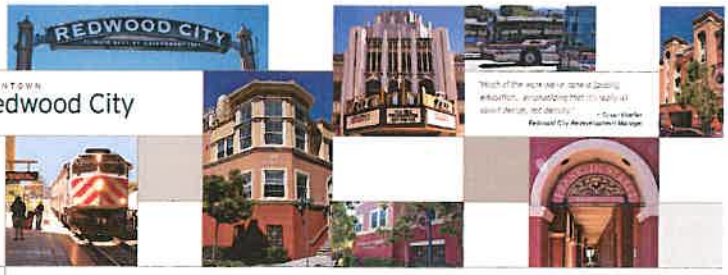
CONTRA COSTA CENTRE

# Pleasant Hill

TRANSIT VILLAGE

Legend

- BART Line and Station
- Bus Line
- Trail
- Project/Amenity




DOWNTOWN

## Redwood City

**Planners in Redwood City are hoping to attract more patrons and concertgoers from all over the Bay Area**

[illegible] Redwood City, a transit-oriented destination by leveraging the assets of its lively and historic downtown.

The city is well on its way to fulfilling this ambitious vision, as charming residents and merchants relish the fact that the 220-square-foot Fox Theatre, with three movie entertainment venues, [illegible] and cafes all located within walking distance of the Caltrain station, city leaders have [illegible] active people from throughout the Bay Area to leave their cars at home and take the train to celebrate a "night on the town" in Redwood City.

Fortunately, if you get downtown, people are encouraged to walk once they're there, since they're active. Retail-lined sidewalks with onsite [illegible] for visitors shoppers and urban dwellers, the main retail streets like Broadway and Main Street have new pedestrian plazas, and the modern City Center Plaza – which includes [illegible] – provide [illegible] space for visitors, [illegible] and entertainment [illegible].

The strong employment base and growing [illegible] have [illegible] the diverse [illegible] of Redwood City for residential development. Over 300 new [illegible] have been built near the Caltrain station in recent years. However, with [illegible] [illegible] developers [illegible] longer afford to build [illegible] zone, now able to build at least [illegible].

Recognizing that the prospect of residential [illegible] might alarm residents, the city embarked on a proactive campaign to educate and involve residents early in the development planning process. Planners hosted a series of [illegible] [illegible] employees visited sites to demonstrate that, with good design, higher density [illegible] can have a place in downtown Redwood City.

## Redwood City – Downtown

### Transit:

- **Redwood City Caltrain Station:** Caltrain; SamTrans
- **El Camino Real:** SamTrans

### Development highlights:

- **City Center Plaza Apartments:** 139 affordable units with ground-floor restaurants (Mid-Peninsula Housing Coalition)
- **Franklin Street Apartments:** 206 units (30 affordable) above retail space (Irvine Apartment Communities, 2002)
- **Montgomery Village:** Apartments under construction (First Community Housing)
- **On Broadway:** 20-screen movie theater with 85,000 square feet of ground-floor restaurant and retail space (John Anagnostou/Broadway Entertainment, LLC, 2006)
- **Le Coeur de la Ville** (formerly Tuscan Towers): 21 affordable townhomes; another 88 units proposed (Habitat for Humanity)

### Amenities:

- **City Center Plaza** just east of city hall
- **Theatre Way:** new pedestrian-priority promenade
- **Courthouse Square**
- **Post Office Paseo** linking surface public parking with the new cinema block, and expanding outdoor dining venue
- **Fox and Little Fox Theaters** on Broadway
- **Whole Foods Market**
- **Sequoia Station** retail center includes supermarket, café, drugstore and other conveniences

### Planning:

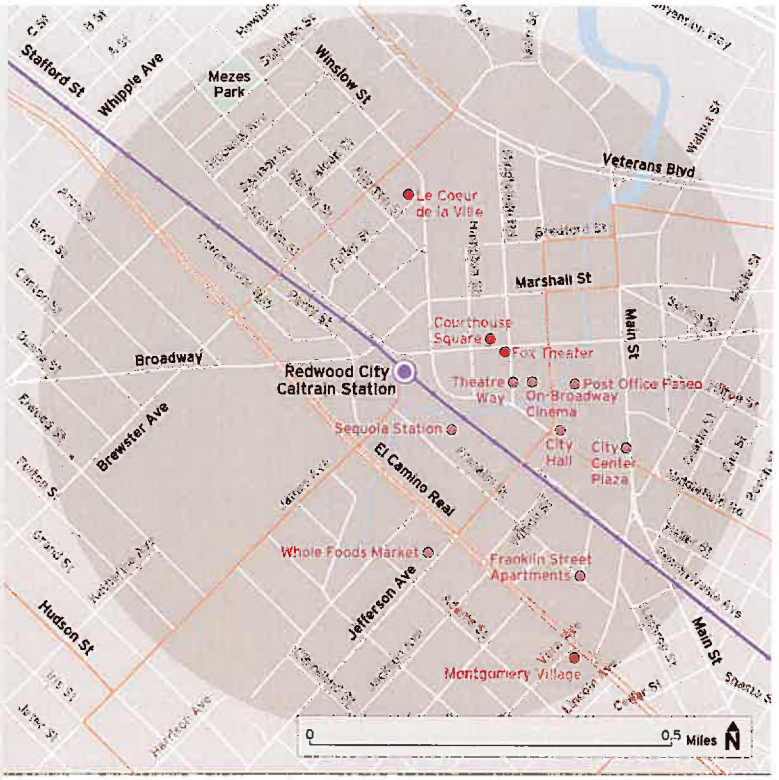
- *Redwood City General Plan* (2001, update in progress)
- *Downtown Area Plan* (introduced 2001)
- *Redwood City Downtown Precise Plan and Program EIR* (due for adoption in early 2007)

### Innovations:

- **Parking management strategy** with on-street and off-street parking rates that vary by location and time of day
- **Tax credits for rehabilitation of landmarks** in Main Street Historic District
- **Sidewalk Café Design Guidelines** encourage outdoor dining, adding vitality to downtown streets.

### Future development:

- **Downtown Precise Plan** proposes higher density with 8- to 12-story residential and mixed-use development considered in downtown core and east side of El Camino Real between Brewster and Maple.




DOWNTOWN

# Redwood City

Legend

- Caltrain Line and Station
- Bus Line
- Project/Amenity

TRANSIT VILLAGE

# Richmond

**Transit accessibility is a strategic asset in this economically disadvantaged East Bay location**

Richmond Transit Village, the new community within walking distance of the Richmond BART Transit Station, is a quintessential "new urbanist" development. Much of its appeal to its buyers, design and impact, everywhere about the Village reflects its transit oriented location.

Residents of Metro Walk, the completed first phase of the Transit Village, can walk across Nevin Plaza to Richmond Station in just two minutes to comfortably board trains to destinations throughout the San Francisco Bay Area and Northern California. Currently both residents, the Station is also a key link for AC Transit and Golden Gate Transit.

Future phases of the transit village will add more townhouses, bungalows and live/work lofts, while retail shops will be located in the southwest quadrant of the site in order to revitalize MacDonald Avenue and the area's historic commercial core.

There were many challenges in the alignment for this transition, including neighbors' skepticism of urban revitalization as well as the costs remaining of utilities and remediation for reuse. To overcome these challenges, the city's redevelopment agency joined with citizens in local public involvement, and developers joined in exploring the feasibility of the site and aggressively met their requirements for developer proposals.

Although it is still under construction, the Richmond Transit Village is already having an impact. One visible result of the Village, a mixed-use project is under development. Most importantly, the growth and revitalization of the Richmond Transit Village is a catalyst for change. Over 90 percent of residents surveyed report that proximity to transit was an important part of their decision to move to the area. These residents are reducing their travel, driving an hour. "Our household can cut the use by half since we moved here," stated one resident who appreciates the convenience of living near quality, transit service.

## Richmond – Transit Village

**Transit:**

- **Richmond Station:** BART; Amtrak/Capitol Corridor; AC Transit; Golden Gate Transit

**Development highlights:**

- **Metro Walk:** Phase I of the Richmond Transit Village; includes 132 owner-occupied townhouses (The Olson Company, 2004)

**Amenities:**

- **Station upgrades:** New elevators, platforms, canopies and bus transfer center (under construction)
- **Neighborhood park** at center of Metro Walk complex
- **Nevin Plaza** and walkway links station to Metro Walk and the rest of downtown Richmond
- **Nearby offices** of Kaiser Permanente

**Planning:**

- **Calthorpe Associates' plan** for the Richmond Transit Village won a design competition sponsored by BART and the Richmond Redevelopment Agency.

**Innovations:**

- **Development on transit agency property** (BART parking lots)
- **Use of design competition** to develop site plan

**Future development:**

- **Phase II of Metro Walk at the Richmond Transit Village** will include an additional 100 units and will bring 27,000 square feet of commercial retail space to the site, with 6,000 square feet fronting on the historic Macdonald Avenue commercial corridor.
- **12th and Macdonald:** A new mixed-use project (under development by AF Evans) one block west of the transit village will have 238 condominiums and 20,000 square feet of ground-floor retail space.
- **Richmond Greenway** bike path (under development) will link downtown Richmond with the Ohlone and Bay Trails.

TRANSIT VILLAGE

# Richmond

Legend

- BART Line and Station
- Amtrak/Capitols Line and Station
- Bus Line
- Trail
- Project/Amenity

THIRD STREET CORRIDOR

## San Francisco

**Muni's new 3.4-mile-long light-rail line reconnects and revitalizes a key city corridor**

"I can't wait for the trains to roll!" says John Rizzo, a resident of Visitacion Valley, near the southeastern end of San Francisco Muni's Third Street Light Rail Project, which is due to begin service in 2007. While the new rail line will spend 2.5 miles in the Bayview and Peninsula neighborhoods, it will connect to the rest of San Francisco's network more than just a transportation improvement. The Third Street project has magnified development concerns and opportunities, which vary significantly up and down the corridor, along with community priorities. "The Third Street corridor clearly demonstrates that there is no one-size-fits-all approach to transit-oriented development," says San Francisco County Transportation Authority Executive Director Jose Luis Moscovich.

At Bayview Park, at the northern end of the rail line, a new, six-story neighborhood is emerging alongside the tracks. The 28-acre-plus site, previously planned with a large-scale retail center, is now being developed, instead, as a mixed-income neighborhood. Visitacion Valley, at the southern end of the line, is also undergoing a transformation. San Francisco is building new housing, and over 1,000 housing units have been built. At full build-out, there will be 4,100 residents and 21,000 employees within the area's 2.7 square miles. But all this activity is taking place "behind" the Third Street rail line, creating a divide between the neighborhoods on either side of the tracks.

A different approach is needed in the southern end of the corridor. The challenge in the six-neighborhood area is to amplify the existing diverse housing choices through new infill and existing buildings and targeted development of vacant lots, without displacing long-time residents and businesses. The city is supporting this effort by providing a planned building density that is balanced and incremental.

For those living and working in and along Third Street, the transportation investment and transit-oriented economic development associated with the new Muni rail line are long overdue. In the words of Bayview's Rizzo, "This project is about helping a community feel like a neighborhood and catch up with the rest of San Francisco."

THIRD STREET CORRIDOR

# San Francisco

## San Francisco – Third Street Corridor

### Transit:

**San Francisco Muni Third Street Light Rail:**

- Phase I adds 5.7 miles to the Muni Metro System, with 18 new stations between 4th and King streets and Visitacion Valley.
- Connects to Caltrain at its depot in San Francisco, and to BART, Muni buses and other Muni trains at Market Street.
- Phase II will extend the Third Street line north to Union Square and Chinatown, via a new Central Subway.

### Development highlights:

- **Mission Bay:** 1,224 new housing units and portions of the University of California/San Francisco (UCSF) campus completed to date (Catellus Development Corporation)
- **Bayview Commons:** 29 apartments for very-low-income families (San Francisco Housing Development Corporation, 2002)

### Amenities:

- **New Oakdale-Palou Triangle public plaza** and enhanced pedestrian connections to the Oakdale Station
- **Bayview Opera House** & Ruth Williams Memorial Theater
- **UCSF** biomedical research campus in Mission Bay
- **San Francisco Giants Ballpark** in China Basin
- **New Mission Bay Branch Library**

### Planning:

- *Mission Bay Redevelopment Plan* (1998)
- *Bayview/Hunters Point Community Revitalization Concept Plan* (2000)
- *Better Neighborhoods Plan for the Central Waterfront* (2002)

### Innovations:

- **Light rail is part of the economic development strategy** for San Francisco's eastern neighborhoods, along with streetscape and façade improvements, and business retention programs.

### Future development:

- **Mission Bay** will include 6 million square feet of office space, 800,000 square feet of retail, 6,000 housing units (1,700 affordable), and 51 acres of parks and open space.
- **Bayview/Hunters Point:** 3,700 new housing units (925 below-market-rate) proposed in redevelopment area.
- ***Better Neighborhoods Plan for the Central Waterfront*** allows between 1,100 and 1,400 new housing units near Third Street.
- **Schlage Lock Redevelopment:** 800 housing units (15 percent affordable) and 100,000 square feet of retail, including a grocery store proposed for site near the Third Street Light Rail terminus in Visitacion Valley

DOWNTOWN

## San Jose

**Long known as a sprawling, car-dependent city, San Jose is remaking its downtown into the urban heart of Silicon Valley**

When the Valley Transportation Authority (VTA) began building light-rail tracks through San Jose's struggling central business district in the 1980s, planners and civic leaders saw an opportunity to stimul ate activity ra in suburban sprawl and revive downtown by energ aging transit-oriented development. Their vision and e ffort s are now paying off.

Over 12,000 housing units ha ve been constructed in downt own since the city began implement ing recommendations from a 1991 h ousing study that called for in creases in allowable building heights and densities near rail stations. Most of that gr owth has occurred along the VTA light rail lines in the downt own area. Projected commuter rail service on Caltrain, the Amtrak Capitols and the Altamont Commuter Express will, when the recently renovated Diridon Station on the west side of downtown is complete, further enhance the city's attractiveness. Meanwhile, the city's redevelopment agency has invested more than $4 30M in t ax increment financing to help spur private investment in downtown San Jose.

Transit-oriented residential projects have sprung up from San Jose Hotel to the Fairmont Plaza Apartments near Paseo de San Antonio Station, the 101 San Fernando Ap artments near Santa Clara Street Station and the Villa Torino complex near the St. James Station. There are also projects underway or planned in each of the city's eight districts, including the Alameda, Willow Glen, Japantown, Evergreen, Almaden Valley, Berryessa, Cambrian and Edenvale. Many of these projects are located within a short walk of the transit network and are designed to take advantage of the proximity to transit. Second streets and Innovation Triangle share some of these market characteristics.

Most of the development projects are market rate, and plans for the more than two dozen projects, including those in the DMPT, are proceeding in spite of the current economic slowdown. In the City of San Jose, where activity in downtown has been higher than in the suburbs, trends in market development projects reveal a shift toward high-rise residential projects. Similarly, developers are proposing more mixed-use projects, which combine residential and commercial uses in the same building. Many of these projects are located within walking distance of the downtown transit stations, and include a significant share of below-market-rate units.

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## San Jose – Downtown

**Transit:**
- **VTA Light Rail**
- **San Jose Diridon Station:** Caltrain; Altamont Commuter Express; Amtrak/Capitol Corridor

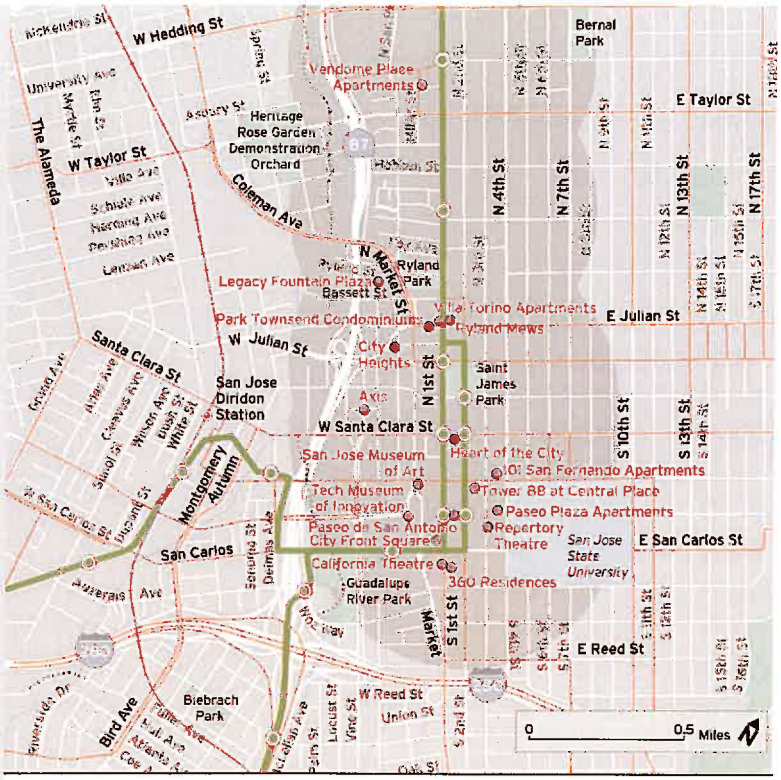
**Development highlights:**
- **Legacy Fountain Plaza:** 433 apartments (2003)
- **Paseo Plaza Apartments:** 210 apartments with ground-floor retail, near Paseo de San Antonio Station (Goldrich & Kest)
- **101 San Fernando Apartments:** 323 apartments and 10,000 square feet of retail located one block from Santa Clara Station
- **Villa Torino Apartments:** 198 apartments (40 percent affordable) one block north of St. James Park and light rail station
- **Ryland Mews:** 171 for-sale townhouses (25 percent affordable) near Japantown/Ayer Station (Barry Swenson Builder)
- **Park Townsend:** Condominiums at Julian and Market streets, near the St. James Station (Goldrich & Kest)
- **Vendome Place:** Recently completed high-rise development with 106 rental units (Barry Swenson Builder)

**Amenities:**
- **Paseo de San Antonio** pedestrian walkway
- **San Jose Museum of Art; Tech Museum of Innovation**
- **Parks:** St. James Park, Guadalupe River Park, Plaza Chavez
- **Theaters:** California Theatre; San Jose Repertory Theatre

**Planning:**
- *San Jose 2020 General Plan* (as amended in 2006)
- *Redevelopment Agency 5-Year Implementation Plan* (2005-09)

**Innovations:**
- **1989 Housing Initiative Program** encouraged TOD
- **Zoning amended** to allow 55 units per acre near transit

**Future development:**
- **Tower 88 at Central Place:** 197 condos, gym and 32,000 square feet of retail space (WMS/CIM Group; opening 2009)
- **City Front Square:** Three 25-story condo towers with 659 units (Urban West/Preservation Partners)
- **360 Residences:** High-rise tower with 203 condominiums and 11,000 square feet of retail (Mesa)
- **Axis:** High-rise project with 329 condominiums (Spring Capital Group; opening in 2008)
- **City Heights:** High-rise apartment complex under construction near St. James Station (Barry Swenson Builder)
- **Heart of the City:** 76 units in mixed-use buildings under construction at 2nd and Santa Clara streets




DOWNTOWN

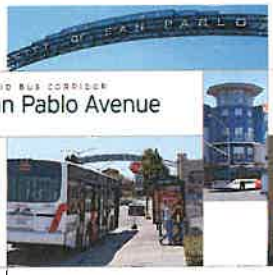
# San Jose

Legend

- VTA Light-Rail Line and Station
- Caltrain Line and Station
- Bus Line
- Trail
- Project/Amenity

RAPID BUS CORRIDOR

# San Pablo Avenue



**New "Rapid Bus" service is helping to reinvigorate neighborhoods along the San Pablo Avenue corridor**

Stretching 20 miles from downtown Oakland to the outskirts of Hercules in the north, San Pablo Avenue has long been an important link in the Key Route network of East Bay streetcar lines. Neighborhoods adjacent to the transit line in Oakland, Emeryville, Berkeley and Albany evolved as streetcar suburbs, with apartment homes and height limits serving retail establishments flanking the corridor.

With the decline of the streetcars after World War II, San Pablo Avenue became a commercial strip dominated by car dealerships, fast food restaurants, and auto repair shops.

Since the 1990s, however, a new pattern of transit-oriented infill development has emerged along this busy thoroughfare. Today, visionary developers and civic leaders are considering how to make the "Corridor of the Future," with state Assemblymember and former Berkeley Mayor Loni Hancock citing the potential of transit-oriented development to make San Pablo Avenue as a "world class boulevard."

The return of fast, reliable and frequent transit service to the corridor is a major catalyst. In 2003 AC Transit launched the new 72 R San Pablo Rapid Bus service, with express service every 12 minutes, 24 hours a day, 7 days a week. By providing the frequency, speed, convenience and reliability of light rail, the new express bus service has fostered ridership by 68 percent, increased sidewalk foot traffic, spurred private interest in transit-oriented development along the corridor – even supporting the return of a vibrant nightlife to Oakland's revitalization. Also, the Oakland/Emeryville border, for example, will rise more than 20 buildings such as the Adriatic Condominiums and Key Route Lofts are helping to reframe San Pablo Avenue and connect residents and businesses with transit.

Cities are also planning for El Cerrito and Richmond rail extensions and a joint effort by these three cities to improve the Richmond section of San Pablo Avenue. Albany, Berkeley, Emeryville and Oakland already have designated plans or programs that focus on the avenue and attempt to bring more transit oriented development to the corridor.

RAPID BUS CORRIDOR

# San Pablo Avenue

## San Pablo Avenue – Rapid Bus Corridor

### Transit

- **San Pablo Avenue Rapid Bus Corridor:** AC Transit; BART
- **Uptown Transit Center:** New transit hub under development near 19th St. BART will provide increased passenger amenities.

### Development highlights:

- **Sylvester Rutledge Manor:** 65 affordable apartments for seniors (Oakland Community Housing, Inc., 2003)
- **Andante Condominiums:** 125 condos (25 affordable) in mixed-use building in Emeryville (SNK Development, 2006)
- **Key Route Lofts:** 22 live/work lofts and three commercial units at 40th Street and Adeline in Emeryville (Urban Bay)
- **Artisan Walk Condominiums:** 72 condos (six below market rate) in Oakland (The Olson Company, 2006)
- **Margaret Breland Homes:** 28 senior housing units in Berkeley (Resources for Community Development, 2006)
- **Creekside Apartments:** 16 affordable rental units in converted motel in Albany (Resources for Community Development, 2001)
- **Albany Commons:** 22 condos in mixed-use project at Solano Avenue (Alexander Development Co., 2005)
- **The Village at Town Center:** 158 units in mixed-use development on former lumberyard in El Cerrito (Legacy Homes, 2005)
- **Del Norte Place:** 135 apartments (21 percent for seniors) and retail near BART station (John Stewart Co., 1993)
- **Monte Vista Senior Apartments:** 82 rental units in San Pablo (Simpson Housing Solutions, 2003)

### Amenities:

- **Ohlone Greenway** (Berkeley, Albany, El Cerrito)
- **International Marketplace** retail district (Berkeley)
- **Richmond Greenway** (under development)

### Planning:

- San Pablo Avenue SMART Corridor Project (multi-agency)

### Innovations:

- **First rapid bus corridor** and first bus-transit-oriented development site in the Bay Area

### Future development:

- **Uptown Oakland:** 1,300-unit mixed-use development in downtown Oakland (Forest City, 2006)
- **Creekside at El Cerrito Plaza:** 128 condos (Forest Plaza Partners/Bill Garlock & Assoc.)
- **Vitale Mixed-Use Project:** 31 condos in El Cerrito
- **Mayfair site:** 58 condos near El Cerrito del Norte BART (The Olson Company)

DOWNTOWN
## Santa Rosa

**New development and expanded downtown offerings are enhancing Santa Rosa's urban allure**

Santa Rosa, the North Bay's largest city (pop. 157,507), is fast becoming a more urban center, with expanded retail, intense cluster, pedestrian-friendly, street-scape and taller buildings to match. Most of the new urban development planned or built to date is near the city's existing and planned transit hubs.

The Transit Mall on 2nd Street brings local and regional access directly to the heart of downtown Santa Rosa. This prime location has provided an incentive for urban-scale development, through all upscale, urban-living projects such as the Durbank Apartments bringing affordable housing to the city. Other traffic-generative developments include the Courthouse Square Project, currently under review, at the southwest of the Transit Mall and a mixed use eleven-acre project on the former Wells Fargo Department store site adjacent to the post office. At 14 and 16 stories respectively, these are the tallest buildings in Santa Rosa and will add approximately 500 residents and workers downtown to support a full rail transit service and local businesses, including restaurants and other retail services.

New residents will find an inviting scene of activity, as live, evening and weekend events are adding vitality to the streets. The Santa Rosa Downtown Market offers fine food products one night a week, and a monthly Art Walk showcases local artists. Nightlife and entertainment venues like the Rave Stadium 14 movie theater and the Kin Street Playhouse are within walking distance of new condos and apartments and the Transit Mall.

Just off U.S. 101, Santa Rosa's downtown will soon be home to one of the busiest stations on the proposed Sonoma-Marin Area Rail Transit (SMART) line, which awaits voter-approved funding. The winding proposal for the vacant site west of the city's historic rail station includes plans for a Sonoma County Food & Wine Center, which city leaders hope will attract commuters and visitors alike.

Whether or not commuter trains return to Santa Rosa, the market for urban-style development in the downtown core is likely to endure for the

## Santa Rosa – Downtown

### Transit:

- **Santa Rosa Transit Mall:** Sonoma County Transit; Golden Gate Transit; Santa Rosa CityBus; Mendocino Transit
- **Railroad Square SMART Station:** Proposed commuter train service from Cloverdale to Larkspur via Santa Rosa

### Development highlights:

- **Railroad Square Terrace:** 29 condos in mixed-use building near Railroad Square Station (Hugh Futrell)
- **The Burbank Apartments:** 26 affordable housing units on 7th Street (Hugh Futrell)

### Amenities:

- **New 4th Street pedestrian corridor**
- **Historic Railroad Square commercial district**
- **6th Street Playhouse**
- **Roxy Stadium-14 movie theater**
- **Prince Memorial Greenway along Santa Rosa Creek**
- Santa Rosa Downtown Market

### Planning:

- *Santa Rosa General Plan* (as amended 2002)
- *Downtown Mid-Rise Policy* (2005)
- *Downtown Santa Rosa Market Study* (2005)

### Innovations:

- **Adaptive re-use of historic structures**
- **Green building features** in the New Railroad Square project
- **Public/private development partnership**

### Future development:

- **New Railroad Square project** includes a public plaza, 250 condos (15 percent affordable), 51,750-square foot food and wine center, 8,000 square feet of retail space and 29,400 square feet of community uses (Creative Housing Associates).
- **'White House' Mixed-Use Project:** 183 condos, 16,000 square feet of ground floor commercial space in 12-story building (Monahan Pacific Associates)
- **Traverso Site:** 10-story mixed-use project with 54 condos
- **The Moore Center Apartments:** 80 residential units above 9,000 square feet of ground-floor retail space (James Hornmer and Assoc.)
- **Comstock Mall Project:** 14-story building with 115 condos and 8,400 square feet of ground-floor retail (West Bay Developers)
- **Canners Project:** Adaptive re-use of cannery building with 65 condos and 15 live/work units (John Stewart Co.)

DOWNTOWN

# Santa Rosa

Legend

- Future SMART Line and Station
- Bus Line
- Trail
- Project/Amenity

DOWNTOWN/WATERFRONT

# Vallejo

*A strong incentive for development in downtown Vallejo is the regional accessibility provided by the Vallejo Ferry Terminal.*

## Waterfront location and historic downtown spur Vallejo's development

While down on its luck in many respects, the city of Vallejo has always had a strong sense of its own identity and pride. Founded in 1850 as the state capital of California, Vallejo's location on the Carquinez Strait and its proximity to the San Francisco Bay Area's industrial and population centers have long been key factors in the city's development. While most Bay Area cities have had to deal with the challenges of growth, Vallejo has had to contend with the problems of decline.

Perhaps the strongest incentive for development in downtown Vallejo is the regional accessibility provided by the Vallejo Ferry Terminal and a future bus transfer center that is being built nearby. Bay Area residents outside of Vallejo commute to San Francisco, either by ferry, bus, or car, via the downtown Vallejo hub. Other destinations in the North Bay, and East Bay.

Vallejo was able to take advantage of these assets and harness its full development potential by making underutilized, city-owned parking lots available for development. Callahan Station, developed by Callahan Group, a Vallejo LLC, is one of two recent transit-oriented developments in the area. Plans call for building 264 townhomes and 18,000 square feet of office space on parking lots located between the Ferry Terminal and the future bus transfer center. As these parking spaces are converted to higher uses, the city of Vallejo is also working to provide new parking options. Vallejo plans to build a 750-space parking structure.

Some transit-oriented development is planned for sites scattered throughout downtown Vallejo. The city will pay several of the parking lots to their current owners. The Lyon Company, LLC, which owns the Empress Theatre, one of the few historic properties that planners hope will bring activity downtown, believes that its project will help to revitalize the area.

## Vallejo – Downtown/Waterfront

### Transit:

- **Vallejo Ferry Terminal:** Baylink ferries and buses to San Francisco; Benicia Breeze
- **Future Bus Transfer Center:** Vallejo Transit; Benicia Breeze; Napa Valley VINE; Baylink buses

### Future Development:

- **Vallejo Station:** 265 live/work units, a 200-room hotel and conference center and 75,000 square feet of office space proposed for site across Mare Island Way from the Vallejo Ferry Terminal (Callahan/DeSilva Vallejo LLC)
- **Triad "catalyst" development sites:** Seven mixed-use buildings are planned for construction on city-owned parking lots throughout downtown, providing 1,000 residential units, and 100,000 square feet of ground-floor retail space (Triad Communities, LLC.)

### Amenities:

- **Georgia Street Extension** reconnects downtown Vallejo with the waterfront and Ferry Terminal
- **Unity Plaza,** situated at the west end of downtown, is a venue for civic functions such as the **weekly farmers' market** and **Vallejo Wednesday Night** celebrations.
- The historic **Empress Theatre** is currently being renovated and will reopen in 2007 as a live performing arts theater.
- **Vallejo Waterfront Promenade**
- **Walkable street grid,** with wide alleys (16 feet wide)

### Planning:

- *Vallejo Downtown/Waterfront Master Plan* (2000)
- *Downtown Vallejo Specific Plan* (2005)

### Innovations:

- **Density bonus:** Vallejo allows developers to construct at least one additional floor if they use sustainable building practices.
- **Parking management:** Vallejo is developing new parking management strategies for downtown, including shared parking and coordinated pricing of on-street and off-street parking.

DOWNTOWN/WATERFRONT

# Vallejo

Legend

- Ferry Terminal and Route
- Bus Line
- Trail
- Project/Amenity

# Mapping the Landscape of Bay Area TOD

## On the Ground

- **Berkeley – Downtown**
  BART, Bus, Future Rapid Bus
- **Emeryville Amtrak Station**
  Amtrak, Bus, Future Ferry
- **Hayward – Downtown**
  BART, Bus, Amtrak
- **Mountain View – Downtown**
  Caltrain, Bus, Light Rail
- **Mountain View – The Crossings**
  Caltrain, Bus
- **Mountain View – Whisman Station**
  Light Rail
- **Oakland – Fruitvale Transit Village**
  BART, Bus
- **Oakland – Rockridge BART**
  BART, Bus
- **San Jose – Diridon/Cynwoeth**
  Light Rail
- **San Mateo – Downtown**
  Caltrain, Bus

## Under Way

- **Campbell – Downtown**
  Light Rail, Bus
- **Colma BART**
  BART, Bus
- **Concord BART**
  BART, Bus
- **El Cerrito del Norte BART**
  BART, Bus
- **Hercules**
  Bus, Future Ferry, Future Amtrak
- **Morgan Hill – Downtown (not mapped)**
  Caltrain, Bus
- **Oakland – 19th Street BART**
  BART, Bus
- **Oakland – Coliseum BART**
  BART, Bus, Future Oakland Airport Connector
- **Oakland – Jack London Square**
  Amtrak, BART, ECE, Ferry
- **Oakland – West Oakland BART**
  BART, Bus
- **Palo Alto – Downtown**
  Caltrain, Bus
- **Petaluma – Downtown**
  Bus, Future Commuter Rail
- **Pittsburg/Bay Point BART**
  BART, Bus
- **Redwood City – Downtown**
  Caltrain, Bus
- **Richmond Transit Village**
  BART, Bus, Amtrak
- **San Francisco – Third Street Corridor**
  Light Rail, Bus, Caltrain
- **San Pablo Avenue – Rapid Bus Corridor**
  Bus, BART, Amtrak
- **San Rafael – Downtown**
  Bus, Transit Center, Future Commuter Rail
- **Suisun City**
  Amtrak, Bus
- **Walnut Creek BART**
  BART, Bus
- **Windsor – Downtown**
  Bus, Future Commuter Rail

## Coming Soon

- **Alameda Point**
  Future Bus, Ferry
- **Antioch – Downtown**
  Bus, Amtrak, Future Ferry, Future Commuter Rail
- **Dublin/Pleasanton BART**
  BART, Bus
- **Fairfield/Vacaville**
  Future Amtrak
- **Livermore – Downtown**
  ACE, Commuter Rail, Bus, Future BART Connection
- **Milpitas – Midtown**
  Bus, Future BART
- **Oakland – MacArthur BART**
  BART, Bus, Future Rapid Bus
- **Pleasant Hill – Contra Costa Centre Transit Village**
  BART, Bus
- **San Francisco – Balboa Park BART**
  BART, Bus
- **San Francisco – Transbay Terminal**
  Bus, Future Caltrain, Future High Speed Rail
- **San Francisco – Treasure Island**
  Bus, Future Ferry
- **San Jose – Downtown**
  Caltrain, ACE, Bus, Future BART
- **San Leandro – Downtown**
  BART, Bus, Future Rapid Bus
- **Santa Clara**
  Caltrain, ACE, Future BART
- **Santa Rosa – Downtown**
  Bus, Future Commuter Rail
- **South Hayward BART**
  BART, Bus
- **South San Francisco BART**
  BART, Bus
- **Union City BART**
  BART, Bus, Future Commuter Rail
- **Vallejo – Downtown**
  Ferry, Bus

# Smart Growth Preamble and Policies

Adopted 2002

Association of Bay Area Governments

Bay Area Air Quality Management District

Bay Conservation and Development Commission

Metropolitan Transportation Commission

## Preamble

Current land use patterns in the San Francisco Bay Area are putting intense pressure on the economic, environmental and social well-being of the Bay Area and its surrounding region. The projected addition of over one million new residents and one million new jobs in the coming decades will further challenge our ability to sustain the high quality of life we enjoy today.

To help meet this challenge, the five regional agencies of the Bay Region – the Association of Bay Area Governments, Bay Area Air Quality Management District, Bay Conservation and Development Commission, Metropolitan Transportation Commission and the Regional Water Quality Control Board – are urging the Bay Area to pursue a set of "smart growth" principles.

The principles reflect the values and objectives of the participants in the Smart Growth Strategy/Regional Livability Footprint Project and address the Bay Area's many challenges. The policies are considered with values accepted by citizens of smart growth. They are meant to encourage meeting of participation from local governments, stakeholders and residents.

The principles provide a framework for decision-making on development patterns, housing, transportation, environment, infrastructure, environmental [illegible] and social equity that can lead us toward development of vibrant neighborhoods, preservation of open space, clean air and water, and enhanced mobility choices, while enhancing the Bay Area's [illegible] ability surrounding regions.

## Policies

### Jobs/Housing Balance and Match

Improve the jobs/housing balance through the development of housing in [illegible] locations, and both in proximity to public transportation, adequate supply of affordable housing and improved efforts to match [illegible] and location of available jobs.

### Housing and Displacement

Improve existing housing and develop sufficient new housing to provide for the housing needs of the Bay Area community. Support efforts to improve housing affordability and limit the displacement of residents from their communities.

### Social Justice and Equity

Improve conditions for all people, and specifically low-income and minority communities, to live in safe, healthy and vibrant communities, have access to jobs, housing, and public services for all residents in the region.

### Environmental Natural Resource, Open Space and Agricultural Preservation

Protect and preserve open space, agricultural lands, other natural lands, watersheds and ecosystems throughout the region. Promote development patterns that protect and improve air quality. Protect and enhance the San Francisco Bay and Delta.

### Mobility, Liveability and Transit Support

Develop a [illegible] liveability by [illegible] infill, transit-oriented and walkable communities and compact development at appropriate densities. Develop multi-family housing, mixed-use development, and alternative transportation to lessen car dependency for all members of the community.

### Local and Regional Transportation Efficiencies

Provide opportunities for transit use and alternative modes of transportation besides improved roads, but high occupancy (HOV) systems and "fast" services, as well as enhanced walking and biking. Increase competitive cost/benefit and disruption alternatives in [illegible] investment, including investment that [illegible] stable and "fast" services, as well as walking and biking. Promote investments that adequately maintain the existing transportation system and improve the efficiency of transportation infrastructure.

### Infrastructure Investments

Improve and maintain existing infrastructure and support future investments that promote smart growth including water and land recycling, brownfield cleanup and reuse, multi-use and co-location facilities, smart building codes, retention of historic character and resources, and educational environments.

### Local Government Fiscal Health

Improve the fiscal health of local governments by promoting stable and secure revenue sources, and by reducing service deficits and through smart growth, targeted infrastructure improvement, and state and regional investment. Local incentives. Support cooperative efforts among local jurisdictions to address tourism and commercial development, infrastructure costs and provision of services.

### Coordination on Smart Growth Policies

Encourage all governments, school districts and other constituents in the Bay Area to cooperate in supporting actions consistent with the adopted Smart Growth Policies. Encourage state legislators, the governments and stakeholders to remove barriers to support actions that will lead to intra-regional smart growth benefits.

Appendix B

# MTC Resolution 3434: Transit-Oriented Development (TOD) Policy for Regional Transit Expansion Projects

Adopted 2005

## 1. Purpose

The San Francisco Bay Area is widely recognized for its beauty and its vitality. It is projected to grow to almost two million people and one and a half million jobs by 2030. This presents a daunting challenge to the sustainability and the quality of life in the region. Where and how we accommodate this future growth, in particular where people live and work, will help determine how effectively the transportation system can handle this growth.

The more people who live, work and study in close proximity to public transit stations and corridors, the more likely they are to use the transit systems and reduce their auto trips. Transit riders mean fewer vehicles competing for limited road space. The result is a greater market demand for more vibrant, walkable and transit-convenient lifestyles by stimulating the construction of at least 40,000 new housing units along the region's major new transit corridors and will help to contribute to a projected 50 percent increase in transit ridership by the year 2030.

This TOD policy addresses another important way that the region's investments in new transit expansion across the Bay Area's diverse housing market, creating vibrant new communities and helping preserve regional open space. The policy includes three transportation requirements that mandate local actions by the public and the private sector to work together to create development patterns that are more supportive of transit.

**Table 1: Resolution 3434 Transit Expansion Projects Subject to Corridor Thresholds**

| Project | Location | Mode | Corridor is met with current development? |
|---|---|---|---|
| BART Core Capacity Program Elements | [illegible] | [illegible] | [illegible] |
| BART – Warm Springs Extension to San Jose/Santa Clara | [illegible] | [illegible] | [illegible] |
| AC Transit Bus Rapid Transit: Phase 1 | [illegible] | [illegible] | [illegible] |
| San Leandro Bus Rapid Transit: Phase 1 | San Leandro | San Leandro Transit Center | No |
| Caltrain Modernization Program: Electrification | [illegible] | [illegible] | [illegible] |
| Muni Third Street Light Rail Transit Project: Phase 3 – new Central Subway | Muni | 4th Street | No |
| Contra Costa Rail | [illegible] | [illegible] | [illegible] |
| Dumbarton Rail | [illegible] | [illegible] | [illegible] |
| Expanded Ferry Service Phase 1 | [illegible] | [illegible] | [illegible] |
| Expanded Ferry Service Phase 2 | [illegible] | [illegible] | [illegible] |

These are three key examples of the regional TOD policy:

(1) Corridor-level thresholds to identify appropriate minimum levels of development around transit stations for new projects;

(2) Station-area plans that address future land-use changes, station-area needs, circulation improvements, parking plans & requirements, and other key features to ensure that the overall transit corridor will support high levels of transit ridership; and

(3) Corridor working groups that bring together congestion management agencies (CMAs), cities and county planning staff from all corridor jurisdictions, other stakeholders to define expectations, timelines, roles and responsibilities for all aspects of the transit project development process.

## 2. TOD Policy Application

The TOD policy only applies to physical transit expansion projects in Resolution 3434 (see Table 1). The policy applies to any physical transit extension project with regional discretionary funds, regardless of level of funding. Resolution 3434 investments that only entail a level of service improvement, or other added amount without physically extending the system, are not subject to the TOD policy requirements. Simple station additions or improvements along an alignment are not subject to the TOD policy, nor is the accessibility or provision of parking.

## 3. Definitions and Conditions of Funding

For purposes of this policy, "regional discretionary funding" consists of the following sources identified in the Resolution 3434 funding plan:

- FTA Section 5309 – New Starts
- FTA Section 5309 – Bus and Bus Facilities Discretionary
- FTA Section 5309 – Rail Modernization
- Regional Measure 1 – Rail Bridge Tolls
- Regional Measure 2 – Bridge Tolls
- Interregional Transportation Improvement Program – Intercity rail
- Federal Earmark Discretionary
- AB 1171 (Dibdin Bill)
- CARB Carl Moyer/AB 434 (Bay Area Air Quality Management District)*

*The Carl Moyer and AB 434 funds are not a source of funding for New Starts projects in Resolution 3434, but have been programmed to Resolution 3434 projects in the past.

**Table 2: Regional TOD Policy Implementation Process for Transit Extension Projects**

| Transit Agency Action | City Action | MTC/ABAG/3434 Action |
|---|---|---|
| [illegible] | [illegible] | [illegible] |
| Environmental Review (Preliminary Engineering) | [illegible] | [illegible] |
| **Step 1 – Threshold** | | |
| Final Design | [illegible] | [illegible] |
| **Step 2 – Transit Oriented Development** | | |
| Construction | [illegible] | [illegible] |

These regional funds may be programmed and allocated in conjunction with, or in preparation for, addressing the requirements of the TOD policy. But funds may be programmed and allocated in advance of a decision or initiation of meeting all requirements. In the case of transit preservation, the TOD or project delivery requirements is essential. No regional funds will be programmed and allocated for construction until the requirements of this policy have been satisfied. See Table 2 for a more detailed explanation of the planning process.

## 4. Corridor-Level Thresholds

Each transit extension project funded in Resolution 3434 must plan for a minimum number of housing units along the corridor. These corridor-level thresholds vary by mode of transit, with more costly, intensive modes requiring higher numbers of housing units (see Table 2). The corridor designations have been developed based on a combination of existing transit ridership, or existing housing densities that in the Bay Area, local general plan data, predicted transit demand for TOD-oriented housing in each

**Table 3: Corridor Thresholds Housing Units – Average per Station Area**

| Station Type | Density | Jobs Ratio | Net Density Factor | Commercial Ratio | Acres |
|---|---|---|---|---|---|
| Corridor Threshold | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |

[illegible]

country and a major employment activity hub, the station can host substantial residential development.

- Meeting the corridor's development threshold requires that within a half-mile of all stations, a combination of existing land uses and planned land uses meet or exceed the overall corridor threshold for housing (see Table 3).
- Plans will be tested each year to determine the corridor's progress toward meeting the corridor threshold. The annual Station Area Planning Grants Program will be the primary mechanism for providing funding for the development of TOD plans.
- To be counted toward the threshold planned development must be adopted through a general plan, and the appropriate implementing documents must be in place (i.e., zoning, specific plan, development agreement, or other mechanism). Projects that are in the pipeline, but not yet approved, may be counted toward the threshold if they are consistent with adopted TOD plans or adjacent corridor development. Projects that are not consistent with adopted TOD plans will not be counted toward the threshold. Projects that are in the pipeline, but not yet approved, may be counted toward the threshold if they are consistent with adopted TOD plans or adjacent corridor development. Projects that are not consistent with adopted TOD plans will not be counted toward the threshold.

Minimum densities will be used to help jurisdictions to assess achievement of the threshold.

- All existing and planned housing units within the station corridor will be counted in calculating the corridor threshold.
- New (since market housing units will receive a 50 percent bonus toward meeting the corridor threshold (i.e., one planned new market housing unit counts for 1.5 housing units for the purpose of meeting the corridor threshold). Deed market for the purposes of the Resolution 3434 TOD policy, affordable to 60 percent of area median income for rental units and 100 percent of area median income for owner-occupied units.
- The land use densities in each corridor will determine the land use plan for the area as well as the pedestrian, zoning, design standards, parking policies, etc. for implementation. The plans shall at a minimum include the following elements:
- Current and proposed land use by type of use and density, within the half-mile radius with a clear identification of the number of existing and planned housing units and jobs;

## 5. Station Area Plans

Each proposed physical transit extension project seeking funding through Resolution 3434 must demonstrate that the thresholds for the corridor are met through existing development and adopted station area plans that commit to all jurisdictions to a level of housing that meets the threshold. This requirement may be met by multiple station area plans accompanied by supportive zoning and implementation mechanisms. If most station area plans are needed to meet the corridor threshold, MTC staff will work on the plans. The Station Area Plans shall be completed by local governments in consultation with local transit agencies. Also, staff in the Area Development units (ADAC), MTC and the congestion management agencies.

Station Area Plans are applicable to define relevant milestones. Accessible transit villages and mixed-use transit oriented development – places where people will want to live, work, shop and spend time. These plans should incorporate mixed-use development, including new housing, neighborhood serving retail or employment uses, as well as care centers, parks and other amenities to serve the local community.

At a minimum, Station Area Plans will define the land use and policies in the area as well as the pedestrian, zoning, design standards, parking policies, etc. for implementation. The plans shall at a minimum include the following elements:

- Station area and station access plan for the station, that includes a long-term vision for the station area;
- Identification of the key stations that will be the focus of the station area plan;

# Credits

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Page 29: [illegible]

**Santa Rosa – Downtown**

Page 30: Kevin Bonk
Page 31: [illegible]

**Vallejo – Downtown/Waterfront**

Page 32: Peter Beeler
Page 33: [illegible]

**Resources**

More information on transit-oriented development, including examples and related technical assistance, can be found in the following:

Association of Bay Area Governments (ABAG)
[illegible]
www.bayareavision.org and www.abag.ca.gov

Bay Area Air Quality Management District (BAAQMD)
[illegible]
Spare the Air: www.baaqmd.gov

San Francisco Bay Conservation and Development Commission (BCDC)
[illegible]
Bay Trail: www.bcdc.ca.gov

Metropolitan Transportation Commission (MTC)
[illegible]
Transit Oriented Development: www.mtc.ca.gov/planning/tod.htm

**To obtain additional copies of this publication,** contact the MTC/ABAG Library:

**510.817.5836 Phone**
library@mtc.ca.gov Email

Publication of this report was made possible by grants from the Federal Transit Administration, the Federal Highway Administration, the San Francisco Bay Area Air Quality Management District, and the Bay Conservation and Development Commission.

HELIX
Environmental Planning

# Gateway Station West Project

## Final Supplemental Environmental Impact Report

December 2015

Prepared for:
**City of Newark**
**Community Development Department**
37101 Newark Boulevard
Newark, CA 94560

Prepared by:
**HELIX Environmental Planning, Inc.**
11 Natoma Street, Suite 155
Folsom, CA 95630

# GATEWAY STATION WEST PROJECT
# NEWARK, CALIFORNIA
# FINAL SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

*Prepared for:*
**City of Newark**
**Community Development Department**
37101 Newark Boulevard
Newark, CA 94560

*Prepared by:*
**HELIX Environmental Planning, Inc.**
11 Natoma Street, Suite 155
Folsom, CA 95630

**December 2015**

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Draft Supplemental Environmental Impact Report

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# A. INTRODUCTION

## Final Supplemental EIR Contents

This document, together with the Draft Supplemental Environmental Impact Report (Draft SEIR), constitutes the Final Supplemental Environmental Impact Report (Final SEIR) for the proposed Gateway Station West Project in the City of Newark (City), California. The Final SEIR has been compiled into two volumes as described below:

- **Volume I** consists of (A) this Introduction; (B) a list of commenters on the Draft EIR; (C) individual comment letters received during the public comment period and the City's responses to comments; (D) a list of errata to the Draft SEIR that are hereby incorporated into this Final SEIR; and, (E) a Mitigation Monitoring and Reporting Program (MMRP). **Volume II** consists of the Draft SEIR, which is not attached to this document but is incorporated herein by reference. Specifically, no changes to the Draft SEIR have been implemented during the FEIR process, with the Draft SEIR already included in the public record and available for review at the following City website:

  http://www.newark.org/images/uploads/comdev/pdfs/Projects/Gateway_SEIR_Aug2015.pdf.

In accordance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, the Final SEIR will be made available to the public prior to consideration of certification of the SEIR. All documents referenced in this Final SEIR are available for public review online at the City of Newark's website: http://www.ci.newark.ca.us/ and at the following locations:

City of Newark
Community Development Department
37101 Newark Boulevard
Newark, CA 94560

Hours available:

Monday - Friday: 8:00 a.m. to 5:00 p.m.
Closed on intermittent Fridays:

City of Newark Branch Library
6300 Civic Terrace Avenue
Newark, CA 94560
510.795.2627

Sunday: 1 p.m. – 5 p.m.
Tuesday and Thursday: 1 p.m. – 9 pm.
Wednesday and Friday: 10 a.m. –6 p.m.
Saturday: 10 a.m. – 5 p.m.

## SEIR Public Review and Certification Processes

The Draft SEIR was circulated to affected public agencies and interested parties. The public comment period for the Draft SEIR opened on August 3, 2015 and continued through September 16, 2015, meeting the mandated 45-day comment period per Section 15105 of the State CEQA Guidelines.

The Draft SEIR was circulated to responsible agencies and other public agencies having legal jurisdiction over the environment that could potentially be affected by the proposed project via the State Clearinghouse (SCH No. 2014082022), along with the required Notice of Completion

(NOC) and Environmental Document Transmittal form. Simultaneously, notices of availability of the Draft SEIR were published in the local newspaper and on the City's website.

According to the State Public Resources Code (Section 21081), no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

1. Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effect on the environment.

2. Those changes or alterations are within the responsibility and jurisdiction of anotherpublic agency and have been, or can and should be, adopted by that other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.; and

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

These findings, prepared as part of the CEQA 15091 Findings and Statement of Overriding Considerations, have been prepared for this Project and are part of the Project package before the decision makers during Project consideration.

In conjunction with the Findings and Statement of Overriding Considerations, the City will consider whether to certify the Final SEIR as complete and in compliance with CEQA and State CEQA Guidelines; and must also consider the Final SEIR, including all comments received on the Draft SEIR and responses provided, in recommending approval or denial of the Proposed Project. Public input is allowed at the Planning Commission and City Council hearings held to consider this Final SEIR and the Project's related discretionary actions. In the final review of the Proposed Project, environmental, economic and social factors will be considered to determine the most appropriate course of action.

The Final SEIR is intended to be used by the City and any Responsible Agencies in making decisions regarding the project.

## ORGANIZATION OF THE FINAL SEIR

This document, which includes responses to comments and text revisions, has been prepared in accordance with Section 15088 of the State CEQA Guidelines. The remainder of this Final SEIR includes the following sections:

- *Section B – List of Comment Letters Received on the Draft SEIR.* This section contains a list of California state and local agencies, as well as private parties, who submitted written comments on the Draft SEIR.

- *Section C – Responses to Comments Received on the Draft SEIR.* This section contains copies of the written comments received on the Draft SEIR and the responses to those comments. The comments and responses are provided in side-by-side format for the ease of the reader.

- *Section D – Revisions to the Text of the Draft SEIR.* This section provides a brief list of clarifying errata describing substantive changes to textual passages in the Draft SEIR following public review. These changes are incorporated into the Final SEIR.

- *Section E – Mitigation, Monitoring and Reporting Program.* The MMRP incorporates all of the mitigation measures committed to in the Draft SEIR, and identifies: (1) timing of measure implementation; as well as (2) the City/Agency personnel responsible for monitoring. It also contains date and initial lines to verify the monitoring, as well as identification of whether there are additional issues or steps required prior to ultimate sign-off.

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## B. LIST OF COMMENTERS

During the public review period, verbal comments and comment letters were received on the Draft EIR from the following agencies, governments, organizations, and individuals listed below.

| LETTER | NAME | ADDRESS/DATE |
|---|---|---|
| **PUBLIC AGENCIES** | | |
| A | Governor's Office of Planning and Research, State Clearinghouse and Planning Unit | 1400 10th Street<br>P.O. Box 3044<br>Sacramento, CA 95812-3044 |
| B | California Department of Transportation (Caltrans) | District 4<br>P.O. Box 23660<br>Oakland, CA 94623-0660 |
| C | Alameda County Water District | 43885 South Grimmer Blvd.<br>Fremont, CA 94538 |
| **PRIVATE FIRMS/CITIZENS** | | |
| D | Cargill, Inc. | 7220 Central Avenue<br>Newark, CA 94560 |
| E | Ashland, Inc.<br>c/o Barry J. Shotts (attorney at Law) | 1224 Edwards Street<br>Saint Helena, CA 94574 |

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# C. COMMENT LETTERS AND RESPONSES

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STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT

EDMUND G. BROWN JR.
GOVERNOR

KEN ALEX
DIRECTOR

September 17, 2015

SEP 2 2

Terrence Grindall
City of Newark
37101 Newark Boulevard
Newark, CA 94560

Subject: Gateway Station West Residential
SCH#: 2014082022

Dear Terrence Grindall:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on September 16, 2015, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

> "A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 10th Street P.O. Box 3044 Sacramento, California 95812-3044
(916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

A1 This communication documents the period of public review, confirms that the Project has "complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act" and transmits a comment letter (individually provided and responded to below from the California Department of Transportation, District 4). No response is necessary.

**Document Details Report**
**State Clearinghouse Data Base**

| | |
|---|---|
| *SCH#* | 2014082022 |
| *Project Title* | Gateway Station West Residential |
| *Lead Agency* | Newark, City of |
| *Type* | SIR Supplemental EIR |
| *Description* | Note: Reference SCH# 2010042012 |

The project site is within the Dumbarton Transit Oriented Development (TOD) Specific Plan area with a purpose of facilitating development of a new neighborhood in close proximity to a train station planned separately as part of the Dumbarton Rail Service (DRS) Project. The proposed project includes the development of ~699 single and multi-family residential units on ~41 acres, as well as approximately 13.6 acres of designated open space. The proposed residential development is consistent with the approved TOD Specific Plan area's Low-density Residential (LDR), Medium-density Residential (MDR), and Medium/High-Density Residential (MHDR) land use designation.

**Lead Agency Contact**

| | |
|---|---|
| *Name* | Terrence Grindall |
| *Agency* | City of Newark |
| *Phone* | (510) 578-4208 *Fax* |
| *email* | |
| *Address* | 37101 Newark Boulevard |
| *City* | Newark *State* CA *Zip* 94560 |

**Project Location**

| | |
|---|---|
| *County* | Alameda |
| *City* | Newark |
| *Region* | |
| *Lat / Long* | 37° 31' 00" N / 122° 03' 16" W |
| *Cross Streets* | Hickory Street (east); Enterprise Drive (south) |
| *Parcel No.* | Parcel 1 of Parcel Map 9837 |
| *Township* | 5S *Range* 2W *Section* 11 *Base* MDB&M |

**Proximity to:**

| | |
|---|---|
| *Highways* | SR 84 |
| *Airports* | No |
| *Railways* | Union Pacific |
| *Waterways* | San Francisco Bay |
| *Schools* | Newark Jr. High |
| *Land Use* | Former Industrial area/Low-density Residential, Medium-density Residential, and Medium/High Density Residential |

*Project Issues* Air Quality; Biological Resources; Geologic/Seismic; Noise; Toxic Hazardous; Traffic/Circulation; Water Quality; Water Supply, Wetland/Riparian; Growth Inducing; Cumulative Effects; Other Issues; Aesthetic/Visual; Archeologic-Historic; Drainage/Absorption; Flood Plain/Flooding; Recreation/Parks; Population/Housing Balance; Soil Erosion/Compaction/Grading; Vegetation; Landuse

*Reviewing Agencies* Resources Agency; Department of Fish and Wildlife, Region 3; Department of Parks and Recreation; San Francisco Bay Conservation and Development Commission; Department of Water Resources; Office of Emergency Services, California; California Highway Patrol; Caltrans, District 4; Department of Housing and Community Development; Air Resources Board; Regional Water Quality Control Board, Region 2; Native American Heritage Commission; Public Utilities Commission

*Date Received* 08/03/2015 *Start of Review* 08/03/2015 *End of Review* 09/16/2015

Note: Blanks in data fields result from insufficient information provided by lead agency

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

**DEPARTMENT OF TRANSPORTATION**
DISTRICT 4
P.O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
FAX (510) 286-5559
TTY 711
www.dot.ca.gov

*Serious Drought. Help save water!*

September 16, 2015

ALA084459
ALA-84-PM 3.5
SCH# 2014082022

Mr. Terrence Grindall
Planning Division
City of Newark
37101 Newark Boulevard
Newark, CA 94560

**Gateway Station West Project – Draft Supplemental Environmental Impact Report**

Dear Mr. Grindall:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above. Our comments seek to promote the State's smart mobility goals that support a vibrant economy and build active communities rather than sprawl. We have reviewed the Draft Supplemental Environmental Impact Report (SEIR) and have the following comments to offer.

B1

***Project Understanding***
The proposed project will consider development of 589 single- and multi-family residential units and associated infrastructure (parking areas, parks, trails, storm water facilities, and roadway and utility infrastructure) on approximately 41 acres of the site. The project site is planned within the Dumbarton Transit Oriented Development (TOD) Specific Plan Area, which was approved by the City in 2011. State Route (SR) 84 is approximately one mile north of the project area. There are two SR 84 interchanges at Thornton Avenue and Newark Boulevard that provide access to the project site. Interstate 880 (I-880) also provides regional access to the project area from interchanges at Mowry Avenue and Thornton Avenue.

B2

***Mitigation Responsibility***
As the lead agency, the City of Newark (City) is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

*"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability."*

B1 Your review of the Project is appreciated and acknowledged. The Project summary matches the Project description and is accurate regarding location of interstate and state route facilities in the general vicinity of the Project.

B2 The City agrees that traffic impacts associated with the Project require mitigation. Mitigation measures are specified in Section 4.10.5 of the Draft SEIR. As discussed in Section 4.10.5, no significant direct impacts were identified for State facilities. Significant cumulative impacts were identified at the SR 84 Eastbound ramps and Thornton Avenue, I-880 northbound ramps at Mowry Avenue; and on the segments of I-880 between SR 84 Eastbound and Thornton Avenue and Mowry Avenue to Stevenson Boulevard, respectively. Specific mitigation was identified for both

B2 cont. ramps impacts within City jurisdiction. The comment requests "fair share contribution." As stated in Section 4.10.6 of the Draft SEIR:

> Mitigation in the form of the applicant paying all applicable transportation-related fees prior to issuance of building permits for a Specific Plan use would be required; however, payment of these fees would only partially mitigate the impacts of the Specific Plan. The [mitigation measures] proposed to reduce impacts to roadway segments would not be feasible (for example, as described in the Specific Plan EIR Section 4.14.4.8, because a roadway is outside of the City's jurisdiction, or because limited ROW is available to allow for roadway improvements such as lane addition or widening); additionally, the fee programs would not fully fund all the mitigation necessary.

Although the payment of these fees would address Project impacts, as indicated by the "fair share" language, improvements might not occur until fair share payments are received by others as well. As a result, and in respect of the fact that only Caltrans has the power to modify State facilities and in accordance with CEQA Guidelines Section 15091, a conservative assessment of significant and unmitigated was made for the Project's effects.

Mr. Terrence Grindall, City of Newark
September 16, 2015
Page 2

***Transportation Analysis***
Given the project represents a sizeable portion of development within the Dumbarton TOD Specific Plan Area, our office believes the AM and PM generated traffic is likely to significantly impact State Facilities at SR 84 and I-880 and their associated on- and off-interchanges. Table 4.10-3 of the Project's SEIR demonstrates the AM and PM generated net new trips as 343 and
B3 443 vehicles per hour, respectively (pg. 4.10-16). Please clarify how the project's trip generation is only slightly greater than the calculated trip generation for the approved land uses for the Dumbarton TOD Specific Plan EIR. If trip generation exceeds what was previously analyzed, then our office recommends the report include the associated turning movements per study intersection under these scenarios: Existing, Project Only, 2035 Cumulative, and 2035 Cumulative + Project Conditions.

***SR 84 Project Mitigation***
Mitigation Measure 4.14-6 states, "An additional eastbound right turn lane on the SR 84 eastbound off-ramp at the intersection of SR 84 eastbound ramps/Thornton Avenue shall be provided (SEIR, p.2-13)." The SEIR concludes that the proposed mitigation measure is not feasible because the intersection is outside of the City's jurisdiction, or because limited right-of-way (ROW) is available to allow for roadway improvements.

Caltrans does not agree with the assertion that completion of the mitigation measure identified cannot be assured because it they are located outside of the City's jurisdiction. The City can
B4 negotiate a co-operative agreement with Caltrans or other agencies where the City agrees to make a fair-share payment towards improvements that the applicable agencies agree to implement in a timely manner. Given the project's contribution to area traffic and its proximity to SR 84, we believe that the City and County should work with Caltrans to build an additional eastbound right turn lane on the SR 84 eastbound off-ramp to be funded by local traffic mitigations fees. The project may also contribute fair share transportation impact fees toward multi-modal improvements and regional transportation projects in order to better mitigate and plan for the impact of future cumulative growth on the regional transportation system. These contributions would be used to lessen future traffic congestion and improve transit in the project vicinity.

***Vehicle Trip Reduction***
Caltrans encourages the City to locate future housing, jobs and employee-related services near major mass transit centers with connecting streets configured to facilitate walking and biking. This would promote mass transit use thereby reducing regional VMT and traffic impacts.
B5 Suggested Travel Demand Management (TDM) strategies include lower parking ratios, dedicated carpool or car-sharing parking, additional bicycle parking, among others. Residents can also receive transit passes at a reduced rate in lieu of free parking. TDM programs should be monitored and documented with annual reports to demonstrate effectiveness. This smart growth approach is consistent with MTC's Regional Transportation Plan/Sustainable Community

*"Provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability"*

B3 Changes in trip generation between the Cargill site in the Dumbarton TOD Specific Plan EIR and the Gateway Station West Project are due to changes in building typologies in the development. As stated in Appendix K, *Transportation Evaluation Memorandum-Gateway Station West Transportation Analysis Memorandum*, paragraph 3, page 2:

> The proposed Gateway Station West project would generate approximately 23 more daily trips, 3 more AM peak hour trips and 18 more PM peak hour trips than the Cargill project. However, previous entitlements granted or in review in the Dumbarton TOD Area have generated similar or fewer trips than analyzed in the SP EIR. Due to previous entitlements generating fewer trips than analyzed in the SP EIR, the total combined trip generation of approved and pending entitlements, including the Gateway Station West development, would not exceed the trips assumed in the SP EIR. Therefore, the proposed project would result in off-site transportation impacts consistent with the SP EIR."

Paragraph 1 on Page 4 further clarifies the conclusions of the memorandum in the following statement:

In conclusion, the trip generation estimate confirms that the Gateway Station West development generates similar trips to the land uses identified for the site within the SP EIR and that other entitled developments within the Dumbarton TOD would generate fewer trips than assumed in the SP EIR. Therefore, we do not anticipate that the development would cause off-site transportation impacts that were not already identified in the SP EIR (associated with development of the Gateway Station West site). The SP EIR identifies all transportation related impacts by the Gateway Station West project or combined with other entitled developments within the Dumbarton TOD.

B4 The assessment of significant and unmitigated does not mean that the City would not provide the cited mitigation. Consistent with CEQA Guidelines Section 15091(a)(2), although the City can provide fair share payments to help pay for improvements on I-880, only Caltrans can implement the improvements—and if Caltrans should choose not to do so, the City would have no recourse. The City intends to coordinate with Caltrans regarding a cooperative agreement addressing the City's fair share responsibility, and for use of those fair share funds in the most effective manner. Ultimately, however, only the Lead Agency for the improvements, i.e., Caltrans, can implement this mitigation. The disclosure in the SEIR is appropriate.

B5 Consistent with this comment, the proposed project is designed to place future housing next to a major mass transit center, with easy access to jobs and employee-related services. As noted in the comment, this would reduce regional VMT and traffic impacts. The TDM and parking ratio information cited in the comment will be carefully reviewed by the City for implementation (and implemented as appropriate) if the project is approved.

B5 cont. Strategy goals of both increasing non-auto mode transportation, and reducing per capita VMT by 10 percent each. For information about parking ratios, see the Caltrans funded MTC report, *Reforming Parking Policies to Support Smart Growth*, or visit the MTC parking webpage at the following websites:
http://www.mtc.ca.gov/planning/smart_growth/parking/parking_seminar/Toolbox-Handbook.pdf
http://www.mtc.ca.gov/planning/smart_growth/parking

B6 ***Habitat Restoration and Management***
Project level activities related to habitat restoration and management should be done in coordination with local and regional Habitat Conservation Plans, and with Caltrans where our programs share stewardship responsibilities for habitats, species and/or migration routes.

B7 Should you have any questions regarding this letter or seek additional information, please contact Sherie George at (510) 286-5535 or sherie.george@dot.ca.gov.

Sincerely,

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse



B6 The Draft SEIR's required Mitigation Monitoring and Reporting Program provides specific mitigation measures to compensate for all of the project's adverse effects on biological resources. As specified in Section 4.3.5 of the Draft and Final SEIR, the City would work closely with the California Department of Fish and Wildlife, the Regional Water Quality Control Board, and the U.S. Army Corps of Engineers, as appropriate, during any habitat disturbance and/or restoration. Also as appropriate, the City would coordinate with the adjacent Plummer Creek Wetland Mitigation Bank, located to the south of the Project. Coordination with (and, as required) permitting review by these agencies, and with Caltrans as appropriate, would ensure that the Project would not adversely affect any existing and applicable local or regional Habitat Conservation Plans.

B7 The contact information is appreciated. Thank you.

ALAMEDA COUNTY WATER DISTRICT

DIRECTORS
MARTIN L. KOLLER, President
JUDY C. HUANG, Vice President
JAMES G. GUNTHER
PAUL SETHY
JOHN H. WEED

43885 SOUTH GRIMMER BOULEVARD • FREMONT, CALIFORNIA 94538
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MANAGEMENT
ROBERT SHAVER, General Manager
SHELLEY BURGETT, Finance
STEVEN D. INN, Water Resources
STEVE PETERSON, Operations and Maintenance
ED STEVENSON, Engineering and Technology Services

September 10, 2015

SEP 14

Terrence Grindall
Assistant City Manager
City of Newark
37101 Newark Boulevard
Newark, CA 94560

Dear Mr. Grindall

Subject: Written Verification of Sufficient Water Supply for the Gateway Station West

C1 ACWD has received the City's request for a Water Supply Verification (WVS) for the 589-unit Gateway Station West project (Gateway) (see Attachment A). Gateway lies within the Dumbarton Transit Oriented Development (TOD) Specific Plan for which ACWD completed a Water Supply Assessment in October of 2010 (WSA) (see Attachment B). Gateway is the first of several developments within the TOD which will rely upon the WSA for completion of their respective Supplemental Environmental Impact Reports (EIR). The Gateway project is a combination of 321 single-family residential units, 268 multi-family units, local parks/recreation areas, and undeveloped land on a 54.5 acre area. Because Gateway exceeds 500 residential units, it requires an additional written verification of sufficient water supply (written verification, WVS) under California Water Code Section 66473.7.

C2 The 2010 WSA found that the TOD was consistent with ACWD planning assumptions and included in our forecast and water supply planning and our 2010-2015 Urban Water Management Plan (UWMP). The area within the TOD that Gateway will occupy was considered for 669 units in the Specific Plan, the 2010 WSA and the original EIR; therefore the 589 unit Gateway proposal represents a net decrease in size and water demand from what was considered and deemed to have sufficient water supply in 2010. Since completion of the 2010-2015 UWMP, there have been no substantive changes in ACWD's long-term water supply assumptions and therefore the analysis in both the UWMP and 2010 WSA remain the same. Based on the analysis and documentation within the 2010 WSA, as supplemented by the content of this letter, ACWD confirms that there are sufficient water supplies available for the Gateway

C1 The City agrees with the ACWD's summary of the Gateway project and the reason that the City made a request for a Water Supply Verification (WSV).

C2 The City agrees that the current project proposes fewer homes on the project parcels than were proposed under the Dumbarton TOD Specific Plan and appreciates the confirmation that water supplies were found to be adequate under ACWD's 2010-2015 UWMP and the 2010 WSA. This WSV provides useful clarification and updated information to the WSA, with no changes to significance findings. In addition to its incorporation into the Final SEIR through its complete inclusion in these comment letters, it has been included in its entirety as an addendum to Appendix L of the EIR.

C2 cont.

Station West Project during normal, single-dry, and multiple-dry years within a 20-year projection that will meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses. ACWD's written verification is based on ACWD's UWMP and the 2010 WSA.

C3

Since the 2010 WSA was completed, there have been four successive years of low rainfall and the State is currently experiencing a severe drought. Consequently, ACWD has declared a water shortage emergency and has adopted a Water Shortage Emergency Ordinance. Drought and water shortage contingency plans are fully consistent with ACWD's long-term planning and are documented in the UWMP. To address the current conditions, the following updates supplement the 2010 WSA, by Section, which may also be helpful for the Project's supplemental EIR.

**SECTION 1 INTRODUCTION**

**BACKGROUND**

C4

As a result of four successive years of low rainfall, the State is currently experiencing a severe drought. Due to the record-dry conditions, Governor Edmund G. Brown proclaimed a drought emergency on January 17, 2014 ordering, amongst other actions, State agencies to execute a statewide conservation campaign to reduce water usage by 20%. On March 13, 2014, ACWD Board of Directors adopted Ordinance No. 2014-01 declaring a water shortage emergency and adopting water use regulations, restrictions and guidelines for the water shortage emergency (see Attachment C), designed to achieve a 20% service area-wide reduction in water use by prohibiting wasteful uses of water and limiting landscape irrigation. On July 29, 2014 the State Water Resources Control Board (SWRCB) adopted statewide emergency conservation regulations that largely mirrored the District's Ordinance prohibitions.

As the drought entered its fourth year, the State passed additional emergency conservation regulations on March 27, 2015 which extended and expanded the regulations adopted in 2014[1]. These regulations were further expanded and adopted on May 5, 2015. During the intervening month, the Governor issued another Executive Order on April 1, 2015 which included, for the first time ever, a mandate to reduce statewide water use, specifically by 25% from 2013 levels. In response, the SWRCB replaced the statewide target established in July of 2014 with agency-specific goals based on each agency's average residential gallons per capita per day (R-GPCD), as reported to the State, for July 2014 - September 2014; ACWD's target reduction is 16% from its baseline use between July 2013-December 2013, and January/February 2013. The SWRCB also expanded water agency reporting requirements and added additional end-

[1] March 27, 2015 Regulations included: prohibiting irrigation during and within 48 hours following measurable rainfall, prohibiting restaurants from serving water unless requested, requiring hotels/motels to offer guests the option to not have linens/towels laundered daily and required water agencies to notify customers about leaks within the customer's control

C3 The City acknowledges ACWD's finding that the drought and water shortage contingency plans are consistent with the ACWD's long-term planning as documented in the UWMP. Responses to updates to the 2010 WSA are provided below.

C4 This information, updating State actions in 2014 and 2015 relative to drought provides useful clarification. Through inclusion of the WSV in these responses to comments, as well as an addendum to Appendix L, these clarifications have been incorporated into the Final SEIR.

City of Newark
Page 3
September 10, 2015

C4 cont.

user prohibitions including prohibiting irrigation with potable water of ornamental turf on public medians and called for new standards for irrigation of landscaping in new development. The new development standards are addressed under an emergency regulation adopted by the Building Standards Commission in June 2014 and through a revised Model Water Efficient Landscape Ordinance (MWELO) that all cities will be required to adopt. The revised MWELO includes much stricter efficiency standards for irrigation systems and greatly limits the installation of non-functional turf for new developments and for renovated landscapes at existing developments.

The District's Ordinance is consistent with the revised State goal for ACWD and therefore has not been changed, even though the savings target was reduced from 20% to 16%. Water demand for FY 2014-2015 was 38,500 AF, or roughly 20% less than the pre-drought demand as well as the baseline demand reported in and contemplated by the WSA.

**SECTION 2 WATER DEMAND**

**WATER DEMANDS – ACWD SERVICE AREA**

C5

It is anticipated that the current State and ACWD water conservation regulations will have a lasting, long-term effect of reduced demand for water and therefore it is anticipated that ACWD's post-drought water demand forecast will be reduced from the previous forecast reported in the 2010-2015 UWMP and Table 2 of the Dumbarton TOD WSA. Post-drought demand reductions have been historically demonstrated and are a result of customers embracing and implementing conservation and water-use efficiency measures during a drought. Such actions include increased rate of replacement of old, high water-use plumbing fixtures with new, more efficient water-use plumbing fixtures as well as replacing high water-use landscaping, such as ornamental turf grass, with drought tolerant plants and hardscape. Also, the stricter MWELO and plumbing code efficiency standards included in the Governor's April 2015 Executive Order will result in a reduction in forecast future demands.

Should the demand forecast be reduced as anticipated, there will be a corollary improvement in long-term water supply reliability. These updates will be further studied in the fall of 2015 and reflected in the 2015-2020 UWMP.

**WATER DEMANDS – GATEWAY STATION WEST PROJECT**

***Estimation of Project Water Demands***

The following estimated water demand for the Project updates the project information in Table 5 of the WSA, which considered the entire TOD Specific Plan development and resulting water demand.

C5 These paragraphs clarify the historical effect of drought demand reductions on future post-drought demand levels, and the related potential for future increases in long-term water supply reliability, as well as updates to water demand anticipated for the proposed project based on the specific proposed unit count. Through inclusion of the WSV in these responses to comments, as well as an addendum to Appendix L, these clarifications have been incorporated into the Final SEIR.

Table 5 Water Demands for the Gateway Station West Project

| Element | Planning units | | GPD/ Unit | Demand estimate (AF/yr.) |
|---|---|---|---|---|
| Residential (2,000 ft² lots) | 379 | Dwelling units | 179 | 76 |
| Residential (3,000 ft² lots) | 210 | Dwelling units | 247 | 58 |
| Open space | 4.57 | Acres | 4,630 | 24 |
| Estimated Total Project Demand *(rounded to nearest 100 AF)* | | | | 158 |
| Water Supplies Required *(8.4% Unaccounted for Water)* | | | | 172 |
| Approximate peak day demand in mgd *(1.6x peaking factor)* | | | | 0.25 |

C5 cont.

**IMPACTS OF DROUGHT ON DEMANDS**

***Current Drought Restrictions Apply***

As discussed in Section 1, the State of California is imposing water use restrictions, regulations, and standards due to the severe drought and ACWD is operating under a water shortage emergency ordinance. These restrictions will remain in place through the end of the water shortage emergency. The Project is subject to all water use restrictions and limitations as described in Ordinance No. 2014-01 until it is rescinded by the Board. In addition, ACWD may adopt additional water use restrictions or implement other measures should they become necessary. Additional restrictions could potentially include limitations on new service, such as denying new or additional water service connections, and therefore impact new development in the service area, including the Project, while the drought persists. Chapter 10 of the 2010 UWMP, *Water Shortage Contingency Plan*, describes a non-exhaustive list of potential actions the District may take under various water shortage scenarios.

C6

**SECTION 3 WATER SUPPLY**

**LOCAL SOURCES**

***Niles Cone Groundwater Basin***

On September 16, 2014, the Governor signed the Sustainable Groundwater Management Act (Act) into law establishing a new structure for groundwater management, recognizing that groundwater management in California is best accomplished locally. Since the District was created by statute to manage groundwater resources, ACWD is identified in the Act, as a statutorily designated agency. As a result, ACWD can comply with the Act

C7

C6 Both the City and the applicant fully understand that the project would be subject to water use restrictions and limitations described in Ordinance No. 2014-01, and that additional measures or limitations may be required, up to and including denial of new or additional water service connections while the drought persists.

C7 This discussion addresses the ACWD's responsibility to manage groundwater. As noted, although the framework for implementation of the mandate is still in development, it would not have a negative impact on the reliability of local groundwater supply. In addition, the discussion clarifies that the "critical dry year" assumptions for planning analysis remains 1977, consistent with the current UWMP.

by either meeting specific requirements outlined in the Act for functionally equivalent plans or by becoming a groundwater sustainability agency. The framework for how the Act will be implemented is still in development. However, the implementation of the Act will not have a negative impact on the reliability of local groundwater supply.

**WATER SUPPLY IN NORMAL AND DRY YEAR CONDITIONS**

***Water Supply under Critical Dry Year Conditions***

ACWD's UWMP defines 1977 as the single critical dry year for planning analysis as required under the Urban Water Management Planning Act. While ACWD had to declare a Water Shortage Emergency in 2014, seeking a 20% reduction in demand, 1977 remains the single most critical water supply year for ACWD planning and therefore the analysis in the UWMP is unchanged.

ACWD planning criteria, as described in ACWD's UWMP for a single critical dry year, takes into account that State Water Project (SWP) deliveries would be reduced to approximately 10% of the maximum contractual amounts (referred to as the "Table A" amounts in the SWP contracts) during single critically dry years. On January 31, 2014, DWR announced a zero allocation of SWP entitlements for the first time in its 54-year history. Although the allocation was subsequently raised to 5%, this water was not available before September 1, 2014, after the typically high summer demand season. This disruption of the SWP supply source led to ACWD declaring a Water Shortage Emergency, following plans outlined in the Chapter 9 of the UWMP *(Water Shortage Contingency Plan)*.

7 cont.

Despite the less than 5% allocation, total water supply available to ACWD in 2014 was greater than that which is projected to be available under hydrologic conditions of 1977. Local rainfall-runoff used to recharge the Niles Cone Groundwater basin was marginally higher in 2014 than in 1977. Similarly, SFPUC supply in 2014 was higher than that projected for 1977. Whereas the SFPUC only requested a voluntary 10% reduction in 2014, they estimate that they would require a mandatory 20% reduction under the hydrologic conditions of 1977 should they occur again with present day demands, facilities and operating requirements, as is documented in the UWMP.

**SECTION 4 WATER SUPPLY AND DEMAND ANALYSIS**

**SINGLE DRY YEAR WATER SUPPLY**

In 2014, ACWD experienced a water supply emergency due primarily to interrupted delivery of SWP as discussed in Section 3. In addition to challenges on the SWP, local supply rivaled all-time driest supply and the SFPUC called for a voluntary 10% reduction in water use from 2013 levels. Despite these challenges, the water supply conditions of 1977 remain the single driest conditions in ACWD's planning data and, therefore, the

C7 cont.

single dry year reliability data reflected in ACWD's UWMP Table 8-3 and in Table 14 of the WSA remains unchanged.

**SECTION 5 SUMMARY AND CONCLUSIONS**

For purposes of this written verification, ACWD revisited the Summary and Conclusions section of the WSA factoring in all that is set forth in this letter. This conclusion remains unchanged – the Gateway project demand, which is lower than projected in the WSA, is consistent with the planning assumptions and is included in ACWD's forecast and water supply planning. The existing and on-going water shortage emergency does not impact this conclusion because ACWD implemented, and will continue to implement, its water shortage contingency plan as contemplated by ACWD's UWMP. However, given the passage of almost 5 years since the approval of the WSA, the following paragraphs in the Summary and Conclusions of the WSA, which apply to the entire TOD, are tailored for this WVS for the Gateway project.

C8

A. Paragraph 8 of WSA. ACWD is currently in a Water Shortage Emergency and has implemented the Water Shortage Emergency Plan as detailed in the UWMP. ACWD has secured additional supplies through the DWR drought water bank in 2014, as well as a transfer from Contra Costa Water District (CCWD) in 2013. ACWD has also implemented a drought contingency plan. Because the Project's demands are consistent with the UWMP demand forecast, the development of the Project will not result in increased shortages from that which is already factored into ACWD's planning. The project is subject to the water use restrictions set forth in Ordinance No 2014-01, the current SWRCB emergency regulations and other state restrictions, and all future regulations, restrictions and limitations that may be adopted by ACWD, the state, or other government agencies.

B. Paragraph 9 of WSA. The Water Efficiency Measures for New Developments have been updated; please refer to Attachment D to this written verification.

C. Paragraph 10. In 2010 ACWD was contemplating a recycled water project at the Dumbarton Storm Water Pumping Station, adjacent to the TOD, and required the Project to implement recycled water for non-potable uses when developed. This recycled water source was ultimately not included in ACWD's Preferred Projects identified in the 2010 ACWD-USD Recycled Water Feasibility Study and is therefore not available for the Project.

D. Paragraph 13. This written verification is based on the proposed land use of the Gateway Station West Project, as provided to ACWD by the City of Newark (documented in ATTACHMENT A). If, prior to Project approval, the proposed land use within the Project area changes from what is currently incorporated in this written verification, ACWD will evaluate the impacts that these changes may have on ACWD's water supplies. In the event that the land use changes impact the

C8 This section provides specific edits to the 2010 WSA Summary and Conclusions that are tailored to the proposed project as opposed to the entire Dumbarton TOD Specific Plan, and restates the findings that project demands are consistent with UWMP findings, as well as clarifying that Water Efficiency Measures for New Developments have been updated (found in Attachment D of this WSV) and that a previously considered recycled water project was not included in the 2010 ACWD-USD Water Feasibility Study. Through inclusion of the WSV in these responses to comments, as well as an addendum to Appendix L, these clarifications have been incorporated into the WSA and the Final SEIR.

The discussion also clarifies that future changes in the proposed project design could require additional review of effect on water supplies, with related additional mitigation identified during subsequent environmental review. Such changes are not a part of the currently proposed project, however, and the potential for subsequent review should the project be revised is understood. No additional action at this time is required at this time.

C8 cont.

conclusions of this written verification, ACWD may require additional mitigation measures as a condition of providing water service to the Project. If the proposed land use changes occur after Project approval and approval of the final subdivision maps, ACWD will evaluate the potential water supply impacts of these changes, and may require additional mitigation as a condition of providing water service to those areas with the changed land use condition.

Sincerely,

Robert Shaver
General Manager

TN:bbm
Enclosures

**Attachment A -** Letter of Request for Water Supply Verification; email communication and development details for all of Dumbarton TOD parcels
**Attachment B -** 2010 Dumbarton TOD Water Supply Assessment, report only
**Attachment C -** Water Shortage Emergency Ordinance (ACWD Ordinance No. 2014-01)
**Attachment D -** Updated Water Efficiency Measures for New Developments

COPY

RESOLUTION NO. 15-055

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT APPROVING THE WRITTEN VERIFICATION OF SUFFICIENT WATER SUPPLY FOR THE GATEWAY STATION WEST PROJECT

WHEREAS, California Government Code Section 65867.5 requires that a development that includes a subdivision with 500 or more housing units shall not be approved unless a written verification of sufficient water supply is provided pursuant to California Government Code Section 66473.7;

WHEREAS, on May 29, 2015, the District received the City of Newark's (City) request for a written verification of sufficient water supply for the 589 housing unit Gateway Station West Project (Project);

WHEREAS, the Project is a subset of the Dumbarton Transit Oriented Development Specific Plan for which the District completed a Water Supply Assessment (WSA) in October 2010;

C9

WHEREAS, since the WSA was completed, there has been four successive years of low rainfall, the State of California is experiencing a severe drought, and the District has adopted an Ordinance declaring a water shortage emergency;

WHEREAS, droughts and water shortage emergencies are consistent with the District's long-term planning and are contemplated in the District's 2010-2015 Urban Water Management Plan (UWMP);

WHEREAS, staff has reviewed the Project details and concluded that they are consistent with the District's planning assumptions and water supply analysis in the UWMP and WSA, which documents the sufficiency of water supply; and

1

C9 This resolution is an action by the ACWD Board of Directors documenting: the need for an WSV, and the request from the City for such a WSV; acknowledgement of four years of drought conditions; consistency of those conditions with planning documented in the District's UWMP; consistency of the project with the UWMP and WSA (documenting sufficiency of water supply); approval of the ACWD WSV; and authorization to send such verification to the City. This is provided for documentation of background/information provided in the ACWD letter of September 10, 2015, and no response is required.

C9 cont.

WHEREAS, staff has prepared a written verification of sufficient water supply for the Project that is based on the analysis in the WSA as supplemented to address the current water shortage emergency conditions.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Alameda County Water District that the written verification of sufficient water supply for the Gateway Station West Project is hereby approved and the General Manager is authorized to send the written verification of sufficient water supply to the City of Newark.

PASSED AND ADOPTED this 10th day of September, 2015, by the following vote:

AYES: Directors Huang, Gunther, Sethy, and Koller

NOES: None

ABSENT: Director Weed

Martin L. Koller, President
Board of Directors
Alameda County Water District

ATTEST:

Andrew Warren, Assistant District Secretary
Alameda County Water District
(Seal)

APPROVED AS TO FORM:

Patrick T. Miyaki, Attorney
Alameda County Water District

2

Attachment A

CITY OF NEWARK, CALIFORNIA

May 28, 2015

Robert Shaver, General Manager
Alameda County Water District
43885 S. Grimmer Blvd.
Fremont, CA 94538

RECEIVED
MAY 29 2015
A.C.W.D.

**Regarding: Gateway Station West Water Supply Assessment Verification**

Dear Mr. Shaver:

The City of Newark is implementing the approved Dumbarton Transit Oriented Development Specific Plan. The Specific Plan was approved in 2011, and a Water Supply assessment was done at that time. A 589-unit phase of the Specific Plan project is now under consideration.

As the California Environmental Quality Act (CEQA) Lead Agency, the City of Newark is preparing a Supplemental Draft Environmental Impact Report tiered from the Dumbarton Transit Oriented Development (TOD) Specific Plan EIR for a project within the Specific Plan area.

The 589-unit Gateway Station West residential development consists of a combination of 241 single-family residential (SFR) units, 268 multi-family residential (MFR) units, local parks/recreation areas, and undeveloped land. In general, the 54.5-acre Gateway Station West project was approved for 669 SFR and MFR dwelling units within the 2,500 residential dwelling unit Specific Plan; the project is a 12 percent reduction in residential development intensity from levels in the approved Specific Plan.

C10

In October 2010, the Water Supply Assessment (WSA) for the Dumbarton TOD Specific Plan was prepared by the Alameda County Water District (ACWD) in accordance with California Water Code Section 10610(d)(1). The WSA addresses the water supply needs associated with implementation of the Specific Plan as a whole. The Gateway Station West project is on property within the Specific Plan area. There are two provisions in the WSA that address subsequent projects within the Specific Plan area (i.e., Items 12 and 13 in the Summary and Conclusions of the WSA, respectively).

> Item 12 notes that "...ACWD will be required to issue a written verification ensuring sufficient water supply if a residential subdivision is part of the Project..." And requires a re-evaluation of the WSA assumptions and conclusions, as well as implementation of additional mitigation measures as a condition of providing water service if applicable.
>
> Item 13 notes that if proposed land uses assumed in the WSA are changed, ACWD is required to evaluate the effect of such changes on water supply/demand conclusions and implement additional mitigation, if applicable.

C10 Attachment A provides documentation of the City's request to the ACWD for a WSV for Gateway Station West. This is provided for documentation of background provided in the ACWD letter of September 10, 2015, and no response is required.

C10 cont.

The City of Newark is requesting a water supply verification, in accordance with Government Code Section 66473.7, to ensure that the water supply demand for the Gateway Station West project is taken into account in the WSA for the Dumbarton TOD Specific Plan. As the Supplemental EIR is already in process, we would respectfully request a timely response to this letter. Please identify a contact person in your agency, and send your response to:

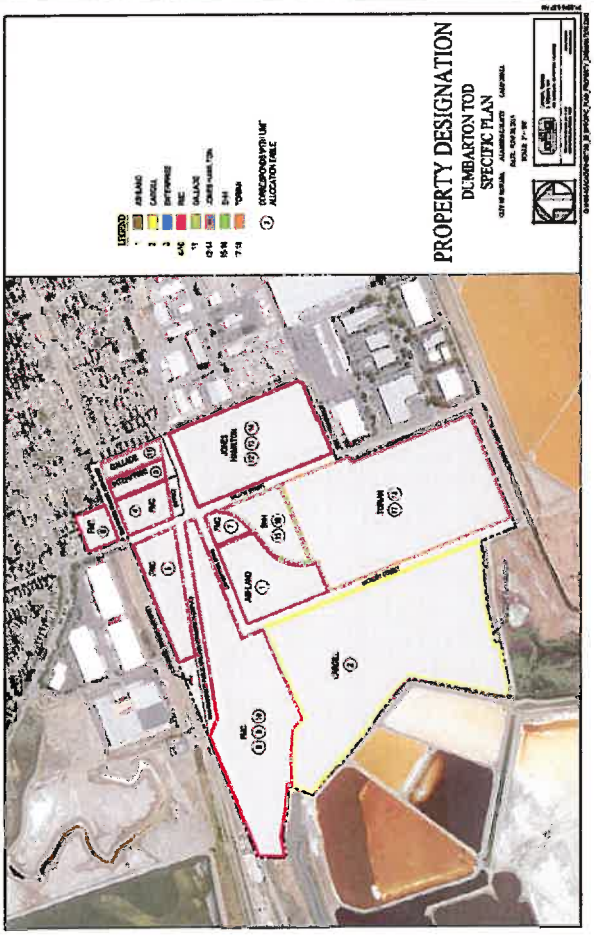
Terrence Grindall
Assistant City Manger
City of Newark
37101 Newark Boulevard
Newark, California 95560

Thank you for your attention to this matter. If you have questions or concerns please contact me at 510-578-4208 or Terrence.grindall@newark.org

Sincerely,

Terrence Grindall
Assistant City Manager

0
ont.



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Carlson, Barbee & Gibson, Inc.

COMPARISON TABLE
VESTA/SAM (UNIT) -- PROPOSED AND APPROVED UNITS
UNIT ALLOCATION TABLE (TAKEN FROM DISSERTATION 100 FINAL BLVD COPY)

| No. | PROPERTY OWNER | ASSESSOR PARCEL NUMBER | PARCEL SIZE (ACRES) | TYPE OF DEVELOPMENT | MAXIMUM NUMBER OF UNITS | PERCENTAGE OF TOTAL | MAXIMUM NUMBER OF UNITS PROPOSED IN APPROVED PROJECTS | ACTUAL NUMBER OF UNITS PROPOSED AND APPROVED TO EXISTING SITE | PERCENTAGE REDUCTION OF UNITS OF PROPOSED AND APPROVED PROJECTS |
|---|---|---|---|---|---|---|---|---|---|
| 1 | [illegible] | [illegible] | 19.7 [illegible] | [illegible] | [illegible] | [illegible] | | | |
| 2 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 3 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 4 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 5 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 6 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 7 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 8 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 9 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 10 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 11 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 12 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 13 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 14 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 15 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 16 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 17 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| 18 | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |
| | Total | | [illegible] | | [illegible] | [illegible] | [illegible] | [illegible] | [illegible] |

Attachment B

# WATER SUPPLY ASSESSMENT

# FOR THE

# DUMBARTON TRANSIT ORIENTED DEVELOPMENT PROJECT

**OCTOBER 2010**

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**PREPARED FOR**

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**CALIFORNIA**

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C11 Attachment B, which includes Pages C-23 through C-68 below, is the 2010 WSA, as current during Dumbarton TOD Specific Plan review. This is provided for documentation of background provided in the ACWD letter of September 10, 2015, and no response is required.

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## SECTION 1
## INTRODUCTION

### BACKGROUND

The City of Newark (City) has requested a Water Supply Assessment (WSA) for the Dumbarton Transit Oriented Development Project (Project). The project is a mixed use proposal of high, medium and low density residential housing, commercial retail / office building area, and open space. The Project site covers approximately 297 acres and is located adjacent to the proposed Dumbarton Commuter Rail Line in Newark (Figure 1). The Project site is located in the middle of the Newark Dumbarton Transit Area Priority Development Area (PDA) as outlined by the Association of Bay Area Governments (ABAG) in Projections and Priorities 2009. ACWD's 2009 Water Demand Forecast (Forecast) included all ABAG projections. Prior to the 2009 Forecast, this area was included in ACWD planning under the previous Specific Plan Area 2, which contemplated primarily a commercial and industrial project. As the Project relies on individual and independent developers, there is no specific timeline or phasing for completion of the Project.

The Project will require water supplies for the new homes, businesses and institutional uses. The existing water provider in the area is the Alameda County Water District (ACWD). ACWD is a retail water purveyor with a service area that includes the cities of Fremont, Newark and Union City. ACWD provides water primarily to urban customers: approximately 70% of supplies are used by residential customers, with the balance (approximately 30%) utilized by commercial, industrial, and institutional customers. Net distribution system water use was approximately 47,600 acre-feet (AF), or an average of 42.5 million gallons per day (mgd) in fiscal year 2009-10. The District's primary sources of supply come from the California State Water Project (SWP), the San Francisco Regional Water System, and local supplies from the Alameda Creek Watershed and Niles Cone Groundwater Basin (underlying the ACWD service area).

California Water Code (Water Code) Section §10910 requires that a water supply assessment be provided to cities and counties for a project that is subject to the California Environmental Quality Act (CEQA), and which surpasses a threshold for the number of housing units and/or square feet of commercial/industrial buildings. The cities and counties are mandated to identify the public water system that might provide water supply to the project and then to request a water supply assessment. The water supply assessment documents sources of water supply, quantifies water demands, evaluates drought impacts, and provides a comparison of water supply and demand that is the basis for an assessment of water supply sufficiency.

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**PURPOSE**

The purpose of this Water Supply Assessment is to document ACWD's existing and future water supplies for its service area and compare them to the area's future water demands, including the future water demands of the Project. This comparison, conducted for both normal hydrologic conditions and drought conditions, is the basis for an assessment of water supply sufficiency in accordance with the requirements of California Water Code Section §10910.

**METHODOLOGY**

ACWD's long-term water supply strategy was developed as part of the District's Integrated Resources Planning Study (IRP), and adopted by the ACWD Board in 1995. ACWD's 2006-2010 Urban Water Management Plan (UWMP, or 2005 UWMP) incorporates this water supply strategy. The UWMP documented ACWD's existing water supplies as well as the projected future demand for water and changing availability of our supplies. The projections were made the year prior to completion of the UWMP, or 2004, and relied on the most current published supply reliability and land use planning data at that time.

ACWD is currently in the process of compiling data and information needed to prepare the 2011-2015 UWMP (2010 Draft UWMP Data). The 2010 Draft UWMP Data reflects substantial changes in both supply and demand from that which was reported in the 2005 UWMP. This WSA will rely on the 2010 Draft UWMP Data for purposes of analyzing and reporting water supply reliability and the 2005 UWMP (attached) for purposes of documenting ACWD's sources of supply as required under the Water Code.

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## SECTION 2
## WATER DEMAND

This section provides an overview of historical and current water use in the District, and a summary of future projected water demands for the Project and ACWD's service area.

### WATER USE CATEGORIES

Water use in the ACWD service area is divided into two categories: 1) distribution system use, and 2) groundwater system use. The distribution system use includes all water uses supplied by ACWD's treatment and production facilities, and conveyed to ACWD customers via the District's distribution system. This use is further subdivided into the categories of single family residential (SFR), multi-family residential (MFR), commercial, industrial, institutional, landscape and other use.

Groundwater system use includes private (non-ACWD) groundwater pumping (primarily for industrial and municipal landscape irrigation uses), ACWD's Aquifer Reclamation Program pumping, and saline groundwater outflow to San Francisco Bay. The Aquifer Reclamation Program (ARP) pumping is an ongoing ACWD program to pump saline groundwater out of the aquifer system and replace it with fresh water recharged at the District's groundwater recharge facilities. Saline groundwater outflow to San Francisco Bay represents the groundwater outflow required to maintain groundwater flow in a bayward direction necessary to prevent seawater intrusion into the local aquifer system and to flush saline groundwater back to San Francisco Bay.

The District's groundwater system use is not anticipated to change significantly in the future. Therefore, the following discussions of water use are focused on the District's distribution system water use.

### HISTORICAL AND CURRENT WATER USE

Table 1 provides a summary of the last ten years of water use within the District. As shown in the table, residential water use comprises approximately 70% of District water use, with the remaining 30% used by commercial, industrial and institutional customers.

Water consumption patterns in the ACWD service area are a function of many independent factors including growth, weather conditions, economic conditions and water conservation behaviors. The District saw dramatic declines in consumption during the 1987-1992 drought due to voluntary conservation and District-sponsored demand management efforts. However, during the drought recovery period since 1992, several significant factors have influenced consumption. From 1993-2001 accelerated growth of both residential and business customers (including the high technology industry) occurred due to a strong economy. During this period, vacancy rates decreased and water consumption rose. From 2001 to 2007 the overall consumption in the District was relatively flat, attributed primarily to less robust local economic conditions, mild weather and on-going water conservation programs. In 2008, 2009 and continuing in 2010, ACWD has seen declines in overall water consumption, which ACWD

attributes to a combination of successive dry year conditions. Statewide conservation campaigns and a continued economic downturn. The resulting substantive reduction in demand for water has changed ACWD's near and mid-term anticipated level of new demands.

**WATER DEMANDS - ACWD SERVICE AREA**

ACWD's approach to water demand forecasting for the UWMP is to: 1) evaluate existing demands of lands already developed in the service area; 2) estimate future demands of currently undeveloped lands that are designated for development; and 3) combine the existing and future demands to estimate the overall District-wide future demands. This demand forecasting is done for six primary land use categories: single family residential, multi-family residential, commercial, industrial, institutional, and "other". In order to estimate future demands of currently undeveloped lands in each of these categories, ACWD obtains the most recent zoning information for these lands. The land use information is provided by the cities' planning staff, and includes general plan land use designations and, when available, more detailed information from specific plans or other planning documents. A District-wide water demand forecast for each land use category is then developed by multiplying the planned land use under each land use category by a District-wide average unit water use specific to that land use category. Additional potential future land use is also accounted for in the demand projections, and is based on city-approved plans for redevelopment and/or intensification of specific areas. The demand forecast also considers future demands associated with Association of Bay Area Governments (ABAG) Smart Growth projections.

Actual unit water use for any specific land use project may vary significantly from the District-wide average. However, determining the actual unit water use for each specific development project in the service area is beyond the scope of ACWD's UWMP demand forecast. Rather than providing demand forecasts for specific land use projects, the UWMP provides an aggregated, District-wide demand forecast for each land use category, as well as the total District-wide demand. This approach is proven sufficiently accurate for long-term, District-wide demand forecasting and is consistent with the California Water Code requirements for urban water management planning. However, if the District has detailed information about the water demands of a specific project during the time it is preparing the UWMP, the District will account for the specific project's water demands in the UWMP in lieu of the District-wide average.

ACWD's 2009 Forecast is substantially revised from the 2004 Forecast in several key areas with a combined effect of reduced long-term demand. Key changes since 2004 are a slower rate of growth in the service area, continued restructuring of the local economy with a net loss of high water use industry (manufacturing), prolonged economic recovery from the recession, increased natural conservation with plumbing code updates, and accelerated conservation effect resulting from recent drought message and public awareness.

The projected future demands in the ACWD service area are summarized in Table 2 (for the years 2010, 2015, 2020, 2025 and 2030). The water demand forecast also includes projected savings from water conservation, both District-sponsored water conservation and "natural conservation" resulting from new plumbing code standards. Also called "code-based savings"

or "passive conservation", these demand reductions come about due to the replacement of old inefficient plumbing fixtures with low flow fixtures. ACWD is a signatory to the California Urban Water Conservation Council's (CUWCC) MOU on Urban Water Conservation and is committed to the implementation of all locally cost-effective water conservation best management practices. A complete description of ACWD's water conservation program, as well as water saving assumptions, is provided in Chapter 7 of the attached UWMP.

As described in the following section, the Project's demands are considered to be consistent with the District's demand forecast, and therefore, are not listed separately in Table 2. Demands listed in this table include the demands from all WSAs completed to date except for the Ballpark Village Specific Plan and Masonic Homes Flatlands Projects which have both been rescinded.

**WATER DEMANDS – DUMBARTON TRANSIT ORIENTED DEVELOPMENT PROJECT**

***Estimation of Project Water Demands***

The Dumbarton Transit Oriented Development Project is a mixed use proposal of high, medium and low density residential housing, commercial retail / office building area, and open space. The Project site covers approximately 207 acres and is located adjacent to the proposed Dumbarton Commuter Rail Line in Newark (Figure 1). The Project site is located in the middle of the Newark Dumbarton Transit Area Priority Development Area (PDA) as outlined by the Association of Bay Area Governments (ABAG) in *Projections and Priorities 2009*. ACWD's 2009 Water Demand Forecast (Forecast) included all ABAG projections. Prior to the 2009 Forecast, this area was included in ACWD planning under the previous Specific Plan Area 2, which contemplated primarily commercial and industrial development. As the Project relies on individual and independent developers, there is no specific timeline or phasing for completion of the Project.

Information on the Project's proposed land use was provided by the City of Newark and is listed in Table 5 and represents the upper end of development potential. Roughly one third of the Project site is currently developed with low intensity industrial activity, with less than two AF/yr of water demand. ACWD estimates the Project will result in 780 AF/yr of new demand.

***Water Efficiency Measures to be Incorporated in the Project***

In order to ensure that the Project incorporates the most up to date water efficiency measures, the Project should be developed with the latest technology in water efficient plumbing fixtures and irrigation systems at both residential and non-residential developments, including but not limited to those listed in ATTACHMENT D: Water Efficiency Measures for New Developments.

**IMPACTS OF DROUGHT ON DEMANDS**

Dry periods may impact water demands in the ACWD service area in several ways. Because approximately 40% of the District's residential demand is for landscape irrigation, dry periods may result in an increase in demands due to less local rainfall available to meet the evapotranspiration requirements of lawns and other landscaping. However, demands may also be reduced due to customer efforts to be more water efficient during dry periods. As an example, during the 1987-1992 drought, ACWD customers reduced overall water use by approximately 20%. This response to the drought was due both to voluntary efforts and mandatory restrictions imposed by ACWD. However, because many customers have retained a "water conservation ethic" since the 1987-92 drought, and because of increased efficiencies of plumbing fixtures and the implementation of on-going District-sponsored water conservation programs, the ability to reduce overall water use during future droughts by similar levels may be lessened. For example, during the current drought period between FY 03/04 and FY 09/10, ACWD customers reduced water consumption by 15%, however a portion of this reduction may also be attributed to the recent economic downturn.

For planning purposes, it is assumed that during drought periods water demands for ACWD's distribution system customers (including those of the Project) do not change from those during normal years. However, the groundwater system demands are typically lower in dry years as lower groundwater levels, caused by reduced local recharge and increased reliance on groundwater storage, result in reduced saline groundwater outflows. ACWD will often minimize ARP pumping as well during dry periods. Summaries of projected demands under single dry year and multiple dry year conditions (based on a five year drought under 2026-2030 demand conditions) are provided in Table 3 and Table 4 respectively.

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**SECTION 3**
**WATER SUPPLY**

ACWD's three primary sources of water supply are: 1) the State Water Project (SWP); 2) San Francisco's Regional Water System; and 3) local supplies. The SWP and San Francisco Regional Water Supplies are imported into the District service area through the South Bay Aqueduct and Hetch-Hetchy Aqueduct, respectively. Local supplies include fresh groundwater from the Niles Cone Groundwater Basin (underlying the District service area), desalinated brackish groundwater from portions of the groundwater basin previously impacted by seawater intrusion, and surface water from the Del Valle Reservoir. The primary source of recharge for the Niles Cone Groundwater Basin is percolation of runoff from the Alameda Creek watershed. To a lesser degree, a portion of ACWD's SWP supplies are also used for local groundwater percolation. Infiltration of rainfall and applied water within the ACWD service area also contribute to local groundwater recharge.

ACWD's planned future water supplies also include recycled water. As described below, ACWD anticipates implementing a recycled water program to provide up to 1,600 AF/Yr for non-potable uses (i.e. irrigation and industrial uses) by the year 2020.

Due to the configuration of ACWD's water production facilities and the interconnection with the District's distribution system, the proposed Project may receive water supplies from all three primary sources of supplies, and would not be dependent on any single source of supply. Therefore, a description of all of ACWD's water supplies is provided below. Table 6 provides a summary description of the contracts and permits for these supplies and Table 7 provides a summary of the historical use of these supplies by ACWD.

**WHOLESALE WATER SUPPLIES**

As described above, ACWD's wholesale water supplies are: 1) State Water Project supplies purchased from the California Department of Water Resources; and 2) San Francisco Regional Water System supplies purchased from San Francisco. ACWD's contracts for these wholesale supplies are provided in Attachment C and each supply is described in greater detail below.

***State Water Project***

In 1961, the District signed a contract with the State Department of Water Resources (DWR) for a maximum annual amount of 42,000 acre-feet from the SWP, referred to as ACWD's "maximum Table A allocation". The SWP, managed by the DWR, is the largest state-built, multi-purpose water project in the country. The SWP facilities include 28 dams and reservoirs, 26 pumping and generating plants, and approximately 660 miles of aqueducts. The water stored in the SWP storage facilities originates from rainfall and snowmelt runoff in Northern and Central California watersheds. The SWP's primary storage facility is Lake Oroville in the Feather River Watershed. Releases from Lake Oroville flow down the Feather River to the Sacramento River, which subsequently flows to the Sacramento-San Joaquin Delta. The SWP diverts water from the Delta through the Banks Pumping Plant which lifts water from the Clifton Court Forebay (in the Delta) to the California Aqueduct and Bethany Reservoir. From Bethany Reservoir, the South Bay Pumping Plant lifts water into the South Bay Aqueduct,

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which delivers State Water Project supplies to ACWD and other Bay Area water agencies in Alameda and Santa Clara Counties.

Semitropic Banking of ACWD's SWP Supplies: Because of the variability in the SWP supply availability, ACWD's 1995 IRP identified the need to secure 140,000 AF of off-site storage capacity to improve the dry year reliability of this supply source. Based on this IRP recommendation, ACWD has contracted with Semitropic Water Storage District for participation in the Semitropic Groundwater Banking Program in Kern County. In wet years, ACWD delivers its unused (excess) SWP supplies to Semitropic for storage in their groundwater basin. In dry years, ACWD can recover these supplies through: (1) an "in-lieu" exchange whereby ACWD will receive a portion of Semitropic's SWP supplies (and Semitropic will utilize groundwater previously stored by ACWD in its basin); and (2) a "pumpback" program where Semitropic directly pumps stored groundwater into the California Aqueduct and ACWD recovers this supply through SWP exchanges.

The rate at which ACWD can recover stored water in dry years is constrained by contractual limitations and limitations on the capacity of the Semitropic pumpback facilities. Based on the terms of the agreements with Semitropic, the amount of return capacity is based on the amount of storage capacity purchased. Because of these limitations, ACWD secured a total of 150,000 AF of storage capacity at Semitropic (in excess of the IRP's recommendation of 140,000 AF), in order to provide sufficient dry year return capacity to meet ACWD's projected needs in all but the most severe drought conditions.

As with local groundwater storage in the Niles Cone Groundwater Basin, the Semitropic Groundwater Banking Program does not provide a new source of supply for the District. Rather, it provides a means to store the District's unused SWP supplies in wet years for use during dry years when the delivery of SWP supplies may be significantly curtailed.

***San Francisco's Regional Water System***

ACWD also receives water from the San Francisco Regional Water System, operated by the San Francisco Public Utilities Commission (SFPUC). This supply is predominantly from the Sierra Nevada, delivered through the Hetch-Hetchy aqueducts, but also includes treated water produced by the SFPUC from its local watersheds and facilities in Alameda and San Mateo Counties. The amount of imported water available to the SFPUC's retail and wholesale customers is constrained by hydrology, physical facilities, and the institutional parameters that allocate the water supply of the Tuolumne River.

In 2009, ACWD, along with the other wholesale customers, signed a new Master Sales Agreement with San Francisco, supplemented by an individual Water Sales Contract. The new agreements have a term of 25 years and provide a commitment from San Francisco to provide, collectively, up to 184 mgd to its wholesale customers. ACWD's individual supply assurance is 13.76 mgd.

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**LOCAL SOURCES**

As described above, ACWD's local sources include fresh groundwater from the Niles Cone Groundwater Basin, brackish groundwater desalination, and surface water supplies from the Del Valle Reservoir. Each of these supplies is described in greater detail below.

***Niles Cone Groundwater Basin***

The principal source of local supply for the District is the local aquifer system known as the Niles Cone Groundwater Basin. The primary source of recharge for the Niles Cone Groundwater Basin is local runoff from the Alameda Creek Watershed, which is captured, diverted and recharged at the District's groundwater recharge facilities. To a lesser extent, infiltration of rainfall and applied water within the ACWD service area also provide a local source of recharge for the groundwater basin. ACWD also uses a portion of its imported State Water Project supplies for groundwater recharge.

The water quality in the groundwater system is characterized by fresh groundwater in the eastern portion of the groundwater basin transitioning into brackish groundwater in the western portion of the basin. The brackish groundwater is a result of historical seawater intrusion from the adjacent San Francisco Bay. Since the 1960's ACWD has managed the groundwater basin to prevent any additional seawater intrusion and has an on-going program to pump trapped brackish groundwater back to San Francisco Bay through the District's Aquifer Reclamation Program wells.

The Niles Cone Groundwater Basin has capacity to store water from year to year ("local groundwater storage"). However, the usable storage capacity of the groundwater basin is significantly limited by the potential for seawater intrusion if groundwater levels are maintained too low. Although local groundwater storage (i.e. groundwater supplies in excess of recharge) provides a short term source of supply during dry years, it is not a supply that is available every year because the groundwater system will require replenishment from freshwater sources, without which seawater intrusion would occur.

Chapter 4 of the UWMP (attached) provides a comprehensive description of the Niles Cone Groundwater Basin, including groundwater quality, groundwater levels, historical and projected groundwater pumping, and ACWD's groundwater management activities. A copy of ACWD's groundwater management policy is also provided in the UWMP. The Niles Cone Groundwater Basin is also described in DWR Bulletin 118 – Update 2003: *California's Groundwater*, and is not listed as in "overdraft" or "potentially overdraft condition" by the DWR.

***Brackish Groundwater Desalination***

In 2003 ACWD commissioned the Newark Desalination Facility. This 5-mgd facility utilizes the reverse osmosis process to remove salts and other impurities from the brackish groundwater pumped at ACWD's Aquifer Reclamation Program wells. Treated water from the Newark Desalination Facility is blended with untreated local groundwater and provided as a

supply for the distribution system demands. ACWD is currently expanding this facility to 10-mgd.

***Del Valle Reservoir***

The District and Zone 7 Water Agency of the Alameda County Flood Control and Water Conservation District (hereafter referred to as "Zone 7"), have equal rights on Arroyo Del Valle to divert water to storage. When the California Department of Water Resources (DWR) constructed Del Valle Dam in the upper Alameda Creek Watershed, those rights were recognized in an agreement among DWR, the District, and Zone 7. Consequently, DWR typically makes a total of 15,000 AF of storage available annually in Del Valle Reservoir for use by ACWD and Zone 7. ACWD and Zone 7 equally share this storage capacity, thereby providing up to 7,500 AF of storage capacity annually to ACWD.

***Recycled Water***

Although ACWD does not currently have a recycled water supply, the District's long-term supply strategy includes a recycled water program to be implemented by 2020, which will provide up to 1,600 AF/yr of non-potable supply (e.g. landscape irrigation and industrial process water). A potential source of recycled water is from a joint project with Union Sanitary District (USD). Similar to ACWD, USD's service area includes the cities of Fremont, Union City and Newark. USD currently treats approximately 28 mgd (approximately 31,000 AF/Yr) of wastewater, the majority of which is discharged to San Francisco Bay via the East Bay Dischargers Authority pipeline facilities. Because ACWD's planning is based on providing 1,600 AF/Yr of recycled water, it is anticipated that there will be a sufficient source of wastewater supply available for a future recycled water project in the ACWD service area.

Recycled water distribution pipelines will be separate from the District's existing potable distribution system and, therefore, would not adversely affect existing potable supply operations. The volume of recycled water produced would be the same in drought years as in normal years, thus providing a firm source of supply. Demand for recycled water for irrigation purposes is highest in the summer months. Therefore, in addition to increasing water supply, use of recycled water would help meet peak monthly and daily production capacity needs.

ACWD and USD have evaluated two potential sources of recycled water: In 1993 and in 1999 ACWD and USD evaluated a potential program whereby the recycled water would originate at USD's Alvarado Wastewater Treatment Plant (Alvarado WWTP), located at the north end of the service area in Union City. As an alternative to constructing a recycled water treatment facility at the Alvarado WWTP, in 2003 ACWD and USD completed an evaluation of the feasibility of constructing a satellite recycled water treatment facility in southern Fremont at USD's Irvington Pump Station. These options are currently being reevaluated as well as the potential for other feasible options in an update to the Recycled Water Feasibility study. In addition, ACWD will continue to consider the potential use of other regional recycled water supplies, should such supplies become available. The ultimate decision on the source of a recycled water supply will likely be based on a variety of factors including costs, permitting issues, environmental constraints and location of recycled water customers.

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**WATER SUPPLY UNCERTAINTIES**

The purpose of this section is to identify factors which may impact current planning assumptions, the significance and magnitude of which are currently unknown. As described below, the potential impacts of global warming are a key uncertainty which may impact all of ACWD supplies. In addition, each of ACWD's supplies face uncertainties which may be unique to the source of supply. A summary of water supply uncertainties facing ACWD's supplies is provided in Table 8 and discussed in greater detail below.

***Climate Change***

Climate change may result in less snowfall, more local rainfall and rising sea-levels. Under current conditions, much of ACWD's imported water supplies are held in "storage" in winter and spring snowpack in the Sierra Nevada Mountains. With a diminished snowpack, the yield of the State Water Project and San Francisco Regional System may be significantly impacted. The magnitude of the impact of climate change on water supplies is not known. However, the following provides an overview of recent studies that have evaluated potential impacts on surface water and groundwater supplies in California.

Surface Water: In 2006 DWR's Climate Action Team (CAT) released a report on climate change and its potential impact on California's water resources. Entitled *Progress on Incorporating Climate Change into Management of California's Water Resources (2006 Climate Change Report)*, the report summarizes recent research into change in precipitation, air temperatures, snow levels, and snowmelt runoff. The report also evaluates possible future impact on California water supply through model simulations reflecting multiple climate change scenarios, weather conditions and geopolitical conditions.

The main results of the *2006 Climate Change Report* related to climate change's estimated impacts on the State Water Project around the year 2050:

- Estimated changes in annual average SWP south-of-Delta Table A deliveries range from a slight increase of about 1 percent for a wetter scenario to about a 10 percent reduction for one of the drier climate change scenarios.
- Estimated increased winter runoff and lower Table A allocations resulting in slightly higher average annual Article 21 deliveries in the three drier climate change scenarios[1]. However, the increases in Article 21 deliveries do not offset the losses to Table A. The wetter scenario with higher Table A allocations results in fewer Article 21 delivery opportunities and slightly lower annual Article 21 deliveries.

[1] Article 21deliveries refer to Article 21 of the SWP contracts which allows for contractors to receive additional water deliveries only under specific conditions. These conditions include: 1) Article 21 water is available only when excess water is available in the Delta, and 2) Article 21water is available only when conveyance capacity through the SWP facilities is available. Due to the uncertainties regarding the availability of Article 21 water, ACWD does not include this supply in its water supply planning and Urban Water Management Plan.

- Estimated SWP carryover storage is reduced in the drier climate change scenario and is somewhat increased in the wetter climate change scenario.

The 2009 Biennial Report of the CAT includes updates to the findings of the 2006 study. The update expands the number of future climate scenarios, methods for estimating sea-level rise, estimates for irrigation demands, reservoir inflows, and restrictions in Delta operations anticipated with sea-level rise and resultant salt-intrusion. The updated study qualitatively reports that SWP reliability will be further diminished from previous findings, however, as determined in 2006, those impacts do not become significant until the latter half of the 21st century. Therefore, while included in this analysis, the water supply impacts anticipated from climate change are minimal during the 20-year purview of the UWMP and WSA. The *State Water Project Delivery Reliability Report, 2009* (2009 SWP Reliability Report, 2009 SWP) includes these revised climate change assumptions, the impacts of which are reflected in the reliability data used in this WSA.

Groundwater: In 2003, and then again in an update prepared in August of 2005, the Pacific Institute for Studies in Development, Environment and Security prepared a literature search report for DWR, which summarized recommendations for coping with and adapting to climate change from key peer-reviewed publications and specifically considered the potential impacts of climate change on groundwater. The Pacific Institute's report is entitled, *Climate Change and California Water Resources: A Survey and Summary of the Literature*, by Michael Dipansky and Peter H. Gleick, Pacific Institute (*Climate Change and Water Resources*).

*Climate Change and Water Resources* found that little work has been done on the impacts of climate change for specific groundwater basins, or for general groundwater recharge characteristics or water quality. As the following conclusions from the report illustrate, the potential impacts of climate change on groundwater resources are divided, with some potentially resulting in increased availability of groundwater and others potentially resulting in less.

- Changes in recharge will result from change in effective rainfall as well as a change in the timing of the recharge season. Increased winter rainfall could lead to increased groundwater recharge.
- Higher evaporation or shorter rainfall seasons could mean that soil deficits persist for longer periods of time, shortening recharge seasons.
- Because a significant portion of winter recharge comes from deep percolation of precipitation below the rooting zone, warmer winter temperatures between storms would be expected to increase and dry out the soil between storms. A greater amount of rain in subsequent storms would then be required to wet the root zone and provide water for deep percolation.
- Sea-level rise could affect coastal aquifers through saltwater intrusion.

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- Warmer, wetter winters would increase the amount of runoff available for groundwater recharge. However this additional runoff would be occurring at a time when some basins are either being recharged at their maximum capacity or are already full.

- Reductions in spring runoff and higher evapotranspiration because of higher temperatures could reduce the amount of water available for recharge.

***Local Supplies***

In addition to potential climate change impacts, the availability of ACWD's local supplies may be influenced by a variety of other factors including operational and facility modifications to accommodate on-going Alameda Creek fishery restoration efforts. Upstream land use, flood control and water supply projects in the Alameda Creek Watershed may also impact the supply and quality of water available at ACWD's groundwater recharge facilities. Similarly, efforts to develop groundwater supplies by agencies in the South East Bay Plain (north of ACWD) may also impact ACWD's groundwater supply availability. However, the extent of these impacts on ACWD's local supplies, if any, is not currently known.

***San Francisco Regional Supplies***

In order to enhance the ability of the SFPUC water supply system to meet identified service goals for water quality, seismic reliability, delivery reliability, and water supply, the SFPUC is undertaking a Water System Improvement Program (WSIP). Completion of the projects in the WSIP is critical to ensuring the reliability of the San Francisco Regional supplies. However, it is currently uncertain if the SFPUC will be successful in fully implementing this program, and if it will be accomplished in a timely manner.

***State Water Project Supplies***

The reliability of ACWD's State Water Project supplies will continue to remain uncertain due to the on-going concerns regarding the sustainability of the Delta. These concerns include the Delta ecosystem and potential future environmental regulations, levee stability and the potential for catastrophic failure of these levees, urban encroachment within the Delta, and water quality within the Delta due to urban and agricultural discharges.

Most notably, successive actions to protect endangered species within the Delta have resulted in reductions in long term reliability from 69% to 60% of Maximum Table A allocation over the past four years. Beginning in December of 2007, Federal District Court Judge Oliver Wanger issued a final court order ("Wanger Decision") which put into place an operational plan requiring the State Water Project and Central Valley Project (CVP) to reduce Delta export pumping operations in order to protect the Delta smelt. This court action was replaced by a biological opinion in December of 2008, which largely upheld the operating restrictions imposed by the Wanger Decision. Most recently, in June of 2009 a revised biological opinion for salmonids was published which further restricted the State's ability to deliver supplies presently and for the foreseeable future.

Most recently, on July 20, 2010, the State Water Resources Control Board (State Water Board) released a report titled "Draft Report on the Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem". Development of these criteria was required under SBX7 1, passed in November of 2009, which sought to protect the public trust resources of the Delta ecosystem. The purpose for developing the criteria is to inform planning decisions for the Delta Plan and the Bay Delta Conservation Plan (BDCP), a multiagency effort with the goal of providing long-term Federal and State Endangered Species Act compliance for Delta export operations. At this point, the extent to which these criteria will be implemented and what effect they may have on the State's ability to deliver water supplies is as of yet unknown.

The net effect of existing uncertainties is that projected reliability of the SWP has been reduced from 72% to 60% of Maximum Table A since 2002 (Table 9).

***Semitropic Banking Program***

Over the past several years ACWD faced uncertainties with regard to recovery of water from the Semitropic Banking Program. These uncertainties include: 1) water quality concerns with regard to groundwater from Semitropic that is pumped back into the California Aqueduct; and 2) the ability to make the upstream exchanges needed to deliver the recovered water to the ACWD service area. With regards to the water quality issues, Semitropic has initiated a pilot water treatment plant which has treated the groundwater to meet the required criteria for pumping this water into the California Aqueduct. Semitropic has indicated that this pilot treatment plant will form the basis for a future permanent treatment facility. With regards to the exchange capacity needed to recover dry year supplies from Semitropic, over the past year, ACWD has coordinated with Semitropic, DWR, and other Semitropic Banking partners to ensure coordination of the planned use of the Semitropic recovery capacity and the needed exchanges. However, the risk remains that under certain critical dry year conditions ACWD may not be able to recover 100% of the District's contractual recovery capacity from Semitropic.

As part of the update to the ACWD IRP and UWMP, ACWD is evaluating the potential constraints with the Semitropic recovery capacity and how these constraints may affect ACWD's dry year supply reliability. ACWD will also be evaluating potential mitigation measures to minimize the risk associated with the constraints in Semitropic dry year recovery. These measures may include: 1) re-operation of local and other storage available to ACWD (i.e. Niles Cone Groundwater Basin, Del Valle Reservoir, San Luis Reservoir) in coordination with recovery from Semitropic and/or: 2) alternative dry year supply programs.

***SB 7 – Water Conservation Requirements under the 2009 Comprehensive Water Package***

In November of 2009, the California State Assembly passed a suite of water bills designed, among other things, to address long range water supply reliability. One of these bills, SB 7, also known as 20x2020, requires the state to achieve a 20% reduction in urban per capita water use by December 31, 2020.

SB 7 acknowledges that not all water agencies should be held to one fixed target as many have been actively implementing conservation for some time. To address this, SB 7 provides agencies with a choice of four different methodologies to set and achieve their water use target. The bill requires ACWD to hold a public meeting to present the method and to publish it in the 2010 UWMP. Given that one of the four methodologies to choose from has yet to be published by DWR, the State has extended the UWMP deadline to July 1, 2011.

ACWD has begun to analyze several of the choices, but will have to complete further studies over the coming year to determine which target and implementation strategies are in the District's best interest. Having identified programmatic conservation as a critical component in meeting long-term water supply reliability in the 1995 IRP, and as a signatory to the CUWCC MOU, ACWD and its customers have already achieved significant levels of conservation. As a result of these efforts, ACWD estimates that the actual required reductions in per-capita use between the present and 2020 will be something less than a true 20%. Implementation of the efficiency standards expected of this development will help achieve these new goals (ATTACHMENT D : WATER EFFICIENCY MEASURES FOR NEW DEVELOPMENTS)

**WATER SUPPLY IN NORMAL AND DRY YEAR CONDITIONS**

The projected availability for each of ACWD's water supplies under normal, critical dry year and multiple dry year conditions are provided in Table 10 through Table 12. As documented in the District's 2005 UWMP, information on the projected availability of ACWD's local supplies is based on the long-term historical hydrologic conditions in the Alameda Creek Watershed. Information on the projected reliability of ACWD's wholesale supplies from the State Water Project and San Francisco Regional Water System supplies were provided by the DWR and San Francisco Public Utilities Commission, respectively. As discussed, the WSA differs from the last published UWMP, but reflects the 2010 Draft UWMP Data.

***Water Supply under Normal Year Conditions***

In order to be consistent with the recommendations by the DWR in the use of SWP reliability information, this water supply assessment characterizes long-term average conditions as normal year conditions. As shown in Table 10, under normal year conditions supplies from the SWP and San Francisco Regional Water System comprise approximately 55% of the water available to ACWD, with the balance coming from local supplies. All of the supplies listed in Table 10, with the exception of recycled water, are existing supplies available to ACWD, and have been historically utilized by the District. Recycled water, not currently available to ACWD, is anticipated to add approximately 1,600 AF/Yr to the District's normal year water supplies by the year 2020. Supplies from local groundwater storage and the Semitropic Groundwater Banking Program are not included as normal year supplies because these supplies are intended for dry year conditions (or other water shortages) and are not intended to meet normal year demands.

***Water Supply under Critical Dry Year Conditions***

As shown in Table 11, the availability of ACWD's overall water supplies under a critically dry year may be significantly reduced. Under critically dry conditions, the SWP deliveries would be reduced to approximately 10% of the maximum contractual amounts (referred to as the "Table A" amounts in the SWP contracts). In addition, ACWD's other supplies from the San Francisco Regional Water System and local supplies from the Alameda Creek Watershed may also be substantially reduced during a critically dry year.

In order to mitigate these potentially severe water supply cut-backs, ACWD would rely on groundwater reserves stored in the local Niles Cone Groundwater Basin, and reserves stored at the Semitropic Groundwater Banking Program. As described above, the amount of storage in the local Niles Cone Groundwater Basin is limited due to threats of seawater intrusion when groundwater elevations fall below sea-level. ACWD has therefore invested in additional off-site storage at the Semitropic Groundwater Banking Program. Under two separate agreements with Semitropic, ACWD has contracted for a combined total of 150,000 AF of storage capacity. The District currently has approximately 110,000 AF of water in storage at the Semitropic banking program. However, the maximum rate at which stored water can be returned to ACWD from Semitropic is constrained by ACWD-Semitropic contractual limitations. As shown in Table 11, under the most severe drought conditions, the maximum rate at which water can be returned to ACWD is 13,800 AF/Yr[2].

***Water Supply under Multiple Dry Year Conditions***

Table 12 provides summaries of the projected supply availabilities under a long-term (five-year) drought for 2026-2030 demand conditions. This multiple year drought sequence is based on the 1929-1933 historical hydrologic conditions, which represents the most severe five-year drought on record (based on projected availability of ACWD's supplies over the 1922-94 hydrologic period). The results from this analysis indicate that ACWD's water supplies may be significantly reduced during a multiple year drought. However, the supply reduction would not be as severe as during a single, critically dry year condition. As with the single dry year condition, both local groundwater storage and off-site groundwater storage in Semitropic will play key roles in offsetting shortfalls in the District's other local and imported supplies.

2 ACWD's maximum rate of recovery from the Semitropic Groundwater Banking Program during critically dry years will increase by 300 AF/Yr (from 13,500 AF/Yr to 13,800 AF/Yr) as a condition of ACWD providing water service to the Patterson Ranch Development Project in Fremont, per the 2010 Patterson Ranch Recirculated Draft EIR.

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**SECTION 4**
**WATER SUPPLY AND DEMAND ANALYSES**

The following provides a comparison of ACWD water supplies and projected future demands, including the demands associated with the proposed Project. The supply/demand comparisons are provided for normal, single year dry, and multiple dry year conditions.

**NORMAL YEAR WATER SUPPLY**

Table 13 provides a comparison of normal year water supply and demands under future levels of development in five-year increments from 2010 through 2030. As shown in the tables, ACWD's projected supply under normal year conditions is sufficient to meet current and projected future demands, which include demands for this Project.

**SINGLE DRY YEAR WATER SUPPLY**

Table 14 documents the comparison of water supply and demand under a single critical dry year condition based on 1977 hydrologic conditions. As with the normal year conditions, the single dry year supply/demand comparison is provided in the same five-year increments between 2010 and 2030.

As shown in the table, ACWD anticipates facing a water supply shortage during single critical dry year supply conditions. This shortage is less than previously anticipated in the 2005 UWMP due primarily to the reduction in forecast demands, discussed under WATER DEMANDS - ACWD SERVICE AREA. District planning has held since the 1995 IRP that shortages anticipated during critical droughts of this magnitude and frequency (1 in 35 years) will be mitigated through a combination of demand management measures (including rationing) and purchases of dry year water through programs such as the Drought Water Bank (initiated during the 1987-92 drought by the DWR).

**MULTIPLE DRY YEAR WATER SUPPLY**

Table 15 documents projected water supply and demand under an extended dry period (multiple year drought). As documented in the UWMP, ACWD recognizes the hydrology of 1929 to 1933 to be most severe five-year period for the District's imported and local supplies. The multiple year dry period was reviewed for the level of demand anticipated between the years of 2026 and 2030 as that is the highest level of demands anticipated during the next 20 years.

Unlike the single dry year analysis, shortages are not anticipated during a multiple year drought (similar to the 1929-33 conditions) experienced during the next 20 years.

**SECTION 5**
**SUMMARY AND CONCLUSIONS**

1. The City of Newark has proposed the Dumbarton Transit Oriented Development Project which includes 2,500 high density residential housing, 230,000 sq. ft of commercial retail building area, and 17 acres of open space.

2. The total projected demand for the Project is 780 AF/yr.

3. The Project demand is consistent with planning assumptions and is included in ACWD's forecast and water supply planning.

4. ACWD has diverse sources of supply that include imported water from the State Water Project and San Francisco Regional Water System, as well as local supplies from the Alameda Creek Watershed and underlying Niles Cone Groundwater Basin. Due to the configuration of ACWD's water production facilities, the proposed Project would not be dependent on any single source of supply.

5. ACWD's imported and local water supplies may be significantly cut back during droughts. In order to improve ACWD's dry year reliability, ACWD has secured 150,000 AF of off-site storage capacity at the Semitropic Groundwater Banking Program in Kern County. ACWD currently has approximately 116,000 AF in storage at the Semitropic Program.

6. Key uncertainties facing ACWD's supplies include the effects of climate change as well as supply restrictions due to endangered species and environmental protection. ACWD's projected long-term average supply reliability from the State has been reduced from 72% to 60% of Maximum Table A Allocation, primarily as a result of Delta export pumping restrictions to protect endangered species.

7. Under normal year conditions, ACWD's water supplies are projected to be sufficient to meet the future demands in the service area, including the Project's demands.

8. ACWD's UWMP identifies that ACWD may face water supply shortages during critically dry years. As described in the UWMP, ACWD would look to secure additional supplies through a DWR drought water bank or similar water purchase transfer program under these severe drought conditions. ACWD may also implement a drought contingency plan, which would include provisions for ACWD customers to cut back on water use, the magnitude of which would depend on the severity of the shortage. Because the Project's demands are consistent with the UWMP demand forecast, the development of the Project will not result in increased shortages from that which is already factored into ACWD's planning. However, because ACWD anticipates potential future shortages under severe drought conditions, water supplies to the Project may be cut back during these severe dry year conditions. The level of cut back to the Project would be consistent with the rest of ACWD's customers, and would depend on the magnitude of the dry-year shortage facing the entire District.

9. As part of the Project description, the Project shall be developed with the latest technology in water efficient plumbing fixtures and irrigation systems at both residential and non-residential developments, including but not limited to those listed in ATTACHMENT D: Water Efficiency Measures for New Developments.

10. The Project is required to use recycled water for non-potable uses (such as irrigation and industrial process water) as the supply becomes available. Specific requirements related to the extent of the installation of recycled water infrastructure will be determined by ACWD at the time water service is requested.

11. The determination of water supply sufficiency is based on the implementation of the water efficiency measures set forth in paragraph 9-10 above and these water efficiency measures must be included in the environmental analysis for this Project and in the City's conditions of Project approval.

12. Under Government Code §66473.7 ACWD will be required to issue a written verification ensuring sufficient water supply if a residential subdivision is part of the Project. ACWD will re-evaluate the assumptions and conclusions of this water supply assessment at that time. If these assumptions have changed significantly ACWD may require additional mitigation measures as a condition of providing a water supply verification and/or as a condition of providing water service.

13. This water supply assessment is based on the proposed land use of the Dumbarton Transit Oriented Development Project, as provided to ACWD by the City of Newark (documented in ATTACHMENT A). If, prior to Project approval, the proposed land use within the Project area changes from what is currently incorporated in this water supply assessment, ACWD will evaluate the impacts that these changes may have on ACWD's water supplies. In the event that the land use changes impact the conclusions of this water supply assessment, ACWD may require additional mitigation measures as a condition of providing water service to the Project. If the proposed land use changes occur after Project approval and approval of the final subdivision maps, ACWD will evaluate the potential water supply impacts of these changes, and may require additional mitigation as a condition of providing water service to those areas with the changed land use condition.

14. The determination made in this water supply and demand analysis is based on the circumstances as of the date this water supply assessment was approved. In the event that subsequent evaluation of District-wide demands and supplies in-light of the water supply uncertainties set forth in this water supply assessment indicates that there will be an imbalance between demands and supplies, ACWD may require additional mitigation for the Project. For example, if District supplies are not sufficient to meet the demands, as a condition of water service, ACWD may require the Project proponent to: 1) acquire a new water supply to offset the water supply impacts of the Project, and/or: 2) invest in District-wide conservation programming (above and beyond that which is planned by the District) to offset the increase in District-wide demands that are a result of the Project; and/or 3) provide other mitigations deemed necessary to offset specific impacts identified (such as purchasing storage and recovery capacity in Semitropic Groundwater Banking Program).

ACWD reserves the right to impose conditions that go beyond the conditions that the City of Newark may impose as part of the environmental analysis at the time ACWD provides a verification of sufficient supply for the Project and/or enters into a water service agreement with the developer to provide water service to the Project.

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Table 1 ACWD Past and Current Water Use (Acre-Feet)

| Water Use Category | Fiscal Year | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 99-00 | 00-01 | 01-02 | 02-03 | 03-04 | 04-05 | 05-06 | 06-07 | 07-08 | 08-09 | 09-10 |
| Distribution System | | | | | | | | | | | |
| Single Family Residential | 25,000 | 25,700 | 22,200 | 25,300 | 26,900 | 23,700 | 24,900 | 25,200 | 24,600 | 24,100 | 21,500 |
| Multi-Family Residential | 8,600 | 8,900 | 8,200 | 8,500 | 8,100 | 8,200 | 8000 | 8,100 | 8,100 | 8,100 | 7,600 |
| Commercial | 5,800 | 5,600 | 5,200 | 5,000 | 5,200 | 5,300 | 5,500 | 5,300 | 5,200 | 5,100 | 4,700 |
| Industrial | 4,700 | 4,600 | 4,300 | 4,100 | 4,100 | 3,400 | 3,500 | 3,400 | 3,100 | 2,800 | 2,500 |
| Institutional | 2,100 | 2,300 | 2,200 | 2,200 | 2,300 | 2,000 | 2,100 | 2,100 | 2,100 | 2,100 | 1,800 |
| Landscape | 5,200 | 5,300 | 5,600 | 5,600 | 6,300 | 5,700 | 5,200 | 5,700 | 5,900 | 5,600 | 4,800 |
| Other | 200 | 200 | 200 | 200 | 200 | 100 | 100 | 100 | 100 | 200 | 100 |
| | | | | | | | | | | | |
| Total Consumption | 51,700 | 52,600 | 50,800 | 50,700 | 52,300 | 48,400 | 49,300 | 49,900 | 49,100 | 48,000 | 43,000 |
| Unaccounted for Water | 4,200 | 3,600 | 4,300 | 3,700 | 4,100 | 3,200 | 3,800 | 5,000 | 5,700 | 3,000 | 4,600 |
| Distribution System Total | 55,900 | 56,200 | 55,100 | 54,400 | 56,400 | 51,600 | 53,100 | 54,900 | 54,800 | 51,000 | 47,600 |
| | | | | | | | | | | | |
| Groundwater System | | | | | | | | | | | |
| Private Groundwater | 3,100 | 3,800 | 3,100 | 3,400 | 3,600 | 3,800 | 3,000 | 3,000 | 2,100 | 2,100 | 2,000 |
| Groundwater Reclamation | | | | | | | | | | | |
| -ARP Pumping | 6,300 | 4,300 | 7,400 | 7,700 | 11,100 | 9,400 | 11,600 | 9,900 | 6,600 | 4,900 | 6,800 |
| -Saline Outflow | 7,400 | 6,600 | 6,300 | 5,800 | 7,200 | 6,600 | 7,500 | 6 800 | 7,400 | 7,400 | 7,400 (est) |
| Groundwater System Total | 16,800 | 14,700 | 16,800 | 16,900 | 21,900 | 19,800 | 22,100 | 19,700 | 16,100 | 11,300 | 14,200 |
| | | | | | | | | | | | |
| Grand Total | 72,700 | 70,900 | 71,900 | 71,300 | 78,300 | 71,400 | 75,200 | 74,600 | 70,909 | 64,400 | 63,800 (est) |

Notes:

1. Annual consumption is based on units billed during the Fiscal Year (July 1 to June 30). ACWD uses bi-monthly billing cycle.
2. All values rounded to the nearest 100
3. Total Consumption values may not equal sum of individual components due to rounding.
4. Multi-Family Residential, Commercial, Industrial, and Institutional categories do not include dedicated landscape irrigation water use within these categories.
5. Landscape water use includes all dedicated landscape accounts for Multi-Family Residential, Commercial, Industrial and Institutional customers
6. Distribution System Total represents total water production, as reported in ACWD's Annual Groundwater Survey Reports.
7. System Losses are calculated as the difference between Distribution System Total (total production) and Total Measured Consumption and include water for fire suppression, distribution system flushing, distribution system and service line leaks, etc.
8. Groundwater System demands are based on annual reported values in ACWD's Annual Survey Report on groundwater conditions. FY 09/10 Figures are currently an estimate
9. Groundwater Reclamation demands represents groundwater system demands to protect and reclaim the groundwater system from seawater intrusion.
10. Groundwater System demands do not include "Other Outflows" as reported in ACWD's Annual Survey Report on Groundwater Conditions.

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**Table 2 Estimated Future Water Demands in the ACWD Service Area – Normal Year (AF/yr)**

| Water Use Category | Year | | | | |
|---|---|---|---|---|---|
| | 2010 | 2015 | 2020 | 2025 | 2030 |
| Distribution System | | | | | |
| Single Family Residential | 23,800 | 26,500 | 26,900 | 27,200 | 27,500 |
| Multi-Family Residential | 9,700 | 10,100 | 10,400 | 10,800 | 11,100 |
| Commercial | 6,200 | 6,600 | 7,000 | 7,200 | 7,500 |
| Industrial | 3,700 | 4,300 | 4,800 | 5,100 | 5,400 |
| Institutional | 3,100 | 3,900 | 4,200 | 4,500 | 5,100 |
| Other | 100 | 100 | 100 | 100 | 100 |
| *Sub-Total* | 46,600 | 51,400 | 53,400 | 54,900 | 56,700 |
| | | | | | |
| Adjustment for plumbing code savings | (100) | (800) | (1,500) | (2,000) | (2,400) |
| | | | | | |
| *Sub-Total Demand* | *46,500* | *50,600* | *51,900* | *52,900* | *54,300* |
| *Total Distribution System Demand with unaccounted for waters* | *50,500* | *55,000* | *56,400* | *57,500* | *59,000* |
| | | | | | |
| Adjustments for water conservation savings | (100) | (800) | (1,400) | (1,400) | (1,400) |
| | | | | | |
| Groundwater System Demand | 14,800 | 14,800 | 14,800 | 14,800 | 14,800 |
| | | | | | |
| Total ACWD Forecast Demands | 65,200 | 69,000 | 69,800 | 70,900 | 72,400 |

Notes:
1. All numbers are from ACWD's 2009 water demand forecast, developed in preparation for the 2010 UWMP. Forecast includes demand assumptions for the Project.
2. All values rounded to the nearest 100. Total values may not equal sum of individual components due to rounding errors.
3. Numbers do not reflect demand reductions resulting from SB-7
4. Landscape Irrigation included within Multi-Family Residential, Commercial, Industrial, and Institutional categories
5. Adjustment for conservation includes savings due to District-sponsored water conservation programs
6. Total Distribution System Demand includes 8% unaccounted for water or UAW. UAW is calculated as the difference between total production and total measured consumption and is mostly comprised of meter inaccuracy but also includes physical water such as water used for fire suppression, distribution system flushing, distribution system and service line leaks.
7. Groundwater System demands include: (1) private pumping, (2) ARP pumping and (3) saline groundwater outflows

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**Table 3 Estimated Future Water Demands in the ACWD Service Area – Critical Dry Year (AF/yr)**

| Water Use Category | Year | | | | |
|---|---|---|---|---|---|
| | 2010 | 2015 | 2020 | 2025 | 2030 |
| Distribution System | | | | | |
| Single Family Residential | 23,800 | 26,500 | 26,900 | 27,200 | 27,500 |
| Multi-Family Residential | 9,700 | 10,100 | 10,400 | 10,800 | 11,100 |
| Commercial | 6,200 | 6,600 | 7,000 | 7,200 | 7,500 |
| Industrial | 3,700 | 4,300 | 4,800 | 5,100 | 5,400 |
| Institutional | 3,100 | 3,800 | 4,200 | 4,500 | 5,100 |
| Other | 100 | 100 | 100 | 100 | 100 |
| *Sub-Total* | 46,600 | 51,400 | 53,400 | 54,900 | 56,700 |
| | | | | | |
| Adjustment for plumbing code savings | (100) | (800) | (1,500) | (2,000) | (2,400) |
| | | | | | |
| *Sub-Total Distribution System Demand (without losses)* | *46,500* | *50,600* | *51,900* | *52,900* | *54,300* |
| *Sub-Total Distribution System Demand (with losses)* | *50,300* | *53,900* | *56,400* | *57,300* | *59,000* |
| | | | | | |
| Adjustments for water conservation savings | (100) | (800) | (1,400) | (1,400) | (1,400) |
| | | | | | |
| Groundwater System Demand | 10,500 | 10,500 | 10,500 | 10,500 | 10,500 |
| | | | | | |
| Total ACWD Forecast Demands | 60,900 | 64,500 | 65,500 | 66,600 | 68,100 |

Notes:
1. All numbers are from ACWD's 2009 water demand forecast, developed in preparation for the 2010 UWMP. Forecast includes demand assumptions for the Project.
2. All values rounded to the nearest 100. Total values may not equal sum of individual components due to rounding errors.
3. Numbers do not reflect demand reductions resulting from SB-7.
4. Landscape Irrigation included within Multi-Family Residential, Commercial, Industrial, and Institutional categories.
5. Adjustment for conservation includes savings due to District-sponsored water conservation programs.
6. Total Distribution System Demand (with losses) includes estimated system losses of 8.4%. Distribution system losses are calculated as the difference between total production and total measured consumption and include water for fire suppression, distribution system flushing, distribution system and service line leaks, etc.
7. Groundwater System demands include: (1) private pumping, (2) ARP pumping and (3) saline groundwater outflows.

**Table 4 Estimated Future Water Demands in the ACWD Service Area – Multiple Dry Years (AF/Yr)**

| Water Use Category | Year | | | | |
|---|---|---|---|---|---|
| | 2026 | 2027 | 2028 | 2029 | 2030 |
| Distribution System | | | | | |
| Single Family Residential | 27,300 | 27,300 | 27,400 | 27,400 | 27,500 |
| Multi-Family Residential | 10,800 | 10,900 | 10,900 | 11,000 | 11,100 |
| Commercial | 7,300 | 7,300 | 7,400 | 7,400 | 7,500 |
| Industrial | 5,200 | 5,200 | 5,300 | 5,400 | 5,400 |
| Institutional | 4,500 | 4,600 | 4,600 | 4,900 | 5,100 |
| Other | 100 | 100 | 100 | 100 | 100 |
| *Sub-Total* | 55,200 | 55,400 | 55,700 | 56,200 | 56,700 |
| | | | | | |
| Adjustment for plumbing code savings | (2,100) | (2,200) | (2,200) | (2,300) | (2,400) |
| | | | | | |
| *Sub-Total Distribution System Demand (without losses)* | 53,100 | 53,200 | 53,600 | 53,900 | 54,300 |
| *Sub-Total Distribution System Demand (with losses)* | 57,700 | 57,800 | 58,000 | 58,600 | 59,000 |
| | | | | | |
| Adjustments for water conservation savings | (1,400) | (1,400) | (1,400) | (1,400) | (1,400) |
| | | | | | |
| Groundwater System Demand | 10,800 | 9,900 | 5,600 | 5,500 | 6,400 |
| | | | | | |
| Total ACWD Forecast Demands | 67,100 | 66,300 | 62,200 | 62,700 | 64,000 |

Notes:
1. All numbers are from ACWD's 2009 water demand forecast, developed in preparation for the 2010 UWMP. Forecast includes demand assumptions for the Project.
2. All values rounded to the nearest 100. Total values may not equal sum of individual components due to rounding errors.
3. Numbers do not reflect demand reductions resulting from SB-7.
4. Landscape Irrigation included within Multi-Family Residential, Commercial, Industrial, and Institutional categories.
5. Adjustment for conservation includes savings due to District-sponsored water conservation programs.
6. Total Distribution System Demand (with losses) includes estimated system losses of 8.4%. Distribution system losses are calculated as the difference between total production and total measured consumption and include water for fire suppression, distribution system flushing, distribution system and service line leaks, etc.
7. Groundwater System demands include: (1) private pumping, (2) ARP pumping and (3) saline groundwater outflows.

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**Table 5 Water Demands for Dumbarton Transit Oriented Development Project**

| Element | Planning units | | GPD/ Unit [1] | Demand estimate (AF/yr) |
|---|---|---|---|---|
| Retail / Commercial | 230,000 | Building Area | 0.282 | 73 |
| Residential (high density MFR) | 430 | Dwelling units | 150 | 72 |
| Residential (2,000 ft2 lots) | 1,176 | Dwelling units | 179 | 236 |
| Residential (3,000 ft2 lots) | 726 | Dwelling units | 247 | 201 |
| Residential (4,000 ft2 lots) | 168 | Dwelling units | 247 | 46 |
| Open space | 17 | Acres | 4,630 | 88 |
| Estimated Total Project Demand *(rounded)* | | | | 720 |
| Water Supplies Required *(8.4% Unaccounted for Water)* | | | | 780 |
| Approximate peak day demand in mgd *(1.6x peaking factor)* | | | | 1.11 |

[1] Demand units from the 2009 Water Demand Forecast.
[2] Figures provided by City of Newark

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Table 6 Overview of Contracts and Permits for ACWD's Existing Water Supplies

| SUPPLY COMPONENT | Category | Description | Maximum Quantity (AF/Yr) | Ever Used |
|---|---|---|---|---|
| **Imported Supplies** | | | | |
| - State Water Project | Contract | In 1961, ACWD signed an agreement with the California State Department of Water Resources for a maximum annual amount of 42,000 AF/Yr from the State Water Project (SWP). SWP water is delivered to ACWD via the South Bay Aqueduct. This contract expires in the year 2035 | 42,000 | Yes |
| - San Francisco Regional Water System | Contract | In 2009, ACWD along with the other wholesale customers signed a new Master Sales Agreement with San Francisco. The new agreement has a term of 25 years and provides a commitment from San Francisco to provide, collectively, up to 184 mgd to its wholesale customers. ACWD's contractual purchase amount is 13.76 mgd. | 15,344 | Yes |
| **Local Supplies** | | | | |
| - Alameda Creek Diversions for Groundwater Recharge | Water-rights permit | ACWD applied for a water rights permit from the SWRCB in 1949, granted in 1951 (permit no. 6423) to appropriate up to 40,000 AF/Yr of unappropriated water from the Alameda Creek for groundwater storage and replenishment. | 40,000 | Yes |
| - Del Valle Reservoir | Water-rights permit | ACWD received a water rights permit in from the SWRCB in 1958 (permit no. 11320) to appropriate up to 60,000 AF/Yr of unappropriated water from Arroyo Del Valle in the Alameda Creek Watershed for storage and later beneficial use. | 60,000 | Yes |
| - Groundwater Storage in Niles Cone Groundwater Basin<br><br>- Desalination of Brackish Groundwater | Other | ACWD manages and protects the Niles Cone Groundwater Basin for water supply under its Groundwater Management Policy (adopted 1989, amended 2021). This Policy is based on the statutory authority granted to ACWD under the County Water District Law; the Replenishment Assessment Act of ACWD; and local well ordinances. | N/A | Yes |
| **Banking / Transfers** | | | | |
| - Semitropic Groundwater Banking Program | Contract | In 1996 and in 2001 entered into agreements with Semitropic Water Storage District for 150,000 AF of combined groundwater storage capacity for banking of ACWD's excess SWP supplies in wet years. The banked water is to be returned to ACWD in dry years via a series of exchanges. These banking agreements expire in the year 2035. | 13,500 (maximum return quantity during critically dry years) | Yes |

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Table 7 Historical Water Supply Utilization by ACWD (AF/Yr)

| Fiscal Year | SWP supplies used at ACWD facilities | Del Valle | San Francisco Regional Water | Newark Desal Facility | Net Local Groundwater Recharge [2] | Recovered from Semitropic GW bank | Total In-District Water Supply | SWP Supply delivered to Semitropic GW bank |
|---|---|---|---|---|---|---|---|---|
| 93-94 | 21,600 | 5,000 | 12,200 | - | 28,500 | - | 67,300 | - |
| 94-95 | 16,100 | 4,200 | 13,000 | - | 35,900 | - | 69,200 | - |
| 95-96 | 18,600 | 5,300 | 12,200 | - | 27,600 | - | 63,700 | - |
| 96-97 | 7,700 | 15,900 | 14,700 | - | 25,300 | - | 63,600 | 6,200 |
| 97-98 | 12,900 | 10,600 | 13,700 | - | 58,000 | - | 95,200 | 10,000 |
| 98-99 | 20,600 | 5,300 | 13,600 | - | 33,200 | - | 72,900 | 18,780 |
| 99-00 | 25,200 | 3,800 | 13,800 | - | 26,900 | - | 69,700 | 7,230 |
| 00-01 | 26,400 | 200 | 13,000 | - | 31,000 | - | 70,600 | 7,250 |
| 01-02 | 21,900 | 4,600 | 13,500 | - | 32,100 | - | 72,100 | 90 |
| 02-03 | 17,600 | 7,400 | 14,000 | - | 31,400 | - | 70,400 | 20,800 |
| 03-04 | 18,500 | 6,700 | 13,700 | 2,600 | 30,700 | - | 72,200 | 4,000 |
| 04-05 | 18,800 | 6,000 | 11,800 | 3,900 | 38,700 | - | 79,200 | 9,300 |
| 05-06 | 15,600 | 7,700 | 11,700 | 2,100 | 31,100 | - | 68,200 | 41,540 |
| 06-07 | 13,800 | 11,000 | 15,300 | 2,800 | 26,000 | - | 68,900 | 11,940 |
| 07-08 | 22,600 | 500 | 15,000 | 3,600 | 24,900 | 5,500 | 72,100 | - |
| 08-09 | 16,600 | 4,200 | 12,600 | 3,200 | 23,700 | 10,600 | 58,313 | - |

1. All values rounded to the nearest 100. Total values may not equal sum of individual components due to rounding errors.
2. Recharge figures less evaporation and other losses.

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Table 8 Summary of Potential Future Factors that may Influence ACWD Water Supply Reliability

| SUPPLY | Factor | | |
|---|---|---|---|
| | Legal/Environmental | Water Quality | Climatic |
| **Imported Supplies** | | | |
| -State Water Project | ESA* requirements may constrain Delta pumping | Potential seawater intrusion impacts if Delta Levees fail. | Supply is dependent on hydrologic conditions |
| - San Francisco Regional Supply | ESA requirements may require additional reservoir releases | None anticipated | Supply is dependent on hydrologic conditions |
| **Local Supplies** | | | |
| - Groundwater Recharge | ESA requirements may impact groundwater recharge operations | None anticipated | Supply is dependent on hydrologic conditions |
| - Groundwater Storage | None anticipated | None anticipated | Supply is dependent on availability of water to store in wet years |
| - Del Valle | ESA requirements may require downstream flow releases | None anticipated | Supply is dependent on hydrologic conditions |
| - Desalination | None anticipated | None anticipated | Supply is dependent on local groundwater conditions |
| - Recycled Water | None anticipated | None anticipated | None anticipated |
| **Banking/Transfers** | | | |
| - Semitropic Banking | Delta pumping constraints may impact ability to recover water through SWP exchanges | Banked groundwater may require treatment | Supply is dependent on availability of water to store in wet years |

* Endangered Species Act

Table 9 Recent DWR publications and stated reliability of Deliveries from the State Water Project

| | 2002 Report | 2005 Report | 2007 Report | 2009 Report |
|---|---|---|---|---|
| Average % of Full Allocation in year of report | 72% | 69% | 53% | 60% |
| Primary cause for reduction | N/A | Changes in modeling assumptions and demands | Wanger Decision + Climate Change | Biological Opinions on Salmonids & Smelt + expanded climate change |

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Table 10 Projected Normal Year Supply

| SUPPLY | 2010 | 2015 | 2020 | 2025 | 2030 |
|---|---|---|---|---|---|
| Imported Supplies | | | | | |
| - State Water Project | 25,500 | 25,500 | 25,500 | 25,500 | 25,500 |
| - San Francisco Regional | 15,400 | 15,400 | 15,400 | 15,400 | 15,400 |
| Total Imported Supplies | 40,900 | 40,900 | 40,900 | 40,900 | 40,900 |
| | | | | | |
| Local Supplies | | | | | |
| - Groundwater Recharge | 21,400 | 21,400 | 21,400 | 21,400 | 21,400 |
| - Groundwater Storage | 0 | 0 | 0 | 0 | 0 |
| - Del Valle | 7,100 | 7,100 | 7,100 | 7,100 | 7,100 |
| - Desalination | 5,100 | 5,100 | 5,100 | 5,100 | 5,100 |
| - Recycled Water | 0 | 0 | 1,600 | 1,600 | 1,600 |
| Total Local Supplies | 33,600 | 33,600 | 35,200 | 35,200 | 35,200 |
| | | | | | |
| Banking/Transfers | | | | | |
| - Semitropic Banking | N/A – Not intended or needed to meet normal year demands | | | | |
| | | | | | |
| TOTAL SUPPLY | 74,500 | 74,500 | 76,100 | 76,100 | 76,100 |

Table 11 Projected Critical Year Supply

| SUPPLY | 2010 | 2015 | 2020 | 2025 | 2030 |
|---|---|---|---|---|---|
| | | | | | |
| Imported Supplies | | | | | |
| - State Water Project | 4,000 | 4,000 | 4,000 | 4,000 | 4,000 |
| - San Francisco Regional | 11,700 | 13,700 | 14,100 | 12,700 | 13,100 |
| Total Imported Supplies | 15,700 | 17,700 | 18,100 | 16,700 | 17,100 |
| | | | | | |
| Local Supplies | | | | | |
| - Groundwater Recharge | 15,600 | 15,600 | 15,600 | 15,600 | 15,600 |
| - Groundwater Storage | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 |
| - Del Valle | 100 | 100 | 100 | 100 | 100 |
| - Desalination | 5,600 | 5,600 | 5,600 | 5,600 | 5,600 |
| - Recycled Water | 0 | 0 | 1,600 | 1,600 | 1,600 |
| Total Local Supplies | 31,300 | 31,300 | 32,900 | 32,900 | 32,900 |
| | | | | | |
| Banking/Transfers | | | | | |
| - Semitropic Banking | 13,800 | 13,800 | 13,800 | 13,800 | 13,800 |
| | | | | | |
| TOTAL SUPPLY | 60,800 | 62,800 | 64,800 | 63,400 | 63,800 |

Notes:

1. Critical Dry Year conditions are based on projected water supply availability under 1977 drought conditions.
2. Semitropic Banking assumes ACWD's existing recovery capacity increased by 300 AF/Yr (from 13,500 AF/Yr to 13,800 AF/Yr), per 2010 Re-circulated Draft EIR for the Patterson Ranch Planned District.

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Table 12 Projected Multiple Dry Year Supply

| SUPPLY | 2026 | 2027 | 2028 | 2029 | 2030 |
|---|---|---|---|---|---|
| | | | | | |
| Imported Supplies | | | | | |
| -State Water Project | 13,900 | 17,400 | 12,400 | 16,200 | 16,300 |
| - San Francisco Regional | 15,300 | 15,300 | 13,100 | 15,300 | 15,300 |
| Total Imported Supplies | 29,200 | 32,700 | 25,500 | 31,500 | 31,600 |
| | | | | | |
| Local Supplies | | | | | |
| - Groundwater Recharge | 12,700 | 12,100 | 9,900 | 19,800 | 14,000 |
| - Groundwater Storage | 9,100 | 0 | 10,000 | 0 | 3,300 |
| - Del Valle | 900 | 5,200 | 1,000 | 3,400 | 1,000 |
| - Desalination | 5,000 | 5,000 | 2,000 | 1,900 | 2,600 |
| - Recycled Water | 1,600 | 1,600 | 1,600 | 1,600 | 1,600 |
| Total Local Supplies | 29,300 | 23,900 | 24,500 | 26,700 | 22,500 |
| | | | | | |
| Banking/Transfers | | | | | |
| - Available Semitropic Banking | 17,900 | 19,900 | 17,100 | 19,200 | 19,200 |
| | | | | | |
| TOTAL SUPPLY | 76,400 | 76,500 | 67,100 | 77,400 | 73,300 |

Notes:

1. Multiple Dry Year conditions based on projected water supply availability under 1929-33 drought conditions
2. Semitropic Banking assumes ACWD's existing pump back recovery capacity increased by 300 AF/Yr (from 13,500 AF/Yr to 13,800 AF/Yr), per 2010 Re-circulated Draft EIR for the Patterson Ranch Planned District

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**Table 13 Water Supply and Demand Comparison: Normal Year**

| SUPPLY/DEMAND | Year | | | | |
|---|---|---|---|---|---|
| | 2010 | 2015 | 2020 | 2025 | 2030 |
| Total Supply | 74,500 | 74,500 | 76,100 | 76,100 | 76,100 |
| Forecast Demands | 65,200 | 69,000 | 69,800 | 70,900 | 72,400 |
| Anticipated Shortage | *none* | *none* | *none* | *none* | *none* |

Notes:
1. All values rounded to the nearest 100 AF.
2. Forecast Demands include Project demands

**Table 14 Water Supply and Demand Comparison: Critical Dry Year**

| SUPPLY/DEMAND | Year | | | | |
|---|---|---|---|---|---|
| | 2010 | 2015 | 2020 | 2025 | 2030 |
| Total Supply | 60,800 | 62,800 | 64,800 | 63,400 | 63,800 |
| Forecast Demands | 60,900 | 64,700 | 65,500 | 66,600 | 68,100 |
| Anticipated Shortage | -100 | -1,900 | -700 | -3,200 | -4,300 |

Notes:
1. All values rounded to the nearest 100 AF.
2. Forecast Demands include Project demands.
3. Critical Dry Year conditions are based on projected water supply availability under 1977 drought conditions

**Table 15 Water Supply and Demand Comparison: Multiple Dry Year**

| SUPPLY/DEMAND | Year | | | | |
|---|---|---|---|---|---|
| | 2026 | 2027 | 2028 | 2029 | 2030 |
| Total Supply | 76,400 | 76,500 | 67,100 | 77,400 | 73,300 |
| Forecast Demands | 67,100 | 66,300 | 62,200 | 62,700 | 64,000 |
| Anticipated Shortage | *none* | *none* | *none* | *none* | *none* |

Notes:
1. All values rounded to the nearest 100 AF
2. Forecast Demands include Project demands.
3. Multiple Dry Year conditions are based on projected water supply availability under 1929-1933 drought conditions, supply includes access to stored water in Semitropic

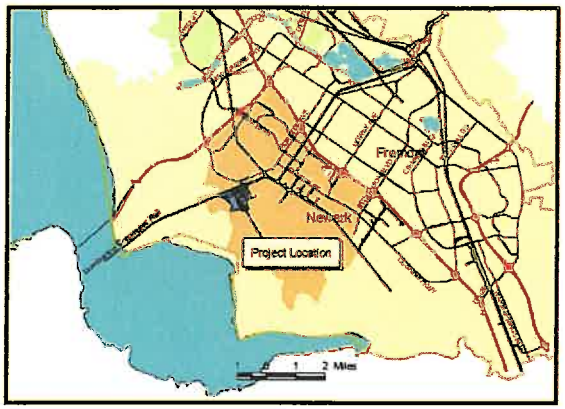


**Figure 1 ACWD Service Area and Dumbarton Transit Oriented Development Project Location Map**

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**ATTACHMENT A**
**Letter of Request from City of Newark for Water Supply Assessment**

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**ATTACHMENT B – ACWD URBAN WATER MANAGEMENT PLAN 2006-2010**

**ATTACHMENT C**
**ACWD WATER SUPPLY CONTRACTS**

- **State Water Project Water Supply Contract (partial)**
- **San Francisco Water Supply Contract**

**(note: Complete State Water Project Supply Contract is available on DWR website: http://www.swpao.water.ca.gov/wsc/index.cfm)**

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ATTACHMENT D – WATER EFFICIENCY MEASURES FOR NEW DEVELOPMENTS

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| WATER EFFICIENCY MEASURES FOR NEW RESIDENTIAL DEVELOPMENT - V.060810 | | | |
|---|---|---|---|
| GPF = gallons per flush, GPM = gallons per minute, WF = water factor | | | |
| Indoors | Flow Rate | Recommendation Details | Future Federal or State Requirements |
| Toilets | 1.28 GPF | High efficiency toilets (HET) have a flush volume of 1.28 GPF, dual flush models are also considered HETs with an average flush less than 1.28 GPF. Choose HETs that are third party tested and certified as passing a 350 g or higher flush volume test as established by the Uniform North American Requirements. | Will be mandatory to comply with CALGreen under the prescriptive method - effective 1/1/2011. Required for all after 2013 |
| Showerheads | 2.0 GPM | EPA's Water Sense Program recommends showerheads with a flow rate of 2.0 GPM or less | Will be mandatory to comply with CALGreen under the prescriptive method - effective 1/1/2011 |
| Lavatory Faucets | 1.5 GPM | Lavatory faucets with aerators that restrict flow to 1.5 GPM or less. | |
| Kitchen Faucets | 1.5 GPM | Kitchen faucets with aerators that restrict flow to 1.5 GPM or less. | |
| Clothes Washers | 6 WF | High efficiency clothes washers (HEW) with a water factor of 6 have a maximum average water use of 6 gallons per cubic foot of laundry. HEWs are typically front-loading horizontal axis washers. | Potential requirement in 3-5 years |
| Outdoors | | Recommendation Details | Future Federal or State Requirements |
| Turf Landscaping | | Limit turf to areas where it is functional. Avoid planting turf in narrow, odd-shaped areas which are hard to irrigate efficiently. | Many of these measures are now required as part of the CA Model Water Efficient Landscape Ordinance effective 01.22.10 |
| Non-turf Landscaping | | Select native or low water using plant species. High water using plants should be grouped together and irrigated seperately. | |
| Irrigation System | | Irrigation systems should be designed to maximize efficiency and reduce water waste by minimizing overspray and runoff. Use low volume (e.g. drip) irrigation in non-turf areas. | |
| Irrigation Controller | | An automatic, self-adjusting irrigation controller is recommended. Automatic, self-adjusting controllers utilize prevailing weather conditions, current and historic evapotranspiration, soil moisture levels, and other relevant factors to adapt water applications to meet the needs of plants. | |
| Overhead Sprinklers and Spray Heads | | Should not be used in narrow areas, eight (8) feet wide or less, or where adjacent to impervious surfaces where overspray and excess run-off can occur. | |
| Valves and Circuits | | Should be separated into hydrozones based on plant type and plant water needs. | |
| Decorative | | All decorative fountains should recycle water. | |
| Swimming Pools and Spas | | Covers should be used on all pools or spas. | |
| Bay-Friendly Landscaping Best Practices | | Adopt the Bay-Friendly Program's (Stopwaste.org): 7 best practices for landscaping and gardening. 1. Landscape Locally; 2. Landscape for Less to the Landfill; 3. Nurture the Soil; 4. Conserve Water; 5. Conserve Energy; 6. Protect Water & Air Quality; 7. Create Wildlife Habitat. | |

**WATER EFFICIENCY MEASURES FOR NEW COMMERCIAL DEVELOPMENT, V.060810**

GPF = gallons per flush, GPM = gallons per minute, WF = water factor

| Indoors | Flow Rate | Recommendation Details | Future Federal or State Requirements |
|---|---|---|---|
| Toilets | 1.28 GPF | High efficiency toilets (HET) have a flush volume of 1.28 GPF; dual flush models are also considered HETs, with an average flush less than 1.28 GPF. Choose HETs that are third party tested and certified as passing a 350 g or higher flush volume test as established by the Uniform Noter American Requirements | Will be mandatory to comply with CALGreen under the prescriptive method- effective 1/1/2011 Required for all after 2013 |
| Urinals | 0.5 GPF | High efficiency urinals (HEU) have a flush volume of 0.5 GPF or less. | |
| Showerheads | 2.0 GPM | EPA's Water Sense Program recommends showerheads with a flow rate of 2.0 GPM or less | Will be mandatory to comply with CALGreen under the prescriptive method- effective 1/1/2011 |
| Lavatory Faucets | .5 GPM | Lavatory faucets with aerators that restrict flow to .5 GPM or less | |
| Kitchen Faucets | 1.5 GPM | Kitchen faucets with aerators that restrict flow to 1.5 GPM or less. | |
| Clothes Washers | 6 WF | High efficiency clothes washers (HEW) with a water factor of 6 have a maximum average water use of 6 gallons per cubic foot of laundry. HEWs are typically front loading horizontal axis washers. | Potential requirement in 3-5 years |
| Cooling Towers | | Should be equipped with a recirculating system with a minimum of five (5) cycles of concentration. Newly constructed cooling towers should be operated with conductivity controllers, as well as make up and blowdown meters | |
| Food Steamers | | Should be boiler less or self-contained where applicable. | |
| Ice Machine | | Should be air-cooled, or use no more than 25 gallons of water per 100 pounds of ice and should be equipped with a recirculating cooling unit | |
| Conscherckal Refrigeration | | Should be air-cooled or if it is water cooled it should have a closed loop system. | |
| Pre-rinse Dishwashing Spray Valve | 1.2 GPM | Should have a maximum flow rate of 1.2 or less GPM. | |
| Vehicle Wash | | Shall reuse a minimum of 50% of the water. | |
| **Outdoors** | | **Recommendation Details** | **Future Federal or State Requirements** |
| Turf Landscaping | | Limit turf to areas where it is functional. Avoid planting turf in narrow, odd-shaped areas (turf are hard to irrigate efficiently. | Many of these measures are now required as part of the CA Model Water Efficient Landscape Ordinance effective 1/1/2010 |
| Non-turf Landscaping | | Select native or low water using plant species. High water using plants should be grouped together and irrigated seperately. | |
| Irrigation System | | Irrigation systems should be designed to maximize efficiency and reduce water waste by minimizing overspray and runoff. Use low volume (e.g. drip) irrigation in non-turf areas. | |
| Irrigation Controller | | An automatic, self-adjusting irrigation controller is recommended. Automatic, self-adjusting controllers utilize prevailing weather conditions, current and historic evapotranspiration, soil moisture levels, and other relevant factors to adapt water applications to meet the needs of plants. | |
| Overhead Sprinklers and Spray Heads | | Should not be used in narrow areas, e.g., 8 feet wide or less, or where adjacent to impervious surfaces where overspray and excess run-off can occur. | |
| Valves and Circuits | | Should be separated into hydrozones based on plant type and plant water needs | |
| Decorative fountains | | All decorative fountains should recycle water | |
| Swimming Pools and Spas | | Covers should be used on all pools or spas. | |
| Bay-Friendly Landscaping Best Practices | | Adopt the Bay-Friendly Program's (Stopwaste.org): 7 best practices for landscaping and gardening: 1. Landscape Locally; 2. Landscape for Less to the Landfill; 3. Nurture the Soil; 4. Conserve Water; 5. Conserve Energy; 6. Protect Water & Air Quality; 7. Create Wildlife Habitat | |

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Attachment C

ORDINANCE NO. 2014-01

AN ORDINANCE OF ALAMEDA COUNTY WATER DISTRICT DECLARING A WATER SHORTAGE EMERGENCY AND ADOPTING WATER USE REGULATIONS, RESTRICTIONS AND GUIDELINES FOR THE WATER SHORTAGE EMERGENCY.

BE IT ORDAINED by the Board of Directors of ALAMEDA COUNTY WATER DISTRICT as follows:

SECTION 1. DECLARATION OF A WATER SHORTAGE EMERGENCY.

The Board of Directors finds and declares as follows:

(a) The District's primary sources of supplies include: imported water from the State Water Project (40%); imported water from the San Francisco Public Utilities Commission (SFPUC) Regional Water System (20%); and local supplies originating from rainfall and runoff from the Alameda Creek Watershed (40%).

(b) On January 17, 2014, Edmund G. Brown, Governor of California, proclaimed a State of Emergency to exist in the State of California due to severe drought conditions.

C12 (c) On January 31, 2014, the California Department of Water Resources (DWR) announced that the 2014 State Water Project (SWP) allocation for all SWP Contractors is zero percent (0%) of the Contractors' contractual maximum SWP allocations due to the exceptionally dry conditions.

(d) Locally, Calendar Year 2013 was the driest year on record with only 23% of the long-term average precipitation, impacting local surface water and groundwater supplies.

(e) Additional findings supporting the actions in this Ordinance are set forth in the staff report for this Ordinance and the March 13, 2014 staff presentation to the Alameda County Water District Board of Directors which are incorporated into this Ordinance by this reference.

(f) On February 13, 2014, at a properly noticed regular Board meeting, the Board considered whether to declare that a water shortage emergency condition exists within the water service area of the District, and decided to hold a public hearing in March 2014 on this issue and to provide District customers an opportunity to be heard to protest against the declaration and to present their needs to the Board of Directors.

(g) Notice of the public hearing was published pursuant to law one time at least seven days prior to the date of the public hearing in The Argus, a newspaper of general circulation, printed and published within the water service area of the District.

(h) The full text of this Ordinance was published in The Argus at least five days prior to the date of the public hearing.

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C12 Attachment C, which includes Pages C-69 through C-75 below, details the 2014 ACWD ordinance No. 2014-01 declaring a water shortage emergency and adopting water use regulations, and restrictions and guidelines of the water shortage emergency, as summarized in the ACWD WSV of September 10, 2015. It includes the process for circulation and approval of the ordinance, the purpose and effect of the ordinance, and mandatory water restrictions and their enforcement, as well as penalties in case of violation. As noted in Response C6 to these comments, both the City and the applicant fully understand that the project would be subject to water use restrictions and limitations described in Ordinance No. 2014-01. No additional response is required.

(i) The full text of this Ordinance was posted in the office of the District and posted on the District's website at least five days prior to the public hearing.

(j) At the public hearing all persons present were given an opportunity to be heard and all persons desiring to be heard were heard.

(k) The public hearing was called, noticed and held in all respects as required by law.

(l) This Board heard and has considered each protest against the water shortage emergency declaration and all comments presented at the public hearing.

(m) The Board of Directors declares that a water shortage emergency condition exists and prevails within the water service area of this District. The water shortage exists by reason of the fact that the ordinary demands and requirements of the water consumers in the Alameda County Water District service area cannot be met and satisfied by the water supplies now available to the District without depleting the water supply or diminishing its quality to the extent that there would be insufficient water for human consumption, sanitation, and fire protection.

SECTION 2. PURPOSE AND AUTHORITY.

The purpose of this Ordinance is to conserve the water supply of the District for the greatest public benefit with particular regard to public health, fire protection and domestic use; to conserve water by reducing and restricting nonessential water use that if continued would constitute waste; and to the extent necessary by reason of drought and the existing water shortage emergency condition, to reduce water use fairly and equitably. This Ordinance is adopted pursuant to the District's authority under Sections 350 et seq. and 31026 et seq. of the California Water Code.

The water supply of the District includes water from the District's distribution system, as well as groundwater from the Niles Cone Groundwater Basin, which the District manages and regulates pursuant to its authority under the Replenishment Assessment Act of the Alameda County Water District, Chapter 1942 of the Statutes of 1961. The Niles Cone Groundwater Basin is an essential component of the District's water supply and must be conserved during this water shortage emergency. This Ordinance applies to all water from the District's water distribution system and to all wells, public and private, within the District's service boundary that produce water from the Niles Cone Groundwater Basin.

SECTION 3. EFFECT OF ORDINANCE.

This Ordinance shall take effect immediately, shall supersede and control over any other ordinance or regulation of the District in conflict herewith, and shall remain in effect until the Board of Directors declares that the water shortage emergency has ended.

SECTION 4. WATER USE LIMITATIONS.

(a) Mandatory Restrictions on Water Use.
During the water shortage emergency condition, and to preserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection, the following uses of water are prohibited:

(1) Use of water in violation of ACWD Ordinance No. 2008-01 Prohibiting Wasteful Use of Water;

(2) Use of water for the irrigation of lawns or other landscaped areas on consecutive days. With the exception of Item (3) below, landscape irrigation cannot be more frequent than:

- One day per week for the period of April 1 through May 31;
- Two days per week for the period of June 1 through September 30;
- One day per week for the period of October 1 through November 30.
- One day per week for the period of December 1 through March 31. Landscape irrigation during this period should be avoided except during an extended dry period. During this period landscape irrigation while it is raining is prohibited.

This section does not apply to the following categories of use:

- Watering or irrigating by use of a hand-held bucket or similar container.
- Watering for very short periods of time for the express purpose of adjusting or repairing an irrigation system.
- Maintenance of existing landscape necessary for fire protection.
- Maintenance of existing landscape for soil erosion control.
- Maintenance of plant materials identified to be rare or essential to the well-being of protected species.
- Maintenance of turf at sports fields, playing fields, and other active recreation use areas within public parks, school grounds, golf course greens, and day care centers, provided that such irrigation does not exceed 3 days per week for the period of June 1through September 30 and 2 days per week for the period of October 1 through May 31. Landscape irrigation during the period of December 1 through March 31 should be avoided except during an extended dry period.
- Actively irrigated environmental mitigation projects.
- Maintenance of vegetation, including fruit trees and shrubs, intended for consumption.

Increasing the frequency and/or duration of irrigation run times to offset the above restrictions on days of allowable irrigation is contrary to the purpose of this Ordinance, and is therefore prohibited.

(3) Use of water for the irrigation of new landscape installed after January 1, 2014 cannot be more frequent than three times per week throughout the year, provided that all of the following conditions are met:

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a. The newly installed landscape replaces turf grass that was regularly maintained and irrigated.
b. The new landscape consists solely of drought tolerant plants and is consistent with the requirements for drought tolerant landscaping established in the District's Turf Replacement Program.
c. The new landscape is irrigated solely by drip irrigation, or another low-volume irrigation type such as micro-spray, micro-jet or micro-bubbler where no emitter produces more than 2 gallons of water per hour, or by hose equipped with a quick-acting positive shutoff nozzle.
d. Mulch is used around the new landscaping to minimize evaporative losses.

(4) Use of water for lawn or garden watering, or any other landscape irrigation, in a manner which results in excessive ponding, flooding and/or excessive runoff in gutters or other waterways, patios, driveways, walks or streets;

(5) Use of water for washing sidewalks, walkways, driveways, patios, parking lots, tennis courts or other hard-surfaced areas;

(6) Use of hoses for any purpose, including washing cars, boats, trailers or other vehicles and machinery, without a quick-acting positive shutoff nozzle;

(7) The use of water for cleaning building or mobile home exteriors, including windows, except for the preparation of such exterior surfaces for the purpose of repair or repainting (only allowed with the use of a pressurized washing device equipped with a quick-acting positive shutoff nozzle);

(8) The draining and refilling of all existing swimming pools, except for protection of public health and safety;

(9) Use of single pass cooling systems in new (non-residential) connections ;

(10) Use of non-recirculating systems in new conveyer car wash and commercial laundry systems;

(11) Use of non-recycling decorative water fountains.

Depending on the continued severity of the drought and water shortage emergency, the District may update this Ordinance to impose additional water use restrictions as conditions warrant. Any updates to this Ordinance will be adopted pursuant to the District's authority under Sections 350 et seq. and 31026 et seq. of the California Water Code.

(b) Enforcement of Restrictions.

(1) Written Warning: If the District determines that a customer is using water in violation of this Ordinance, the District will send a written warning to the customer that lists the name and address of the person on the account, identifies the wasteful use of water that violates the mandatory restrictions on water use, requests that the customer

- 4 -

stop such wasteful use, informs the customer about the process for applying for an exception from the requirements of this Ordinance, and informs the customer that failure to comply with this Ordinance may result in the termination of service.

(2) On-site Notification: The District may, after issuing a written warning, and if the customer does not request an exception, conduct a follow-up visit in order to ascertain whether wasteful use of water is still occurring. In the event that continued waste of water that violates the mandatory restrictions on water use is observed, and no exception has been granted, the District will make reasonable efforts to notify an adult residing at the property if a residential account or an adult working on the property if a non-residential account, and will issue a second written warning by on-site notification of wasteful water use and the customer will be charged the field service visit charge established in the District's Rate and Fee Schedule, Section 3A. This second written warning will include all the information included in the first written warning and will be hand delivered to the adult on the premises or posted on the premises.

(3) Termination of Water Service: In the event that District personnel observe continued waste of water that violates the mandatory restrictions on water use occurring at a customer's premises more than 48 hours after the on-site notification, it shall be deemed to be a willful violation of the mandatory restrictions on water use, and the General Manager may authorize termination of water service.

(4) Restoring Water Service: The reconnection charge established in the District's Rate and Fee Schedule, Section 3E must be paid before the District will restore service. In addition, the customer must have stopped the wasteful use of water and have paid all charges owed to the District under this Ordinance, and all other rates and fees owed, before the District will restore water service.

(c) Violation is a Misdemeanor.

Pursuant to California Water Code Section 31029, use of water in violation of the restrictions on water use set forth in Section 4 of this Ordinance is a misdemeanor.

SECTION 5. WATER USE GUIDELINES.

During the water shortage emergency condition, customers are urged to adhere to the following guidelines to conserve the limited water supply available:

(1) Use water for beneficial purposes in a manner which minimizes the use of water, and repair leaks as soon as possible.

(2) Replace non-conserving plumbing fixtures (e.g. toilets, showerheads, faucets, clothes washers) with newer, water efficient models.

(3) Reduce indoor water use by taking the following actions:
   a. Turn off the tap while brushing teeth, shaving, and washing hands
   b. Run dishwashers and washing machines with full loads only
   c. Take shorter showers

(4) Landscape Guidelines:

Irrigate early in the morning (before 10:00 a.m.), to minimize evaporation.

Installation of new landscaping should utilize best known irrigation and horticultural practices for efficient water use.

Existing systems should be evaluated and repaired to minimize evaporation.

Use drought tolerant plant species wherever possible for replacement and at all new landscape installations. Installation of non-drought tolerant landscaping, including turf, should be avoided.

Use non-potable water from rain water capture and/or graywater for landscape irrigation. Graywater should not be used in vegetable gardens where food is a root crop or touches the ground surface. Regulations for the design and construction of graywater systems can be found in Chapter 16A of the California Plumbing Code. Most graywater systems also require permits from the local cities.

(5) Use non-potable water for construction purposes unless it is not appropriate and/or not available. If reclaimed water is used, the proposed conditions of use must meet the requirements of the San Francisco Bay Regional Water Quality Control Board.

(6) Non-residential customers should utilize systems which recycle water when possible.

(7) Restaurants should serve water to customers only when requested.

SECTION 6. APPLICATION PROCEDURE FOR EXCEPTIONS.

Consideration of written applications for exceptions regarding the mandatory restrictions on water use set forth in Section 4 shall be as follows:

(a) A customer may submit a written application for an exception to the mandatory restrictions on water use to the District's Drought Management Coordinator or designee. The application must be on the District's form and must include the customer name, account number(s), a description of the proposed water use and estimated duration and quantity of water use (e.g., gallons per day), and a description of the reason an exception is requested.

(b) The Drought Management Coordinator or designee will consider each application for an exception to the mandatory restrictions on water use based on the criteria established for residential and non-residential customers. If the criteria is satisfied, the Drought Management Coordinator or designee may grant exceptions for reasons that include

benefits and/or needs of water to be used, potential adverse economic impacts, implementation complexities/issues, and mitigation measures/offsets.

(c) A customer may appeal a denial of an application by submitting a written appeal to the General Manager on the District's form and include the reasons why the customer disagrees with the denial.

SECTION 7. EXEMPTION FROM CEQA.

The District Board of Directors finds that the actions taken in this Ordinance are exempt from provisions of the California Environmental Quality Act of 1970 because they are immediate actions necessary to prevent or mitigate an emergency, as described in section 15269(c), and to assume the maintenance, restoration, or enhancement of a natural resource, as described in section 15307, of the Guidelines promulgated under said Act.

SECTION 8. SEVERABILITY.

If any provision of this Ordinance is held to be invalid or unenforceable, that holding will not affect the remainder of the Ordinance, which shall remain in full force and effect.

SECTION 9. PUBLICATION AND POSTING OF ORDINANCE.

The Board of Directors direct that the full text of this Ordinance be published in The Argus and that a certified copy of the full text of this Ordinance be posted in the Office of the District and on the District's website within ten days from the date this Ordinance is adopted and identifying how each Director voted on this Ordinance.

PASSED AND ADOPTED this 13th day of March, 2014, by the following vote:

AYES: Directors Koller, Gunther, Huang, and Sethy

NOES: Director Weed

ABSENT: None

/s/ PAUL S. SETHY
Paul S. Sethy, President
Board of Directors
Alameda County Water District

ATTEST:

/s/ ANDREW WARREN
Andrew Warren, Assistant District Secretary
Alameda County Water District

APPROVED AS TO FORM:

/s/ PATRICK T. MIYAKI
Patrick T. Miyaki, Attorney
Alameda County Water District

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Attachment D

**WATER EFFICIENCY MEASURES**
**FOR NEW RESIDENTIAL DEVELOPMENT - V.090315**

GPF = gallons per flush, GPM = gallons per minute, WF = water factor

| Indoors | Water Usage Rates | Recommendation Details | Federal or State Requirements |
|---|---|---|---|
| Toilets | 1.28 GPF | High efficiency toilets (HET) have a flush volume of 1.28 GPF, dual flush models are also considered HETs, with an average flush less than 1.28 GPF. Choose HETs that are third party tested and verified as passing a 350 g or higher flush volume test as established by the Uniform North American Requirements. | Required January 1, 2014 |
| Showerheads | 1.8 GPM | Showerheads with a flow rate of 1.8 GPM or less | New California Energy Commission emergency standards (Shower heads 2.0 GPM, as compared to 2.5 GPM as effective January 1, 2014, and lavatory faucets 1.2 GPM, as compared to previous faucets 1.5 GPM, as effective |
| Lavatory Faucets | 1.2 GPM | Lavatory faucets with aerators that restrict flow to 1.2 GPM or less. | |
| Kitchen Faucets | 1.7 GPM | Kitchen faucets with aerators that restrict flow to 1.7 GPM or less, with temporary flow increase to 2.2 GPM for filling pots and pans. | |
| Clothes Washers | 6 WF (Top loading) 4 WF (Front loading) | High efficiency clothes washers (HEW) with a water factor of 6 or less, a maximum average water use of 15 gallons per cubic foot of laundry. HEWs are typically front loading horizontal axis washers. | New standards effective January 2018: 4 WF for top loading vertical axis washers and 3.8 WF for front loading |
| Dishwashers | 3.5 - 5.0 gallons per cycle | Efficient dishwashers that use 5.0 gallons/cycle or less (standard-sized - 7 or more place settings), 3.5 gallons/cycle or less (compact size - less than 6 place settings) | National Standard effective May 30, 2013 |
| **Outdoors** | | **Recommendation Details** | **Federal or State Requirements** |
| Turf Landscaping | | Limit turf to areas where it is functional. Avoid planting turf in narrow, odd-shaped areas which are hard to irrigate efficiently. | Many of these measures are now required as part of the CA Model Water Efficient Landscape Ordinance (MWELO) effective January 1, 2010. Note: An updated MWELO with stricter standards will be in effect before the end of 2015 |
| Non-turf Landscaping | | Select native or low water using plant species. High water using plants should be grouped together and irrigated separately. | |
| Irrigation System | | Irrigation systems should be designed to maximize efficiency and reduce water waste by minimizing overspray and runoff. Use low volume (e.g., drip) irrigation in non-turf areas | |
| Irrigation Controller | | An automatic, self-adjusting irrigation controller is recommended. Automatic, self-adjusting controllers utilize prevailing weather conditions, current and historic evapotranspiration, soil moisture levels, and other relevant factors to adapt water applications to meet the needs of plants. | |
| Overhead Sprinklers and Spray Heads | | Should not be used in narrow areas, eight (8) feet wide or less, or where adjacent to impervious surfaces where overspray and excess run-off can occur. | |
| Valves and Circuits | | Should be separated into hydrozones based on plant type and plant water needs | |
| Decorative fountains | | All decorative fountains should recycle water. | |
| Swimming Pools and Spas | | Covers should be used on all pools or spas. | |
| Bay-Friendly Landscaping Best Practices | | Adopt the Bay-Friendly Programs (Basewise.org): 1. Start with the Soil; 2. Landscape Locally; 3. Landscape for Less to the Landfill; 4. Nurture the Soil; 5. Conserve Water; 6. Conserve Energy; 7. Protect Water & Air Quality; 8. Create Wildlife Habitat | |

C13

C13 Attachment D provides updated water efficiency measures for new residential or commercial development. The project applicant has reviewed the restrictions and will comply with them during project implementation.

C13

| WATER EFFICIENCY MEASURES FOR NEW COMMERCIAL DEVELOPMENT- V.090315 | | | |
|---|---|---|---|
| GPF = gallons per flush, GPM = gallons per minute, WF = water factor | | | |
| **Indoors** | **Water Usage Rates** | **Recommendation Details** | **Federal or State Requirements** |
| Toilets | 1.28 GPF | High efficiency toilets (HET) have a flush volume of 1.28 GPF, dual flush models are also considered HETs, with an average flush less than 1.28 GPF. Choose HETs that are third party tested and certified as passing a 350 g or higher flush volume test as established by the Uniform North American Requirements | Required January 1, 2014 |
| Urinals | 0.125 GPF | High efficiency urinals (HEU) with a flush volume of 0.125 GPF or less. | California Energy Commission Emergency Standard effective January 1, 2015 |
| Showerheads | 1.8 GPM | Showerheads with a flow rate of 1.8 GPM or less. | |
| Lavatory Faucets | 0.5 GPM | Lavatory faucets with aerators that restrict flow to 0.5 GPM or less. | |
| Kitchen Faucets | 1.7 GPM | Kitchen faucets with aerators that restrict flow to 1.7 GPM or less, with temporary flow increase to 2.2 GPM for filling pots and pans | |
| Clothes Washers | 6 WF (Top loading) 4 WF (Front loading) | High efficiency clothes washers (HEW) with a water factor of 6 have a maximum average water use of 6 gallons per cubic foot of laundry. HEWs are typically front loading horizontal axis washers. This applies to family-sized washers commonly used in multi-family settings and laundromats | National Standard effective January 8, 2018 to January 1, 2018. 6.5 WF (Top loading) and 5.5 WF (Front loading) |
| Cooling Towers | | Should be equipped with a recirculating system with a minimum of five (5) cycles of concentration. Newly constructed cooling towers should be operated with conductivity controllers, as well as make up and blowdown meters | |
| Food Steamers | | Should be boiler less or self-contained where applicable | |
| Ice Machine | | Should be air-cooled, or use no more than 25 gallons of water per 100 pounds of ice and should be equipped with a recirculating cooling unit. | |
| Commercial Refrigeration | | Should be air-cooled or if it is water cooled it should have a closed loop system. | |
| Pre-rinse Dishwashing Spray Valve | 1.2 GPM | Should have a maximum flow rate of 1.2 or less GPFs. | |
| Vehicle Wash Facility | | Shall reuse a minimum of 50% of the water. | |
| **Outdoors** | | **Recommendation Details** | **Federal or State Requirements** |
| Turf Landscaping | | Limit turf to areas where it is functional. Avoid planting turf in narrow, odd-shaped areas which are hard to irrigate efficiently. | Many of these measures are now required as part of the CA Model Water Efficient Landscape Ordinance (MWELO), effective January 1, 2016. Note: An updated MWELO with stricter standards will be in effect before the end of 2016 |
| Non-turf Landscaping | | Select native or low water using plant species. High water using plants should be grouped together and irrigated separately. | |
| Irrigation System | | Irrigation systems should be designed to maximize efficiency and reduce water waste by minimizing overspray and runoff. Use low volume (e.g., drip) irrigation in non-turf areas. | |
| Irrigation Controller | | An automatic, self-adjusting irrigation controller is recommended. Automatic self-adjusting controllers utilize prevailing weather conditions, current and historic evapotranspiration, soil moisture levels, and other relevant factors to adapt water applications to meet the needs of plants. | |
| Overhead Sprinklers and Spray Heads | | Should not be used in narrow areas, eight (8) feet wide or less, or where adjacent to impervious surfaces where overspray and excess run-off can occur. | |
| Valves and Circuits | | Should be separated into hydrozones based on plant type and plant water needs. | |
| Decorative Fountains | | All decorative fountains should recycle water. | |
| Swimming Pools and Spas | | Covers should be used on all pools or spas | |
| Bay-Friendly Landscaping Best Practices | | Adopt the Bay-Friendly Program's (Stopwaste.org) 7 best practices for landscaping and gardening: 1. Landscape Locally, 2. Landscape for Less to the Landfill; 3. Nurture the Soil; 4. Conserve Water; 5. Conserve Energy; 6. Protect Water & Air Quality; 7. Create Wildlife Habitat | |

Cargill

September 16, 2015

SENT VIA EMAIL

Terrence Grindall (terrence.grindall@newark.org)
Assistant City Manager
City of Newark
37101 Newark Boulevard
Newark, CA 94560

Re: Gateway Station West Project - Draft Supplemental Environmental Impact Report

Dear Mr. Grindall:

D1 Cargill, Incorporated ("Cargill") would like to thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Report for the Gateway Station West Project, dated August, 2015 (the "SEIR").

The SEIR analyzes the proposed subdivision and development of 54.5 acres of property (the "Property") owned by Dumbarton Area 2, LLC ("DA2") and located within the Dumbarton TOD Specific Plan ("Specific Plan"). Cargill is the former owner of the Property and was one of the property owners that helped to create the Specific Plan in 2011. Cargill supports the proposed Gateway Station West Project (the "Project"), which would implement the planning and vision of the Specific Plan as a walkable, transit-oriented community. Cargill wishes to provide the following comments on the SEIR to clarify certain matters pertaining to Cargill's ongoing industrial salt operations adjacent to the Project.

**Background**

D3 By way of background, Cargill conveyed the Property to DA2 in 2014 pursuant to a recorded Grant Deed (Document No. 2014-022061, Official Records of Alameda County) (the "Grant Deed") and subject to a Declaration of Covenants, Conditions and Restrictions, Reservation of Easements and Maintenance Agreement (Document No. 2014-022060, Official Records of Alameda County) (the "CCRs"). The Grant Deed and CCRs are included as Exhibit A and Exhibit B, respectively.

D4 In the sale of the Property to DA2, Cargill retained certain private utility and access easements over portions of the Property and over property owned by Wildlands, Inc. (Parcel 1 – 252 PM 81) (the "Wildlands Parcel") to the south of the Property. These private easements include a 40 foot access and utility easement over the Wildlands Parcel, depicted on Parcel Map No. 7505 and immediately south of the Property (included as Exhibit C) (the "Wildlands Easement") and an exclusive 65 foot

D1 Comment noted.

D2 The City agrees with the characterization of the project and statement of former ownership. Responses to individual comments provided in this letter are provided below.

D3 Consistent with this comment, the City and applicant agree that the project parcels were conveyed subject to existing utility and access easements, as documented in Exhibits A - D to the letter. The grant deeds, which are matters of public record and are not points of contention (the City stipulates to them), are provided in digital files for this project (CDs released for the Final SEIR, as well as on the City website). Both the City and applicant agree with their accuracy.

D4 The easement held on property to the south does not affect this project. The City and applicant agree that there is a 65-foot wide access and utility easement along the southwestern property boundary, as depicted on Figure 3-5 of the SEIR. Responses to Cargill's clarification are provided below.

Mr. Terrence Grindall
September 16, 2015

access and utility easement over the southwestern portion of the Property depicted at Figure 3-5 of the SEIR (the "Reserved Easement Area").

The Wildlands Easement and Reserved Access Easement were reserved for the benefit of land retained by Cargill in connection with its salt production operations, including Parcel 2 and Parcel 3 of Parcel Map 9837 (315 PM 84), and provide for a critical access road for these operations (the "Cargill Access Road"). Trucks and other heavy equipment, not suitable for public roads, utilize the Cargill Access Road throughout the year to transport material between Cargill's crystallizer complex and Cargill's bittern complex. There is no other means of ingress or egress to and from these two critical parts of Cargill's operations.

D4 cont.

Against this background, Cargill wishes to clarify certain matters discussed in the SEIR.

Cargill Access Road/Proposed Barrier Fencing

As noted above, due to the heavy industrial traffic over the Cargill Access Road, this road is not suited to public access for safety and security reasons. Cargill is therefore supportive of the proposed fencing/barriers which would separate housing and the proposed candidate trail (Parcel 'E') from the Cargill Access Road as depicted in Figure 3-5 and as described at pages 3-9 through 3-10 of the SEIR.

D5

Cargill notes, however, that DA2, or any future owner of the Property, is obligated under Section 6.1 of the CCRs to also construct a barrier fence to separate the Cargill Access Road from the Property along the entire length of the Cargill Access Road, and not simply along the proposed candidate trail. That is, what is shown on Figure 3-5 of the SEIR (Site Plan) as Barrier Segment A must be extended to the north between Barrier Segment E and Barrier Segment B. This is required not only by the terms of the CCRs, but also for safety and security considerations as noted above.

Cargill also notes that the Project does not propose any uses which would intersect with or impede Cargill's use of the Cargill Access Road. Specifically, the candidate trail would run along the southern and western border of the Property, separated from the Cargill Access Road by fencing/barriers, and would connect to the Bayshores project to the east (the Torian site project proposed by William Lyon Homes) and to future Specific Plan uses to the north, without intersecting with or crossing the Cargill Access Road. See SEIR at page 3-8 and Figure 3-5. These restrictions and precautions are warranted by public safety considerations and should be maintained.[1]

D6

[1] At page 4.1-5 of the SEIR, in the Aesthetics section, it is stated that the candidate trail "would eventually connect to...the Plummer Creek Mitigation Bank," which is located to the south of the Property. A similar statement is made in a letter from Helix Environmental Planning, Inc. to the City of Newark contained in Appendix C of the SEIR in connection with the aesthetics and visual impacts analysis of the EIR. Since no such connection to the Plummer Creek Mitigation Bank is depicted or described anywhere in the Project description, including at Figure 3-5 or in

2

D5 Comment noted.

D6 The City disagrees that the barrier fence must be extended all along the southern boundary of the parcel. The CCRs provide Cargill with the right to comment on a barrier fence between the project and the remaining Cargill properties. As stated by Cargill, "the Project does not propose any uses which would intersect with or impede Cargill's use of the Cargill Access Road." No active use is proposed for the open space on the southwest side of the project adjacent to the 65-foot-wide easement noted above. Given the lack of planned uses in this area, combined with the barriers along Segments A, D, E and F as shown on current Figure 3-5, which would block trail users from access to Cargill property as well as the open space set-aside, no additional barrier is required. The intent of the open space is to provide wildlife habitat and allow some connectivity to the Plummer Creek Wetland Mitigation Bank to the south of the project site. Installation of an additional barrier fence between Barrier Segments F and C on the current Figure 3-5 as suggested by Cargill, would diminish the ecological value of the conserved habitats. The City notes that the Cargill comment letter includes Exhibit B, Declaration of Covenants, Conditions and Restrictions, Reservation of Easements and Maintenance.

D6 cont. Article VI - Construction of Barrier; Reservation Of Easements and Rights, Paragraph 6.1, Construction of Barrier Fence, states that: In the event any governmental conditions imposed on subdivision of the Property with respect to the Barrier Fence are different,... than those in this Paragraph 6.1, Owner agrees to comply with such government conditions with respect to construction of the Barrier Fence. The City has identified a preference for barriers adjacent to the trail. Resource agencies will make their preferences known through the ongoing permit process.

Regarding Footnote 1, the City agrees that the SEIR discloses the anticipated future connection of the candidate trail to the Plummer Creek Mitigation Bank. No revisions are required to the SEIR, however, as that connection is not proposed as part of the project, and would not be implemented by this applicant. It is simply a disclosure of an anticipated future action. As a result, no revisions to the SEIR are required in this Final SEIR on this point.

Mr. Terrence Grindall
September 16, 2015

**Use of Cargill Access Road**

Section 3.2.1 of the SEIR summarizes existing land uses surrounding the Property and the Project area. The SEIR describes Cargill's ongoing industrial salt operations, including solar salt concentrators and crystallizers to the south and west of the Property, and Cargill's existing access roads, including the Cargill Access Road over the Wildlands Easement and Reserved Easement Area. At page 3-2, the SEIR incorrectly states that "[s]alt is harvested from the crystallizer ponds approximately 7 to 14 days per year using heavy trucks." D7

In fact, heavy trucks and other equipment utilize these access roads on daily basis, year round. Section 3.2.1 should be revised to accurately reflect this fact.

**Reserved Easement Area Restrictions**

At page 3-10, the SEIR states that "[a] total of 7.55 acres within the 13.55-acre Parcel 'GGG', located in the southwest corner of the project site, is proposed as open space (see Figure 3-5) and would be preserved and maintained as native habitat as part of the proposed project." It is unclear from this statement or the Project description whether any portion of the 7.55 acres proposed as open space habitat would include the Reserved Easement Area.

Cargill wishes to note that, as depicted in Figure 4.3-1 of the SEIR, the Reserved Easement Area is disturbed and does not contain aquatic or other sensitive habitat suitable for open space dedication. Further, under the CCRs and Grant Deed, no owner of the Property may utilize the Reserved Easement Area as part of a residential, commercial, or mixed-use development of the Property, no portion of the Reserved Easement Area may be dedicated for public access, public space or public use, and Cargill's use of the Reserved Easement Area is exclusive, superior and may not be obstructed in any way at any time. (See Grant Deed at Exhibit 1, pages 3-6 and CCRs at Section 6.3.) To the extent the SEIR includes any portion of the Reserved Easement Area as open space habitat, such as at Table 3-2, the SEIR should be revised to exclude the Reserved Easement area from any such dedication given the obligations and restrictions set forth in the Grant Deed and CCRs. 8

**Noise Analysis**

Section 4.9 of the SEIR discusses and analyzes potential noise and vibration impacts as a result of the Project. At page 4.9-13, the SEIR discusses potential noise impacts to future residents of the Project from Cargill's use of its access roads for salt production operations, concluding that any such impacts would be less than significant. D9

Cargill also wishes to point out that it and its predecessor-in-interest, Leslie Salt Co., have been operating within the City of Newark for over 60 years, and long before any residential development

the Project Vesting Tentative Map at Appendix B of the SEIR, this statement appears to be in error and should be corrected to be consistent with the Project description.

3

D7 It is noted that Cargill uses the access road as frequently as daily. The cited reference is to the heaviest use period by extremely large or off-road trucks and harvesters, that is used in the project noise technical study to provide a worst-case analysis of up to 200 trucks per day, or 400 trips in and out over a 24-hour period (see the project noise technical report, page 15). Any use level less than this conservatively modeled assumption falls within the worst-case modeled noise impact, and does not need to be additionally discussed. The statement on page 3-2 of the Draft SEIR has been clarified to reflect this in addenda to the Final SEIR, at the beginning to the Final SEIR document.

D8 Comment noted. The proposed 7.55 acres of open space in the southwestern portion of the property includes all or portions of three of the Reserved Easement Areas, Exhibit C, Detail B – 65' Access & Utility Easement; Exhibit C, Detail C - 65' Access & Utility Easement, and Exhibit 4 – Culvert Easement Area. The open space would also include an existing PG&E power line easement. The potential for a future conservation easement in this area would neither allow any public access or use, nor burden the use of any pre-existing and ongoing easements held by Cargill and PG&E.

D9 The City acknowledges the long-standing nature of Cargill's use of this access route. Please also refer to the responses to Comments D6 and D7 above.

D9 cont. was proposed for this portion of the City. Reflective of this fact, the CCRs, which are binding upon any existing or future owner of all or any portion of the Property, releases Cargill from any claims arising from Cargill's salt production operations, including noise, dust, odors and traffic from large or off-road trucks or heavy operational equipment. (See CCRs at Section 8.1.)

**Off-Site Drainage Improvements**

D10 Finally, the Project proposes to replace an existing drainage culvert adjacent to the southwestern portion of the Property to accommodate drainage from the Project. (See SEIR at Figure 3-3 and page 3.11). This culvert would be replaced off-site of the Property and on an adjacent parcel owned by Cargill (Parcel 3 - 315 PM 84).

While Cargill supports the replacement of this existing culvert to facilitate the proposed Project, Cargill wishes to point out that this work is subject to a number of obligations and restrictions contained in both the Grant Deed (see Exhibit 1) and in the CCRs (see Section 6.3).

**Conclusion**

D11 Once again, Cargill appreciates the opportunity to comment on the SEIR. These issues are of tremendous import and impact to Cargill, and we hope our comments clarify the draft SEIR and Cargill's recorded legal rights

If you have any questions regarding Cargill's comments, please feel free to contact me. We look forward to seeing these comments and corrections reflected in the final SEIR.

Sincerely,

Pat Mapelli
Manager, Real Property
Cargill, Incorporated
Newark, California Facility

Attachments

4

D10 The proposed culvert replacement would occur within the property boundary with only temporary construction impacts extending into the off-site portion of the Culvert Easement Area. The City and applicant agree that the cited proposed drainage/culvert improvements would be subject to obligations and restrictions specified in the grant deed and CCRs.

D11 Thank you for your comments and the opportunity to contact you should any questions arise.

BARRY J. SHOTTS
ATTORNEY AT LAW
1224 EDWARDS STREET
SAINT HELENA, CALIFORNIA 94574
TEL: 415-585-2821

September 16, 2015

VIA EMAIL

Mr. Terrance Grindall (terrence.grindall@newark.org)
Assistant City Manager
City of Newark
37101 Newark Blvd.
Newark, California 94560

Re: Ashland Inc. Comments on Gateway Station West Draft SEIR

Dear Mr. Grindall:

On behalf of Ashland Inc. ("Ashland"), thank you for the opportunity to comment on the Gateway Station West Project - Draft Supplemental Environmental Impact Report ("SEIR").

The SEIR analyzes the proposed subdivision and development of 54.5 acres of property (the "Project Property") owned by Dumbarton Area 2, LLC ("DA2") and located within the Dumbarton TOD Specific Plan ("Specific Plan"). As you know, Ashland owns approximately 9.98 acres of property within the Specific Plan located at 8610 Enterprise Drive, Newark, California (the "Ashland Property") and immediately to the east of the Project Property. Ashland was one of the property owners which helped create the Specific Plan in 2011 and generally supports the proposed Gateway Station West Project (the "Project") to implement the vision of the Specific Plan.

E1

Ashland wishes only to provide the following comments to clarify certain matters.

**"A" Avenue/Hickory Street**

In addition to the proposed development of the Project Property, the SEIR analyzes the impacts of constructing/improving certain off-site roadways to provide access to the Project Property, including Enterprise Drive, Hickory Street and "A" Avenue. All of these proposed roadways front the Ashland Property in certain locations.

E2

In 2013, Ashland granted a public roadway easement to the City of Newark (the "City") over the Ashland Property for the northern one-half of "A" Avenue adjacent to the Ashland Property to provide necessary circulation for traffic within the Specific Plan (the "Ashland Roadway Easement"). Ashland also entered into a Reciprocal Street Easement Agreement ("REA") with William Lyon Homes, Inc. ("Lyon"), authorizing Lyon to construct "A" Avenue over the Ashland Roadway Easement, and to place public utilities within "A" Avenue at Lyons' sole

E3

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E1 This letter was submitted on behalf of Ashland, Inc. (Ashland). The City agrees that Ashland's property is located directly to the east of the Gateway Station West property and that Ashland played a role in creation of the Specific Plan in 2010. Specific points raised in this letter are addressed below.

E2 Comment noted.

E3 The City agrees that Ashland granted a public roadway easement to the City for the northern one-half of "A" Avenue adjacent to the Ashland property and continues to hold fee title to this area. The City also accepts Ashland's statement that Ashland entered into an REA with William Lyon Homes, Inc. (Lyon), that authorized Lyon to construct "A" Avenue over the Ashland-granted easement and to place public utilities within the easement area. As noted by

E3 cont. expense. Ashland continues to own fee title to the northern one-half of the planned "A" Avenue fronting the Ashland Property, subject to the Ashland Roadway Easement.

E4 Ashland wishes to note that it has the contractual right to approve all utilities placed within "A" Avenue fronting the Ashland Property and that the roadway must be constructed pursuant to certain terms contained in the REA. The proposed Gateway Station West Vesting Tentative Map includes a Preliminary Utility Plan (Appendix B of the SEIR, Sheet 4 of the Vesting Tentative Map) which depicts certain storm drain, water and sanitary sewer lines within "A" Avenue. All utilities placed within "A" Avenue should be designed and sized to provide sufficient capacity to serve all properties adjacent to these facilities, including the Ashland Property. There is no indication in the SEIR regarding whether the City has confirmed that these utilities would be appropriately sized.

E5 Ashland also notes that DA2, as the developer of the Project Property, is not a party to the REA and does not currently have the right to construct "A" Avenue on the Ashland Property, including over the Ashland Roadway Easement. However, Ashland would be willing to discuss entering into an easement agreement with DA2 similar to the REA to facilitate construction of the roadway and to ensure that all utilities are appropriately sized.

E6 Similarly, the Site Plan for the proposed Project (Figure 3-5 of the SEIR) depicts a roundabout at the intersection of "A" Avenue and Hickory Street. This roundabout would extend beyond the existing Hickory Street public right of way and beyond the Ashland Roadway Easement granted by Ashland in 2013. The intersection would therefore include a portion of the Ashland Property that is not owned or controlled by either the City or DA2. For this roundabout to be constructed as part of the Project, this additional land would have to be acquired from Ashland on mutually acceptable terms, and the Project applicant would be responsible for satisfying any permit requirements and mitigating any impacts to the Ashland Property.

**Enterprise Drive**

E7 According to the SEIR, Enterprise Drive, immediately adjacent to the north of the Ashland Property, would be improved as part of the Project to provide access to the Project Property. The current roadway would be expanded beyond the existing 80-foot public right of way to accommodate a median curb, sidewalks and landscaping (SEIR at page 3-12). The design for this segment of Enterprise Drive is consistent with the Specific Plan. Ashland wishes to note that, for Enterprise Drive to be constructed as proposed by the Project, an additional 5 feet of property would have to be acquired from Ashland on mutually acceptable terms, and the Project applicant would be responsible for satisfying any permit requirements and mitigating any impacts to the Ashland Property.

**Groundwater Contamination**

E8 At page 4.7-5, the SEIR states that "investigations of groundwater beneath the project site indicate that the regional plume of volatile organic compounds (VOCs), predominantly 1,2-dichloroethane (1,2-DCA), has encroached onto the northern portion of the property from the Ashland Chemical Company property (as noted above)." Ashland wishes to note that

E3 cont. Ashland below in this letter, the project applicant (DA2) is not a party to this agreement and Ashland is willing to enter into an easement agreement with DA2, similar to the REA, to facilitate construction of the roadway and ensure that all utilities are adequately sized.

E4 Pursuant to the Dumbarton TOD Specific Plan Draft EIR, which the current EIR is tiered from, the appropriate mitigation for the Specific Plan overall relative to water lines is "new distribution mains in backbone streets of 1- to 12-inches in diameter and distribution mains in local streets of 8- to 10-inches in diameter. Consistent with this, the project proposes eight-inch diameter lines within the project, tying into 10-inch off-site lines; including the 10-inch line within "A" Avenue. The project is consistent with Ashland's request to size project improvements to accommodate Ashland flows as well.

Relative to sewer, the Dumbarton TOD Specific Plan General Plan Amendment modified the Specific Plan to require that the wastewater collection system would be adequate to serve new development in the project area, and to amend sewer fees and other financing mechanisms as appropriate to ensure that project sponsors would pay their fair share of sewer main improvements. The project would be consistent with the USD Sewer Master Plan; and, consistent with the mitigation measure required in the 2011 Specific Plan Mitigation Monitoring and Reporting Program. Project Civil Engineers are in contact with Ashland and awaiting confirmation of their recommended utility sizing requirements. Piping size appropriate to the project and area would be installed prior to issuance of a building permit. The project is consistent with Ashland's request to size project improvements to accommodate Ashland flows as well.

E5 Comment noted. The Gateway Station West applicant is coordinating with Ashland regarding placement of utilities into the Ashland easement.

E6 Discussions on the potential roundabout area are ongoing and will be concluded as more detail is known. This will occur following project approval and final design and will be concluded on mutually agreeable terms.

E7 Discussions on the Enterprise Drive expansion area are ongoing and will be concluded as more detail is known. This will occur following project approval and final design and will be concluded on mutually agreeable terms.

E8 City agrees that there are multiple contributing parties to groundwater contamination in areas within the Specific Plan area and that Ashland is not the sole source. In addition, consistent with the comment, the Draft SEIR stated on page 4.7-7 that:

> Total petroleum hydrocarbon (TPH) compounds occurring as gasoline, diesel and motor oil (TPHg, TPHd, TPHmo), as well as benzene, were also detected in groundwater near the former magnesia waste pile (or North Hill) location, *although the specific source of these compounds is not known.* That is, based on the review of the EDR database report, *there are multiple facilities located adjacent to (and hydrologically up-gradient of) the project site that are listed in environmental databases as having known releases that have impacted groundwater.* (emphasis added)

No change is required to text addressing this specific property; comments and responses, however, are fully incorporated into the Final SEIR.

groundwater has been impacted in areas within the Specific Plan, including below the Project Property and the Ashland Property, from a number of sources, including the FMC property to the north, the Jones Hamilton property to the east, and the SHH property to the east. See Appendix H, ASTM Phase I and Phase II Environmental Site Assessments, at page 14 (the "ESA"). The SEIR should be corrected to state that there are multiple sources of groundwater contamination within this area, as the ESA for the SEIR has concluded.

E8 cont.

In any event, the SEIR notes that groundwater samples were taken at the Project Property as part of the Phase II ESA to assess potential risks to future residents, "and while several VOCs were detected in multiple samples, none of the observed concentrations exceeded associated RWQCB [Regional Water Quality Control Board] residential screening levels." (SEIR at page 4.7-9). The SEIR also concludes that "off-site groundwater contamination '…does not pose a vapor intrusion threat' on the project site…." (quoting the results of the ESA set forth in Appendix H of the SEIR).

E9

As a precaution, the SEIR includes Mitigation Measure MM HZ-2 which requires that vapor intrusion engineering controls be implemented in specific locations if deemed necessary by the RWQCB. The SEIR therefore concludes that any potential impacts from groundwater would be avoided or reduced below a level of significance (SEIR at page 4.7-24).

E10

**Groundwater Monitoring Wells**

The SEIR notes that there are four groundwater monitoring wells (W-25 and B-26 through B-28) in the northeastern portion of the Project Property. As the SEIR also notes, Ashland is required by the RWQCB to periodically sample groundwater from wells B-26 through B-28 pursuant to an existing access agreement although, as noted above, VOC levels from these wells are below residential screening levels (SEIR at pages 4.7-5 and 4.7-9).

E11

To ensure that these wells are adequately protected as the Project Property is developed, the SEIR includes Mitigation Measure MM HZ-3, which requires that the Project applicant satisfy all applicable requirements under the Alameda County Water District ("ACWD") Groundwater Protection Act (Ordinance No. 2010-01). However, because the RWQCB currently requires that these wells be sampled in connection with ongoing groundwater remediation efforts in the area, the RWQCB's review and approval should also be required before any of these wells are impacted or abandoned. The RWQCB's review and approval should be required in a revision to MM HZ-3 or in a separate mitigation measure.

E12

E9 The comment is correct that a number of samples were taken from the site to assess potential risks to future residents. One clarification is necessary: the samples were all soil, or soil gas (vapor) samples. No groundwater samples were taken. The commenter's quotation of the EIR is correct in characterization of the findings for Recognized Environmental Condition No. 2 related to impacted groundwater: none of the samples exceeded residential screening levels.

E10 The City agrees that (among other measures) vapor intrusion engineering controls required as part of MM HZ-2 would lower potentially significant impacts for this issue to less than significant levels and that the SEIR makes such a finding.

E11 The City agrees with the statements in this paragraph.

E12 MM HZ-3 specifies that project grading, excavation and development activities in the vicinity of each of these wells would conform to ACWD Groundwater Protection Act. They would thus be protected. The wells are not planned to be impacted or abandoned as part of the proposed project. Each of the noted four wells would remain on site unless the RWQCB gives permission/direction to remove them. There is no need to revise the mitigation measure or provide a new one.

E13 Thank you again for the opportunity to comment on the SEIR. Should you have any questions regarding any of the comments contained in this letter, please do not hesitate to contact me.

Very truly yours,

Barry J. Shotts

cc: Michael Dever
Kraig Kunkemoeller
Kristina Woods

E13 Thank you for your comments.

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## D. REVISIONS TO THE TEXT OF THE DRAFT SEIR (PROJECT ERRATA)

The following substantive textual clarifications have been made in this Final SEIR. Changes to original Draft SEIR text are shown in strike-out/underline. Where wording from the Draft SEIR is repeated in this final document (as, for instance, in the MMRP), the Final SEIR wording is consistent with that shown in these errata.

**Draft SEIR Page 2-14, Table Header:**

"SIGNIFICANT AND UNAVOIDABLE IMPACTS (cont.)."

This correction was made because although the text under the heading "Conclusion and Mitigation Effectiveness" clearly states that the impact would remain significant after mitigation, the header was incorrect in the Draft SEIR. As noted, the table content is correct, which also matches with the significance conclusions in Chapter 4, Environmental Analysis. The addition of this clarification does not affect the project technical analyses.

**Draft SEIR Pages 2-15 through 2-44, Table Headers:**

"SIGNIFICANT AND AVOIDABLE IMPACTS (cont.)."

This correction was made because although the text under the heading "Conclusion and Mitigation Effectiveness" clearly states that the impact would be less than significant after mitigation, the header was incorrect in the Draft SEIR. As noted, the table content is correct, which also matches with the significance conclusions in Chapter 4, Environmental Analysis. The addition of this clarification does not affect the project technical analyses.

**Draft SEIR Page 2-11, Second Paragraph:**

This conclusion is based on the fact that this alternative would substantially reduce identified significant impacts to biological resources compared to the proposed project and Reduced Development Alternative, by avoiding all impacts to wetlands/jurisdictional areas.

This clarification was made because the word "significant" was inadvertently used in this sentence in the Draft SEIR. There would not be significant upland impacts associated with the Project, regardless of alternative. The remainder of the sentence, indicating that the Wetland Avoidance Alternative (the Environmentally Preferred Alternative) would avoid all impacts to wetlands/jurisdictional areas, is correct.

**Draft SEIR Page 3-2, Second Paragraph:**

Although Cargill trucks may access the salt ponds on a daily basis, the heaviest period of use would be during concentrated salt harvesting activities. Salt is harvested from the crystallizer ponds approximately 7 to 14 days per year using heavy trucks. This period of intense use was used in the Project noise technical analysis to identify the worst-case daily noise emissions.

This clarification was made in response to a comment on the Draft SEIR by Cargill – the commenter felt that that the statement of the worst-case truck activity did not fully reflect the potential for more frequent use. The addition of this clarification does not affect the project technical analyses.

This clarification was made to provide the latest project description information for the reader's use and does not affect the project technical analyses.

**Draft SEIR Page 3-5, Table 3-2:**

**Table 3-1**
**SUMMARY OF PROJECT FEATURES**

| Project Feature | Number Units/Spaces | Acres |
|---|---|---|
| **Residential Development/Parking** | | |
| Single-family residential units | 321 units | 15.29 |
| Multi-family residential units | 268 units | 8.31 |
| Off-street covered parking spaces | 1,178 spaces | --- |
| Parallel and 90-degree street parking spaces | 283 spaces | --- |
| Handicap accessible spaces | 12 spaces | --- |
| *Subtotal for Residential/Parking* | *589 Units/1,473 Spaces* | *23.60* |
| **Parks/Roadways/Trails/Water Quality Features** | | |
| Neighborhood parks | --- | 2.24 |
| Public streets | --- | 4.47 |
| Private streets and alleys | | 5.78 |
| Paseos (walkways)/green areas | --- | 1.64 |
| Candidate San Francisco Bay Trail | --- | 1.58 |
| Water quality treatment basins (bioretention, etc.) | --- | 1.67 |
| *Subtotal for Parks/Roadways/Trails/Water Quality* | --- | *17.38* |
| ***Development Totals*** | ***589 Units/1,405 Spaces*** | ***40.98*** |
| **Open Space/Donation** | | |
| Open space | --- | 7.55 |
| Future land donation (Not a part) | --- | 6.00 |
| ***Open Space/Donation Totals*** | --- | ***13.55*** |
| **PROJECT SITE TOTALS** | **589 Units/1,405 Spaces** | **54.53** |

Source: Gateway Station Vesting Tentative Map and Site Plans Tract 8099 dated June 3, 2015, prepared by Carlson, Barbee & Gibson, Inc.

**Draft SEIR Page 3-8, Third Paragraph:**

A total of 1,473 parking spaces would be provided for the proposed project, including 1,178 off-street covered spots, including two per unit for single- and multi-family residential (refer to Table 3-2). An additional 295 total on-site street spots would also be provided, including 12 handicap accessible spaces.

This clarification was made to provide the latest project description information for the reader's use and does not affect the project technical analyses.

**Draft SEIR Page 3-9, Third Paragraph and First Bullet:**

The section of the candidate trail (Parcel 'E') along portions of the southern and western edges of the project site would include parallel but separate bicycle and pedestrian trails with benches and landscaping. The 20-foot wide, multi-purpose trail would be situated between the edge of development and the salt ponds and Plummer Creek Wetland Mitigation Area to the south and west of the project site. In addition, the project design includes three types of fencing/barriers along the noted trail, with these proposed barriers outlined below and the locations of the associated trail/barrier segments shown on Figure 3-5 (and the proposed barrier/fence locations/designs subject to review and approval by applicable governmental agencies):

- Segment A – The section of barrier along the southeastern project boundary (Segment A) would consist of a 6-foot high masonry wall, with pier footings approximately 18 inches in diameter spaced 12 to 16 feet on center. Because the topography slopes down along the southern side of Segment A, a 1- to 3-foot high retaining wall would also be required on the southern side, with a total south-facing wall height of 7 to 9 feet (although the wall on the north-facing side of Segment A, adjacent to proposed residential lots 167 -177 in Village 10, would be a maximum of 6 feet as described).

This modification was made in response to continued coordination between the City and Cargill. This refinement is related only to specific design of Project fencing and does not affect any significance finding in the EIR.

**Draft SEIR Page 3-10, First and Second Bullets:**

- Segments D and E – Segments D and E along the west-central and northwestern project boundaries would be bordered by 6-foot high woven wire mesh panels with metal posts and a top frame. The wire spacing would be no tighter than 3 inches unless required by environmental mitigation measures for habitat/feral animal containment, in which case the lower 3 feet of the fencing could have minimum spacing of 1 inch and may extend underground if required. Woven wire fence shall be galvanized with square or rectangular grid. All woven wire mesh panels, posts and railings will be black colored.

- Segment F – The portion of the proposed trail/barrier inside the project boundary (Segment F) would have a 3-foot- high masonry wall topped with a 3-foot high (6-foot total height) black colored woven wire mesh (not chain link) in a square or rectangular pattern. The woven wire spacing would be no tighter than 3 inches. The 2-inch square metal tubing posts would be spaced 8 to 10 feet on center, and topped with a continuous 2-inch square metal tubing rail. Fence posts and rails would also be black colored.

This modification was made in response to continued coordination between the City and Cargill. This refinement is related only to specific design of Project fencing and does not affect any significance finding in the EIR.

**Draft SEIR Page 4.1-5, Paragraph 4:**

In addition, the project includes three types of fencing/barriers along the noted trail, as follows. The section of barrier along the southeastern project boundary (Segment A) would consist of a 6-foot high masonry wall, with pier footings approximately 18 inches in diameter spaced 12 to 16 feet on center. Because the topography slopes down along the southern side of Segment A, a 1- to 3-foot high retaining wall would also be required on the southern side, with a total south-facing wall height of 7 to 9 feet (although the wall on the north-facing side of Segment A, adjacent to proposed residential lots 167 -177 in Village 10, would be a maximum of 6 feet as described). The proposed barriers along the west-central and northwestern project boundaries (Segments D and E) would be bordered by 6-foot high woven wire mesh panels with metal posts and a top frame. The wire spacing would be no tighter than 3 inches unless required by environmental mitigation measures for habitat/feral animal containment, in which case the lower 3 feet of the fencing could have minimum spacing of 1 inch and may extend underground if required. Woven wire fence would be galvanized with square or rectangular grid. All woven wire mesh panels, posts and railings would be black colored. The section of barrier inside the project boundary (Segment F) would be a 3-foot- high masonry wall topped with a 3-foot high (6-foot total height) black colored woven wire mesh (not chain link) in a square or rectangular pattern. The woven wire spacing would be no tighter than 3 inches. The 2-inch square metal tubing posts would be spaced 8 to 10 feet on center, and topped with a continuous 2-inch square metal tubing rail. Fence posts and rails would also be black colored. The two types of described fencing/barriers along open space within the Project site and to the west (i.e., Segments C, D and E) would allow visual access above a minimum 3-foot viewer height.

This modification was made in response to continued coordination between the City and Cargill and to be consistent with analogous clarification in Chapter 3, Project Description. This refinement is related only to specific design of Project fencing and does not affect any significance finding in the EIR.

**Draft SEIR Page 4.3-27, Impacts to Waters of the U.S.:**

Impacts to aquatic resources on the project site would result from the placement of fill into the seasonal wetlands and other waters of the U.S./State within the project footprint to allow construction of the proposed development. A total of 0.20 acre of the north/south drainage (Drainage Ditch 1) and 0.18 acre of the adjacent seasonal wetland (Seasonal Wetland 1) would be temporarily impacted by soil remediation within the drainage ditch. The southernmost portion of Drainage Ditch 1 and Seasonal Wetland 1 would be permanently impacted by installation of the new box culvert to replace the existing culvert. The replacement box culvert would not extend further than the existing pipe culvert; however, new riprap bank protection would be placed at the culvert inlet, which would result in permanent impacts. Less than 0.01 acre of Seasonal Wetland E and 0.03 acre of Drainage Ditch B would be temporarily impacted by replacement of the existing culvert. These waters would be disturbed during culvert replacement but would return to the previous habitat following construction. Permanent impacts to aquatic habitat in the culvert replacement site would be avoided because the replacement culvert would not extend any further than the existing culvert, and the riprap protection would be placed on the bank where there is no wetland.

The remaining seasonal wetlands within the project open space would be avoided during construction activities. As part of the proposed project, these seasonal wetlands would be preserved in perpetuity in the open space preserve. As a result of their proximity to proposed development, there is the potential for indirect impacts to these wetlands as a result of adjacent land uses. The open space area would be set aside in perpetuity and managed under a management plan that would include measures to manage litter accumulation, limit access and land uses, and monitor habitat quality. This would reduce the potential for degradation of the wetlands and drainage ditches from planned adjacent land uses. The project design includes directing treated stormwater runoff from the project site to the preserved wetlands and Drainage Ditch 1 via bioretention basins on the project site. Following project construction, the existing sheet pile barrier at the southern boundary of Drainage Ditch 1 would be removed, allowing connectivity with the tidally influenced downstream portion of the channel. Natural habitat along the drainage ditch would be expected to improve as a result of the post-project connectivity Refer to Figure 4.3-3 for impacts to waters of the U.S./State.

Table 4.3-4, *Summary of Impacts to Waters of the U.S. (in the Project Site)*, is a summary of estimated impacts to waters of the U.S. that would occur on the project site as a result of the proposed project. Table 4.3-5, *Summary of Impacts to Waters of the U.S. (in the Off-site Improvement Areas)* is a summary of the estimated impacts to waters of the U.S. that would occur in the off-site improvement areas as a result of the proposed project.

This revision was made because the original text incorrectly stated that all waters of the U.S. in the off-site improvement areas would be permanently impacted as a result of the proposed project. As described in the revised text, waters of the U.S. in the Culvert Replacement Area would be temporarily impacted. This is consistent with the temporary impacts identified in the Draft SEIR in Table 4.3-5, on Figure 4.3-3, *Impacts to Habitats and Jurisdictional Areas*, and as described in the Biological Resources Evaluation included as Appendix E of the Draft SEIR. The change does not result in any actions requiring additional analysis, nor does it result in impacts not previously disclosed in the Draft SEIR and supporting documents.

**Draft SEIR page 4.3-30, Third Bullet and Pages 2-16/17:**

If the plant is federally listed (i.e., protected pursuant to FESA), the project sponsor shall formally notify the USFWS within five days of the finding.

This clarification was made because the original text stated that the potential finding of a special status plant would be included in the Project Conditions identified at the time of Project consideration for approval. This is not possible since the surveys–if required–would not occur until 2017, well after Project approval or denial. The change does not result in modifications to any actions requiring implementation of surveys, or protection of sensitive resources if required as disclosed in the Draft SEIR.

**Draft SEIR page 4.3-36, Second Paragraph and Page 2-22:**

A verification of/concurrence with the 2015 wetland delineation must be obtained from the USACE.

This clarification was made because the timing originally specified is considered potentially onerous for USACE staff compliance. The change does not result in modifications to any actions requiring need for an individual Clean Water Act Section 404 permit, or required mitigation/preservation of these resources as disclosed in the Draft SEIR.

**Draft SEIR page 4.3-38, Second Paragraph and Page 2-27:**

To offset impacts resulting from the removal of protected trees, replacement trees shall be planted in designated open space areas such as multi-family landscaped areas or streetscape on the project site.

This text was included to clarify that the trees removed (Eucalyptus, fan palms, etc.) would be replaced by species put into areas otherwise landscaped by the Project. This clarification makes it clear that non-native species would not be inappropriately incorporated into biological open space set-aside areas.

# ADDENDUM TO THE PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE DUMBARTON TRANSIT ORIENTED DEVELOPMENT PROJECT

FMC Parcel C Project

*Prepared for:*

**City of Newark**
**Community Development Department**
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*Prepared by:*

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**August 2018**

EXHIBIT A

# ADDENDUM TO THE PROGRAM ENVIRONMENTAL IMPACT REPORT FOR THE DUMBARTON TRANSIT ORIENTED DEVELOPMENT PROJECT IN THE CITY OF NEWARK

## A. INTRODUCTION

The City of Newark (City) certified a Program Environmental Impact Report (PEIR) for the Dumbarton Transit Oriented Development (TOD) Specific Plan (State Clearinghouse No. 2010042012, July 2011). The Parcel C Project Owner, LLC (the current project applicant) proposed minor changes to the approved project which have been evaluated in an Initial Study (IS), that is included with this Addendum, to determine whether those changes would result in any new or more substantial impacts from those identified in the prior adopted PEIR.

This Addendum has been prepared to provide information regarding: (1) the history of the project; (2) the proposed project; (3) standards for adequacy under the California Environmental Quality Act (CEQA) and State CEQA Guidelines; (4) a description of the format and content of this Addendum; and (5) the applicable CEQA processing requirements for the proposed project.

## B. BACKGROUND

The site for the FMC Parcel C Project (proposed project) is a 17.4-acre lot within the Dumbarton TOD Specific Plan area in the City of Newark. The proposed project would be located within the City of Newark in southwestern Alameda County, west of the intersection of Hickory Street and Enterprise Drive, on portions of Assessor's Parcel Numbers (APN) 537-852-1-2; 537-852-2-7; and 537-852-2-8.

The Dumbarton TOD Specific Plan analyzed in the 2011 PEIR included the development of a mixed density residential, retail, commercial, park and recreational open space in close proximity to the planned Dumbarton Rail Corridor (DRC).

## C. OVERVIEW OF THE PROPOSED PROJECT

The project applicant is proposing to construct medium to medium-high density residential units in three Planning Areas. The total number of proposed housing units is 199 on 12.2 acres of the site to achieve an overall density of just over 16 housing units per acre. The applicant proposes to construct 73 single-family residential units within Planning Area 1, 75 single-family, alley loaded residential units within Planning Area 2, and 51 single-family, alley loaded residential units within Planning Area 3. Net density would range between approximately 15 and 18 dwelling units per acre.

The proposed project would avoid and permanently preserve all of the tidal wetlands on-site in a 2.74-acre open space area. The project will also provide a trail that is eligible to be part of the regional San Francisco Bay Trail, a bicycle and pedestrian trail that will eventually allow continuous travel around the shoreline of San Francisco Bay.

Additional changes under the current entitlement application include a rezone, planned development, and tract map. The City of Newark zoning designation for the project site is Business and Technology Park (BTP), which is inconsistent with the proposed land uses for the FMC Parcel C Project. Therefore, an amendment to the Zoning Ordinance to reflect the proposed land use designations for all APNs is required. The medium and medium-high density residential land use proposed for project site differs from the high density residential land use proposed in the 2013 Updated General Plan. However, City approval of the project would resolve the designation inconsistency. The medium-high density residential land use proposed for APN 537-852-2-7 differs from the land use proposed in the Dumbarton TOD Specific Plan. However, the Specific Plan allows for an adjustment of land uses within the Specific Plan area without necessitating a Specific Plan Amendment. A revised Land Use Plan and revised Proposed Land Use Table would be submitted to the City for approval.

## D. BASIS FOR AN ADDENDUM

The State CEQA Guidelines environmental review procedures allow for the updating and use of a previously adopted PEIR for projects that are different from the previous project or the conditions under which the project was analyzed. Section 15164 of the State CEQA Guidelines states the following with respect to an addendum to an adopted PEIR:

b) *An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.*

c) *An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.*

d) *The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.*

In accordance with State CEQA Guidelines Section 15164, this Addendum has been prepared to document that the proposed project modifications do not require preparation of a subsequent EIR or negative declaration under Section 15162.

The proposed project is substantially similar to the project evaluated in the adopted 2011 PEIR. Similar to the approved project, the proposed project involves constructing medium to medium-high density residential with approximately 2.97 acres of parks and open spaces areas on the project site which is substantially similar to the development area analyzed in the 2011 PEIR, which involved constructing medium-high density residential and parks and recreational open space. As supported in the analysis contained in the accompanying Initial Study, there are no substantial changes proposed in the project which would result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There is no new information of substantial importance which was not known for the 2011 PEIR, and no new mitigation measures are necessitated by new impacts.

None of the circumstances listed in State CEQA Guidelines Section 15162 requiring the preparation of a subsequent EIR or negative declaration are present, and only minor technical changes or additions are necessary to update the previously adopted 2011 PEIR; therefore, an addendum may be prepared.

## E. FORMAT, CONTENT, AND CONCLUSIONS OF THIS ADDENDUM

The accompanying CEQA Initial Study (IS) and associated technical studies comprise the Addendum to the Dumbarton TOD PEIR. The following project-specific technical studies were prepared and are included as appendices to the IS:

- Air Quality and Greenhouse Gas Emissions Technical Report for FMC Parcel C
- Biological Resources Technical Report for FMC Parcel C
- Section 106 Cultural Resources Assessment for FMC Parcel C
- Preliminary Geotechnical Investigation, Parcel C – FMC
- Acoustical Technical Report for FMC Parcel C
- Trip Generation Evaluation and Parking Analysis of the FMC Parcel C Project

As described above, the IS has been prepared to determine whether the proposed amendments to the approved project analyzed in the adopted PEIR would require major revisions to the PEIR due to any new or more severe significant environmental impacts as compared to those analyzed in the prior adopted PEIR. Changes in site design necessitated a reevaluation of the impacts for the proposed project.

The 2011 PEIR found that the approved project could have potentially significant impacts on air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology, drainage, and water quality, noise, public services and utilities, recreation, and traffic. For the proposed FMC Parcel C project, mitigation measures

were adopted from the 2011 Dumbarton TOD Specific Plan PEIR (Attachment A of the IS) to reduce the impacts on air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, noise, public services, recreation, transportation and traffic, and utilities and service systems. Project-specific measures for impacts to air quality and noise were developed in accordance with mitigation measures adopted from the 2011 PEIR.

The proposed project will not introduce new or more significant impacts that were not previously disclosed in the Specific Plan PEIR. Based on the conclusions of the IS, an Addendum to the approved PEIR is the appropriate CEQA-compliance document for the revised project.

The following definitions are used in the IS:

Potentially Significant Impact: Any potentially significant impact as a result of the proposed project that was not previously analyzed in the PEIR.

Less than Significant with Mitigation Incorporated: Any potential impacts as a result of the proposed project not previously analyzed in the certified PEIR, but found to be less than significant with previously prescribed mitigation from the PEIR incorporated.

Less than Significant: Any potential impacts as a result of the proposed project not previously analyzed in the PEIR, but which are found to be less than significant.

No Impact: The proposed project would not result in an impact.

## F. ADDENDUM PROCESSING

The City of Newark Planning Department directed and supervised the preparation of this Addendum, which has been reviewed and determined to be complete and accurate by the Planning Department. The City has concluded, based on the accompanying IS, that an Addendum is the appropriate CEQA compliance document for the proposed FMC Parcel C project.

# INITIAL STUDY AND ENVIRONMENTAL EVALUATION

FMC Parcel C Project

*Prepared for:*

**City of Newark**
**Community Development Department**
37101 Newark Boulevard
Newark, CA 94560

*Prepared by:*

**HELIX Environmental Planning, Inc.**
11 Natoma Street, Suite 155
Folsom, CA 95630

August 2018

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Appendix I Trip Generation Evaluation and Parking Analysis

# INITIAL STUDY AND ENVIRONMENTAL EVALUATION

| | |
|---|---|
| **Project Title:** | FMC Parcel C Project |
| **Entitlement Requested:** | Rezone<br>Planned Development<br>Tract Map |
| **Lead Agency Name and Address:** | City of Newark<br>Community Development Department<br>37101 Newark Boulevard, Newark, CA 94560 |
| **Contact Person and Phone Number:** | Terrence Grindall<br>(510) 578-4206 |
| **Project Sponsor's Name and Address:** | **The Parcel C Project Owner, LLC**<br>Attn: Glenn Brown<br>500 La Gonda Way, Suite 102<br>Danville, CA 94526<br>(925) 984-7137 |
| **General Plan Designation (2013 Plan):**<br>High-density residential (HDR), Parks and Recreational Facilities, Community Commercial | **Existing Zoning:**<br>Business and Technology Park (BTP) |

## 1. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

This Initial Study addresses the proposed FMC Parcel C Project and whether it may cause significant effects on the environment. These potential environmental effects are further evaluated to determine whether they were examined in the Dumbarton Transit Oriented Development (TOD) Specific Plan Program Environmental Impact Report (PEIR; State Clearinghouse No. 2010042012). Consistent with Public Resources Code (PRC) §21083.3 and State California Environmental Quality Act (CEQA) Guidelines §15152, this Initial Study focuses on any effects on the environment that are specific to the proposed project, or to the parcels on which the project would be located, which were not analyzed as potentially significant effects in the PEIR prepared for the Dumbarton TOD Specific Plan, or for which substantial new information shows that identified effects would be more significant than described in the PEIR.

This Initial Study relies on State CEQA Guidelines §§15064 and 15064.4 in its determination of the significance of environmental effects. According to §15064, the finding as to whether a project may have one or more significant effects shall be based on substantial evidence in the record, and that controversy alone, without substantial evidence of a significant effect, does not trigger the need for an EIR.

## 2. PROJECT BACKGROUND

The FMC Parcel C Project site lies within the Dumbarton TOD (Transit Oriented Development) Specific Plan Area which encompasses approximately 205 acres at the western edge of the City of Newark, CA. The TOD is generally bounded by a drainage ditch adjacent to San Mateo Transit Authority Railroad corridor (formerly Union Pacific and Southern Pacific Railroad tracks) to the north, on-going salt production and harvesting facilities to the west, a residential development under construction to the south, and a vacant former industrial property to the east. A Final PEIR (State Clearinghouse No. 2010042012) was prepared and certified, and the Dumbarton TOD Specific Plan was adopted by the City in 2011.

The Dumbarton TOD Specific Plan identifies the two parcels comprising most of the FMC Parcel C Project property as medium/high density residential. The proposed project would be located on portions of Assessor's Parcel Numbers (APN) 537-852-1-2; 537-852-2-7; and 537-852-2-8. The maximum number of units allowed on APN 537-852-1-2 is 246, and the maximum number of units allowed on APN 537-852-2-8 is 173. No residential units were allocated to APN 537-852-2-7 in the Specific Plan because it was designated as Park/Commercial space. The area designated as Park will be shifted eastward and a portion of the existing Park/Commercial parcel will be included in this project through a Lot Line Adjustment because it has recently been remediated for residential use.

Several technical studies used in preparation of the adopted PEIR have been incorporated into the analysis set forth in this Initial Study, as applicable, and as described further in Section 5, *Previous Relevant Environmental Analysis*. Additionally, the following technical reports or surveys were used in preparation of this Initial Study and are incorporated by reference:

- *A.L.T.A. / N.S.P.S. Land Title Survey FMC Property*, June 1, prepared by Carlson, Barbee & Gibson, Inc. (CBG).
- *Site Plan FMC Parcel C*, December 4, 2017, prepared by CBG.

- *Preliminary Stormwater Management Plan, FMC Parcel C*, November 10, 2017, prepared by CBG.

- *Trip Generation Evaluation and Parking Analysis of the FMC Parcel C Project*, November 16, 2017, prepared by Fehr & Peers, Transportation Consultants.

- *Air Quality and Greenhouse Gas Emissions Technical Report for the FMC Parcel C Project,* December 2017, prepared by HELIX Environmental Planning, Inc. (HELIX).

- *Acoustical Technical Report for the FMC Parcel C Project*, December 2017, prepared by HELIX.

- *Biological Resources Evaluation for the FMC Parcel C Project*, November 13, 2017, prepared by HELIX.

- *Section 106 Cultural Resource Assessment for the FMC Parcel C Project*, November 17, 2017, prepared by HELIX.

- *Preliminary Remedial Geotechnical Investigation Parcel C- FMC Enterprise at Hickory Street, Newark, California*, September 15, 2017, prepared by Berlogar Stevens & Associates (BSA).

- *File No. 2013-00152S Preliminary Jurisdictional Determination FMC Enterprise Development Area*, July 17, 2017, issued by Department of the Army, U.S. Army Corps of Engineers, Regulatory Division.

- Adoption of Site Cleanup Requirements and Recession of Order No. R2-2002-0060 for: FMC Corporation for the property located at: 8787 Enterprise Drive, Newark, Alameda County, May 21, 2015, issued by California Regional Water Quality Control Board San Francisco Region.

## 3. DESCRIPTION OF PROJECT

### PROJECT LOCATION

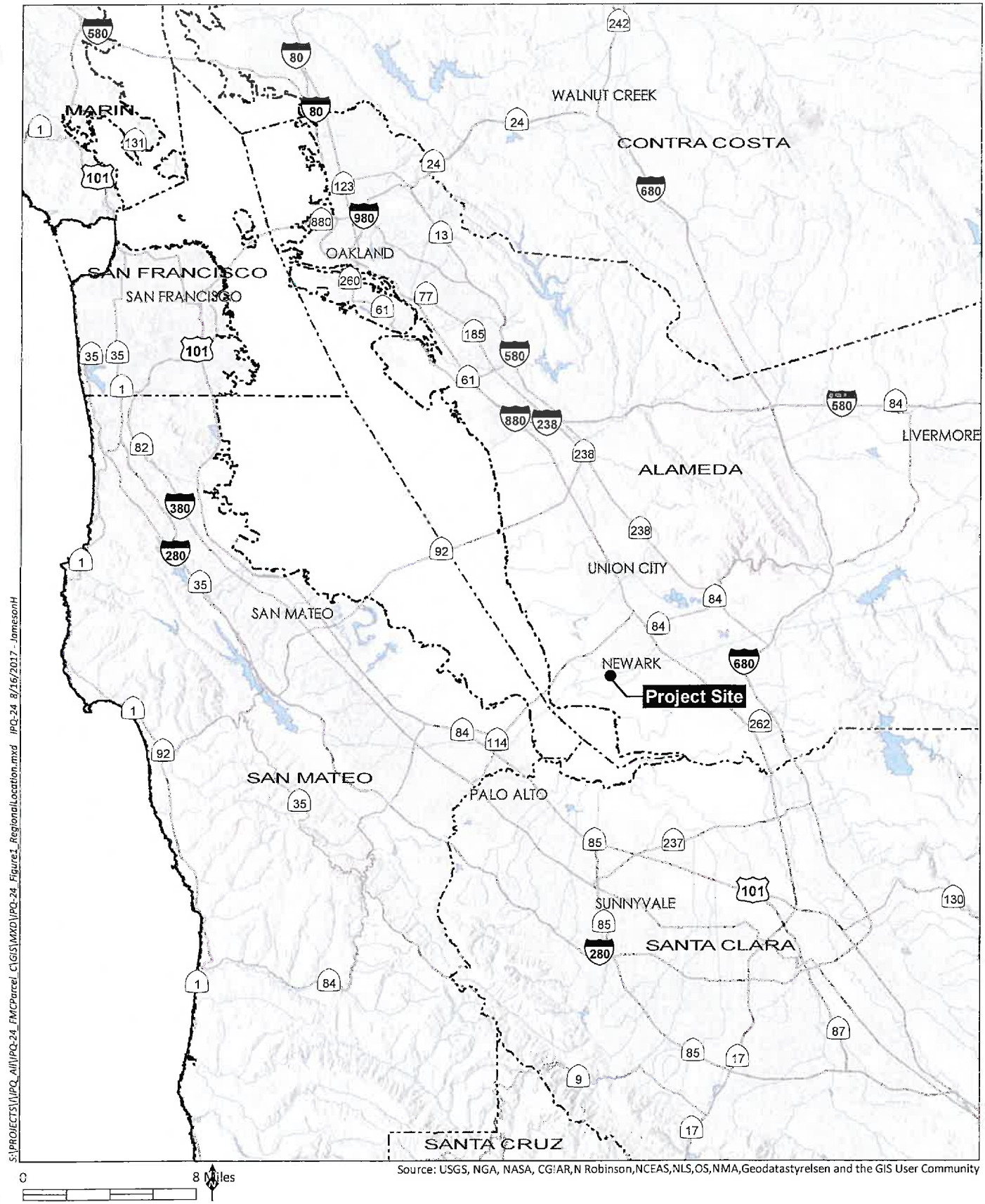
The proposed project site is located within the City of Newark in southwestern Alameda County, west of the intersection of Hickory Street and Enterprise Drive. The eastern portion of the proposed project site is located in Sections 2 and 11, of Township 5 South, and Range 2 West of the U.S. Geological Survey (USGS) 7.5-minute "Newark" quadrangle map (quad). The western portion of the site is unsectioned (unsurveyed). Refer to **Figure 1** for the project's regional location and **Figure 2** for an aerial photograph of the project site that depicts the APNs of the associated properties.

### PROJECT SETTING AND SURROUNDING LAND USES

The project site is vacant following soil remediation that removed industrial contaminants that were remnants of prior uses. Industrial uses also occur adjacent to the project site, east of APN 537-852-1-2, and northeast of the San Mateo Transit Authority railroad corridor. To the south, a residential development is under construction within the Dumbarton TOD area. Salt evaporation ponds operated by Cargill, Inc. are located southwest of the project site, and part of the Don Edwards San Francisco Bay Wildlife Refuge is approximately 475 feet northwest of the project site, on the other side of the existing railroad tracks. The surrounding land uses are characterized by existing and former industrial parcels, residential development, and open space.

Terrain in the project site and surrounding area has been altered by industrial development, and most existing topographic relief is the result of fill for the railroad and industrial pads, excavation of artificial basins and channels, and diking of tidelands. The project site consists of leveled industrial pads and road and railroad embankments. Elevations on the project site range from 10 to 15 feet above mean sea level (amsl). Locally, a few natural hills remain along the historic bay margin north of Newark Slough, but terrain in the area surrounding the project site is overwhelmingly flat. The site is adjacent to a former barge canal that contains tidal salt marsh habitat. Precipitation is currently the only source of water at the project site.

The site is barren except for some remnant cement pads and industrial sheds on APN 537-852-1-2. Two isolated ditches, that now contain seasonal wetlands, remain on APNs 537-852-1-2 and 537-852-2-7 and were avoided during the remediation. The site contains no other biological resources besides two tidal salt marshes at the western end of the site (APN 537-852-2-8) in the former barge canal that connects to San Francisco Bay. The western end of the site and those wetlands were also not affected by the remediation.

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HELIX Environmental Planning

# Regional Location

Figure 1

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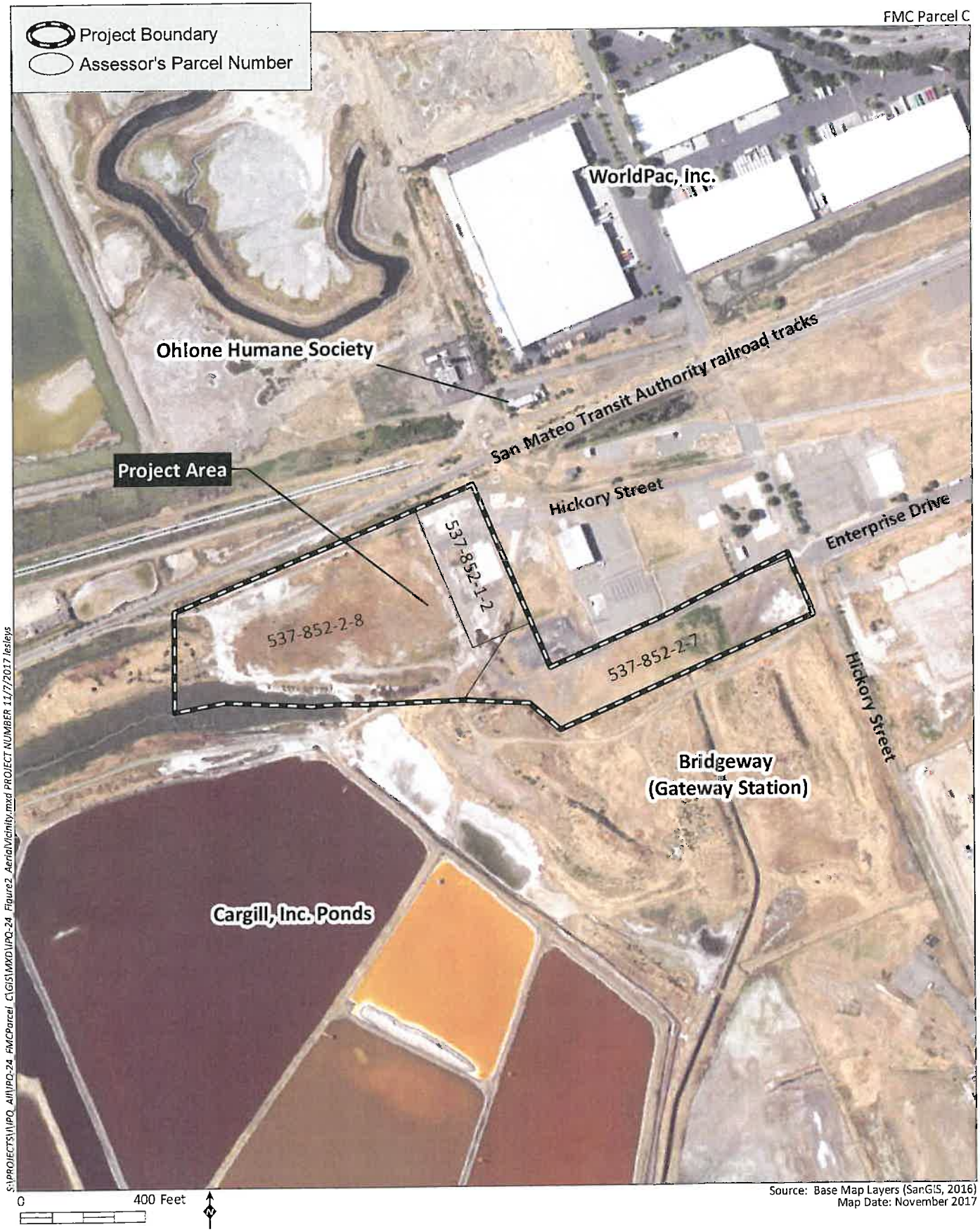


HELIX Environmental Planning

# Aerial Vicinity

Figure 2

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## PROPOSED PROJECT

The 17.4-acre FMC Parcel C Project site is proposed for medium to medium-high density residential units in three Planning Areas, which are discussed in more detail below. The total number of proposed housing units is 199 on 12.2 acres of the site to achieve an overall density of more than 16 housing units per acre. The proposed project would avoid and permanently preserve all of the tidal wetlands on-site in a 2.74-acre open space area. The project will also provide a trail that is eligible to be part of the regional San Francisco Bay Trail, a bicycle and pedestrian trail that will eventually allow continuous travel around the shoreline of San Francisco Bay. Additional proposed site improvements include: on- and off-street parking, parks and recreational areas, drive aisles, underground utilities, Low Impact Development (LID) drainage and water quality treatment structures, lighting, sidewalks, and landscaping. Refer to **Figure 3** for the site plan and **Figure 4** for the site design elements.

### Planning Area 1

The applicant proposes to construct 73 single-family residential units on 4.86 acres in the western portion of the project site. Net density would be approximately 15 dwelling units per acre. Lots within this neighborhood would be 35 feet by 50 feet, and three floor plan options would be available for the units.

An approximately 13,330-square-foot (sf) water quality/bioretention area is proposed in the southwest corner of Planning Area 1 and is depicted as Parcel A in Figures 3 and 4. Two open space areas are proposed in Planning Area 1; Parcel B is an approximately 2.74-acre open space and wetland preserve along the western boundary of the project site, and Parcel C is an approximately 1,369-sf open space area in the western portion of Planning Area 1, adjacent to Lots 66 and 67. Additionally, a 20-foot-wide recreational trail corridor borders the northern, western, and southern boundaries of Planning Area 1 and is anticipated to become part of the San Francisco Bay Trail.

### Planning Area 2

The applicant proposes to construct 75 single-family, alley loaded residential units on 4.57 acres in the northeast corner of the project site. Net density would be approximately 16 dwelling units per acre. Four floor plan options are available for the units in this medium density neighborhood.

An approximately 1,865-sf open space area is proposed in Planning Area 2. The open space area is located at the end of 'B' Street and is depicted as Parcel D in Figures 3 and 4. The open space

area is adjacent to the 20-foot-wide recreational trail corridor that borders the northern boundary of Planning Area 2.

### Planning Area 3

The applicant proposes to construct 51 single-family, alley-loaded residential units on 2.77 acres in the southeast portion of the project site. Net density would be approximately 18 dwelling units per acre. Four floor plan options are available for the units.

An approximately 6,710-sf open space area is proposed in Planning Area 3 and is depicted as Parcel E in Figures 3 and 4. The proposed open space area would be located in the western half of the neighborhood and would be adjacent to the Tract 8099 – Bridgeway Lennar project, south of the FMC Parcel C project site.

### Circulation

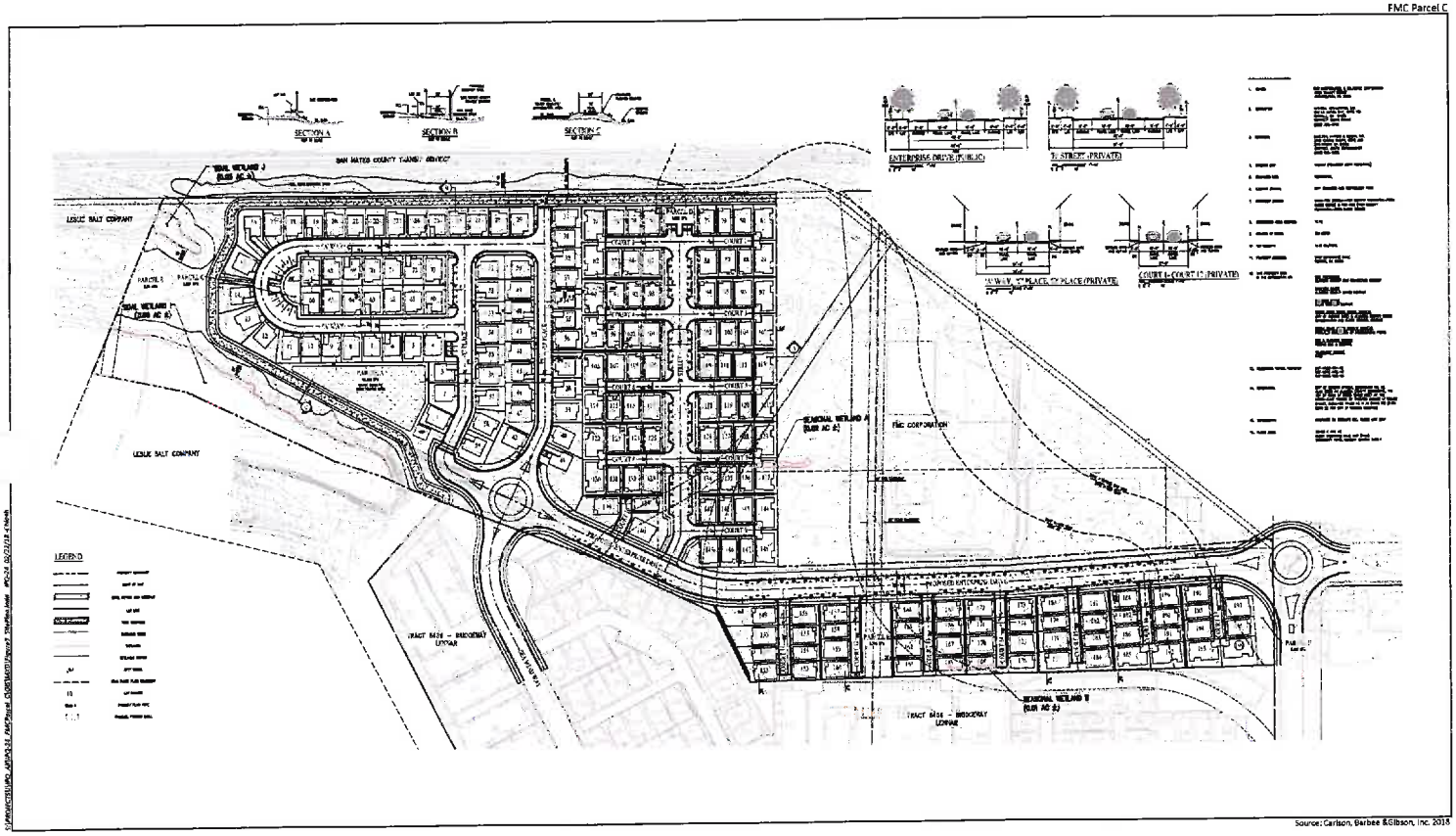
*Vehicular Access/Street Design*

Each neighborhood within the residential development would be accessible directly from Enterprise Drive. Planning Area 1 would be oriented along a few internal roadways serving the neighborhood, with two access points from Enterprise Drive. Planning Area 2 includes a north/south oriented roadway off Enterprise Drive that would function as the main arterial through the neighborhood with the nine courts branching off the main access road and a tenth court off Enterprise Drive. Planning Area 3 is accessible via seven courts that branch off Enterprise Drive. No direct vehicular access will be provided between the three residential neighborhoods. Seawind Way, a local street, would provide connection to Bridgeway, the Lennar neighborhood to the south.

*Parking*

The City requires that 2.5 parking spaces per unit be provided for single-family residential developments. The proposed project would construct 199 single-family residential units, requiring 498 parking spaces. A total of 512 parking spaces would be provided for the residential development. Of the 512 parking spaces provided, 398 parking spaces would be off-street garage parking and 114 parking spaces would be on-street surface parking.

FMC Parcel C




Source: Carlson, Barbee &Gibson, Inc. 2018

HELIX Environmental Planning

**Site Plan**
Figure 3

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FMC Parcel C

Source: INTEGRAL Communities, Urban Arena 2017

HELIX Environmental Planning

**Site Design**

Figure 4

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*Pedestrian Circulation*

Sidewalks would be provided along at least one side of each neighborhood street and would connect to sidewalks along Enterprise Drive. The residential development would include walkways and crosswalks that would connect to off-site sidewalks along Enterprise Drive and the adjacent Tract 8099 – Bridgeway Lennar project, south of the FMC Parcel C Project site. Sidewalks or "pedestrian paseos" leading to the proposed recreational trail would be provided throughout Planning Areas 1 and 2 for pedestrian circulation.

### Fire Access

The minimum width available for driving or turning movements throughout the project site would be 21 feet. Courts 1 through 17 are all 21 feet wide. The neighborhood streets would be at least 24 feet wide, and Enterprise Drive is proposed to be 40 feet wide. The project roadway and neighborhood design would provide adequate turning radii and drive areas for fire trucks and other emergency vehicles.

### Parks and Open Space

The project includes approximately 2.97 acres of parks and open space areas. Two open space areas are proposed in Planning Area 1; Parcel B is an approximately 2.74-acre open space and wetland preserve area along the western boundary of the project site, and Parcel C is an approximately 1,369-sf park in the western portion of Planning Area 1, adjacent to Lots 66 and 67. An approximately 1,865-sf park is proposed in Planning Area 2 at the end of 'B' Street, and an approximately 6,710-sf park is proposed in Planning Area 3. The park proposed in Planning Area 3 would be located in the western half of the neighborhood and would be adjacent to the Tract 8099 – Bridgeway Lennar project, south of the FMC Parcel C Project site.

Additionally, a 20-foot wide trail corridor, containing a 12-foot-wide multi-purpose trail, would extend along the northern boundary and southwestern edge of the site. The proposed recreational trail is anticipated to become part of the regional San Francisco Bay Trail. Refer to Figure 4 for the project design elements.

### Infrastructure

*Grading and Drainage*

Approximately 14.66 acres of the 17.4-acre project site would be disturbed during site preparation and grading. In preparing the site for construction, approximately 40 linear feet (lf)

of retaining wall, 20,000 sf of concrete pad, 230 sf of concrete structures and 67,600 sf of asphalt remaining on APN 537-852-1-2 would be demolished and removed.

Any remaining debris and vegetation within the area to be disturbed would be cleared, and the site would be graded. Grading would include 43,600 cubic yards of over-excavation and recompaction of existing on-site soils, plus over-excavation of about 10,000 cubic yards of shallow bedrock.

Existing conditions at the project site include 87,830 sf of concrete and asphalt, and the project site is currently considered to be 84.4% pervious. As part of project implementation, a total of 389,387 sf (51.4% of the site) of impervious area would be constructed on the project site, consisting of building foundations and paved areas. Approximately 48.6% of the site (367,084 sf) would be pervious areas that include the bioretention basin, the natural self-treating areas and other green areas.

In accordance with City of Newark standards, minimum elevations for lots are 11.25 feet (NGVD 29). Accordingly, approximately 70,000 cubic yards of clean soil would be imported to attain these required elevations. Import fill should contain no deleterious matter and rocks greater than 4 inches in largest dimension, and have Plasticity Index (PI) less than 20. Import fill materials will be subject to the evaluation by the Geotechnical Engineer prior to their use. The properties of the soil with respect to corrosivity will also be evaluated.

The project site would be graded to achieve 0.5 to 2 percent slope. Manufactured slopes would be constructed with a maximum 2:1.

Portions of the proposed project site are within a mapped FEMA 100-year Special Flood Hazard Area, Zone AE with a base flood elevation of 11 feet (NAVD 88) (or 8.24 feet NGVD 29). The proposed project design conforms with associated applicable City requirements for construction in flood hazard areas, which require that: (1) residential structures should be elevated to or above the base flood elevation or to a minimum of six inches above the building pad which shall be at a minimum elevation of 11.25 feet (NGVD 29) and (2) the top of curb grades for new residential streets within the noted AE Zone exhibit a minimum elevation of 10 feet (NGVD 29). Based on the noted requirements and related project design conformance, the drainage/water quality analysis concludes that all developed portions of the project site would be elevated above the mapped 100-year floodplain.

A Low Impact Development (LID) storm drain system comprised of bio-retention areas, curbs and gutters along the roadways, and underground storm drainpipes would be installed as part of the proposed project storm water management plan (CBG 2017). The grading described above would delineate the site into one, 14.1-acre drainage management area (DMA) and 3.26 acres of self-treating area (STA).

Storm water in DMA 1 would be collected in storm drains and directed to a 13,330-sf bioretention basin located in the western portion of the site, just east of the open space preserve. The bioretention basin would feature plants, 18" of soil mix and gravel to filter storm water. With up to potentially 10-inches of ponding depth of the bioretention basin would provide a storage volume of 11,330 cf (CBG 2018).

An overflow outlet would drain to the open space west of the bioretention basin. The treated overflow would drain via an upland outflow structure and dissipation pile and then flow down the bank and into the barge canal.

*Water Supply*

The Alameda County Water District (ACWD) would supply water to the proposed project, as described in the Dumbarton TOD Specific Plan PEIR and the associated Water Supply Assessment. The main water service to the project site would be from a 10-inch main within the Enterprise Drive extension, connecting to the existing 12-inch ACWD main at the intersection of Hickory Street and Enterprise Drive and to the existing 10-inch stub in Seawind Way. Eight-inch diameter mains would then be installed through the rest of the project site with tie-ins to the 10-inch main within the Enterprise Drive extension. The ACWD indicated in the adopted Water Supply Assessment for the Dumbarton TOD Specific Plan PEIR that demand associated with the Specific Plan would be consistent with its planning assumptions and is included in its forecast and water supply planning (ACWD 2010).

*Sanitary Sewer*

The Union Sanitary District would provide sanitary sewer service to the project site. Eight-inch diameter sanitary sewer lines would be installed in the main and ancillary roadways throughout the project site, and wastewater would gravity-flow off-site to the east via a proposed 8- to 12-inch sanitary sewer line in Enterprise Drive. That sewer line would continue east and connect to an existing 36-inch gravity sewer main in Willow Street, which ultimately connects to additional existing gravity mains and flows to the Newark Pump Station near the northwest corner of the

Specific Plan area. Wastewater from the Newark Station is then pumped to the Alvarado Treatment Plant, approximately 5 miles to the north.

### Landscaping

The project proposes a landscaping plan that includes ornamental trees, shrubs, and groundcover. The conceptual landscaping design concentrates plantings along perimeter of the project site, along proposed neighborhood roadways and around the parking areas, and in parks within the Planning Area neighborhoods. All landscaping will be appropriately irrigated and maintained. Refer to Figure 4 for the project design and landscape plan.

### Construction and Phasing

Demolition and grading activities are anticipated to begin in September 2018 and are expected to last four months. Infrastructure construction activities including utilities and construction of the building pads are anticipated to begin in the Spring or Summer of 2019, and are expected to last for six months. Site development activities would immediately follow, with all development construction activities to be completed within approximately two years or by October 2021.

### Environmental Remediation and Mitigation

The project site has a history of hazardous materials contamination associated with previous land uses. Soil remediation on the project site was conducted in accordance with an Interim Remedial Action Workplan that was approved by the San Francisco Regional Water Quality Control Board (RWQCB) on June 1, 2017. Remediation of soils on the project site was completed on November 3, 2017, and a request for Site Closure for soil contamination was submitted to the RWQCB in December 2017.

The RWQCB approved an Interim Remedial Action Workplan for the remediation of groundwater under the project site on August 23, 2017. FMC conducts operation and maintenance of the groundwater extraction and treatment system for the shallow zone groundwater and the deeper Newark Aquifer with subsequent treatment and discharge to the Union Sanitary District. The remediation of groundwater and shallow ground water monitoring are on-going. Environmental Resources Management (ERM) will prepare and expects to submit a Completion Report for groundwater issues in December 2018 with RWQCB approval expected in February 2019.

## 4. REQUIRED APPROVALS

A listing and brief description of the regulatory permits and approvals required to implement the FMC Parcel C Project is provided below. This environmental document is intended to address the environmental impacts associated with several of the following discretionary actions and approvals:

### City of Newark

- Rezone
- Planned Development
- Tract Map
- Consideration of the environmental document: The Newark City Council will act as the lead agency as defined by CEQA, and will have authority to determine if the environmental document is adequate under CEQA and the State CEQA Guidelines.
- Approve Project: The Newark City Council will consider approval of the project and the entitlements described above.

### Agencies

The project will fill waters of the U.S./state and will need to obtain approval under a Clean Water Act Section 404 Nationwide Permit issued by the U.S. Army Corps of Engineers. A Clean Water Act Section 401 Water Quality Certification will also need to be issued by the San Francisco Bay Regional Water Quality Control Board. The following agencies will be consulted regarding Clean Water Act permitting:

- U.S. Fish and Wildlife Service and California Department of Fish and Wildlife
- San Francisco Bay Regional Water Quality Control Board (RWQCB)

## 5. PREVIOUS RELEVANT ENVIRONMENTAL ANALYSIS

A PEIR was prepared for the Dumbarton TOD Specific Plan, pursuant to the 1992 City of Newark General Plan. The Specific Plan required that the General Plan be amended to incorporate the proposed Specific Plan and its allowable land uses, development regulations, design guidelines, and infrastructure improvements. The City adopted an updated General Plan in December 2013 and the Final PEIR (State Clearinghouse No. 2013012052) addressing the General Plan was published in October 2013. These documents have incorporated the Dumbarton TOD Specific Plan, of which the FMC Parcel C project is included. The Dumbarton TOD Specific Plan PEIR evaluated impacts as a result of the entire Dumbarton TOD, including the FMC Parcel C project.

### Tiering

"Tiering" refers to the relationship between a program-level EIR (where long-range programmatic cumulative impacts are the focus of the environmental analysis) and subsequent environmental analyses such as the subject document, which focus primarily on issues unique to a smaller project within the larger program or plan. Through tiering a subsequent environmental analysis can incorporate, by reference, discussion that summarizes general environmental data found in the program EIR that establishes cumulative impacts and mitigation measures, the planning context, and/or the regulatory background. These broad-based issues need not be reevaluated subsequently, having been previously identified and evaluated at the program stage.

Tiering focuses the environmental review on the project-specific significant effects that were not examined in the prior environmental review, or that are susceptible to substantial reduction or avoidance by specific revisions in the project, by the imposition of conditions or by other means. Section 21093(b) of the Public Resources Code requires the tiering of environmental review whenever feasible, as determined by the Lead Agency.

This Initial Study is tiered from the Dumbarton TOD Specific Plan PEIR which was prepared at the program-level under State CEQA Guidelines Section 15168. As a program-level EIR, the Specific Plan PEIR serves as the primary environmental document for the proposed land use designations, zoning district, and future development that would be undertaken in the Dumbarton TOD Specific Plan area.

The 2013 Draft Updated General Plan and the Dumbarton TOD are projects that are related to the proposed FMC Parcel C Project and, pursuant to §15152(a) of the State CEQA Guidelines,

tiering of environmental documents is appropriate. State CEQA Guidelines §15152(e) specifically provides that,

> "[w]hen tiering is used, the later EIRs or Negative Declarations shall refer to the prior EIR and state where a copy of the prior EIR may be examined. The later [environmental document] should state that the Lead Agency is using the tiering concept and that the [environmental document] is being tiered with the earlier EIR."

### Incorporation of the Previous Relevant Environmental Analysis

The EIRs for the City of Newark 2013 Draft Updated General Plan and the Dumbarton TOD Specific Plan are comprehensive documents. As the result of various references to these documents in this proposed project, and to their importance relative to understanding the environmental analysis that has occurred to date with respect to development in the City of Newark area, both documents are hereby incorporated by reference pursuant to State CEQA Guidelines §15150.

### Incorporation of the FMC Parcel C Project

This IS evaluates whether the environmental effects of the currently proposed FMC Parcel C Project were adequately addressed in the Dumbarton TOD Specific Plan PEIR. For impacts that were adequately addressed, this IS provides a cross-reference to the relevant discussion in the PEIR. Impacts specific to the FMC Parcel C Project that were not fully addressed in the Dumbarton TOD Specific Plan PEIR are evaluated in detail in this document. This document also identifies whether changes have occurred to the project or circumstances since the PEIR was certified that require additional analysis in this document. Mitigation measures contained in the Dumbarton TOD Specific Plan Mitigation, Monitoring, and Reporting Program (MMRP) relevant to the project have been identified and summarized in this Initial Study, and the full MMRP is included in Appendix A. Additional mitigation measures specific to the project that serve to implement the adopted TOD mitigation measures are also identified in this Initial Study, and included in the MMRP prepared for the FMC Parcel C Project included in Appendix B.

## 6. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that would remain a "Potentially Significant Impact" after mitigation, as indicated by the checklist on the following pages.

| | | |
|---|---|---|
| ☐ Aesthetics | ☐ Agriculture Resources | ☐ Air Quality/Greenhouse Gases |
| ☐ Biological Resources | ☐ Cultural Resources | ☐ Geology/Soils |
| ☐ Hazards & Hazardous Materials | ☐ Hydrology/Water Quality | ☐ Land Use/Planning |
| ☐ Mineral Resources | ☐ Noise | ☐ Population/Housing |
| ☐ Public Services | ☐ Recreation | ☐ Transportation/Traffic |
| ☐ Utilities/Service Systems | ☐ Mandatory Findings of Significance | |

## 7. DETERMINATION:

On the basis of the initial evaluation that follows:

■ I find that the proposed project WOULD NOT have a significant effect on the environment. An ADDENDUM will be prepared. (See Addendum above).

☐ I find that the proposed project WOULD NOT have a significant effect on the environment. A NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, the project impacts were adequately addressed in an earlier document or there will not be a significant effect in this case because revisions in the project have been made that will avoid or reduce any potential significant effects to a less than significant level. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment. An ENVIRONMENTAL IMPACT REPORT will be prepared.

_____ _____

Signature Date

_____ _____

Printed Name Date

## 8. EVALUATION OF ENVIRONMENTAL IMPACTS

Responses to the following questions and related discussion indicate if the proposed project will have, or will potentially have a significant adverse impact on the environment, either individually or cumulatively with other projects. All phases of project planning, implementation, and operation are considered. Mandatory Findings of Significance are located in Section XVIII below.

## I. AESTHETICS

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Have a substantial adverse effect on a scenic vista? | ☐ | ☐ | ■ | ☐ |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | ☐ | ☐ | ■ | ☐ |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | ☐ | ☐ | ■ | ☐ |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | ☐ | ☐ | ■ | ☐ |

The project site is vacant following soil remediation that removed industrial contaminants from prior uses. The project site consists of leveled industrial pads and road and railroad embankments. The site is adjacent to a former barge canal that contains tidal salt marsh. Terrain on the project site and surrounding area has been altered for industrial development, and most existing topographic relief is the result of fill for railroad grades and industrial pads, excavation of artificial basins and channels, and diking of tidelands. Elevations on the project site range from 10 to 15 feet above mean sea level (amsl). Locally, a few natural hills remain along the historic bay margin north of Newark Slough, but terrain in the area surrounding the project site is overwhelmingly flat.

Other industrial uses occur adjacent to the project site, east of APN 537-852-1-2, and northeast of the San Mateo Transit Authority railroad corridor. To the south, a residential development is under construction within the Dumbarton TOD area. Salt evaporation ponds operated by Cargill, Inc. are located southwest of the project site, and part of the Don Edwards San Francisco Bay Wildlife Refuge is approximately 475 feet northwest of the project site, on the other side of the existing railroad tracks. The surrounding land uses are characterized by existing and former industrial parcels, residential development, and open space.

Due to the relatively flat terrain and few trees, residents of the nearby residential areas and employees or patrons of the commercial/business development have a medium view range and would likely be able to see the project site. Currently vacant lots between the project site and existing residential and commercial/business development are within the Specific Plan area and are planned for development. As the Specific Plan area is developed, the views will become shortened and development on the project site would be viewed from the more immediate surroundings.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Visual resources (i.e., aesthetics) are discussed in Chapter 4.1 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). The PEIR concluded that construction of the project would alter the existing views by replacing primarily vacant, disturbed land with urban development, but the development would be consistent with the character of the surrounding development. Further, the Specific Plan contains Site and Architecture Design Guidelines intended to achieve a mixed-use community with a consistent quality and distinct sense of space. Development in the Specific Plan area would be required to comply with the development regulations and design guidelines contained in the Specific Plan to ensure that the development is of quality design and is consistent with the City of Newark 2013 Draft Updated General Plan. No impacts relating to visual resources/ aesthetics were identified in the PEIR, and therefore no mitigation measures were required.

### Evaluation of Aesthetics

#### Question a: Less than significant impact

Scenic vistas within the City range from short-range to long-range, depending upon topography and the presence of mature vegetation. Prior to buildout of vacant lots in the Specific Plan area surrounding the project site, views to or from the project site would be medium-range from the

developed areas in the vicinity. Following buildout of the vacant lots surrounding the project site, the views would be short-range and limited to neighboring residents and travelers on adjacent streets. Neither the project site, nor views to or from the project site, have been designated as an important scenic resource by the City of Newark or any other public agency. Therefore, construction of the proposed development would not interfere with or degrade a scenic vista. Impacts would be less than significant, and no mitigation would be necessary.

**Question b: Less than significant impact**

There are no state or locally designated scenic highways in the vicinity of the proposed project site (Caltrans 2017). Implementation of the proposed would not adversely affect scenic resources within a designated scenic highway. Impacts would be less than significant, and no mitigation would be necessary.

**Question c: Less than significant impact**

The existing visual character of the area surrounding the project site is defined by the vacant lots of former industrial land uses and ongoing construction and development. The western boundary and southwest corner of the project site hosts a tidal pickleweed marsh that would not be impacted by the proposed project. The remainder of project site is largely barren and post-remediation. Implementation of the project would result in the construction of 199 residential units, on-street parking areas, neighborhood parks, and landscaping, altering the existing visual character to a more community-focused, urban development visual character than is currently experienced by viewers. While the proposed project would result in a change in visual character on site, the proposed project has been designed to be consistent with the Site and Architecture Design Guidelines contained in the Specific Plan and is expected to integrate with the planned area for the Dumbarton TOD Specific Plan area and surrounding land uses. A less-than-significant impact to visual character would occur, and no mitigation would be necessary.

**Question d: Less than significant impact**

Any new lighting associated with development within the project area would be subject to the lighting standards in the Site and Architecture Design Guidelines contained in the Specific Plan. These guidelines contain lighting standards for 1) exterior illumination for streetlights and fixtures; 2) path and stair lighting; 3) building mounted lights; 4) accent lighting; and 5) special event lighting. These guidelines are developed to minimize light spillover and glare to adjacent areas. Compliance with those guidelines would ensure that the proposed project does not

introduce substantial light and glare that may pose a hazard or nuisance or result in night sky illumination. Because the project design would limit light spillover and intensity, impacts would be less than significant, and no mitigation would be necessary.

## II. AGRICULTURE AND FORESTRY RESOURCES

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) 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 non-agricultural use? | ☐ | ☐ | ☐ | ■ |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | ☐ | ☐ | ☐ | ■ |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526 (g)), or timberland zoned Timberland Production (as defined by Government Code Section 51104 (g))? | ☐ | ☐ | ☐ | ■ |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ■ |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | ☐ | ☐ | ☐ | ■ |

No agricultural activities or timber management occur on the project site or in adjacent areas, and the site is not designated for agricultural or timberland uses. The California Important Farmland Finder Interactive Map prepared pursuant to the Farmland Mapping and Monitoring Program of the California Department of Conservation classifies the project site as urban and built-up land, and immediately adjacent areas are urban and built up land and other land (CDC 2017). Urban and built-up land is defined by the California Department of Conservation as land occupied by structures or infrastructure with a building density of at least one unit to one and one-half acres, or approximately six structures to a 10-acre parcel. Other land is defined by land

that is not included in any other category, which includes areas not suitable for agricultural uses (CDC 2017).

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

As discussed in Chapter 1.2 of the PEIR prepared for the Dumbarton TOD Specific Plan, agriculture/forestry resources issues were not addressed in the PEIR because it was determined based on substantial evidence that the project would have no impacts to agriculture/forestry resources (RBF 2011).

### Evaluation of Agriculture and Forestry Services

#### Questions a, b: No impact

Because no important agricultural resources or activities exist on the project site, no impact would occur, and no mitigation would be necessary.

#### Questions c, d, e: No impact

Because no portions of the City or the project site are zoned for forest land, timberland, or zoned Timberland Production, no impact would occur, and no mitigation would be necessary.

## III. AIR QUALITY

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. | | | | |
| Would the project: | | | | |
| a) Conflict with or obstruct implementation of the applicable air quality plan? | ☐ | ■ | ☐ | ☐ |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | ☐ | ■ | ☐ | ☐ |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | ☐ | ■ | ☐ | ☐ |
| d) Expose sensitive receptors to substantial pollutant concentrations? | ☐ | ☐ | ■ | ☐ |
| e) Create objectionable odors affecting a substantial number of people? | ☐ | ☐ | ■ | ☐ |

A project-specific air quality evaluation was conducted (Appendix C, HELIX 2017a) and the methods and results are summarized in the following subsections.

The climate of the project site, and all of the San Francisco Bay Area, is dominated by a semi-permanent, subtropical high-pressure cell over the Pacific Ocean. This cell influences prevailing winds and results in condensation and the presence of fog and stratus clouds during the summer, and stormy conditions with moderate to strong winds, as well as periods of stagnation with very light winds during the winter. The high-pressure cell also creates two types of temperature inversions that may act to degrade local air quality.

Elevation inversions occur during the warmer months as ascending air associated with the Pacific high-pressure cell comes into contact with warmer air up the coastal hills. The boundary between the two layers of air creates a temperature inversion that traps pollutants. The other type of inversion, a radiation inversion, develops on winter nights when air near the ground cools by heat radiation and air aloft remains warm. The shallow inversion layer formed between these two air masses can also trap pollutants. As the pollutants become more concentrated in the atmosphere, photochemical reactions produce ozone, commonly known as smog.

### Ambient Air Quality Standards

The Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) have established ambient air quality standards for common pollutants. The City of Newark lies within the San Francisco Bay Area Air Basin (SFBAAB). The Bay Area Air Quality Management District (BAAQMD) is responsible for implementing emissions standards and other requirements of federal and state laws in the project area. As required by the California Clean Air Act (CCAA), BAAQMD has published Clean Air Plans and adopted rules and regulations to limit the emissions that can be generated by various uses and/or activities to bring the Bay Area into compliance with the federal and state ambient air quality standards.

Ambient air quality is described in terms of compliance with state and national standards, and the levels of air pollutant concentrations considered safe, to protect the public health and welfare. These standards are designed to protect people most sensitive to respiratory distress, such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. The EPA has established national ambient air quality standards (NAAQS) for seven air pollution constituents. As permitted by the Clean Air Act, California has adopted more stringent air emissions standards (CAAQS) and expanded the number of regulated air constituents.

The CARB is required to designate areas of the state as attainment, nonattainment, or unclassified for any state standard. An "attainment" designation for an area signifies that pollutant concentrations do not violate the standard for that pollutant in that area. A "nonattainment" designation indicates that a pollutant concentration violated the standard at least once.

The EPA designates areas for ozone ($O_3$), carbon monoxide (CO), and nitrogen dioxide ($NO_2$) as either "Does not meet the primary standards," "Cannot be classified," or "Better than national standards." For sulfur dioxide ($SO_2$), areas are designated as "Does not meet the primary

standards," "Does not meet the secondary standards," "Cannot be classified," or "Better than national standards." The area air quality attainment status of the SFBAAB, including the City of Newark, is shown on **Table 1**.

**Table 1. San Francisco Bay Area Air Basin Attainment Status**

| Pollutant | State of California Attainment Status | Federal Attainment Status |
|---|---|---|
| Ozone (1-hour) | Nonattainment | No Federal Standard |
| Ozone (8-hour) | Nonattainment | Nonattainment (marginal) |
| Suspended Particulate Matter ($PM_{10}$) | Nonattainment | Attainment/Unclassified |
| Fine Particulate Matter ($PM_{2.5}$) | Nonattainment | Nonattainment (moderate) |
| Carbon Monoxide | Attainment | Attainment/Unclassified |
| Nitrogen Dioxide | Attainment | Attainment/Unclassified |
| Lead | Attainment | Attainment/Unclassified |
| Sulfur Dioxide | Attainment | Attainment/Unclassified |
| Sulfates | Attainment | No Federal Standard |
| Hydrogen Sulfide | Unclassified | No Federal Standard |
| Visibility Reducing Particles | Unclassified | No Federal Standard |

Sources: California Air Resources Board, 2017a; USEPA, 2017.

The City of Newark is currently in nonattainment for federal and state $O_3$ and $PM_{2.5}$ standards. The City is in nonattainment for state $PM_{10}$ standards. Concentrations of all other pollutants meet state and federal standards.

## Air Quality Monitoring

The BAAQMD operates a network of ambient air monitoring stations throughout the Bay Area and the air quality monitoring station closest to the City of Newark is the Hayward Monitoring Station. However, this station only monitors ozone, so data were obtained from the San Jose Monitoring Station for the other criteria air pollutants. The ambient pollutant concentrations collected at the stations during the last five available years (2012 through 2016) were reviewed for exceedances and violations of state and federal standards. The data show occasional violations of the state and federal ozone standards, state $PM_{10}$ standards, and federal $PM_{2.5}$ standards. The state and federal $SO_2$, and $NO_2$ standards have not been exceeded in the past five years.

As shown in **Table 2**, the 1-hour $O_3$ concentration exceeded the state standard once in 2014 and twice in 2015. The 8-hour $O_3$ concentration exceeded the state standard once in 2013, four times in 2014 and two times in 2015. The 8-hour $O_3$ concentration exceeded the federal standard twice in 2015. The state 24-hour $PM_{10}$ standard was violated once in 2012, 2014 and 2015 and five times in 2013. The federal 24-hour $PM_{2.5}$ standard was violated twice in 2012, 2014, and 2016 and six times in 2013. State standards for $NO_2$ were not exceeded at any time during the years 2012 through 2016.

**Table 2. Summary of Annual Air Quality Data for Hayward and San Jose Air Quality Monitoring Stations**

| Pollutant | 2012 | 2013 | 2014 | 2015 | 2016 |
|---|---|---|---|---|---|
| *Ozone (O3) Hayward Monitoring Station* | | | | | |
| Maximum 1-hour concentration (ppm) | 0.094 | 0.085 | 0.096 | 0.103 | 0.083 |
| Days above 1-hour state standard (>0.09 ppm) | 0 | 0 | 1 | 2 | 0 |
| Maximum 8-hour concentration (ppm) | 0.065 | 0.075 | 0.075 | 0.084 | 0.064 |
| Days above 8-hour state standard (>0.07 ppm) | 0 | 1 | 4 | 2 | 0 |
| Days above 8-hour federal standard (>0.075 ppm) | 0 | 0 | 0 | 2 | 0 |
| *Respirable Particulate Matter ($PM_{10}$) San Jose Monitoring Station* | | | | | |
| Maximum 24-hour concentration ($\mu g/m^3$) | 59.6 | 58.1 | 54.7 | 58.0 | 41.0 |
| Days above state standard (>50 $\mu g/m^3$) | 1 | 5 | 1 | 1 | 0 |
| Days above federal standard (>150 $\mu g/m^3$) | 0 | 0 | 0 | 0 | 0 |
| *Fine Particulate Matter (PM2.5) San Jose Monitoring Station* | | | | | |
| Maximum 24-hour concentration ($\mu g/m^3$) | 38.4 | 57.7 | 60.4 | 49.4 | 22.7 |
| Days above federal standard (>35 $\mu g/m^3$) | 2 | 6 | 2 | 2 | 0 |
| *Nitrogen Dioxide ($NO_2$) San Jose Monitoring Station* | | | | | |
| Maximum 1-hour concentration (ppm) | 0.067 | 0.058 | 0.058 | 0.049 | 0.051 |
| Days above state 1-hour standard (0.18 ppm) | 0 | 0 | 0 | 0 | 0 |
| *Sulfur Dioxide ($SO_2$) San Jose Monitoring Station* | | | | | |
| Maximum 24-hour concentration (ppm) | 0.003 | 0.001 | * | * | * |
| Days above 24-hour state standard (>0.04 ppm) | * | * | * | * | * |

Notes: Underlined values in excess of applicable standard / ppm = parts per million / µg/m3 = micrograms per cubic meter
*Insufficient data to determine the value
Source: California Air Resources Board, 2017b; Ozone data was obtained from the Hayward Monitoring Station.
CO, $NO_2$, $SO_2$, $PM_{10}$ and $PM_{2.5}$ data was obtained from the San Jose Jackson Street Monitoring Station.

## Methods

*Construction Emissions*

Emissions from the construction phase of the project were assessed using the California Emissions Estimator Model (CalEEMod) Version 2016.3.2. The CalEEMod utilizes emission factors from CARB's OFFROAD and EMFAC models for off-road equipment and on-road vehicles, respectively. The construction analysis included modeling of the projected construction equipment that would be used during each construction activity. The analysis assessed maximum daily emissions from individual construction activities, including demolition, grading, underground infrastructure/utilities, building construction, paving, and architectural coating. For modeling purposes, it was assumed project development would begin April 2018 and end June 2020. A complete listing of the assumptions used in the analysis and model output is provided in the Air Quality and Greenhouse Gas Emissions Technical Report prepared for the project and provided as Appendix C to this Initial Study.

Construction emission calculations assume the implementation of standard dust control measures, including watering two times daily during grading, ensuring that all exposed surfaces maintain a minimum soil moisture of 12 percent, and limiting vehicle speeds on unpaved roads to 15 mph.

Architectural coatings were assumed to be compliant with the Dumbarton TOD Specific Plan, which contains a design measure of using low VOC coatings beyond local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). The model assumed the VOC content of exterior and interior coatings would be no higher than 50 grams per liter (g/l).

*Operation Emissions*

Operational impacts were estimated using CalEEMod. Operational emissions typically include mobile sources (vehicle trips), energy sources (onsite energy use), and area sources. The emissions from mobile sources were calculated with the trip rates provided in the Trip Generation Evaluation and Parking Analysis of the FMC Parcel C Project (Fehr & Peers 2017), CalEEMod default trip lengths, and emission factors from EMFAC. Energy source emissions include natural gas combustion from water and space heating. Area sources include landscape equipment, consumer products, and architectural coatings (such as paint). Energy and area source emissions were calculated using CalEEMod defaults. All modeling output files are provided in Appendix C of this report.

Mobile source emissions for the proposed project were calculated using an average daily trip (ADT) estimate of 1,810 trips from the 199 single-family dwelling units based on the Trip Generation Evaluation and Parking Analysis of the FMC Parcel C Project (Fehr & Peers 2017).

Operational emission estimates incorporated the following Project design features into CalEEMod for the Project:

- Increase in land use density;
- Increase Transit Accessibility (0.1-mile distance);
- Provide Traffic Calming Measures by at least 25 percent;
- Energy efficiency of at least 10 percent beyond 2016 Title 24;
- Use of low VOC coatings and cleaning supplies;
- Installation of only natural gas fireplaces; and
- Reduce water use by at least 20 percent.

### Levels of Significance

The BAAQMD has published thresholds of significance for new projects. In May 2017, the BAAQMD published new and more stringent draft CEQA guidelines to assist local agencies in evaluating air quality impacts of development proposals and other regulatory plans proposed in the SFBAAB. For this analysis, the BAAQMD's 2017 thresholds of significance (**Table 3**) were employed to determine the proposed project's contribution to air quality and GHG emissions, and the local community risk and hazard impacts associated with toxic air contaminants (TACs) and $PM_{2.5}$. Refer to Section 8.VII, *Greenhouse Gas Emissions* for a discussion of impacts to GHG emissions.

**Table 3. BAAQMD Air Pollutant Thresholds**

| Pollutant | Construction-Related | Operational-Related | |
|---|---|---|---|
| | Average Daily Emissions (pounds/day) | Average Daily Emissions (pounds/day) | Maximum Annual Emissions (tons/year) |
| Carbon Monoxide (CO) | none | 9.0 ppm (8-hour average), 20.0 ppm (1-hour average) | |
| Nitrogen Oxides ($NO_X$) | 54 | 54 | 10 |
| Particulate Matter Exhaust ($PM_{10}$) | 82 | 82 | 15 |
| Fine Particulate Matter Exhaust ($PM_{2.5}$) | 54 | 54 | 10 |
| $PM_{10}$ and $PM_{2.5}$ Fugitive Dust | BMPs | none | |
| Sulfur Oxides ($SO_X$) | - | - | - |
| Lead and Lead Compounds | - | - | - |
| Volatile Organic Compounds (VOC) | 54 | 54 | 10 |

Source: BAAQMD CEQA Guidelines May 2017.

## Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Air Quality is discussed in Chapter 4.2 of the PEIR prepared for the Dumbarton TOD Specific Plan. The PEIR concludes that construction of the project would result in fugitive dust emissions and includes measures to reduce impacts to less than significant. The overall Specific Plan is considered consistent with regional plans, and would not result in a significant cumulative impact to air quality impacts.

## Evaluation of Air Quality

### Question a: Less than significant impact with project level mitigation incorporated

BAAQMD has attainment plans in place that identify strategies to bring regional emissions into compliance with federal and state air quality standards. Although the proposed project would replace existing undeveloped areas with residential and commercial developments, the proposed project is part of a larger project included in the City of Newark 2013 Draft Updated General Plan, and the project is consistent with the net development envisioned in the Dumbarton TOD Specific Plan.

Buildout of the proposed project would be consistent with the 2017 Bay Area Clean Air Plan (BAAQMD 2017b) because the total external trips for approved and pending projects for

Dumbarton TOD, including the FMC Parcel C Project, would be lower than what was predicted under the Dumbarton TOD Specific Plan (Fehr & Peers 2017).

Although land uses and densities of residential unit developments are not consistent with parcel-specific land uses identified in the Dumbarton TOD Specific Plan and the 2013 Updated General Plan (see Section 8.X, *Land Use and Planning*), the total number of residential units proposed for the three project parcels combined would be consistent with the number of dwelling units allocated in the Dumbarton TOD Specific Plan and 2013 Updated General Plan. Further. As detailed in response III.b, the proposed project would not generate significant amounts of air pollutant emissions during construction or operation with implementation of the identified mitigation measures. The proposed project would not exceed screening criteria thresholds set by BAAQMD with mitigation, and no feature of the proposed project would conflict with or obstruct implementation of the 2017 Bay Area Clean Air Plan.

**Question b: Less than significant impact with mitigation incorporated**

## Construction

Construction of the proposed project could impact air quality as a result of heavy equipment emissions and architectural coatings. The results of the CalEEMod analysis performed (Appendix C, HELIX 2017a) indicated that emissions related to project construction activities would exceed the BAAQMD's significance threshold for $NO_X$. **Table 4** presents the modeled construction emissions for each phase of construction. During construction activities, the project applicant would implement applicable and feasible elements of the dust abatement program as identified in the PEIR (MMRP measures 4.2-1a and 4.2-1b). Direct impacts from $NO_X$ generated during construction would be potentially significant and additional mitigation would be required.

**Table 4. Maximum Daily Construction Emissions**

| Phase | Pollutant Emissions (pounds per day) | | | | | |
|---|---|---|---|---|---|---|
| | ROG | $NO_x$ | CO | $SO_x$ | Exhaust $PM_{10}$ | Exhaust $PM_{2.5}$ |
| Demolition | 0.47 | 9.19 | 3.57 | 0.02 | 0.21 | 0.19 |
| Site Preparation | 1.13 | 11.18 | 9.79 | 0.01 | 0.72 | 0.69 |
| Grading | 6.82 | 105.80 | 50.44 | 0.16 | 2.93 | 2.70 |
| Underground Infrastructure/Utilities | 1.39 | 13.14 | 12.08 | 0.02 | 0.93 | 0.85 |
| Building Construction | 1.34 | 10.84 | 9.41 | 0.03 | 0.31 | 0.29 |
| Paving | 1.80 | 17.58 | 15.31 | 0.02 | 0.96 | 0.88 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Architectural Coatings | 4.77 | 2.12 | 2.91 | 0.01 | 0.15 | 0.15 |
| **Construction Total** | **15** | **143** | **85** | **<0.5** | **5** | **5** |
| Significance Thresholds | 54 | 54 | - | - | 82 | 54 |
| ***Significant Impact?*** | ***No*** | ***Yes*** | ***No*** | ***No*** | ***No*** | ***No*** |

Source: *Air Quality and Greenhouse Gas Emissions Technical Report* prepared by HELIX Environmental Planning, Inc. dated December 2017.
Notes: Modeling assumes implementation of standard dust control measures, use of low VOC coatings, and implementation of MMRP measures 4.2-1a and 4.2-1b.

*Mitigation Measures*

The following mitigation measure is prescribed to reduce construction related $NO_X$ emissions.

**FMC Parcel C Project Specific Mitigation Measure AQ-01 in accordance with Dumbarton TOD PEIR Mitigation Monitoring and Reporting Program Measure 4.2-1b**

Prior to the issuance of any Grading Permit, the Public Works Director and the Building Official shall confirm that the Grading Plan, Building Plans, and specifications stipulate that all diesel-powered off-road equipment used during construction shall meet Tier 4 final off-road emissions standards. A copy of each unit's certified Tier specification shall be provided to the City Building Department at the time of mobilization of each applicable unit of equipment.

*Significance After Mitigation*

Mitigation Measure (MM) AQ-01 would reduce $NO_X$ emissions from off-road equipment during construction. As presented in **Table 5**, *Maximum Daily Construction Emissions with Mitigation*, with inclusion of MM AQ-01, emissions of all criteria pollutants related to Project construction would be below the BAAQMD's significance threshold. Thus, direct impacts from criteria pollutants generated during construction would be less than significant with mitigation.

**Table 5. Maximum Daily Construction Emissions with Mitigation**

| Phase | Pollutant Emissions (pounds per day) | | | | | |
|---|---|---|---|---|---|---|
| | ROG | $NO_x$ | CO | $SO_x$ | Exhaust $PM_{10}$ | Exhaust $PM_{2.5}$ |
| Demolition | 0.25 | 6.74 | 3.58 | 0.02 | 0.03 | 0.03 |
| Site Preparation | 0.22 | 1.32 | 9.82 | 0.01 | 0.02 | 0.02 |
| Grading | 2.02 | 38.88 | 40.68 | 0.16 | 0.26 | 0.25 |
| Underground Infrastructure/Utilities | 0.25 | 0.87 | 12.10 | 0.02 | 0.03 | 0.03 |
| Building Construction | 1.02 | 7.86 | 9.31 | 0.03 | 0.07 | 0.06 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Paving | 0.44 | 1.27 | 17.80 | 0.02 | 0.04 | 0.04 |
| Architectural Coatings | 4.50 | 0.24 | 2.88 | 0.01 | 0.01 | 0.01 |
| **Construction Total** | **8** | **49** | **75** | **<0.5** | **<0.5** | **<0.5** |
| Significance Thresholds | 54 | 54 | - | - | 82 | 54 |
| ***Significant Impact?*** | *No* | *No* | *No* | *No* | *No* | *No* |

Source: *Air Quality and Greenhouse Gas Emissions Technical Report* prepared by HELIX Environmental Planning, Inc. dated December 2017.
Notes: Modeling assumes implementation of standard dust control measures, use of low VOC coatings, implementation of MMRP measures 4.2-1a and 4.2-1b, and implementation of MM AQ-01.

## Operation

The proposed project could result in minor emissions associated with area sources, natural gas usage, and vehicle trips associated with project operations. Potential impacts as a result of operational emissions were evaluated based on the net increase of emissions from the proposed project (Appendix C, HELIX 2017a). As illustrated in **Table 6**, the net increase of daily maximum operational emissions as a result of project operations would be below the BAAQMD's significance criteria for all criteria pollutants, and would not result in a significant direct impact as a result of operational emissions. No mitigation would be required.

**Table 6. Maximum Daily Operational Emissions**

| Emission Source | Pollutant Emissions (pounds/day) | | | | | |
|---|---|---|---|---|---|---|
| | VOC | $NO_x$ | CO | $SO_x$ | Exhaust $PM_{10}$ | Exhaust $PM_{2.5}$ |
| Area | 8.59 | 2.81 | 17.57 | 0.02 | 0.30 | 0.30 |
| Energy | 0.23 | 1.93 | 0.82 | 0.01 | 0.16 | 0.16 |
| Mobile | 2.76 | 18.20 | 30.99 | 0.10 | 0.10 | 0.10 |
| **Proposed Project Total** | **12** | **23** | **49** | **<0.5** | **1** | **1** |
| Significance Threshold | 54 | 54 | - | - | 82 | 54 |
| ***Significant Impact?*** | *No* | *No* | *No* | *No* | *No* | *No* |

Source: *Air Quality and Greenhouse Gas Emissions Technical Report* prepared by HELIX Environmental Planning, Inc. dated December 2017.

### Question c: Less than significant impact with mitigation incorporated

The San Francisco Bay Area region is in non-attainment for ozone ($NO_x$ and ROG) and particulate matter ($PM_{2.5}$ and $PM_{10}$). As discussed above, with implementation of MM AQ-01, no exceedance of the District's emission thresholds for criteria pollutants would be expected for the proposed project. The project would not result in a cumulatively considerable net increase in

any criteria pollutant. A less-than-significant impact would result, and no additional mitigation would be necessary.

**Questions d and e: Less than significant impact**

The CARB describes sensitive receptors as residences, schools, day-care centers, playgrounds, medical facilities, or other facilities that may house individuals with health conditions (medical patients or elderly persons/athletes/students/children) that may be adversely affected by changes in air quality. The two primary pollutants of concern regarding health effects for residential development are CO and DPM. An analysis of the project's potential to expose sensitive receptors to these pollutants is described below.

### Construction Diesel Particulates

Construction activities are sporadic, transitory, and short-term in nature, and once construction activities have ceased, so, too, have emissions from construction activities. The DPM is not included as a criteria pollutant; however, it recognized by the State of California as containing carcinogenic compounds. The risks associated with exposure to substances with carcinogenic effects are typically evaluated based on a lifetime of cancer exposure, which is defined in the California Air Pollution Control Officers Association (CAPCOA) Air Toxics "Hot Spots" Program Risk Assessment Guidelines (CAPCOA 1993) as 24 hours per day, 7 days per week, 365 days per year, for 70 years for residences and 40 years for school children. The DPM would be emitted from heavy equipment used in the construction process. The proposed construction period of less approximately two years is much less than the 70-year/40-year period used for health risk determination. As shown in Table 5, emissions of PM during construction (which includes equipment emissions) would be below significance thresholds. Further, because diesel particulates are considered to have long-term health effects and construction would be a short-term event, emissions would not result in a significant long-term health risk to surrounding receptors. Therefore, potential construction impacts from DPM are considered less than significant and no mitigation is required.

### Carbon Monoxide Hot Spots

The BAAB is designated as attainment for CO. As indicated in the BAAQMD CEQA Air Quality Guidelines, ambient concentrations of CO have decreased dramatically in the BAAB with the introduction of the catalytic converter in 1975. No exceedances of the CAAQS or NAAQS for CO have been recorded at nearby monitoring stations since 1991. As a result, the screening criteria in the BAAQMD's CEQA Air Quality Guidelines notes that CO impacts may

be determined to be less than significant if a project is consistent with the applicable congestion management plan or would not increase traffic volumes at intersections to more than 44,000 vehicles per hour for regular intersections, or would not increase traffic volumes at intersections to more than 24,000 vehicles per hour for intersections with limited mixing zones (e.g., tunnels, garages, overpasses, etc.).

Based on the traffic data presented in Section 4.14 (Traffic) of the Dumbarton TOD Specific Plan PEIR, the projects included in the Specific Plan would not cause traffic volumes at local intersections to increase beyond 6,000 vehicles per hour. The intersection of Newark Boulevard and Jarvis Avenue would have the greatest traffic volumes with 5,652 vehicles per hour during Cumulative Plus Specific Plan Projects conditions. According to Fehr & Peers (2017), the proposed project is anticipated to account for approximately 13 percent of the total generated trips included in the Specific Plan. Therefore, the proposed project would not increase traffic volumes to 44,000 vehicles per hour for regular intersections, nor would the project increase traffic volumes to more than 24,000 vehicles per hour for intersections with limited mixing zones. Therefore, effects related to proposed project CO concentrations would be less than significant.

### Operational Diesel Particulates

Exposure to DPM generated by traffic on roadways is a concern identified in the CARB Air Quality and Land Use Handbook. The CARB guidelines indicate that siting new sensitive land uses (such as residential uses) within 500 feet of a freeway or an urban road with 100,000 vehicles per day should be avoided. The nearest major freeway to the project site (Interstate 880) is located more than two miles east from the project site and is outside of the avoidance guidelines. The CARB also recommends siting sensitive land uses more than 1,000 feet from distribution centers. The nearest distribution center to the project site appears to be approximately 1,200 feet to the northeast. Both Interstate 880 and the nearest distribution center are outside the avoidance guidelines and downwind of the project site.

The Dumbarton TOD Specific Plan would provide space for a multimodal transit station that would include commuter train service. The Dumbarton Rail Transit Station would provide commuter rail service from the Union City Intermodal Transit Center across the Dumbarton Bridge to Menlo Park and finally connect to the Caltrain service that runs from San Francisco to San Jose. Although future rail uses would utilize cleaner diesel engines, a worst-case scenario would include the operation of six diesel trains per day with three to five minutes of locomotive idling during each stop at the station. Based on the land use plan for the proposed project,

residential uses would be located approximately 500 feet from the proposed transit station. The BAAQMD identifies diesel trains as a common source of DPM emissions and recommends a buffer distance of at least 1,000 feet between the locomotives and residences. Because the project would cite new residences within the 1,000-foot buffer, a health risk analysis is required.

The USEPA SCREEN3 model, the screening air dispersion modeling method approved by the CARB for such assessments, was used to estimate concentrations of DPM from the transit station to the project. The DPM emissions were estimated using emission factors provided in the USEPA's April 2009 *Technical Highlights – Emission Factors for Locomotives*. It was estimated that locomotives would result in 1.15 grams of DPM per day. Detailed modeling assumptions are included in Appendix C of this report.

### Cancer Health Risk Assessment Methodology

The cancer risk is calculated by multiplying the annual average concentrations calculated using the SCREEN3 model and an inhalation exposure factor as in Equation 1 below (Office of Environmental Health Hazard Assessment 2015).

Cancer Risk = Dose-inhalation x CPF x ASF x ED/AT x FAH

Where:

Cancer Risk = Total individual lifetime excess cancer risk defined as the cancer risk that a hypothetical individual would face if exposed to carcinogenic emissions from a particular facility; this risk is defined as an excess risk because it is above and beyond the background cancer risk to the population contributed by emission sources not related to the Project; cancer risk is expressed in terms of risk per million exposed individuals.

CPF = Cancer Potency Factor
ASF = Age Sensitivity Factor for a specified age group
ED = Exposure duration for a specified age group
AT = Averaging time for lifetime cancer risk
FAH = Fraction of time spent at home
Dose-inhalation = Cair x {BR/BW} x A x EF x $10^{-6}$

Where:

Cair = annual average concentration

{BR/BW} = daily breathing rate normalized to body weight
A = inhalation absorption factor
EF = exposure frequency

Cair is the annual average concentration at the closest receptor calculated from SCREEN3 in $\mu g/m^3$. With the worst-case meteorological condition under SCREEN3, the highest 1-hour DPM concentration value at a residential receptor located 500 feet from the transit station was calculated to be 0.00942 $\mu g/m^3$. The SCREEN3 model outputs and screening health risk calculations are provided in Appendix C of this report.

### Non-Cancer Health Risk Characterization

Exposures to TACs such as DPM can also cause chronic (long-term) and acute (short-term) related non-cancer illnesses such as reproductive effects, respiratory effects, eye sensitivity, immune effects, kidney effects, blood effects, central nervous system, birth defects, or other adverse environmental effects. Risk characterization for non-cancer health risks is expressed as Hazard Index (HI). The HI is a ratio of the predicted concentration of a project's emissions to a concentration considered acceptable to public health professionals, termed the REL. When evaluating chronic non-cancer effects resulting from TAC exposures, a hazard quotient (HQ) is established for each individual TAC as follows and for each target organ affected by the individual TAC:

HI= Cair/RELi

Where:

HI = chronic hazard index
Cair = Annual average concentration
REL = Chronic Reference Exposure Level

To evaluate the potential for adverse non-cancer health effects from simultaneous exposure to multiple TACs, the HQs for all TACs that affect the same target organ are summed yielding a hazard index (HI) as follows:

$HIto = \Sigma to\ HQtac$

Where:

HIto = sum of the hazard quotients for all TACs affecting the same target organ

HQtac = hazard quotient for TAC and target organ.

The OEHHA has assigned a chronic non-cancer REL of 5 $\mu g/m^3$ for DPM (OEHHA 2015). DPM has effects on the respiratory system, which accounts for essentially all of the potential chronic non-cancer hazards from DPM. Therefore, the only HI calculated was for the respiratory system.

**Table 7** provides the results of the health risk assessment along with the BAAQMD's Significance health risk thresholds. As shown in the table below, the project would not exceed the significance thresholds for cancer risk and chronic non-cancer hazard.

**Table 7. Health Risk Assessment Results**

| Metric | Dispersion Model Estimate[1] | Significance Threshold | Exceeds Threshold? |
|---|---|---|---|
| 3rd Trimester Cancer Risk | 0.02 in 1 million | 10 in 1 million | No |
| 0-2 Cancer Risk | 0.61 in 1 million | 10 in 1 million | No |
| 2-16 Cancer Risk | 0.75 in 1 million | 10 in 1 million | No |
| 16-30 Cancer Risk | 0.11 in 1 million | 10 in 1 million | No |
| Chronic Non-Cancer HI | 0.0002 | 1.0 | No |

Note:
[1] Computed at the nearest sensitive receptor located approximately 500 feet south of the transit station.

## Odors

According to the BAAQMD'S CEQA Air Quality Guidelines, land uses associated with odor complaints typically include wastewater treatment plants, landfills, confined animal facilities, composting stations, food manufacturing plants, refineries, and chemical plants. Odor impacts generally occur from either siting a new odor source (e.g., the project includes a proposed odor source near existing sensitive receptors), or siting a new receptor (e.g., the project includes proposed sensitive receptors near an existing odor source). The project involves construction of single family dwelling units. This use is not identified as major sources of odor emissions according to the CARB Air Quality and Land Use Handbook. The project would not be a source of nuisance odors associated with operations.

The project would not be located in close proximity to any facilities that are typically associated with odor complaints as identified by the BAAQMD. The surrounding land uses are characterized by existing and former industrial parcels, residential development, and open space. The project site is vacant following soil remediation that removed industrial contaminants that remained from prior uses. Other industrial uses occur adjacent to the project site, east of APN 537-852-1-2, and northeast of the San Mateo Transit Authority railroad corridor. To the south, a

residential development is under construction within the Dumbarton TOD area. Salt evaporation ponds operated by Cargill, Inc. are located southwest of the project site, and part of the Don Edwards San Francisco Bay Wildlife Refuge is approximately 475 feet northwest of the project site, on the other side of the existing railroad tracks. There are reports of odors that are caused by algae in the salt basins. However, these odors are regarded as an annoyance rather than a health hazard. Based on the nature of the odor source and the low frequency of odor events generated by the salt basins, impacts are not considered a significant odor source. Additionally, salt basins are not identified by the BAAQMD as a significant odor source. Therefore, the proposed residential uses would not be exposed to significant sources of objectionable odors and mitigation measures are not required.

## IV. BIOLOGICAL RESOURCES

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) 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 the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | ☐ | ■ | ☐ | ☐ |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service? | ☐ | ☐ | ☐ | ■ |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | ☐ | ■ | ☐ | ☐ |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | ☐ | ☐ | ☐ | ■ |
| e) Conflict with any applicable policies protecting biological resources, such as a tree preservation policy or ordinance? | ☐ | ■ | ☐ | ☐ |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | ☐ | ☐ | ☐ | ■ |

The FMC Parcel C Project site was evaluated by professional biologists Stephen Stringer and Dr. George Aldridge, of HELIX Environmental Planning, Inc. (HELIX), using both review of existing documentation and biological surveys conducted at the site. The methods and results of the evaluation are presented in a biological technical report (BTR) prepared for the project (Appendix D, HELIX 2017b), and are summarized here.

## Regulatory Framework Related to Biological Resources

### *Endangered Species Act*

Special status species are protected by state and federal laws. The California Endangered Species Act (CESA; California Fish and Game Code Sections 2050 to 2097) protects species listed as threatened and endangered under CESA from harm or harassment. This law is similar to the Federal Endangered Species Act of 1973 (FESA; 16 USC 1531 *et seq.*) which protects federally threatened or endangered species (50 CFR 17.11, and 17.12; listed species) from take. For both laws, take of the protected species may be allowed through consultation with and issuance of a permit by the agency with jurisdiction over the protected species.

### *Nesting and Migratory Birds*

Nesting birds are protected by state and federal laws. California Fish and Game Code (§3503, 3503.5, and 3800) prohibits the possession, incidental take, or needless destruction of any bird nests or eggs; Fish and Game Code §3511 designates certain bird species "fully protected" (including all raptors), making it unlawful to take, possess, or destroy these species except under issuance of a specific permit. Under the Migratory Bird Treaty Act of 1918 (16 USF §703-711), migratory bird species and their nests and eggs that are on the federal list (50 CFR §10.13) are protected from injury or death, and project-related disturbance must be reduced or eliminated during the nesting cycle.

### *Jurisdictional Waters*

Any person, firm, or agency planning to alter or work in "waters of the U.S.," including the discharge of dredged or fill material, must first obtain authorization from the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act (CWA). Section 401 requires an applicant for a federal license or permit that allows activities resulting in a discharge to waters of the U.S. must obtain a state certification that the discharge complies with other provisions of the CWA. The RWQCB administers the certification program in California. The RWQCB also

regulates discharges of pollutants or dredged or fill material to waters of the State which is a broader definition than waters of the U.S.

### *California Native Plant Protection Act*

The California Native Plant Protection Act of 1977 (California Fish and Game Code Sections 1900 to 1913) requires all state agencies to use their authority to implement programs to conserve endangered and otherwise rare species of native plants. Provisions of the act prohibit the taking of listed plants from the wild and require notification of CDFW at least 10 days in advance of any change in land use other than changing from one agricultural use to another, which allows CDFW to salvage listed plants that would otherwise be destroyed.

### *City of Newark Municipal Code - Trees*

Chapter 8.16 of the City of Newark's Municipal Code, entitled *Preservation of Trees on Private Property* states: No person shall cut down, destroy, remove or move any tree, which shall include any live woody plant having one or more well defined perennial stems with a trunk diameter of six inches or greater measured at four feet above ground level, growing within the city limits on any parcels of land except developed residential parcels of land ten thousand square feet or less in area, unless a permit to do so has been obtained from the public works director (Ordinance 63 §2 (part), 1979).

## Methods

Biological studies conducted included a desktop evaluation and background research to identify special-status species and other biological resources (e.g., wetlands) with the potential to occur on the project site or be affected by the proposed project as well as biological field surveys to document baseline conditions and special-status species and/or their habitats present on the site. These methods are presented in the following sections.

### *Special-Status Species Evaluation*

Review of existing documentation included queries of public databases for records of sensitive species known to occur in the region. The San Francisco Bay – Delta Fish and Wildlife Office (USFWS) was consulted for a list of threatened and endangered species that may occur in the project site and/or be affected by the project; the California Native Plant Society (CNPS) database was queried for special-status plant species documented in the "Newark, CA" quad; the California Natural Diversity Database (CNDDB), maintained by the California Department of

Fish and Wildlife (CDFW), was queried for special-status species documented within five miles of the project site. Species returned in these database queries were analyzed for potential to occur in the project site based on habitat requirements and geographic range.

### *Previous Studies*

Studies conducted at the site by other parties and reviewed as part of this evaluation include a Preliminary Jurisdictional Determination of the 17-acre Enterprise Redevelopment Area (U.S. Army Corps of Engineers File No. 2013-00152S), based on a preliminary jurisdictional delineation prepared by WRA Environmental Consultants, and a Salt Marsh Harvest Mouse habitat assessment and research study conducted by Californian Environmental Services. The results of those studies are incorporated in detail into the BTR (Appendix D).

### *Biological Surveys*

Biological surveys conducted at the project site include a biological reconnaissance survey, rare plant surveys, a salt marsh harvest mouse habitat assessment and research project that included live trapping for small mammals, and a burrowing owl habitat assessment. Biological surveys are described in detail in the BTR (Appendix D). Biological surveys included assessment of general site conditions, identification of habitats and land covers present in the site, focused surveys for rare plants and burrowing owl (*Athene cunicularia*), assessment of sensitive resources present or potentially supported on the site, and comprehensive inventories of plant and animal species.

## Habitat Types Present

Vegetation communities/habitat types in the project site include ruderal/disturbed habitat (16.67 acres), tidal wetlands (0.71 acre), and seasonal wetland (0.03 acre). Habitat types in the project site are depicted in **Figure 5**.

### *Ruderal/Disturbed*

Ruderal/disturbed habitat occurs in areas that are heavily disturbed by past or ongoing human activities but retain a soil substrate. Ruderal/disturbed areas may be sparsely to densely vegetated, but do not support a recognizable community or species assemblage. Vegetative cover is usually herbaceous and dominated by a wide variety of weedy non-native species or a few ruderal native species. This habitat in the project site is either unvegetated post-remediation or heavily dominated by a dense cover of non-native annual grasses, with small patches of non-native forbs or ornamental hottentot-fig (*Carpobrotus edulis*).

HELIX Environmental Planning

# Habitat Map

Figure 5

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Ruderal/disturbed habitat provides low-quality habitat for wildlife, typically supporting only transient individuals using the area for dispersal, because of the sparse vegetation and lack of species diversity. Ruderal/disturbed habitat has little to no potential to support special-status species.

### *Tidal Wetlands*

Tidal wetland (pickleweed marsh) is a natural community predominated by pickleweed (*Salicornia pacifica*) and other short (>1.5 meters), salt-tolerant wetland forbs and subshrubs. The canopy is dense to sparse, and evergreen. This community occurs in areas that are subject to daily tidal inundation by salt water. Pickleweed marsh occurs in a portion of the abandoned barge canal in the southwest of the project site, and in a portion of a small tidal ditch in the western end of the project site. These areas are connected to Newark Slough and experience daily tidal influence. The pickleweed marsh in these areas is characterized by a near-monoculture of pickleweed with scattered individuals of marsh gumplant (*Grindelia stricta* var. *angustifolia*), alkali heath (*Frankenia salina*), saltgrass (*Distichlis spicata*), and fiddle dock (*Rumex pulcher*) at the margins.

Pickleweed marsh in San Francisco Bay potentially supports a variety of special-status species, including plant, bird, and mammal species listed under FESA and CESA. This community is also considered a sensitive natural community, with a state rarity ranking of S3.

### *Seasonal Wetland*

Seasonal wetland vegetation occurs as a type of disturbed habitat in two shallow, seasonally-ponded depressions in the eastern portion of the project site. Those depressions are remnant, constructed ditches that contain some hydrophytic vegetation. During the wet season, predominant species in the depressions include brass buttons (*Cotula coronopifolia*), Italian ryegrass (*Festuca perennis*), Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), and curly dock (*Rumex crispus*). These areas begin drying in spring, and by summer are dominated by common tarweed (*Centromadia pungens* ssp. *pungens*), cut-leaf geranium (*Geranium dissectum*), cutleaf plantain (*Plantago coronopifolia*), and soft chess (*Bromus hordeaceus*). The predominantly ruderal, non-native, herbaceous species that dominate the vegetation in seasonal wetlands do not constitute an identifiable community and are present seasonally because saturated soil conditions exclude the upland weeds.

## Special-Status Species and Protected Habitats with the Potential to Occur in the Project Site

Based on the evaluation of regionally-occurring special-status species conducted in preparation of the BTR (Appendix D), three special-status animal species have potential to occur in the project site or otherwise be affected by development of the proposed project: burrowing owl, saltmarsh common yellowthroat (*Geothlypis trichas sinuosus*), and Alameda song sparrow (*Melospiza melodia pusillula*). The project site also provides habitat for other nesting birds protected by state and federal regulations. Documentation of the evaluation for regionally-occurring special-status species to potentially occur in the project site and/or be affected by the proposed project is included in Appendix C of the BTR (Appendix D).

Burrowing Owl (*Athene cunicularia*)

Federal Status – None
State Status – SSC
Other – None

Burrowing owls are often found in open, dry grasslands, agricultural and range lands, and desert habitats. In addition to natural habitats, burrowing owls can be found in urban habitats such as at the margins of airports and golf courses and in vacant urban lots. Burrowing owls nest in underground burrows and commonly perch on nearby fence posts or mounds. The owls also use ground squirrel burrows, badger dens or artificial burrows such as abandoned pipes or culverts (CDFW 2012). Burrowing owls forage in grasslands and other open habitats primarily for insects and small mammals, and less often for reptiles, amphibians, and other small birds.

*Survey History*

All biological surveys included searching for burrowing owls, including transects of the site on April 13, 2017. No burrowing owl has been observed on the project site.

There are several reported occurrences in the CNDDB of burrowing owls within 5 miles of the project area. Two of the occurrences overlap or are within 1 mile of the project site, but are from 1950 and 1983. Both occurrences are presumed extirpated. The nearest presumed extant occurrences are one occurrence 1.9 mile east of the project site where pairs and juveniles were observed on a property east of Mowry Avenue in 2005, and 1.9 mile north of the project site where two adults and five juveniles were observed in a pasture in 1993. Seven additional reported occurrences are within five miles of the project site.

*Habitat Suitability/Potential to Occur in the Project Site*

Post-remediation, the majority of the site is not suitable to support burrowing owl. The project site provides limited suitable nesting and foraging habitat for this species around the margin of the barge canal and along the extreme western boundary within the planned open space. These areas contain a few California ground squirrel burrows that could potentially be used by burrowing owl for nesting or stopover during winter migration. Winter migrant burrowing owls have been observed by HELIX on the adjacent property to the south as recently as winter 2016-2017, where ground squirrels and suitable burrows are much more abundant than they are in the project site.

Saltmarsh Common Yellowthroat (*Geothlypis trichas sinuosa*) and Alameda Song Sparrow (*Melospiza melodia pusillula*)

Federal Status – None
State Status – SSC
Other – None

The saltmarsh common yellowthroat and Alameda song sparrow are small songbirds that inhabit brackish- and freshwater marsh, and woody swamps. Both species build nests close to the ground in vegetation tall enough to remain above high tides. Nesting substrates include grasses, herbaceous vegetation, cattails (*Typha* spp.), tules (*Schoenoplectus* spp.), and shrubs (e.g., *Baccharis pilularis*; Shuford, *et al.* 2008). Both species occupy their breeding range year-round. Both species breed from mid-March to late July.

*Survey History*

All biological surveys included looking for saltmarsh common yellowthroat and Alameda song sparrow. None has been observed on the project site.

There are several reported occurrences in CNDDB of saltmarsh common yellowthroat and Alameda song sparrow within 5 miles of the project area. The nearest reported occurrences in CNDDB of saltmarsh common yellowthroat and Alameda song sparrow is along Newark Slough, approximately 0.5-mile northwest of the project site.

*Habitat Suitability/Potential to Occur in the Project Site*

The only suitable habitat for either of these species on the project site is pickleweed marsh in the abandoned barge canal and the tidal ditch. Neither species is expected to utilize the upland portions of the project site for nesting or foraging.

Nesting Birds

Common bird species found on the project site include species that nest on all types of substrata, including bare ground, herbaceous and woody vegetation, pipes, debris, poles, and structures. Potential nesting habitat is limited on the project site; however, the proposed project may include removal of vegetation that provides potential nesting habitat for nesting birds. Project construction activities would potentially result in impacts to nesting birds if construction of the proposed project commences during the typical nesting period for passerines and other migratory birds. Construction activities and construction-related disturbance (noise, vibration and increased human activity) could adversely affect these species if they were to nest in or adjacent to the project area. Potential effects include physical destruction of nests by construction equipment and/or nest abandonment.

Special Status Plants

Although there is marginal habitat for special-status plants on the site, no special-status plant species was observed on the site during botanical surveys conducted during the blooming season (Appendix F of the BTR [Appendix E]). Therefore, special-status plants are presumed absent from the project site and no impacts to special-status plant species are anticipated.

Jurisdictional Waters

The Preliminary Jurisdictional Determination issued by the U.S. Army Corps of Engineers identified a total of 0.73 acre of jurisdictional waters of the United States on the project site, consisting of 0.71 acre of tidal marsh and 0.02 acre of seasonal wetland. All waters of the United States on the project site are also considered waters of the State regulated by the San Francisco Bay Regional Water Quality Control Board. Tidal marsh areas in the project site are also regulated by CDFW; however, seasonal wetlands do not meet the definition of lakes or streams under section 1600 *et seq.* of the Fish and Game Code and are not regulated by CDFW.

## Other Regionally-Occurring Special-Status Species Discussed Due to the Presence of Pickleweed Marsh

Although determined to be absent from the project site and adjacent habitat (see BTR in Appendix D), salt marsh harvest mouse (*Reithrodontomys raviventris*), California clapper rail (*Rallus longirostris obsoletus*), and western snowy plover (*Charadrius nivosus nivosus*) are discussed because of the presence of salt marsh habitat and the proximity of the project site to the San Francisco Bay margin.

Salt Marsh Harvest Mouse (*Reithrodontomys raviventris*)

Federal Status – Endangered
State Status – Endangered
Other – None

The salt marsh harvest mouse was federally listed as endangered in its entire range on October 13, 1970 (Federal Register 35: 16047). Critical habitat has not been designated for this species. This mouse is also state listed as endangered. A recovery plan for the salt marsh harvest mouse was prepared in 1984 and is currently under revision.

The federal and state listed salt marsh harvest mouse is endemic to tidal and brackish marsh habitats of the San Francisco Bay region. Salt marsh harvest mice are primarily found in the salt marshes along the northern San Pablo Bay, surrounding the Suisun Bay, and along the southern San Francisco Bay (USFWS 1984, Goals Project 2000). The acreage thought to be necessary to sustain a healthy salt marsh harvest mouse population is 150 acres or more (USFWS 2010). The salt marsh harvest mouse is critically dependent on dense cover and its preferred habitat is pickleweed. In marshes with an upper zone of halophytes, it uses this vegetation to escape high tides, and may also move into adjoining grasslands during the highest winter tides. The best type of pickleweed association for the species has: 100 percent vegetative cover with a cover depth of 30 to 50 centimeters at summer maximum, at least 60 percent cover of pickleweed, and additional halophytes such as fat hen (*Atriplex patula*) and alkali heath. The amount of salt grass, brass buttons, alkali bulrush (*Bolboschoenus maritimus*), or other species (e.g., *Scirpus* sp. or *Typha* sp.) should be low (USFWS 1984).

The *Salt Marsh Harvest Mouse and California Clapper Rail Recovery Plan* (USFWS 1984) points out that small marshes, separated by open land or dikes, have very low immigration, and that very few areas are likely to be recolonized.

*Survey History*

Dr. Gretchen Padgett-Flohr, a 10(a)(1)(A) salt marsh harvest mouse-permitted mammalogist (Permit No. TE-006112-6) conducted a habitat assessment for salt marsh harvest mouse at the project site per the requirements of the Dumbarton TOD PEIR MMRP. Dr. Padgett-Flohr conducted a site visit and habitat assessment on March 29, 2017 and she conducted a small mammal trapping survey between August 13, 2017 and August 23, 2017.

*Habitat Suitability/Potential to Occur in the Project Site*

**Habitat Assessment**

The CNDDB documents an occurrence of SMHM within 0.5 mile of the project area in the salt marsh between the project site and Newark Slough. This is an extensive occurrence that includes all of Newark Slough and the extensive salt marshes associated with it. Other records of SMHM from the vicinity of the project site include occurrences in Mowry Slough 1.6 mile south of the project site and several occurrences north of State Route 84 within 2 miles of the site.

The project site outside of the abandoned barge canal and the tidal ditch was determined to not provide suitable habitat for SMHM because it is not subject to tidal influence, and is characterized by a predominance of upland, non-native grasses (Appendix E of the BTR [Appendix D]). Dr. Padgett-Flohr's assessment of the pickleweed marsh in the abandoned barge channel and the tidal ditch was that it meets the habitat elements necessary for SMHM but may be too narrow to provide refugia from predators.

In addition to her site assessment, Dr. Padgett-Flohr conducted small mammal live-trapping studies on the project site as part of a research project investigating the potential use of disturbed habitats by SMHM. No SMHM was found on the project site during the comprehensive live-trapping study.

**SMHM Research Study**

Live-trapping was conducted at the project site from August 13th, 2017 through August 23rd, 2017 consisting of a total of 50 live traps for a total of 500 consecutive trap nights. Sherman live-traps were completely covered with vegetation for insulation to reduce nocturnal heat loss and dew condensation. Sherman live-traps were baited with a mixture of walnut meats and birdseed and provided with cotton nesting material. Traps located in the Barge Canal slough were affixed with thick sytrofoam pads under the traps to allow the traps to float if tidal water levels reached

the level of the traps. Traps were checked each morning within an hour of sunrise, closed during the day and then re-opened each evening within an hour of sunset. All small mammals captured were identified to species and released. The physical data and trap locations were recorded on data sheets.

A total of 71 house mice (*Mus musculus*) and one western harvest mouse (*Reithrodontomys megalotis*) were captured in 500 trap nights. No SMHM or any other species was captured.

Dr. Padgett-Flohr concluded that, although SMHM is known to use upland habitat that is contiguous with native salt marsh habitat, it is apparent that the species does not occur on the project site and likely does not occur in adjacent habitat. The species requires thick, dense stands of perennial pickleweed intermixed with other halophytic species that are mid-range in salinity level. Although this habitat is present on the site, no SMHM was captured.

SMHM are highly dependent on dense cover and it appears that despite the appearance of high-quality habitat in the slough, it may be that the slough is too narrow to provide suitable cover from predators. The Barge Canal Slough is approximately 165 feet in width at its widest point. This is important information as it gives a metric for the area that SMHM requires for survival. Gray fox is present on the site. The fox clearly had no trouble traveling within and throughout the Barge Canal Slough; this suggests that other predators would have similar ease of access to the entire slough.

FMC Parcel C is depauperate in small mammal species, as the only species captured was the non-native, house mouse and one western harvest mouse. There was no sign (i.e., small mammal trails, runways or burrows) of meadow vole (*Microtus californicus*) which typically inhabits upland, as well as salt marsh habitat.

California Clapper Rail (*Rallus longirostris obsoletus*)

Federal Status – Endangered
State Status – Endangered
Other – CDFW Fully Protected

California clapper rail inhabits tidal and brackish marsh with unrestricted daily tidal flows, well-developed tidal channel networks, and suitable upper marsh zone vegetation for nesting and cover during high tides. This species is currently restricted to the margins of San Francisco Bay. California clapper rail nests are built on platforms in areas of intricate channels to allow young to escape predators (USFWS 2013).

*Survey History*

There are no reported occurrences in the CNDDB of California clapper rail in the project site. The closest reported occurrences of this species to the project site are in Newark Slough approximately 0.3 mile north and 0.5 mile west of the project site. This species was not observed in the project site during numerous biological surveys, including 500 trap-nights of small mammal trapping in the pickleweed marsh.

*Habitat Suitability/Potential to Occur in the Project Site*

The project site lacks suitable habitat for California clapper rail. The pickleweed marsh in the project site is not suitable habitat for this species because it lacks well-developed tidal channel networks. In addition, the pickleweed marsh lacks an upper marsh zone that could provide nesting and cover for this species during high tide. The pickleweed marsh in the project site transitions abruptly to disturbed uplands and is surrounded by developed/ disturbed areas. A gray fox was routinely observed in the center of the pickleweed marsh, indicating that the marsh is too narrow to provide cover from predators.

Western Snowy Plover (*Charadrius nivosus nivosus*)

Federal Status – Threatened
State Status – None
Other – CDFW Species of Special Concern

Western snowy plover nests above the high tide line on dune-backed beaches, sand spits, beaches at creek and river mouths, and salt pans at lagoons and estuaries. This species nests less often on bluff-backed beaches, dredge spoil sites, salt pond levees, dry salt ponds, and river bars. Populations consist of both year-round residents and migrants. In San Francisco Bay, western snowy plover nests in dry salt ponds managed for wildlife by USFWS and various park districts (USFWS 2007).

*Survey History*

There are no reported occurrences in the CNDDB of western snowy plover in the project site. The closest reported occurrences of this species to the project site are approximately 3 miles north of the project site in Eden Landing Ecological Reserve. This species was not observed in the project site during numerous biological surveys, including 500 trap-nights of small mammal trapping in the pickleweed marsh.

*Habitat Suitability/Potential to Occur in the Project Site*

There is no habitat for western snowy plover in or adjacent to the project site. There is no suitable beach or salt pan habitat in the project site. The project site also lacks salt ponds or other unvegetated substrates required by this species for nesting.

## Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Biological Resources are discussed in Chapter 4.3 of the PEIR prepared for the Dumbarton TOD Specific Plan. The PEIR concludes that construction of the project could have potentially significant adverse impacts on special-status animal and plant species and includes measures to reduce impacts to less than significant. Additionally, construction of the project could have a potentially significant adverse impact on wetlands and water of the State/U.S. and includes Mitigation Measure 4.3-6 to reduce impacts to less than significant.

The PEIR concluded that the Dumbarton TOD Specific Plan area is not located within a Habitat Conservation Plan or Natural Community Conservation Plan and would not conflict with the provisions of any such plan.

## Evaluation of Biological Resources

### Question a: Less than significant with project-level mitigation incorporated

Potential Impacts to Western Burrowing Owls

No burrowing owl or active burrow has been observed on the project site. However, there is a low chance that burrowing owl could occupy the site prior to development. The portion of the project site that provides suitable habitat for burrowing owl is within designated open space and will not be affected by the proposed project. Therefore, loss of occupied burrowing owl habitat is not anticipated. However, disturbance to burrowing owl individuals could occur as a result of construction activities (e.g., noise, human presence) if this species occupies the site prior to construction. Mitigation measure 4.3-3 shall be implemented in accordance with the Specific Plan MMRP.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.3-3 (Western Burrowing Owls)**

The Specific Plan MMRP measure 4.3-3 specifies that prior to construction of any project within the project site, protocol burrowing owl surveys will be conducted by a qualified western burrowing owl biologist to ensure there is no impact to burrowing owls. Burrowing owl surveys will be conducted in accordance with CDFW's *Burrowing Owl Staff Report* (CDFW 2012). If potential burrows or birds are present, the appropriate measures in accordance with the MMRP and CDFW's *Burrowing Owl Staff Report* (CDFW 2012) shall be implemented, and the appropriate measures to mitigate for impacts to the owls applied.

With implementation of mitigation measure 4.3-3 in accordance with the Specific Plan MMRP, impacts to burrowing owls would be less-than-significant.

Potential Impacts to Alameda Song Sparrow, Saltmarsh Common Yellowthroat, and Other Nesting Passerines

Because there is no suitable habitat for either saltmarsh common yellowthroat or Alameda song sparrow outside of the pickleweed marsh areas at the edges of the project site, development of the proposed project would not result in direct impacts to either of these species. However, the project has potential for indirect impact on these species. Noise, vibration, and dust associated with construction activities may disrupt breeding behavior and/or cause nest abandonment if pairs of either species are nesting in pickleweed marsh adjacent to the project development area. Mitigation measure 4.3-4 shall be implemented in accordance with the Specific Plan MMRP. Pre-construction surveys will be conducted and appropriate nest-avoidance measures shall be implemented if these species are present adjacent to the construction area.

Post-construction use of the project may result in increases in human presence, lighting overspill, and domestic pets that might disrupt use of the adjacent pickleweed marsh habitat by both species. The keeping of outside feline pets or feral cat stations will be prohibited, thereby reducing the potential for cats to prey on or harass nesting passerines in suitable habitat near the project site. Lighting will be designed consistent with Policy LU-6.6 of the City General Plan Land Use Element, and the Site and Architecture Design Guidelines contained in the Specific Plan which require that the lighting be designed to reduce glare and over-lighting impacts. As a result, potential indirect impacts to nesting passerines associated with light and glare would be reduced.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.3-4 (Nesting Passerines)**

The Specific Plan MMRP measure 4.3-4 specifies that 15 days prior to any earthmoving or construction work on individual parcels within the passerine nesting season (March 1 to September 1), preconstruction surveys will be conducted to include the project site and a 100-foot buffer from the project site. If nesting passerines are present, a 100-foot-wide buffer will be established around nests of special status birds, and a 75-foot-wide buffer will be established around nests of non-special status birds. The buffers will be maintained until August 1 unless determined by a qualified wildlife biologist that the nests may be removed.

With implementation of prohibitions on feline pets and feral cat stations, adherence to lighting guidelines in the General Plan and Specific Plan, and implementation of mitigation measure 4.3-4 in accordance with the Specific Plan MMRP, impacts to Alameda song sparrow, saltmarsh common yellowthroat, and other nesting passerines would be less-than-significant.

Potential Impacts to Nesting Raptors

There are no trees suitable for raptor nesting in the project site; the only potentially suitable trees within 300 feet of the project site are at the western end of Enterprise Drive. Mitigation measure 4.3-2 shall be implemented in accordance with the Specific Plan MMRP.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.3-2 (Nesting Raptors)**

The Specific Plan MMRP measure 4.3-2 specifies that prior to any earthmoving or construction work on individual parcels within the raptor nesting season (February 1 to August 31), preconstruction surveys will be conducted to include the project site and a 300-foot buffer from the project site. If nesting raptors are present, a non-disturbance/avoidance buffer will be established based on specifications in the Specific Plan MMRP. A qualified raptor biologist would determine when the buffer can be removed, or the buffer may stay in place until August 31, and work may commence on September 1.

With implementation of the above measure, impacts to nesting raptors would be less-than-significant.

Potential Impacts to Special Status Plants

Although there is marginal habitat for special-status plants on the site, no special-status plant species were observed on the site during botanical surveys conducted during the blooming season. Therefore, special-status plants are presumed absent from the project site and no impacts to special-status plant species is anticipated. Mitigation measures for special status plants shall be implemented in accordance with the Specific Plan MMRP as modified below.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.3-5 (Special Status Plants)**

The Specific Plan MMRP measure 4.3-5 specifies that prior to construction initiation, and City approval of site development, a special-status plant surveys shall be conducted in appropriate habitats during the appropriate period during which the species are most identifiable in accordance with CDFW, USFWS, and CNPS published survey guidelines. It further states that if special-status plants are identified on the site, avoidance, minimization, and mitigation measures will be implemented consistent with the requirements included in the Specific Plan MMRP.

Special-status plant surveys have been conducted consistent with MM 4.3-5 for the project site. A special-status plant survey report that includes the methods used, survey participants, and findings of the special-status plant surveys conducted on the project site is included in Appendix F of the BTR (Appendix D) demonstrating absence of special-status plants on the project site. The results of rare plant surveys are typically considered valid for two blooming seasons after the surveys are conducted. If development of the site commences by summer of 2019, no further mitigation measures are required for special-status plant species. If development of the site does not commence by the end of summer 2019, rare plant surveys should be conducted to re-verify presence/absence of special-status plant species. If special-status plant species were discovered with subsequent surveys, measures shall be implemented in accordance with the Specific Plan MMRP.

With implementation of the above mitigation, impacts to special status plants would be less-than-significant.

Potential Impacts to Salt Marsh Harvest Mouse

Dr. Padgett-Flohr, a qualified CDFW- and USFWS-permitted salt marsh harvest mouse biologist, determined that SMHM does not occur on the project site. No potential habitat for SMHM would be impacted by the proposed project because Salt Marshes I and J are being

avoided and preserved. Therefore, no impact to salt marsh harvest mouse would occur from development of the project site, and no compensatory mitigation is required.

Potential Impacts to California Clapper Rail

California clapper rail is not present on or adjacent to the site and will not be affected by the proposed project. No mitigation is required.

Potential Impacts to Western Snowy Plover

Western snowy plover is not present on or adjacent to the site and will not be affected by the proposed project. No mitigation is required.

**Question b: No impact**

No riparian habitat or other sensitive community will be impacted by the project; therefore, no mitigation is necessary. The project would place all tidal marsh areas in the site into designated open space that would be avoided by project activities. Neither seasonal wetlands nor ruderal/disturbed habitat are considered riparian habitat or a sensitive community.

**Question c: Less than significant with project-level mitigation incorporated**

A PJD has been issued by the U.S. Army Corps of Engineers and is included as Appendix D of the BTR (Appendix D). The project proposes to fill 0.03 acre of seasonal wetland waters of the U.S./State regulated by the U.S. Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board. Mitigation measure 4.3-6 shall be implemented in accordance with the Specific Plan MMRP.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.3-6 (Wetlands)**

The Specific Plan MMRP measure 4.3-6 requires that the project applicant obtain a jurisdictional delineation from the U.S. Army Corps of Engineers, and receive authorization for any proposed fill of waters of the U.S. / State. Project applicants are required to provide mitigation for unavoidable impacts through U.S. Army Corps of Engineers- and Regional Water Quality Control Board-approved methods, which may include purchase of credits, payment to an in-lieu fee program, on-site creation, or off-site creation at a minimum 1:1 ratio.

Permits will be obtained from the U.S. Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board for fill of 0.03 acre of wetland and any required mitigation measures will be implemented.

**Questions d: No impact**

The project area and vicinity feature previous industrial land uses, and development with residential and commercial uses. The project site does not provide a migratory wildlife corridor, nor would development of the project impede the use of native wildlife nursery sites.

**Question e: Less than significant with project-level mitigation incorporated**

There is one tree in the project site that meets the criteria for protection under the City of Newark Municipal Code. The Specific Plan MMRP measure 4.3-8 shall be implemented prior to site disturbance for removal of any trees in the project site or off-site improvement areas that are protected by City Ordinance.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.3-8 (Protected Trees)**

The Specific Plan MMRP measure 4.3-8 requires obtaining a permit from the public works director, replacement of removed trees at a 1:1 ratio, preparation of a Tree Management Plan, and monitoring and maintenance of the replacement plantings.

With implementation of the above measure, impacts to protected trees would be less-than-significant.

**Question f: No impact**

No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan has been approved for the City of Newark. Therefore, no impacts to an existing adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan would occur, and no mitigation is necessary.

## V. CULTURAL RESOURCES

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? | ☐ | ■ | ☐ | ☐ |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? | ☐ | ■ | ☐ | ☐ |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | ☐ | ■ | ☐ | ☐ |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | ☐ | ■ | ☐ | ☐ |

### Regulatory Setting

State and federal legislation requires the protection of historical and cultural resources. In 1971, President's Executive Order No. 11593 required that all federal agencies initiate procedures to preserve and maintain cultural resources by nomination and inclusion on the National Register of Historic Places (NRHP). In 1980, the Governor's Executive Order No. B-64-80 required that state agencies inventory all "significant historic and cultural sites, structures, and objects under their jurisdiction which are over 50 years of age and which may qualify for listing on the National Register of Historic Places." Section 15064.5(b)(1) of the CEQA Guidelines specifies that projects that cause "...physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historic resource would be materially impaired" shall be found to have a significant impact on the environment. For the purposes of CEQA, an historical resource is a resource listed in, or determined eligible for listing in the California Register of Historical Resources (CRHR). When a project could impact a resource, it must be determined whether the resource is an historical resource, which is defined as a resource that:

(A) is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political or cultural annals of California; and,

(B) Meets any of the following criteria: 1) is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage; 2) is associated with the lives of persons important in our past; 3) embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or 4) has yielded, or may be likely to yield, information important in prehistory or history. In addition, properties listed in or formally determined eligible for listing in the MRHP are automatically considered eligible for the CRHR.

CEQA applies to archaeological resources when (1) the archaeological resource satisfies the definition of a historical resource, or (2) the archaeological resource satisfies the definition of a "unique archaeological resource." A unique archaeological resource is an archaeological artifact, object, or site that has a high probability of meeting any of the following criteria:

- The archaeological resource contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
- The archaeological resource has a special and particular quality such as being the oldest of its type or the best available example of its type.
- The archaeological resource is directly associated with a scientifically recognized important prehistoric or historic event or person.

## Cultural Background

Following is a brief summary providing a context in which to understand the background and relevance of resources that may occur in the general project area. This section is not intended to be a comprehensive review of the current resources available; rather, it serves as a general overview. Further details can be found in ethnographic studies, mission records, and major published sources.

*Native American Background*

At the time of European contact, the general Newark area was occupied by various tribelets that were part of the Ohlone (previously Costanoan) tribe of California Native Americans (Levy

1978). The Ohlone group designates a language family consisting of eight branches of the Ohlone language that are considered too distinct to be dialects, with each being related to its geographically adjacent neighbors (Levy 1978).

The various Ohlone tribes subsisted as hunter-gatherers and relied on local terrestrial and marine flora and fauna for subsistence (Levy 1978). The predominant plant food source was the acorn, but they also exploited a wide range of other plants and the protein sources included grizzly bear, elk, and black-tailed deer as well as smaller mammals. Waterfowl, including Canada geese, mallards, green-winged teal, and American widgeon, were captured in nets using decoys to attract them. Fish also played an important role in the Ohlone diet and included steelhead, salmon, and sturgeon (Jones 2007).

The Ohlone constructed watercraft from tule reeds and possessed bow and arrow technology. They fashioned blankets from sea otter pelts, fabricated basketry from twined reeds of various types, and assembled a variety of stone and bone tools in their assemblages. Ohlone villages typically consisted of domed dwelling structures, communal sweathouses, dance enclosures, and assembly houses constructed from thatched tule reeds and a combination of wild grasses, wild alfalfa, and ferns.

The Ohlone were politically organized into autonomous tribelets that had distinct cultural territories. Individual tribelets contained one or more villages with several seasonal camps for resource procurement within the tribelet territory. The tribelet chief could be either male or female, and the position was inherited patrilineally, but approval of the community was required. The tribelet chief and council were essentially advisors to the community and were responsible for feeding visitors, directing hunting and fishing expeditions, ceremonial activities, and warfare on neighboring tribelets.

The Gold Rush brought disease to the native inhabitants, and by the 1850s, nearly all the Ohlone had adapted in some way or another to economies based on cash income. Hunting and gathering activities continued to decline and were rapidly replaced with economies based on ranching and farming.

*Historic Background – City of Newark*

The city of Newark is located within Alameda County, California and is comprised of approximately 14 square miles of land. Newark was incorporated on September 22, 1955, and is part of what is referred to as the "Tri-City" area which includes Newark, Fremont and Union

City. In 2015, the city's population was approximately 44,000 people. The development of Newark followed the same patterns of change and growth as did most of California during the Mexican and American periods. After California statehood, the American presence in the San Francisco Bay region increased steadily. The following is excerpted from www.newark.org/vistors/history.

By the early 1850s, small landings were under construction along the San Francisco Bay area near Newark. In 1853, Mayhew's Landing included warehouses for wheat, hay, and coal and by 1856 the Mayhew Ranch included 1,500 acres of farmland extending inland to present- day I-880. Less than 20 years later, the Perrin brothers acquired the old Mayhews Ranch and extended their holdings to include property stretching from today's Jarvis Avenue on the north to south of Thornton Avenue. The Perrin brothers' "development project," the Green Point Dairy and Transportation Company, set the tone for future development. It was the Perrin brothers who first drew up plans to subdivide the Green Point Dairy into a townsite (located in the general vicinity of Thornton and Jarvis Avenues).

Work started on a railroad through the townsite from Dumbarton Point in 1875. In 1876, the railroad, together with the Green Point Dairy, were purchased and completed the South Pacific Coast Railroad, from Dumbarton Point south to Santa Cruz. Soon, a railroad station, roundhouse, and railroad shop buildings were being erected in the center of Newark in the area between Thornton Avenue, Sycamore Street, and Carter Avenue. Eventually, the railroad was extended north from Newark to Alameda, providing direct ferry service to San Francisco.

The completion of the railroad precipitated additional development in Newark. Hotels and stores were soon constructed, along with some of the first manufacturing industries, including a railroad car building firm and a foundry which later manufactured Wedgewood stoves. These enterprises joined the production of salt, which had been underway in the Newark area since the 1850s. Acquisitions and mergers of salt production companies throughout the Bay area ultimately resulted in formation of the Arden Salt Company, predecessor to Leslie Salt Company and today's Cargill Salt.

The city of Newark lies close to Silicon Valley with its high-tech companies and digital technology. Over the twentieth century, industrial growth within and surrounding Newark, added to the economic base. In September 1955, Newark was incorporated as the first new city in Alameda County in 47 years. Because of these efforts, Newark has built the Newark Mall, with its jobs and tax revenues, completed the Dumbarton Bridge and maintained and improved much of the Nimitz Freeway.

*Historic Background – Dumbarton Cutoff of the Southern Pacific Railroad*

The following historical context is largely adapted from John W. Snyder's (1996) evaluation of the Dumbarton Cutoff and Dumbarton Bridge.

The original Southern Pacific Railroad was founded in San Francisco as a land holding company in 1865 by a group of businessmen led by Timothy Phelps. The group planned to build a railroad running north to south from San Francisco to San Diego. The company was purchased in September 1868 by a group of businessmen known as the Big Four: Charles Crocker, Leland Stanford, Mark Hopkins and Collis P. Huntington. The Big Four had, in 1861, created the Central Pacific Railroad because of the Pacific Railroad Act. The Central Pacific started in California and built towards the east, while the Union Pacific Railroad started in St. Louis, Missouri and built westward. At this time, the nation had a comprehensive railroad system that connected the eastern states with some, more limited, systems operating in the southern states. The two systems met at Promontory Point, Utah in 1869, thus creating the first transcontinental rail system linking both east and west coasts. The next year, in 1870, the Central Pacific Railroad merged into the Southern Pacific Railroad (Southern Pacific Railroad, various websites, accessed 2017).

In 1901, following the death of Colis P. Huntington, railroad magnate Edward H. Harriman obtained control of Huntington's interest in the Southern Pacific and assumed the presidency of the railroad. Harriman immediately initiated a series of system-wide improvements to the Southern Pacific to improve its efficiency and to upgrade lines and bridges for modern traffic loadings. These efforts often took the form of newly-incorporated railroads that were totally controlled by the Southern Pacific Railroad, and that would be subsumed by the parent company upon their completion. In 1905 Harriman began improvements to main lines between San Francisco and the Pacific Northwest, between San Francisco and Ogden, and between San Francisco and New Orleans, where Southern Pacific steamships connected to New York. To facilitate these improvements, Harriman directed the incorporation of the Central California railway to build a 16.4-mile line between Niles in Alameda County and Redwood Junction in San Mateo County. The "Dumbarton Cutoff," in conjunction with the new Bayshore Cutoff, would unify and improve the Southern Pacific Railroad's terminal facilities in San Francisco, shortening the trip around the south end of the Bay by 50 miles and eliminating the need to ship freight across the Bay by ferry. The 1906 San Francisco earthquake further underscored the need to improve access to and from the city.

The Central California Railway was incorporated in 1906 to build a standard gauge railroad from Niles to Dumbarton Point, across San Francisco Bay to Redwood City, and then to a point near San Mateo. Newark was chosen to be the staging point for construction of the $15 million-dollar Dumbarton Cutoff and its bridges across San Francisco Bay. Newark became a small boom town as bridge materials and other supplies arrived by rail from Oakland. Crews began by grading and setting track along the five miles between Niles and Newark, and the eleven miles between Newark and Redwood Junction. The bridges at Dumbarton and Newark Slough were then built, using an elaborate system of timber pile dolphins topped by a timber truss falsework that allowed shipping to proceed during construction. The timber pile dolphins and falsework acted as frameworks for the bridges' pivot piers and truss approach spans. The spans were initially assembled near the shoreline, and then carried and placed onto their piers by barge, using the tides for assistance. On land, crews used dredgers to build three miles of new railroad grade above the tidal marshes west of Newark.

The Dumbarton Cutoff was completed on September 12, 1910, although Harriman died in 1909 and never saw its completion. As soon as the line was completed it was leased to the Central Pacific Railroad, and then was sold to the railroad in 1912. The line represents the first successful bridging of San Francisco Bay, and proved to be the valuable freight link that Harriman had foreseen. During World War I, when U.S. railroads came under control of the United States Railroad Administration, the Dumbarton Cutoff was used by both the Southern Pacific and its competitor, the Western Pacific Railroad. During World War II the line carried massive amounts of trade for the war effort. Following the wars the line provided a vital transportation link between San Francisco and points to the east and north.

Freight trains continued to use the route through the 1970s, but traffic declined as the focus of shipping shifted from San Francisco to the Port of Oakland. The Southern Pacific Railroad closed the Dumbarton Cutoff in 1982. In 1996 the Dumbarton Cutoff was evaluated and found eligible for listing in the NRHP.

## Records Searches

*Northwest Information Center Record Search*

On November 3, 2017, a record search including the Area of Potential Effect (APE) and a 0.50-mile radius beyond the APE boundary was conducted by HELIX at the Northwest Information Center in Rohnert Park. Results from the search indicate that a portion of the San Mateo Transit Authority Railroad corridor (Railroad), formerly the Southern Pacific Railroad, (P-01-001783)

outside the APE was previously evaluated and was considered eligible for listing on the NRHP. In addition, 18 studies have been conducted within the 0.50-mile search radius; two of the studies included the APE. A search of the Historic Properties Database File for Alameda County was negative for historic properties within the APE or a 0.50-mile radius.

*Native American Heritage Commission Sacred Lands File Search*

On November 3, 2017, HELIX sent a Sacred Lands File search request to the NAHC, and a response was received on November 17, 2017 indicating the search was negative. Included with the response was a list of six Native American tribal representatives that were sent information request letters on November 28th; no responses have been received. The NAHC correspondence relevant to the project is contained in Appendix E.

## Pedestrian Survey and Historic Evaluation

*Pedestrian Survey*

HELIX Archaeologist, Katherine D. Thomas, surveyed the project APE on November 10, 2017. The APE is flat, sparsely developed land surrounded by industrial and commercial buildings in the western section of the City of Newark. The project area was owned by a previous company and paved with asphalt which has been recently milled resulting in very little native ground surface visibility.

Approximately 50 feet north of the northern border of the APE is the Dumbarton Cutoff (P-01-001783), which was formerly a component of the Southern Pacific Railroad and is now part of the San Mateo Transit Authority Railroad corridor. The Dumbarton Cutoff has previously been evaluated for the NRHP and was recommended eligible for listing. A short railroad spur diverges from the main rail line outside of the northwest corner of the APE. The spur and an associated siding run along the APE's northern boundary for approximately 1,000 feet before the spur exits the APE at its northernmost point. The railroad spur is evaluated below as a potential contributor to the Dumbarton Cutoff.

No pre-contact resources have been previously recorded within the APE or a 0.50-mile radius and none were identified during the field survey. One historic age resource, the Dumbarton Cutoff, has a small unused portion within the APE and a functioning portion extending outside the 0.50-mile radius. The portion of the Railroad within the APE has been evaluated for the NRHP and is considered not eligible for listing. No additional historic properties were identified within the APE.

*Evaluation of Portion of Railroad within APE*

In 1996 John W. Snyder evaluated the Dumbarton Cutoff and bridge for eligibility to the NRHP. Assuming a period of significance from 1909 to 1945, Snyder recommended the line eligible at the local level of significance in transportation and engineering. He found that under criterion A it is associated with system-wide improvements to the Southern Pacific Railroad that made it the standard railroad of the West, and is inextricably linked both with the economic growth of San Francisco and with national defense efforts during both world wars. Under criterion B, it is associated with the life of E.H. Harriman, who drove the modernization of the Southern Pacific during the early twentieth century. Under criterion C, contributive elements of the cutoff, including its bridges, are representative examples of their type, period, and method of construction. Snyder also found that overall the line retains integrity of its location, setting, feeling, and association. It should be noted that resources determined eligible for the NRHP are assumed to also be eligible for the CRHR, and are considered historical resources under CEQA.

The pedestrian survey included identification of a railroad spur that diverges from the Dumbarton Cutoff outside the APE, and then runs adjacent to and inside the APE's northern boundary. The Dumbarton Cutoff was evaluated for listing on the NRHP and was recommended as eligible, although the evaluation did not address the spur. As the railroad spur within the APE would not exist but for the Dumbarton Cutoff, was constructed during the Dumbarton Cutoff's period of significance (1909-1945), and would be destroyed during implementation of the proposed project, the spur was evaluated as a potential contributor to the Cutoff by HELIX Architectural Historian Kathleen A. Crawford.

The evaluation determined that the railroad spur does not adequately portray the significance that was attributed to the main line of Southern Pacific Railroad's Dumbarton Cutoff, and as such does not contribute to the Dumbarton Cutoff's eligibility for listing on the NRHP. The specifics of the evaluation are provided below.

The railroad spur does not contribute to the characteristics that qualify the Dumbarton Cutoff as an eligible property under Criterion A (association with events that have made a significant contribution to the broad patterns of our history). The spur is associated with the operation of a plant that produced commonly used chemicals but did not play a significant role in the overall development and operation of the larger Railroad system or substantially impact local, state, or national history. Unlike the Dumbarton Cutoff's main line, the spur is not associated with system-wide improvements to the Southern Pacific Railroad and is not linked to the economic growth of San Francisco or to national defense efforts.

The railroad spur does not contribute to the characteristics that qualify the Dumbarton Cutoff as an eligible property under Criterion B (association with the lives of significant persons in our past). There is no evidence to suggest that construction or operation of the spur are associated with any persons considered important in history, including E. H. Harriman.

The railroad spur does not contribute to the characteristics that qualify the Dumbarton Cutoff as an eligible property under Criterion C (embodiment of the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction). The style and construction techniques of the spur do not rise to the level of significance shown by the Dumbarton Cutoff's main line. The tracks within the APE are of standard gauge and standard manufacture, and the generic materials used in its construction have no unique or distinguishing characteristics or features. Likewise, the spur does not possess the significant and distinguishable design or method of construction that mark the Dumbarton Cutoff's contributing elements.

The railroad spur does not contribute to the characteristics that qualify the Dumbarton Cutoff as an eligible property under Criterion D (has yielded or may be likely to yield, information important in history or prehistory). Generic in materials and construction for its period, the railroad spur does not have the potential to be a primary source of information for local history, the railroad industry, or construction and operation of the Dumbarton Cutoff.

Although in disrepair, the railroad spur generally retains integrity of design, as the extant materials appear to be original and not intentionally altered. Integrity of workmanship is non-existent for the spur, as the workmanship is not distinct, or representative of a particular period, culture or building method. The railroad spur's integrity of location and setting is mixed. It remains in its original place of construction, and therefore has integrity of location. The spur's integrity of setting, however, is poor compared with that of the larger Dumbarton Cutoff, having been diminished by extensive ground disturbances, demolition of the FMC facility, and associated alterations to the property's landscape. The railroad spur's integrity of feeling is limited, since there is no sense that it represents a component of a larger historical context, such as system-wide improvements to the Southern Pacific Railroad. The lack of integrity of setting, workmanship, and feeling together have affected any integrity of association that the railroad spur might convey.

## Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

The PEIR concludes there are no NRHP or CRHR listed, determined, or potential archaeological sites, significant local, State or Federal historic properties, landmarks, etc., in or adjacent to the Specific Plan area. Additionally, there are no recorded archaeological resources, including prehistoric sites and no recorded, reported, or known Native American sites, villages, trails, traditional use areas, or contemporary use areas in, adjacent, or near the Specific Plan area. No historic resources have been formally recorded or reported in or near the Specific Plan area. The Specific Plan area has a low sensitivity for paleontological resources.

There is a possibility that potentially significant unrecorded archaeological resources, including prehistoric resources and human remains, as well as historic resources, and are present beneath the ground surface and could be exposed during construction activities. Unknown paleontological resources may be damaged or destroyed during ground disturbing activities.

## Evaluation of Cultural Resources

**Questions a - d: Less than significant with project level mitigation incorporated**

Record searches have resulted in negative findings for previously documented cultural resources. Although the site contains a short railroad spur associated with the historic Dumbarton Cutoff of the Southern Pacific Railroad, the spur has been evaluated and has been determined to not meet the criteria of an historical resource. Further, no archaeological resources have been found that could potentially meet the criteria of either an historical resource or a unique archaeological resource. The potential for the project site to contain significant paleontological resources or human remains is low.

Nevertheless, ground disturbance during project construction could reveal unknown, buried cultural resources. Measures contained in the Specific Plan MMRP (measures 4.4-1a and 4.4-1b) would be implemented to minimize impacts to cultural resources to a less-than-significant level.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.4-1a (Subsurface Resources)**

The Specific Plan MMRP measure 4.4-1a specifies that prior to issuance of grading permits for each development, qualified archaeologists shall train the construction crew on identifying cultural resources and the legal and/or regulatory implications of destroying or removing cultural

resources or artifacts. If subsurface or previously unknown cultural resources or human remains are discovered during construction, avoidance and mitigation measures involving the qualified archaeologist, lead agency, and project sponsor will be implemented. The measure contains specific processes depending on the resource encountered.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.4-1b (Historic Buildings and Structures)**

The Specific Plan MMRP measure 4.4-1b specifies that prior to approval of Tentative Subdivision Maps for any development in the Specific Plan area, any buildings, structures, or the railroad directly affected by or within 100 meters (328 feet) of development shall be evaluated for inclusion in the NRHP by a qualified professional archaeologist. If the building or structure is considered eligible, then the resource will be evaluated for impacts. If not eligible, no mitigation measures would be required.

With implementation of the above measures, impacts to cultural resources would be less than significant.

## VI. GEOLOGY AND SOILS

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | ☐ | ■ | ☐ | ☐ |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | ☐ | ☐ | ☐ | ■ |
| ii) Strong seismic ground shaking? | ☐ | ■ | ☐ | ☐ |
| iii) Seismic-related ground failure, including liquefaction? | ☐ | ■ | ☐ | ☐ |
| iv) Landslides? | ☐ | ■ | ☐ | ☐ |
| b) Result in substantial soil erosion or the loss of topsoil? | ☐ | ■ | ☐ | ☐ |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | ☐ | ■ | ☐ | ☐ |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | ☐ | ■ | ☐ | ☐ |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | ☐ | ☐ | ☐ | ■ |

A project-specific preliminary geotechnical investigation was prepared by Berlogar Stevens & Associates (BSA) and is included as Appendix F. Information pertinent to the project is summarized below.

## Geology

The project site is located in the San Francisco Bay Area. This region is known to be one of the most seismically active places in the United States. There are three major active faults located in the San Francisco Bay Area: the Hayward Fault, which is located approximately 6 miles east of the project site, the San Andreas Fault, which is located approximately 13 miles west of the project site, and the Calaveras Fault, which is located approximately 11 miles east of the project site.

The project site is not located within an Alquist-Priolo Study Zone (i.e., active faults). Because there are no identified active earthquake faults on the project site, there is no risk of ground rupture on the project site from known earthquake faults; however, there is a potential for moderate earthquake-induced ground shaking due to the identified off-site faults in the San Francisco Bay Area. The project site may be underlain by potentially liquefiable soils, and contains backfill, that could result in seismically-induced ground failure from a substantial earthquake from off-site faults that could damage and destroy buildings and other structures.

## Soils

Fill soils cover the site. Geologic deposits below the fill include Holocene Bay Mud deposits (Qhbm) in the western portion of the site, with Holocene Basin deposits over the central and eastern portions of the site (Helley and Graymer 1997). Bay Mud is saturated estuarine mud predominantly consisting of clay and silty clay that underlies marshlands and tidal mud flats of San Francisco Bay. The Bay Mud contains a few lenses of fine sand and silt, as well as a few shelly layers (oysters), and peat. The mud interfingers with and grades into fine-grained deposits at the distal edge of Holocene fans. Basin Deposits are silty clay to clay deposits found at the distal edge of alluvial fans adjacent to the Bay Mud. Mapping of the limits of Bay Mud deposits along the eastern shore of the southern San Francisco Bay (McDonald et. al. 1978) shows Bay Mud deposits being limited to the western portion of the site, consistent with mapping by Helley and Graymer (1997).

Geologic mapping of bedrock in the area of the site does not indicate the presence of bedrock on the site. However, bedrock was encountered at shallow depths in the central area of the site. The shallow bedrock appears to be continuous with two areas of bedrock (North Hill and South Hill)

immediately south of the site on the Bridgeway property. Those two bedrock hills, which are in line with the Coyote Hills, located about 3,600 feet northwest of the site, were previously investigated by BSA. The Coyote Hills are shown on the Preliminary Geologic Map Emphasizing Bedrock (Graymer, et. al., 1996). The Coyote Hills are mapped as consisting of Undivided Franciscan rocks, chert, greenstone, limestone and serpentinite.

With respect to the two bedrock hills south of the site, previous investigations of those hills by BSA indicated that the North Hill is composed of sandstone and claystone and is mantled with undocumented fill. The North Hill, including the area at the north end of the ridge extending into the FMC site, was partially covered with magnesia, whereas the South Hill is composed of serpentinite.

The approximate areal extent of shallow bedrock (within approximately 8 feet of the ground surface) is shown on Plate 2 in the geotechnical investigation. The shallow bedrock logged by BSA on the site consisted of slightly weathered to competent siltstone and sandstone of the Franciscan Assemblage. ERM logged weathered serpentine, consistent with Franciscan Assemblage bedrock, in their soil boring D2-A and test pit TP-5W at a depth of about 9 feet below ground surface (bgs). The site is blanketed by a layer of fill generally ranging in thickness from about 2 to 5 feet.

Deeper fills, on the order of about 8 feet deep, are present in areas where clearing of past structures, and environmental investigation and remediation activities have been performed. The surficial fills in the western portion of the site are predominately silty to clayey gravels or sands in the upper 2 to 3 feet. The surface soils in the eastern portion of the site are predominately clays and silts. The fill contains crushed rock, concrete, and brick in several areas. ERM reported encountering compacted construction debris containing crushed concrete, concrete block, brick, and wood with fragments of metal beams and pipes in the central portion of the western area (Parcel C) of the site. Intact concrete footings were also found at depths between 2 and 4 feet bgs on the western side of the site. They also reported finding a buried concrete structure at a former bittern pond, which extended to a depth of about 8 feet bgs, in the vicinity of boring B-7.

The alluvial soils underlying the fill consists of varying layers of lean silty to sandy clays, clayey to sandy silts, sand, and silty to clayey sands. The sandy layers were generally encountered between about 8 and 18 feet bgs, with sand deposits also encountered below about 38 feet in two of the four CPTs that extended to depths of at least 50 feet bgs. The granular soils are loose to medium dense, where present in the upper 10 to 20 feet of the site and medium dense to dense below. The fine-grained soils range in consistency from medium stiff to very stiff. A layer of

shells was encountered about 2-1/2 feet below the surface at boring B-11 adjacent to the wetlands area at the western side of the site. The deposit is about 1-1/2 feet thick. ERM logged a layer of shell fragments from 3-1/2 feet bgs to the maximum depth explored at their boring DG-206 of 10 feet bgs. See Appendix F for the detailed geotechnical investigation.

### City Regulation of Geology and Soils

The City of Newark's 2013 Updated General Plan contains conditions, actions, and programs that help minimize the effects of seismic and geologic hazards, primarily through enforcement of the California Building Code, which requires the implementation of engineering solutions for constraints to urban development posed by slopes, soils, and geology.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Geology and soils are discussed in Chapter 4.5 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). The PEIR concludes that project construction could expose people or structures to potentially substantial adverse effects, including the risk of loss, injury, or death as a result of seismic-related ground shaking, liquefaction, or landslides and includes measures to reduce impacts to less than significant. The project could also result in substantial soil erosion, the loss of topsoil, or be located on a geologic formation or soil that is unstable and includes measures to reduced impacts to less than significant.

The PEIR concluded that there are no identified faults running through the Dumbarton TOD Specific plan area and the risk of ground rupture is non-existent. Additionally, future development allowed by the Dumbarton TOD Specific Plan would connect to the municipal sewer system and would not require the construction of septic tanks or an alternative wastewater disposal system.

### Evaluation of Geology and Soils

#### Question a: Less than significant with project level mitigation incorporated

Because there are no identified active earthquake faults on the project site, there is no risk of ground rupture on the project site from known earthquake faults; however, there is a potential for moderate earthquake-induced ground shaking due to other identified earthquake off-site faults in the San Francisco Bay Area. This could threaten the integrity of the structures on the project site and the people occupying those structures. The project site may be underlain by potentially liquefiable soils and contains backfill that could result in seismically-induced ground failure

from an adequately substantial earthquake from off-site faults. Due to the relatively flat topography of the project site, it is not susceptible to landslides as a result of seismic activity.

Impacts to people or structures as a result of seismic-related activity could be potentially significant. The impact of seismic-related ground shaking on the project site can be reduced if the project is constructed in compliance with the geotechnical engineering investigations and the California Building Code requirements.

The project-specific preliminary geotechnical investigation identified potentially liquefiable soils to a depth of 25 feet or more and recommended the soil should be densified to increase resistance to liquefaction. Based on the evaluation of the site conditions, Berlogar Stevens & Associates recommended the installation of stone columns for liquefaction remediation at this preliminary stage. It is estimated that stone columns can be utilized up to approximately 50 feet from adjacent occupied buildings or sensitive facilities, however, vibration monitoring should be performed to obtain a vibration attenuation relationship for the site (BSA 2017).

It should be noted that the preliminary conclusions and recommendations are intended to assist in evaluating and planning the project. These preliminary conclusions and recommendations are insufficient for the design of the proposed residential development at this site, and a design-level geotechnical investigation, including additional field exploration and laboratory testing, will be required. The preliminary conclusions and recommendations contained in this report are subject to modification, depending on the findings from the design-level geotechnical investigation (BSA 2017). Therefore, the Specific Plan MMRP measure 4.5-1 will be implemented to further reduce impacts to a less-than-significant level.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.5-1**

Prior to site development, future developers are required to have design-level geotechnical engineering investigations performed on their individual property. Grading permits for the property shall be issued under the mitigation measures identified in the geotechnical investigation. These investigations shall consider the locations of the future developments and the types of developments as well as the soil and rock conditions as identified by underground investigation and laboratory testing.

Implementation of this mitigation measure would reduce seismic-related ground shaking, liquefaction, or landslide impacts to a less-than-significant level.

**Question b: Less than significant with project level mitigation incorporated**

Construction activities on the project site, such as grading and excavation, could potentially result in increased erosion or loss of topsoil from wind or stormwater. While the project could be exposed to erosion hazards or loss of topsoil, as noted in the PEIR, erosion can be controlled through mitigation measures developed by specific geotechnical investigations that are required by Specific Plan MMRP measure 4.5-2. Additionally, the project is required to adhere to local and statewide regulations, codes, and requirements, as described in mitigation measure 4.9-3 (Hydrology and Water Quality).

Implementation of these mitigation measures would reduce impacts due to soil erosion to a less-than-significant level.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.5-2 (Soil Erosion)**

Erosion can be controlled through mitigation measures developed by specific geotechnical investigations that are required by mitigation measure 4.5-1. Additionally, the project is required to adhere to local and statewide regulations, codes, and requirements, as described in mitigation measure 4.9-3 (Hydrology and Water Quality).

Implementation of this mitigation measure would reduce impacts to soil erosion to a less-than-significant level.

**Question c: Less than significant with project level mitigation incorporated**

The upper 2 to 5 feet of the site is mantled with undocumented fill, with locally deeper fills where exploratory excavations and site demolition activities have occurred. The undocumented fill consists of general fill placed to raise the site above the tidal influenced zone, to construct a levee along the barge canal, to backfill holes that resulted from site demolition and clearing activities, and filling of holes associated with exploratory test pits and environmental remediation excavations. The extent of uncontrolled fill, both laterally and vertically are presently unknown. ERM excavated 53 test pits across the site. The test pits will need to be re-excavated and then backfilled with engineered fill unless documentation can be provided that the backfill soils were properly placed and compacted as engineered fill, compacted to not less than 90 percent relative compaction. The test pits were as deep as 9 feet at some locations.

While the project could experience differential ground settlement from areas that would be backfilled, implementation of Specific Plan MMRP measure 4.5-1 and adherence to the

mitigation measures prescribed in the design-level geotechnical engineering investigation would reduce these impacts to a less-than-significant level.

**Question d: Less than significant with project level mitigation incorporated**

Moderately expansive soils were encountered in the surficial soils that blanket the site, which could result in structural damage. While the project could be exposed to impacts caused by unstable soils, implementation of Specific Plan MMRP measure 4.5-1 and adherence to the mitigation measures prescribed in the design-level geotechnical engineering investigation would reduce these impacts to a less-than-significant level.

**Question e: No impact**

The project would connect to a municipal wastewater treatment system provided by the City of Newark and would not require septic systems or an alternative waste disposal system. No impact would occur, and no mitigation would be required.

## VII. GREENHOUSE GAS EMISSIONS

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. | ☐ | ☐ | ■ | ☐ |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | ☐ | ■ | ☐ | ☐ |

A project specific GHG emission's evaluation was conducted (Appendix C, HELIX 2017a) and the methods and results are summarized in the following subsections.

Climate change refers to any significant change in measures of climate, such as average temperature, precipitation, or wind patterns over a period of time. Climate change may result from natural factors, natural processes, and human activities that change the composition of the atmosphere and alter the surface and features of the land. Significant changes in global climate patterns have recently been associated with global warming, which is an average increase in the temperature of the atmosphere near the Earth's surface; this is attributed to an accumulation of greenhouse gas (GHG) emissions in the atmosphere. GHGs trap heat in the atmosphere which, in turn, increases the Earth's surface temperature. Some GHGs occur naturally and are emitted to the atmosphere through natural processes, while others are created and emitted solely through human activities. The emission of GHGs through fossil fuel combustion in conjunction with other human activities appears to be closely associated with global warming.

GHGs, as defined under California's Assembly Bill 32 (AB 32), include carbon dioxide ($CO_2$), methane ($CH_4$), nitrous oxide ($N_2O$), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and sulfur hexafluoride ($SF_6$). General discussions on climate change often include water vapor, ozone, and aerosols in the GHG category. Water vapor and atmospheric ozone are not gases that are formed directly in the construction or operation of development Projects, nor can they be controlled in these Projects. Aerosols are not gases. While these elements have a role in climate change, they are not considered by either regulatory bodies, such as CARB, or climate change

groups, such as the Climate Registry, as gases to be reported or analyzed for control. Therefore, no further discussion of water vapor, ozone, or aerosols is provided.

GHGs vary widely in the power of their climatic effects; therefore, climate scientists have established a unit called global warming potential (GWP). The GWP of a gas is a measure of both potency and lifespan in the atmosphere as compared to $CO_2$. For example, since $CH_4$ and $N_2O$ are approximately 25 and 298 times more powerful than $CO_2$, respectively, in their ability to trap heat in the atmosphere, they have GWPs of 25 and 298, respectively ($CO_2$ has a GWP of 1). Carbon dioxide equivalent ($CO_2e$) is a quantity that enables all GHG emissions to be considered as a group despite their varying GWP. The GWP of each GHG is multiplied by the prevalence of that gas to produce $CO_2e$. The atmospheric lifetime and GWP of selected GHGs are summarized in **Table 8**.

**Table 8. Global Warming Potentials and Atmospheric Lifetimes**

| GREENHOUSE GAS | ATMOSPHERIC LIFETIME (years) | GLOBAL WARMING POTENTIAL (100-year time horizon) |
|---|---|---|
| Carbon Dioxide ($CO_2$) | 50.0–200.0 | 1 |
| Methane ($CH_4$) | 12.0 | 25 |
| Nitrous Oxide ($N_2O$) | 114.0 | 298 |
| HFC-134a | 14 | 1,430 |
| PFC: Tetrafluoromethane ($CF_4$) | 50,000.0 | 7,390 |
| PFC: Hexafluoroethane ($C_2F_6$) | 10,000.0 | 12,200 |
| Sulfur Hexafluoride ($SF_6$) | 3,200.0 | 22,800 |
| Carbon Dioxide ($CO_2$) | 50.0–200.0 | 1 |
| Methane ($CH_4$) | 12.0 | 25 |
| Nitrous Oxide ($N_2O$) | 114.0 | 298 |
| HFC-134a | 14 | 1,430 |

HFC: hydrofluorocarbons; PFC: perfluorocarbons
Source: IPCC 2007.

## Regulatory Framework Relating to Greenhouse Gas Emissions

Refer to the *Air Quality and Greenhouse Gas Emissions Technical Report* in Appendix C (HELIX 2017a) for detailed descriptions of regulations related to GHGs.

### *State Regulations*

Assembly Bill 32, the California Global Warming Solutions Act of 2006, recognizes that California is a source of substantial amounts of GHG emissions. The statute states that:

> Global warming poses a serious threat to the economic wellbeing, public health, natural resources, and the environment of California. The potential adverse impacts of global

warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

In order to help avert these potential consequences, AB 32 established a State goal of reducing GHG emissions to 1990 levels by the year 2020.

As a follow-up to AB 32, Senate Bill (SB) 32 was passed by the California legislature in August 2016 to establish a California GHG emission reduction target of 40 percent below 1990 levels by 2030.

***City of Newark Climate Action Plan***

The City of Newark has adopted a Climate Action Plan to identify and evaluate feasible and effective policies to reduce GHG emissions in order to reduce energy costs, protect air quality, and improve the economy and the environment. The plan identifies a 5 percent GHG reduction target from 2005 municipal emissions by July 2012, a 5 percent reduction in city and community emissions by July 2015, and a 15 percent decrease in communitywide emissions levels by 2020. Data collected by the City thorough the GHG monitoring process shows that the City has already achieved the first two of these goals.

## Methods

Construction GHG emissions are generated by vehicle engine exhaust from construction equipment, on-road hauling trucks, vendor trips, and worker commuting trips. Operational GHG emissions for the proposed project are estimated by including purchased electricity; natural gas use for space and water heating; the electricity embodied in water consumption; the energy associated with solid waste disposal; and mobile source emissions. As described under methods in Section 8.III, *Air Quality*, construction and operation emissions were estimated using the CalEEMod Version 2016.3.2. All modeling output files are provided in Appendix C.

## Levels of Significance

Given the relatively small levels of emissions generated by a typical development in relationship to the total amount of GHG emissions generated on a national or global basis, individual development projects are not expected to result in significant, direct impacts with respect to

climate change. However, given the magnitude of the impact of GHG emissions on the global climate, GHG emissions from new development could result in significant, cumulative impacts with respect to climate change. Thus, the potential for a significant GHG impact is limited to cumulative impacts.

As discussed in Section 15064.4 of the State CEQA Guidelines, the determination of the significance of GHG emissions calls for a careful judgment by the lead agency, consistent with the provisions in Section 15064. Section 15064.4 further provides that a lead agency should make a good faith effort, based to the extent possible on scientific and factual data, to describe, calculate, or estimate the amount of GHG emissions resulting from a project.

As shown in **Table 9**, the BAAQMD 2017 CEQA Guidelines do not have thresholds for construction GHG emissions, but do include operational related thresholds. For a project with a high-density housing option in a focused transit-oriented development area to meet the operational thresholds, it must show compliance with a qualified GHG reduction strategy, or be below a screening-level emission rate of 4.6 MT $CO_2e$ per service population (residents plus employees) per year. This emission level is based on the amount of vehicle trips, the typical energy and water use, and other factors associated with projects.

**Table 9. BAAQMD Greenhouse Gas Emissions Thresholds**

| Pollutant | Construction-Related | Operational-Related |
|---|---|---|
| | Average Daily Emissions (pounds/day) | Maximum Annual Emissions (metric tons/year) |
| GHGs – Projects other than Stationary Sources | No threshold | Compliance with Qualified GHG Reduction Strategy<br>OR<br>1,100 MT of $CO_2e$/yr<br>OR<br>4.6 MT $CO_2e$/SP/yr (residents + employees) |

Source: BAAQMD CEQA Guidelines Updated May 2017.

## Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Greenhouse Gas Emissions is discussed in Chapter 4.6 of the PEIR prepared for the Dumbarton TOD Specific Plan. The PEIR concludes that the project would not conflict with an applicable GHG reduction plan, policy or regulation, and includes measures (MMRP measure 4.6-1) describing potential design features to be incorporated into the project design to ensure that GHG

emission associated with project operation would be below the business as usual scenario. With implementation of the proposed design features, GHG emissions would be less than significant. The Dumbarton TOD could result in potentially significant cumulative impacts resulting from GHG emissions, but these would be reduced to less than significant with implementation of MMRP 4.6-1.

### Evaluation of Greenhouse Gas Emissions

### Question a: Less than significant impact

Greenhouse gas emissions would be generated from the proposed residential development during construction and operation.

Construction Emissions

GHG emissions during construction would be associated with the use of heavy equipment and by construction worker commute trips. GHG emissions as a result of construction activities would be temporary. As shown in **Table 10**, total GHG emissions associated with construction are estimated at 1,677 MT of $CO_2e$.

**Table 10. Estimated Construction Related GHG Emissions for the Proposed Project**

| Phase | Annual Emissions (metric tons/year) | | | |
|---|---|---|---|---|
| | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
| Demolition | 19 | 0.00 | 0.00 | 19 |
| Site Preparation | 45 | 0.01 | 0.00 | 45 |
| Grading | 505 | 0.09 | 0.00 | 507 |
| Underground Infrastructure/Utilities | 99 | 0.03 | 0.00 | 100 |
| Building Construction | 733 | 0.05 | 0.00 | 734 |
| Paving | 145 | 0.04 | 0.00 | 147 |
| Architectural Coatings | 126 | 0.01 | 0.00 | 126 |
| **TOTAL** | **1,671** | **0.23** | **0.00** | **1,677** |

Source: *Air Quality and Greenhouse Gas Emissions Technical Report* prepared by HELIX Environmental Planning, Inc. dated December 2017.

The BAAQMD 2017 CEQA Guidelines do not have significance thresholds for construction GHG emissions; however, the project-related emissions are included here for informational purposes. Impacts would be less than significant and no mitigation measures are required.

Operational Emissions

Operational emissions would result from transportation sources (primarily automobile trips) and from area sources such as electricity generation, water treatment and transmission, solid waste collection, and space heating.

The net increase in GHG emissions from the project would be 2,748 MT of $CO_2e$ per year. The BAAQMD's 2017 CEQA Air Quality Guidelines establishes a threshold of 4.6 MT $CO_2e$ per service population (residents plus employees) per year. The service population for the proposed project is estimated to be approximately 600 residents. By factoring in the service population, the project emissions equal 4.58 MT $CO_2e$ per service population per year, which is lower than the threshold. Therefore, the project would not result in a significant impact associated with the emissions of GHG.

The estimated annual operational GHG emissions are presented in **Table 11**.

**Table 11. Estimated Annual Operation Greenhouse Gas Emissions for the Proposed Project**

| Emission Source | Annual Emissions (metric tons/year) | | | |
|---|---|---|---|---|
| | $CO_2$ | $CH_4$ | $N_2O$ | $CO_2e$ |
| Area Source | 19 | 0.00 | 0.00 | 19 |
| Energy Use | 868 | 0.03 | 0.01 | 872 |
| Mobile | 1738 | 0.08 | 0.00 | 1740 |
| Solid Waste Management | 36 | 2.15 | 0.00 | 90 |
| Water Consumption | 26 | 0.34 | 0.01 | 37 |
| Tree Planting | (11) | 0.00 | 0.00 | (11) |
| **OPERATIONAL TOTAL** | **2677** | **2.60** | **0.02** | **2748** |
| Projected Service Population | 600 | | | |
| **NET INCREASE PER Service Population** | **4.58 MT $CO_2e$/SP/yr** | | | |
| Significance Threshold | 4.6 MT $CO_2e$/SP/yr | | | |
| ***Significant Impact?*** | ***No*** | | | |

Source: *Air Quality and Greenhouse Gas Emissions Technical Report* prepared by HELIX Environmental Planning, Inc. dated December 2017

Notes: Service population = residents + employees

**Question b: Less than significant impact with mitigation incorporated**

The PEIR prepared for the Dumbarton TOD Specific Plan concludes that the entire Dumbarton TOD project (which includes the FMC Parcel C Project) is consistent with all applicable GHG plans and policies. The FMC Parcel C Project design features were compared against the policies included in the 2013 Updated General Plan that's incorporated the City of Newark's Clean Air Plan. The project's design features would support these policies. They include:

Action CS-3.E Water Efficient Landscaping. Continue to implement the City's Bay Friendly Landscaping Guidelines for water-efficient landscaping, including low water use plants and more efficient irrigation systems. Adopt more stringent outdoor water use policies for individual development proposals where feasible.

Policy CS-3.2. Water Conservation Standards. Promote conservation through development standards, building requirements, irrigation requirements, landscape design guidelines, and other applicable City policies and programs.

Policy CS-5.1 Linking Land Use and Transportation. Encourage land use and transportation patterns that reduce dependence on automobiles. This includes siting well-designed higher-density, mixed-use development near the proposed Dumbarton Rail station and in other areas with frequent transit service.

Policy CS-5.2 Pedestrian and Bicycle Friendly Design. Ensure that new development is planned and designed to facilitate walking and bicycling as well as driving. This can potentially reduce the number of vehicle trips and related GHG emissions.

Policy CS-6.2 Encouraging Greener Construction. Encourage greener construction methods and greater use of recycled-content materials in new residential, commercial, and industrial construction projects in accordance to the latest CalGreen building standards.

Policy CS-7.1 Reducing Energy Use. Support measures to reduce energy consumption and increase energy efficiency in residential, commercial, industrial, and public buildings.

Policy CS-7.3 Designing for Energy Efficiency. Support building design, site planning, and subdivision design methods that reduce heating and cooling costs and achieve greater energy efficiency.

The project would also be consistent with several Action Items listed in the Clean Air Plan. The CAP includes references that the proposed project would also be consistent with several Action Items within the City's CAP, namely the project's green principles and regional smart growth planning efforts it will achieve (i.e., residential units nearby the transit station, higher density, and mix of uses). The project would include the installation of energy- and water-efficient systems. The project would preserve all of the tidal wetlands on-site in a 2.74-acre open space as well as provide a bicycle and pedestrian trail eligible to be part of the San Francisco Bay Trail. Furthermore, the project would be consistent with the Action Items within the CAP and would also reduce its GHG emissions in the region. The project is consistent with the goals and strategies of local and state plans, policies, and regulations aimed at reducing GHG emissions from land use and development.

Consistent with the requirements of the PEIR prepared for the Dumbarton TOD Specific Plan, the following measure will be incorporated to ensure consistency with adopted statewide plans and programs.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.6-1 (GHG Emissions)**

The Specific Plan MMRP measure 4.6-1 contains specific project design features that the project applicant shall incorporate into the project design and demonstrate their inclusion prior to the issuance of building permits.

## VIII. HAZARDS AND HAZARDOUS MATERIALS

| Would the project: | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | ☐ | ☐ | ■ | ☐ |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | ☐ | ☐ | ■ | ☐ |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | ☐ | ☐ | ■ | ☐ |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | ☐ | ■ | ☐ | ☐ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | ☐ | ☐ | ☐ | ■ |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | ☐ | ☐ | ☐ | ■ |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | ☐ | ☐ | ■ | ☐ |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | ☐ | ☐ | ■ | ☐ |

Hazards and hazardous materials are discussed in Chapter 4.7 of the PEIR (RBF 2011) prepared for the Dumbarton TOD Specific Plan. The project site has a history of soil and groundwater hazardous materials contamination associated with previous land uses. No naturally occurring asbestos is present on the site (RBF 2011). The land uses that resulted in the contamination have since ceased, and ongoing remediation and groundwater monitoring have been conducted pursuant to administrative orders adopted by the San Francisco RWQCB (RBF 2011). Subsequent investigations on the site are summarized below.

Beginning in 1969, the project site was subject to a series of waste discharge requirement orders, cease and desist orders, NPDES permits, and site cleanup requirements adopted by the San Francisco Bay Regional Water Board (RWQCB). The project site was subject to Final Site Cleanup Requirements (SCR) Order No. R2-2002-0060, adopted May 22, 2002, until May 21, 2015 when the RWQCB issued Order No. R2-2015-0017 that adopted cleanup requirements and rescinded that earlier Order. Order R2-2015-0017 is provided as Appendix G of this Initial Study and includes the Interim Remedial Action Workplans that detail how the residual impacts to the subsurface are to be remediated.

Those interim and other remedial measures are further described in Order R2-2015-0017. FMC has implemented remedial measures included in the approved Interim Remedial Action Workplans, and the RWQCB continues to provide regulatory oversight of the environmental investigation and remediation pursuant to the Order (ERM 2017). FMC conducts operation and maintenance of a groundwater extraction and treatment system for the shallow zone groundwater and the deeper Newark Aquifer with subsequent treatment and discharge to the Union Sanitary District (ERM 2017).

Removal of the affected soil at the project site was completed on November 3, 2017, in compliance with Order R2-2015-00, and a request for Site Closure for soil issues was submitted to the RWQCB by ERM in December 2017.

The RWQCB approved an Interim Remedial Action Workplan for the remediation of groundwater under on August 23, 2017. The remediation of groundwater and shallow ground water monitoring are ongoing. ERM will prepare and expect to submit a Completion Report for groundwater remediation performed pursuant to the above-referenced Remedial Action Workplan in December 2018 with SFBRWQCB approval expected in February 2019.

## Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Impacts associated with hazardous materials identified in the certified PEIR include risks to the public or the environment as a result of developing the sites included on lists of hazardous materials sites, routine transport, use, or disposal of hazardous materials, or foreseeable or accidental conditions involving the release of hazardous materials into the environment. Measures include requiring regulatory oversight of the contaminated property to determine that the remediation and mitigation measures, and the proposed land uses are sufficient to ensure the property, proposed development and design do not pose an unacceptable risk to human health.

### Evaluation of Hazardous Materials

**Questions a, b, c: Less than significant impact**

During construction, oil gasoline, diesel fuel, paints, solvents, and other hazardous materials would be used. If spilled, these substances could pose a risk to the environment and to human health. Both federal and state laws include provisions for the safe handling of hazardous substances. Following construction, no hazardous materials use or storage would be expected other than minor amounts of residential cleaning and landscaping chemicals. No existing or proposed schools are within 0.25 acre of the project site; however, the routine transport, use, and disposal of hazardous materials are subject to local, state, and federal regulations to minimize risk and exposure. Therefore, this impact is considered less than significant, and no mitigation is necessary.

**Question d: Less than significant with project level mitigation incorporated**

The project site has a history of hazardous materials contamination associated with previous land uses that may create a significant hazard to the public or the environment if not appropriately remediated. The San Francisco Bay RWQCB provides regulatory oversight of the properties, and has participated in ongoing coordination to remediate the project site. The project applicant will continue to coordinate with the RWQCB to properly implement the Interim Remedial Action Workplans developed for the project site.

Once environmental remediation of the project site is complete, the project applicant will submit a request of Site Closure with the RWQCB. The Specific Plan MMRP measures 4.7-1a-c would be implemented to avoid, minimize, and mitigate impacts to the public and the environment as a result of hazardous materials.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.7-1a-c (Hazardous Materials)**

The Specific Plan MMRP measure 4.7-1a specifies that prior to issuance of a building permit for any property within the Specific Plan area with residual environmental contamination, the agency with primary oversight shall have determined that the proposed land use and development for that property does not present an unacceptable risk to human health. This may be implemented through institutional controls, site specific measures, a risk management plan, and deed restrictions based on applicable cleanup standards. Measure 4.7-1b requires that all areas be cleared prior to grading, and Measure 4.7-1c requires that soils imported into the Specific Plan area from off-site shall be tested for toxic or hazardous materials.

With implementation of the above measures, impacts as a result of hazardous material contamination would be less than significant.

**Questions e, f: No impact**

The project site is not located in an Airport Land Use Plan area, and no public or private airfields are within two miles of the project site; therefore, the project would not result in a safety hazard for people residing or working in the project area. No impact would occur, and no mitigation is necessary.

**Question g: Less than significant impact**

The City has adopted two emergency response plans. The "Emergency Operations Plan" provides operational procedures for responding to a variety of emergency conditions, including natural, hazardous materials, and civil defense conditions. The "Chemical Emergency Preparedness Supporting Plan" establishes operating procedures for responding to a chemical spill or other hazardous materials incident within the City. These plans are considered adequate and would not be affected by the project. No significant impact would occur, and no mitigation would be necessary.

**Question h: Less than significant impact**

The project site is provided urban levels of fire protection by the City and would not increase the risk of wildland fires. No significant impact would occur, and no mitigation is necessary.

## IX. HYDROLOGY AND WATER QUALITY

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Violate any water quality standards or waste discharge requirements? | ☐ | ☐ | ■ | ☐ |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | ☐ | ☐ | ■ | ☐ |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | ☐ | ☐ | ■ | ☐ |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | ☐ | ■ | ☐ | ☐ |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | ☐ | ☐ | ■ | ☐ |
| f) Otherwise substantially degrade water quality? | ☐ | ☐ | ■ | ☐ |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood | ☐ | ☐ | ■ | ☐ |

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | | | | |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | ☐ | ☐ | ■ | ☐ |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | ☐ | ☐ | ■ | ☐ |
| j) Inundation by seiche, tsunami, or mudflow? | ☐ | ☐ | ■ | ☐ |

Hydrology and water quality are discussed in Chapter 4.8 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBD 2011). Information pertinent to the proposed project is summarized below.

The project site has undergone soil remediation and reflects the history of past hydrologic manipulation. Precipitation is the only source of water for the study area. Precipitation collected on the site may pond in low areas or flow off site to adjacent parcels where it may percolate into the ground or evaporate.

City-owned storm drains located within Enterprise Drive convey surface runoff from parcels fronting this street to the Alameda County Flood Control and Water Conservation District Line south of the Specific Plan area. The County storm drain flows into the San Francisco Bay. Implementation of the proposed project will increase impervious areas, subsequently reducing absorption rates in some areas, and would alter the site's existing drainage pattern. By increasing the impervious area and channelizing the stormwater runoff, the rates and volumes of runoff will increase.

Federal Emergency Management Agency (FEMA) flood insurance rate maps were reviewed for the project's proximity to a 100-year floodplain. The project site is within FEMA panel 06001C0443G effective 8/3/2009. The majority of the project site is located within an area

classified as Zone AE which indicates this area has a 1 percent annual chance of flooding and is within a 100-year floodplain (FEMA 2017).

The project site is located in the inundation areas for three dams: Del Valle, James H. Turner, and Calaveras, all of which are classified as high hazard dams because their failure could result in a significant loss of life and property damage. The California Division of Safety of Dams inspects each dam on an annual basis to ensure the dam is safe, performing as intended, and is not developing problems.

The Dumbarton TOD is within the coverage area for the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) General Permit administered by the San Francisco Bay RWQCB. The permit applies to projects disturbing one acre or more of land. The terms of the permit usually provide requirements and standards for categories such as municipal maintenance, public outreach, illicit discharge controls, industrial and commercial discharge controls, and new development discharge controls.

The Alameda County Flood Control and Water Conservation District (ACFC) works specifically to protect County citizens from flooding and enforces pollution control regulations governing County waterways. The ACFC has a Hydrology and Hydraulics Manual that outlines the District's requirements for new development and modifications of existing flood control systems.

The City of Newark Municipal Code (Section 15.40.51 Newark Municipal Code) has flood elevation standards for lands within special flood hazard areas as defined by FEMA. These standards include requirements such as minimum elevations for finished floors above building pads and top of curb grades.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Hydrology, Drainage, and Water Quality are discussed in Section 4.8 of the PEIR prepared for the Dumbarton TOD Specific Plan. The PEIR concluded that the Dumbarton TOD would not violate water quality standards or waste discharge requirements, as all elements of the project would be required to comply with the requirements of the NPDES General Permit which includes implementation of best management practices to prevent or minimize environmental impacts and ensure that discharges during the construction phase of the project would not cause or contribute to the degradation of water quality in receiving waters, reducing construction-related water quality impacts to less than significant. The PEIR contains measures to minimize

impacts to water quality as a result of altered drainage patterns that may cause flooding and may also result in cumulatively considerable hydrology and water quality impacts.

Future storm drainage lines may not have sufficient room to cross over the Hetch Hetchy Aqueduct; however, the proposed project would construct a new outfall to discharge to the barge canal.

### Evaluation of Hydrology and Water Quality

#### Questions a, c, e, f: Less than significant impact

Implementation of the proposed project would have the potential to generate stormwater and contaminated runoff from the project site. Pollution and sediments may be washed into receiving waters from the project site; however, following construction and during the life of the project, areas would be paved or landscaped which would stabilize soils. The project may result in an increase of pollutants associated with the development; however, the project would be required to comply with applicable policies and regulations. The site is within the existing urban area of the City served by urban stormwater facilities, and construction on the site would be subject to NPDES General Permit conditions (including the implementation of BMPs) and all of the conditions of the City's Municipal Code, and the AFAC's requirements for new development and modifications of existing flood control systems. Operation of these requirements, which would be unchanged with approval of the project, would ensure that no adverse effects due to stormwater generation or contamination would take place. No significant impact would result, and no mitigation would be necessary.

#### Question b: Less than significant impact

Implementation of the project would obtain water from the ACWD which utilizes treated groundwater as a source of its local supply along with other sources. The Dumbarton TOD Specific Plan is included in ACWD's forecast and water supply planning, and it would not increase water shortages from what was already factored into ACWD's planning. While the project would result in additional impervious surfaces on the site that can interfere with the natural groundwater recharge process, the Alameda Creek Watershed is the primary source of recharge for the San Francisco Bay Area Basin and rainfall and applied water provide a local recharge to a lesser extent. Therefore, the proposed development would not substantially reduce groundwater recharge. No significant impacts would occur, and no mitigation would be necessary.

**Question d: Less than significant with project level mitigation incorporated**

Implementation of the project would increase impervious areas, subsequently reducing absorption rates in some areas, and would alter the site's existing drainage pattern and percolation rates. By increasing the impervious area and channelizing stormwater runoff, the rates and volumes of runoff would increase. Existing storm drains in the area provide flood control and to ensure the storm water system can adequately accommodate the proposed project, the following mitigation measure from the Dumbarton TOD Specific Plan PEIR would be implemented.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.8-4a (Hydrology)**

The Specific Plan PEIR's MMRP measure 4.8-4a specifies that plans submitted for grading permits shall include detailed hydrology reports. These reports shall demonstrate adequate stormwater conveyance and capacity is available in the existing facilities. If the reports find inadequate facilities, then the project applicant shall develop a detailed stormwater detention plan for the project site in accordance with the City standards and the ACFC.

With implementation of the above measure, potential flooding on or off-site would be reduced to a less-than–significant level.

**Questions g, h: Less than significant impact**

Portions of the project site are within a mapped FEMA 100-year Flood Hazard AE Zone with a base flood elevation of 8.24 feet (NGVD 29). The proposed project design conforms with associated applicable City requirements for development in flood hazard areas, which require that: (1) building pads for all occupied structures within the noted AE Zone have a minimum elevation of 11.25 feet (NGVD 29); (2) finished floor elevations for occupied structures within the noted AE Zone are a minimum of six inches above the building pad elevation; and (3) the top of curb grades for new residential streets within the noted AE Zone exhibit a minimum elevation of 10 feet (NGVD 29). Based on the noted requirements and related project design conformance, all developed portions of the project site would be elevated above the mapped 100-year floodplain. Impacts would be less than significant, and no mitigation is necessary.

**Question i: Less than significant impact**

The project would expose new development to inundation in the event of the failure of Del Valle, James H. Turner, and Calaveras Dams. Dam failure would most likely occur with

adequate warning to evacuate residents. A failure would be preceded by increased seepage to the drain, initiation of seepages on the side slopes, and very high lake levels, however, permanent structures would likely be extensively damaged or destroyed. Calaveras Dam is the only dam of the three that has documented a higher than normal risk of failure. The San Francisco Public Utilities Commission has taken steps to mitigate the risk including reducing the capacity and rebuilding the dam. Construction that would allow the dam to be filled to capacity started in August 2011 and as of January 2017, the project was 80 percent complete (SFPUC 2017). With these measures, the risk of failure is low. With the annual inspections of the other dams, and the construction efforts to improve Calaveras Dam, the risk of dam failure is low and is not considered a significant hazard to the project. Impacts would be less than significant, and no mitigation is necessary.

**Question j: Less than significant impact**

Risks of inundation by tsunami, seiche, and mudflow were evaluated in the Dumbarton TOD Specific Plan PEIR. The PEIR concluded that the risk of flooding due to a tsunami event is considered low due to the location of the Specific Plan area in the San Francisco Bay Area. Further, the portion of the Bay area near the Specific Plan area is not subject to potential flooding by seiches, since the several levees and stretches of shallow water would minimize waves generated by a seiche. No areas of potential mud flow hazard, such as a volcano or hillside are located near the Specific Plan area. In summary, there would be no potentially significant effect from inundation by seiche, tsunami, or mudflow, and no mitigation would be necessary.

## X. LAND USE AND PLANNING

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Physically divide an established community? | ☐ | ☐ | ☐ | ■ |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | ☐ | ☐ | ■ | ☐ |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | ☐ | ☐ | ☐ | ■ |

Land use in the project area is regulated by the City of Newark through various plans and ordinances adopted by the City, including the City of Newark 2013 General Plan and the City of Newark Zoning Ordinance. Further, the FMC Parcel C Project is included in the Dumbarton TOD Specific Plan.

The Dumbarton TOD Specific Plan identifies the two parcels comprising most of the project property as medium/high density residential. The Specific Plan identifies an allowable density range of 14-25 dwelling units per gross developable acre for medium density residential, 16-60 dwelling units per gross developable acre for medium/high density residential, and 25-60 dwelling units per gross developable acre for high density residential. Additionally, the Specific Plan identifies a maximum number of units that may be developed on each APN: the maximum number of units allowed on APN 537-852-1-2 is 246, and the maximum number of units allowed on APN 537-852-2-8 is 173. No residential units were allocated to APN 537-852-2-7 in the Specific Plan because it was designated as parks and recreational open space and commercial/office space. This land use designation issue will be addressed through a Lot Line Adjustment to extend the residential land use designation to cover the entire project site. With

the Lot Line Adjustment, the proposed project is consistent with the Specific Plan land use designation.

The land use designation for the project site in the 2013 Updated General Plan is high density residential (HDR), parks and recreational facilities, and community commercial. The City of Newark zoning designation is Business and Technology Park (BTP), which is inconsistent with the proposed land uses for the FMC Parcel C Project. Implementation of the project would require a rezone of the project site from BTP to medium-high density residential-form base code (MHDR-FBC) for the development of single-family residential units.

The total number of units planned for the FMC Parcel C project is 199 dwelling units.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Land Use is discussed in Chapter 4.9 of the PEIR certified for the Dumbarton TOD Specific Plan (RBF 2011). The PEIR concluded that although the project would result in a change in the project area, the development would be required to comply with the Design Guidelines in the Specific Plan that would complement the surrounding land uses and would be an extension of existing residential and commercial development in the vicinity. Therefore, the project would not disrupt or divide an established community. Further, the Dumbarton TOD would not result in a conflict with the City's General Plan land use strategy, the Bay Area Regional Smart Growth Strategy/Regional Livability Footprint Project, the San Francisco Bay Trail Plan, or the San Francisco Bay Plan. All impacts as a result of land use were anticipated to be less-than-significant, and therefore no mitigation measures were required.

The Dumbarton TOD Specific Plan includes adjustment and transfer policies that allow adjustments to the boundaries and acreages of the land uses and zoning designations identified in the plan (RBF 2011). The Adjustment Policy specifies that project applications may incorporate adjustments to the boundaries and acreages on file with the City of Newark for land use/zoning designations without necessitating a Specific Plan Amendment provided the total gross acreage of area land use/zoning does not change by more than 20 percent from the original gross acreage approved under the Specific Plan. A revised Land Use Plan and revised Proposed Land Use Table must be submitted to the City for each proposed revision or set of revisions to the land use/zoning boundaries.

The Transfer of Dwelling Units Policy allows for the transfer of dwelling units between APNs as long as the net increase does not exceed the total dwelling units permitted by the Specific Plan (2,500 units).

### Evaluation of Land Use and Planning

**Question a: No impact**

The surrounding lots are currently vacant former industrial lands that are planned for development through the Dumbarton TOD, of which the FMC Parcel C Project is a part. The project would not physically divide an established community. Therefore, there would be no impact and no mitigation would be required.

**Question b: Less than significant impact**

The City of Newark zoning designation is Business and Technology Park (BTP), which is inconsistent with the proposed land uses for the FMC Parcel C Project. Therefore, an amendment to the Zoning Ordinance to reflect the proposed land use designations for all APNs is required.

The medium and medium-high density residential land uses for the project site would be inconsistent with the land use proposed in the 2013 Updated General Plan. However, City approval of the project would resolve the designation inconsistency. The medium-high density residential land use proposed for APN 537-852-2-7 differs from the land use proposed in the Dumbarton TOD Specific Plan. However, the Specific Plan allows for an adjustment of land uses within the Specific Plan area without necessitating a Specific Plan Amendment. A revised Land Use Plan and revised Proposed Land Use Table would be submitted to the City for approval.

The number of dwelling units proposed for construction on APN 537-852-2-7 exceeds the maximum number of units allowed for that APN in the Specific Plan (0 units). The Specific Plan allows for a transfer of dwelling units between APNs, in the event there would not be a net increase in the total number of dwelling units permitted by the Specific Plan (2,500 units). Because the project is proposing to construct 220 fewer dwelling units on APNs 537-852-1-2 and 537-852-2-8 combined than is identified in the Specific Plan, those dwelling units could be transferred to APN 537-852-2-7. A revised Unit Allocation Table would be submitted to the City for each proposed transfer of dwelling units. A City of Newark approval of the density transfer is anticipated.

**Question c: No impact**

No Habitat Conservation Plan or Natural Community Conservation Plan has been approved for the project area. Therefore, implementation of the FMC Parcel C Project would not conflict with any conservation plans. No impact would result, and no mitigation would be necessary.

## XI. MINERAL RESOURCES

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | ☐ | ☐ | ☐ | ■ |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | ☐ | ☐ | ☐ | ■ |

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

As discussed in Chapter 1.2 of the PEIR prepared for the Dumbarton TOD Specific Plan, mineral resources issues were not addressed in the PEIR because it was determined based on substantial evidence that the project would have no impacts to mineral resources (RBF 2011).

### Evaluation of Mineral Resources

**Questions a, b: No impact**

The project is not located in a zone of known mineral or aggregate resources. No active mining operations are present on or near the site. Implementation of the project would not interfere with the extraction of any known mineral resources. Thus, no impacts would result, and no mitigation would be necessary.

## XII. NOISE

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project result in: | | | | |
| a) Exposure of persons to or generation of noise levels in excess of standards established in any applicable plan or noise ordinance, or applicable standards of other agencies? | ☐ | ■ | ☐ | ☐ |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | ☐ | ☐ | ■ | ☐ |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | ☐ | ■ | ☐ | ☐ |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project (including construction)? | ☐ | ■ | ☐ | ☐ |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ■ |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | ☐ | ☐ | ☐ | ■ |

A project-specific acoustical study was conducted (Appendix H, HELIX 2017d) and the methods and results are summarized in the following subsections.

The predominant existing noise sources in the vicinity of the FMC Parcel C Project is vehicular traffic on Willow Street, although, due to the distance from the street, the existing noise levels are minor. The future Dumbarton Rail Corridor, located approximately 50 feet north of the

project's northern property line, would be the predominant noise source when it is operational. No commercial airports are located within two miles of the project site, though occasional overflights from aircrafts travelling to and from nearby airports. The nearest airports to the proposed project site are the Palo Alto general aviation airport located 6 miles southwest of the site and the Hayward Executive Airport located 10 miles to the north. The San Jose International Airport is 13 miles southeast of the project site. Potential noise impacts as a result of the proposed project are those resulting from project construction and those from operational activities. Construction noise would have a short-term effect; operational noise would continue throughout the lifetime of the project. Development of the project would increase noise levels temporarily during construction and intermittently during operations of the residential uses.

### City Regulation of the Noise Environment

The City of Newark General Plan Noise Element identifies noise and land use compatibility standards for various land uses. These standards are intended to provide compatible land uses throughout the community as related to environmental noise. Single-family residential land uses are considered "normally acceptable" in exterior noise environments of 60 dBA $L_{DN}$ or less.

The City of Newark General Plan Noise Element identifies interior noise standards of 45 dBA $L_{DN}$ or less for single-family residential land uses.

The City of Newark Municipal Code prohibits noisy or otherwise objectionable machinery or equipment used in the conduct of the home occupation, that no radio or television interference is created, and that the conduct of the home occupation shall not create any noise audible beyond the boundaries of the site (excluding parcels with MP, ML and MG [industrial] zoning).

There are no construction-specific restrictions within the Municipal Code.

### Noise Sensitive Land Uses

There are no existing residential or other noise-sensitive land uses adjacent to the project site. A new single-family residential development is located approximately 600 feet to the southeast of the southeastern corner of the project site. The planned on-site residences (including outdoor use areas) are also considered noise-sensitive receptors. This analysis also includes an assessment of potential noise impacts to planned future residential uses included as part of the Dumbarton TOD Specific Plan. The nearest future residences to the project site would be located adjacent to the south of the project at the Bridgeway Lennar Project.

## Methods

Modeling of the outdoor noise environment for transportation noise was accomplished using the Traffic Noise Model version 2.5 (TNM 2.5). TNM 2.5 was released in February 2004 by the U.S. Department of Transportation. TNM 2.5 calculates the average hourly noise level from model inputs and traffic data. Input variables included projected traffic volumes, estimated truck composition percentages, and vehicle speeds. The model-calculated one-hour equivalent noise level ($L_{EQ}$) noise output, which uses the peak hour traffic volumes, is the equivalent of the dBA $L_{DN}$ (Caltrans 2009).

Modeling for rail noise was performed using the Create Railroad Noise Model (Harris Miller Miller & Hanson, Inc. 2006), which is based upon the Federal Transit Administration's General Transit Noise Assessment. Modeling for the noise barrier was performed using Computer Aided Noise Abatement (CadnaA) version 2017. CadnaA is a model-based computer program developed by DataKustik for predicting noise impacts in a wide variety of conditions. CadnaA assists in the calculation, presentation, assessment, and mitigation of noise exposure, and uses the most up-to-date calculation standards to predict outdoor noise impacts.

Project construction noise was analyzed using the Roadway Construction Noise Model (RCNM; U.S. Department of Transportation [USDOT] 2008), which utilizes estimates of sound levels from standard construction equipment.

## Levels of Significance

*Construction Noise*

The City of Newark Municipal Code does not specify construction noise standards or limitations. Therefore, consistent with the Dumbarton TOD Specific Plan PEIR, the Alameda County Code (Chapter 6.60, Noise) was utilized in this analysis. Section 6.60.070 (Special Provisions) and Section 6.60.120 (Construction) would apply to the project. Section 6.60.070(E) of the Alameda County Code prohibits construction activity between 7:00 p.m. and 7:00 a.m. Monday through Friday, and between 5:00 p.m. and 8:00 a.m. on Saturday or Sunday.

Regarding construction noise limits, in the absence of other standards it is assumed that a significant construction noise impact would occur if the use of any tools, power machinery, or equipment causes noise in excess of 75 dBA (8-hour average) between the hours of 7:00 a.m. and 7:00 p.m. and that disturbs the comfort and repose of any person residing or working in the vicinity.

*Construction Vibration*

With respect to ground-borne vibration from construction activities, the Federal Transit Administration (FTA) has adopted guidelines/recommendations to limit ground-borne vibration based on the age and/or condition of the structures that are located in close proximity to construction activity. According to the FTA, a ground-borne vibration level of 0.2 inch-per-second peak particle velocity (PPV) should be considered as the damage threshold criterion for structures deemed "fragile" (FTA 2006). Consistent with the Dumbarton TOD Specific Plan PEIR, this analysis has assumed a conservative threshold of 0.2-inch-per-second PPV (City of Newark 2011). For vibration to project residences from rail noise, based on FTA vibration impact criteria, 80 vibration velocity decibels (VdB) is the applicable maximum acceptable vibration level for residential uses adjacent to a rail corridor with less than 30 vibration events per day (i.e., infrequent events) passing by the site.

*Operational Noise*

Stationary Source Noise

A significant operational noise impact would occur if the maximum operational exterior noise limit for residential uses exceeds 50 dBA $L_{EQ}$ during the daytime hours of 7:00 a.m. to 10:00 p.m., and 45 dBA $L_{EQ}$ during the nighttime hours of 10:00 p.m. to 7:00 a.m.

Transportation Noise

If the ambient noise environment is quiet and the new noise source greatly increases the noise exposure, an impact may occur even though a criterion level might not be exceeded. The project would create a potentially significant impact for traffic noise levels when the following occurs:

- An increase of the existing ambient noise levels by 5 dB or more, where the ambient level is less than 60 dB $L_{DN}$;
- An increase of the existing ambient noise level by 3 dB or more, where the ambient level is 60 to 65 dB $L_{DN}$; or
- An increase of the existing ambient noise level by 1.5 dB or more, where the ambient level is greater than 65 dB $L_{DN}$.

The project would result in a significant noise impact when a permanent increase in ambient noise levels exceeds the criteria above and the resulting noise level exceeds the applicable exterior standard at a noise sensitive use.

The project's contribution to a cumulative traffic noise increase would be considered significant when the combined effect exceeds perception level (i.e., auditory level increase) threshold. The combined effect compares the "Year 2035 with Project" condition to the "Existing" condition. This comparison accounts for the traffic noise increase from the project generated in combination with traffic generated by projects in the cumulative projects list.

The following criteria have been utilized to evaluate the combined effect of the cumulative noise increase.

*Combined Effects*: The cumulative with project noise level ("Cumulative plus Project") causes the following:

- An increase of the existing noise level by 5 dB or more, where the existing level is less than 60 dB $L_{DN}$;
- An increase of the existing noise level by 3 dB or more, where the existing level is 60 to 65 dB $L_{DN}$; or
- An increase of the existing noise level by 1.5 dB or more, where the existing level is greater than 65 dB $L_{DN}$.

Although there may be a significant noise increase due to the project in combination with other related projects (combined effects), it must also be demonstrated that the project has an incremental (cumulatively considerable) effect. In other words, a significant portion of the noise increase must be due to the project. The following criterion has been utilized to evaluate the incremental effect of the cumulative noise increase:

*Incremental Effects:* The "Cumulative plus Project" causes a 1 dBA increase in noise over the "Cumulative No Project" noise level. A significant impact would result only if both the combined and incremental effects criteria have been exceeded and the resulting noise level exceeds the applicable exterior standard at a noise sensitive use.

## Evaluation of Noise

### Questions a, c, d: Less than significant with project level mitigation incorporated

Refer to the *Acoustical Report for the FMC Parcel C Project* (HELIX 2017d) in Appendix H for a detailed discussion of the results of the noise study.

## Construction Noise

The loudest pieces of construction equipment anticipated for the project would be a scraper working during the grading phase. Construction equipment would not be in constant use during the eight-hour operating day. The analysis assumes that the scraper would be in operation for 40 percent of a given hour during a typical construction day.

The nearest potential noise-sensitive land uses to the proposed grading areas would be adjacent to the project site to the south at the future Bridgeway Lennar Project. Although these residences are not constructed yet, there is the potential for them to be constructed and occupied before proposed project construction. Construction equipment would be mobile and over the course of a typical construction day, equipment may be closer or farther than 100 feet from the nearest property line. For modeling purposes, the construction equipment was assumed to operate at an average distance of 100 feet from the southern property line.

Based on these assumptions, the highest impact level for a scraper at the nearest noise-sensitive land use is 73.6 dBA $L_{EQ}$. In addition, construction activity would occur within the allowable construction hours. Therefore, construction noise would not exceed the construction noise planning limits (75 dBA for an eight-hour average time period), and no new impacts would occur.

Although noise impacts resulting from construction of the proposed project are anticipated to be less than significant, the following measures contained in the PEIR prepared for the Dumbarton TOD Specific Plan will be implemented:

### Dumbarton TOD PEIR Mitigation Monitoring and Reporting Program Measures 4.10-1a and 4.10-1b (Construction Noise)

The Dumbarton TOD Specific Plan MMRP measures 4.10-1a and 4.10-1b require that the project applicant require construction contractors to implement a site-specific noise reduction program subject to City review and approval. Additionally, prior to issuance of grading permits,

the project applicant shall submit to the City Building Inspection Division a list of measures to respond to and track complaints pertaining to construction noise.

## Operational Noise

***Impacts to on-site residents from transportation noise***

Rail Noise

The Dumbarton TOD Specific Plan PEIR determined that residences within 600 feet of the Dumbarton transit corridor may be exposed to significant noise levels, and mitigation measure 4.10-3 from the PEIR required an acoustical assessment for project within this distance. Measures (e.g., attenuation barriers, acoustically rated windows, upgraded insulation, etc.) shall be implemented where conditions exceed the Noise and Land Use Compatibility Criteria of "Normally Acceptable" noise exposure levels. Therefore, in accordance with the mitigation measure, an acoustical assessment was prepared that analyzed rail noise (HELIX 2017d).

If the future transit and freight corridor extension is constructed and operational, it would be the dominant noise source at the project site, particularly for the residences located in the northern portion of the project site. The exterior areas of these residences would be located approximately 20 feet south of the project's northern property line, and the property line is located approximately 55 feet south of the rail track centerline. Therefore, the exterior areas of the northernmost proposed residences would be located approximately 75 feet from the rail track centerline. The rail noise modeling estimate for the future rail use within the Dumbarton transit corridor assumes six daytime and four nighttime passenger trains and four nighttime freight trains. Under this assumption, the railroad has the potential for noise levels of 67 dBA $L_{DN}$ at the exterior areas of the project's northernmost residences, assuming no barrier. This would exceed the 60 dBA $L_{DN}$ exterior use noise levels allowed under the 2013 Updated General Plan Noise Element compatibility standards for single-family residential developments, and impacts would be potentially significant.

Exterior–to-interior analysis assumes a minimum 15 dBA $L_{DN}$ reduction from the outside to the inside of a structure, assuming standard building construction methods. Therefore, project residences exposed to noise levels in excess of 60 dBA $L_{DN}$ may be subject to interior noise above the 45 dBA $L_{DN}$ threshold. The 60 dBA $L_{DN}$ noise contour from future rail activities would be located at a distance of approximately 210 feet; therefore, project residences within 210 feet would be exposed to exterior noise levels above 60 dBA $L_{DN}$ from rail noise and interior

noise levels may exceed 45 dBA $L_{DN}$. Interior noise levels for these residences would be potentially significant.

The following design element will be implemented under the FMC Parcel C Project to reduce exterior noise levels from rail noise to less than significant:

**FMC Parcel C Project Specific Mitigation Measure NOI-01 in accordance with Dumbarton TOD PEIR Mitigation Monitoring and Reporting Program Measure 4.10-3**

Noise levels at the exterior use areas of the single-family residences with backyards that are adjacent to the trail and northern property line shall be reduced to 60 dBA $L_{DN}$ or below. Noise reduction for on-site exterior noise impacts could be accomplished through a 12-foot high on-site noise barrier (wall). The sound wall would be installed on the northern property line of the residential lots, from the western edge of Lot 16 to the eastern edge of Lot 30. A 12-foot-high sound wall would also be installed on the northern property line of the "Parcel D" park area. The sound attenuation wall must be solid and constructed of masonry, wood, plastic, fiberglass, steel, or a combination of those materials, as long as there are no cracks or gaps, through or below it. The wall can be made of composite wood with a solid lower section with a clear glass or plastic upper section to maintain views. Any seams or cracks must be filled or caulked. If wood is used, it can be tongue and groove and must be at least one-inch total thickness or have a density of at least 3½ pounds per square foot. Where architectural or aesthetic factors allow, glass or clear plastic ⅜ of an inch thick or thicker may be used on the upper portion, if it is desirable to preserve a view. Sheet metal of 18 gauge (minimum) may be used, if it meets the other criteria and is properly supported and stiffened so that it does not rattle or create noise itself from vibration or wind. Any door(s) or gate(s) must be designed with overlapping closures on the bottom and sides and meet the minimum specifications of the wall materials described above. The gate(s) may be of one-inch thick or better wood, solid-sheet metal of at least 18-gauge metal, or an exterior-grade solid-core steel door with prefabricated doorjambs.

With implementation of the 12-foot high sound wall, noise levels would be reduced to 60 dBA $L_{DN}$, which would not exceed the 60 dBA $L_{DN}$ exterior use noise level compatibility standard from the 2013 Updated General Plan Noise Element for single-family residential developments, and impacts would be less than significant.

The following design element will be implemented under the FMC Parcel C Project to reduce interior noise levels from rail noise to less than significant:

**FMC Parcel C Project Specific Mitigation Measure NOI-02 in accordance with Dumbarton TOD PEIR Mitigation Monitoring and Reporting Program Measure 4.10-3**

An interior noise analysis of proposed residences within 210 feet of the Dumbarton rail corridor centerline shall be completed prior to building permit issuance to determine appropriate measures to be incorporated into the building design to ensure residential interior noise levels would be below 45 dBA $L_{DN}$. These land use-noise compatibility measures shall include:

> *Where exterior residential noise levels are expected to exceed 60 $L_{DN}$, additional noise analysis per the City standards should be conducted. The information in the noise analysis shall include wall heights and lengths, room volumes, window and door tables typical for a building plan, as well as information on any other openings in the building shell. With this specific building plan information, the analysis shall determine the predicted interior noise levels at the planned on-site buildings. If predicted noise levels are found to be in excess of 45 dBA $L_{DN}$ for residential buildings, the report shall identify architectural materials or techniques that could be included to reduce noise levels to 45 dBA $L_{DN}$. Glazing with Sound Transmission Control (STC) ratings from a STC 22 to STC 60 should be considered. In addition, walls with appropriate STC ratings (34 to 60) should be considered.*

Appropriate means of air circulation and provision of fresh air must be present to allow windows to remain closed for extended intervals of time so that acceptable levels of noise can be maintained on the interior. The mechanical ventilation system shall meet the criteria of the International Building Code (Chapter 12, Section 1203.3 of the 2001 California Building Code).

With implementation of project-specific mitigation measure NOI-02, noise impacts from rail activities to interior noise levels would be less than significant.

Traffic Noise

The nearest roadway to the project would be Enterprise Drive, which would be extended through the project site. This street is anticipated to have a 25 miles per hour (mph) speed limit. In addition, the southeastern most residences of the project would be located adjacent to Hickory Street. The speed of the vehicles traveling on this section of Hickory Street would be anticipated to be 25 mph due to the roundabout T-intersection that is near the residences adjacent to the street. The vehicle breakdown on these streets was assumed to be 97 percent automobiles, 2

percent medium trucks, and 1 percent heavy trucks, which is a typical breakdown in residential areas.

At peak hour, Enterprise Drive through the project site would generate a noise level of 58.6 dBA $L_{DN}$ at a distance of 30 feet from the roadway centerline to the nearest project residence property lines, which would be below the 60 dBA $L_{DN}$ exterior use noise level allowed under the 2013 Updated General Plan Noise Element compatibility standard for single-family residential developments.

The three easternmost project residences would be adjacent to Hickory Street, set back approximately 60 feet from the roadway centerline. Traffic from Hickory Street would generate a noise level of 58.7 dBA $L_{DN}$ at this distance, which would be below the 60 dBA $L_{DN}$ exterior use noise level compatibility standard.

Willow Street is located approximately 1,200 feet from the easternmost project residences. At this distance, traffic noise levels from Willow Street would be 46.5 dBA $L_{DN}$, well below the 60 dBA $L_{DN}$ exterior use noise level compatibility standard, and would therefore be less than significant.

Exterior–to-interior analysis assumes a minimum 15 $L_{DN}$ reduction from the outside to the inside of a structure, assuming standard building construction methods. Therefore, given that the project residences would not be exposed to exterior noise levels above 60 dBA $L_{DN}$ from vehicle traffic noise, interior noise impacts from traffic noise would be less than significant.

Material transport truck noise from the Cargill solar salt basins would also generate noise in the vicinity. The access roads for these trucks are located to the south, across the tidal wetlands south of the project site. The nearest residence, Lot 1, would be located approximately 265 feet to the northeast from the nearest access road. Assuming 36 total truck trips per hour during a peak hour of salt export, the noise level for the single-family residences closest to the access road for the salt trucks was modeled at 49.4 dBA $L_{DN}$. As the truck trips associated with the salt trucks would not generate noise levels in excess of the 60 dBA $L_{DN}$ exterior use noise level compatibility standard, impacts would be less than significant.

***Impacts to off-site receptors from noise generated on-site***

Acceptable exterior noise levels at residential properties resulting from project stationary noise sources are 50 dBA $L_{EQ}$ during the daytime hours of 7:00 a.m. to 10:00 p.m., and 45 dBA $L_{EQ}$ during the nighttime hours of 10:00 p.m. to 7:00 a.m.

The main source of operational noise from the FMC Parcel C Project would be from the heating, ventilation, and air conditioning (HVAC) units associated with each residence. Modeling assumed that the air conditioning condenser would be a Carrier 38HDR060 split system. This unit typically generates a noise level of 56 dBA at a distance of 7 feet. The closest HVAC units to off-site residences would occur on the southeastern portion of the site, adjacent to the future Bridgeway Lennar Project residences, although the exact location of the HVAC units is unknown at the time of preparation of this document. For this analysis, it is conservatively assumed that the HVAC units would be located on the ground close to the property line with the adjacent residences. Project residences may have HVAC units as close as 20 feet to the adjacent residences. At this distance, HVAC noise levels would be as high as 46.9 dBA $L_{EQ}$, which would exceed the most restrictive nighttime noise limit of 45 dBA $L_{EQ}$. HVAC noise levels would not exceed 45 dBA $L_{EQ}$ at a distance of 25 feet or greater. Therefore, HVAC units located within 25 feet of the nearest off-site residence would generate potentially significant noise.

The following mitigation will be implemented under the FMC Parcel C Project to bring HVAC noise levels to less than significant:

**FMC Parcel C Project Specific Mitigation Measure NOI-03 in accordance with Dumbarton TOD PEIR Mitigation Monitoring and Reporting Program Measure 4.10-3:**

For off-site residences located within 25 feet of ground-mounted HVAC equipment, attenuation of HVAC noise levels to 45 dBA $L_{EQ}$ (for usable outdoor space) to adjacent off-site residences shall be ensured by a qualified acoustician prior to issuance of certificates of occupancy. Potential noise control measures to achieve the performance standard for outdoor usable space include, but are not limited to, proper setbacks or noise control barriers, including a 6-foot wood fence, around the HVAC units and/or the outdoor usable space.

***Impacts to off-site receptors from noise generated by project traffic***

The largest change in noise levels at off-site receivers from the Existing to Existing plus Project traffic conditions from segments with existing noise levels between 60 dBA $L_{DN}$ and 65 dBA $L_{DN}$ was modeled on Hickory Street at approximately 1.5 dBA $L_{DN}$ (from 61.1 to 62.6 dBA $L_{DN}$). The largest change in noise levels between the Year 2035 and Year 2035 plus Project would occur on the same segment at 1.3 dBA $L_{DN}$ (from 61.5 to 62.8 dBA $L_{DN}$). Because the existing noise levels are between 60 dBA $L_{DN}$ and 65 dBA $L_{DN}$, project-added traffic noise levels would need to increase existing noise by 3 dBA $L_{DN}$ for impacts to be considered significant. The project's increase in noise levels would be below this threshold.

For the roadway segment with an existing noise level under 60 dBA $L_{DN}$, Enterprise Street, the change in noise levels at off-site receivers from the Existing and Existing plus Project traffic conditions was modeled at approximately 4.5 dBA $L_{DN}$ (from 51.7 to 56.2 dBA $L_{DN}$). The change in noise levels between the Year 2035 to Year 2035 plus Project traffic conditions would be 4.3 dBA $L_{DN}$ (from 51.9 to 56.2 dBA $L_{DN}$). Because the existing noise levels are below 60 dBA $L_{DN}$, project-added traffic noise levels would need to increase existing noise by 5 dBA $L_{DN}$ for impacts to be considered significant. The project's increase in noise levels would be below this threshold.

For the cumulative traffic impacts, a 3.2 dBA increase would occur from the Existing to Year 2035 plus Project for the Willow Street segment where the existing noise level was 60.5 dBA $L_{DN}$, which would be a cumulative noise impact. However, the project's contribution would only be 0.6 dBA, which would not exceed the 1 dBA increase in noise threshold for a cumulatively considerable contribution to the cumulative noise impact.

Given the aforementioned, project traffic noise impacts would be less than significant.

**Question b: Less than significant impact**

**Construction Vibration**

Construction activities known to generate excessive ground-borne vibration, such as pile driving, would not be conducted by the project. A possible source of vibration during general project construction activities would be a vibratory roller, which may be used within 75 feet of the nearest off-site residences to the south. A vibratory roller would create approximately 0.210 inch per second PPV at a distance of 25 feet (Caltrans 2013). A 0.210 inch per second PPV vibration level would equal 0.063 inch per second PPV at a distance of 75 feet. This would be lower than the 0.2-inch-per-second PPV FTA threshold for "fragile" structures. Therefore, although a vibratory roller may be perceptible to nearby human receptors, temporary impacts associated with the roller (and other potential equipment) would be less than significant.

**Rail Vibration**

Residences in close proximity to railroad tracks can experience effects of ground-borne vibration caused by passing trains. The United States Department of Transportation Federal Transit Administration's railroad vibration guidelines, Transit Noise and Vibration Impact Assessment (2006), provides criteria for acceptable levels of ground-borne vibration for various types of land uses that are sensitive to vibration. As described under Question a), future rail use within the

Dumbarton transit corridor assumes six daytime and four nighttime passenger trains and four nighttime freight trains, for a total of 14 trains per day. Based on FTA vibration impact criteria, 80 VdB is the applicable maximum acceptable vibration level for residential uses adjacent to a rail corridor with less than 30 vibration events per day (i.e., infrequent events) passing by the site.

The project's closest residential units to a passing train would be located at a distance of approximately 75 feet from the track centerline. FTA guidelines predict that freight train vibration levels at 50 mph are 82 VdB at 75 feet from the track centerline and 70 VdB for commuter trains. It was assumed that trains would be traveling at 35 mph as they would pass the site at a slower speed due to the need to slow down at (or speed up from) the nearby transit station that would be built if rail service was implemented. The FTA provides a 3 VdB reduction from 50 mph to 35 mph. Additionally, typical wood frame residential buildings would receive a 5 VdB reduction. The FTA guidelines also suggest an additional 6 VdB be included to account for amplification due to resonance of floors, walls, and ceilings. Accounting for reductions listed above and adding in the 6 VdB resonance factor, the freight train vibration levels at the project's nearest residences to passing trains are anticipated to be 80 VdB and the commuter train levels would be 71 VdB. Because these levels would not exceed the 80 VdB limit, associated impacts would be less than significant.

**Question e, f: No impact**

Since the project site is not located in an area for which an Airport Land Use Plan has been prepared, and no public or private airfields are within two miles of the project area, the residents of the project would not be exposed to adverse levels of noise due to aircraft overflight. Thus, no impact would occur, and no mitigation would be necessary.

## XIII. POPULATION AND HOUSING

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | ☐ | ☐ | ■ | ☐ |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ■ |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | ☐ | ☐ | ☐ | ■ |

The project proposes to construct a medium and medium-high density residential development in an area planned primarily for high density residential in the City of Newark 2013 Updated General Plan. The number of residential units constructed would exceed the total number of residential units planned for APN 537-852-2-7, but the Transfer of Dwelling Units Policy in the Specific Plan allows density transfer between APNs in the Specific Plan area without exceeding the total number of dwelling units allowed under the Specific Plan. The total number of residential units planned for the three APNs combined is 419 units, and the project proposes to construct 199 units.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Population and Housing is discussed in Chapter 4.11 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). The PEIR concluded that although the project would directly induce population growth in the City through new housing and businesses, the Specific Plan area is already planned for urban-level development and services, and would be phased so that buildout is achieved gradually over time. Impacts to population and housing were anticipated to be less-than-significant, and therefore no mitigation measures were required.

## Evaluation of Population and Housing

### Question a: Less than significant impact

Implementation of the project would result in the construction of 199 medium and medium-high density residential units. The project would increase the available housing, which would be expected to increase population in the area; however, the increase in housing is consistent with the General and Specific Plans. Therefore, the project would not induce unplanned substantial growth in the City of Newark. The impact would not be significant, and no mitigation would be required.

### Questions b, c: No impact

There are no existing residences on the project site or the immediate vicinity; therefore, neither housing units nor people would be displaced, and no replacement housing would be required. There would be no impact, and no mitigation would be necessary.

## XIV. PUBLIC SERVICES

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | |
| a) Fire protection? | ☐ | ☐ | ■ | ☐ |
| b) Police protection? | ☐ | ☐ | ■ | ☐ |
| c) Schools? | ☐ | ☐ | ■ | ☐ |
| d) Parks? | ☐ | ☐ | ■ | ☐ |
| e) Other public facilities? | ☐ | ■ | ☐ | ☐ |

The proposed project is in an area currently served by urban levels of all utilities and services. The following public services are provided to the site:

- Fire protection is provided by the Alameda County Fire Department.
- Police protection is provided by the City of Newark Police Department.
- Public education services for residents of the project site are provided by the Newark Unified School District (NUSD).

Additional services in the project area include domestic water, wastewater treatment, storm water drainage, solid waste disposal, library, and park services. Private utilities include electric, gas, telephone, and cable television/Internet/phone/data services.

The City of Newark has a program of maintaining and upgrading existing utility and public services within the City. Similarly, all private utilities maintain and upgrade their systems as necessary for public convenience and necessity, and as technology changes.

## Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Public Services is discussed in Chapter 4.12 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). The PEIR concluded that the project would result in a population increase that would affect public services, and identified several required actions to ensure individual projects within the Dumbarton TOD would comply with development standards of public services and address additional costs. With implementation of the following actions, no mitigation measures would be required. Prior to issuance of building permits, the Alameda County Fire Department would be involved in the review of project plans and the project sponsor would be required to incorporate the department's requirements into the final project design as conditions of approval. The project applicant would be required to pay development impact fees for fire protection, police protection, and schools. The fee set by NUSD is $2.97 per square foot for residential uses.

## Evaluation of Public Services

### Questions a, b, c, d: Less than significant impact

The project site is within the City of Newark, and is part of a larger planned development for which public services have been evaluated for service adequacy. However, the PEIR prepared for the Dumbarton TOD Specific Plan assumed the project site would be developed with medium-high density residential, recreational, and commercial/office land uses. Under the proposed project, the parcel would be developed with medium and medium-high density residential land uses with some recreational and open space areas. The project proposes to construct 220 fewer units than allocated to all three APNs combined in the Specific Plan and would not result in a significant increase in service demands or render the current service levels to be inadequate, as (a) service demands for the medium and medium-high density residential land use would be similar or less than those envisioned under the medium-high density residential and commercial/office land uses, and (b) implementation of the additional medium and medium-high density residential land use would be off-set by not developing the commercial/office land use. The project sponsor is required to involve the Alameda County Fire Department in reviewing the project plans and incorporate the department's requirements into the final project design. Further, the project applicant is required to pay development impact fees

for fire protection, police protection, and schools. By coordinating with the Alameda County Fire Department, and paying the appropriate developer fees, impacts to public services would be less than significant and no mitigation is necessary.

**Question e: Less than significant with project level mitigation incorporated**

To ensure that the wastewater services to the project site are adequate, the Specific Plan MMRP measure 4.12-2 will be implemented. With implementation of the following measure, the impact of the project on wastewater services would be less than significant.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.12-2 (Wastewater)**

The Specific Plan MMRP measure 4.12-2 specifies that prior to approval of a tentative map within the Dumbarton TOD, any proposed new connections outside of those included in the Union Sanitary District Master Plan shall be identified, and those improvements will be installed prior to issuance of a building permit. The City and Union Sanitary District shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which the improvements are needed.

## XV. RECREATION

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | ☐ | ☐ | ■ | ☐ |
| b) Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment? | ☐ | ■ | ☐ | ☐ |

As described in Section 3, *Description of Project*, of this Initial Study, the FMC Parcel C Project proposes to construct approximately 2.97 acres of parks and open space areas. The project would construct three neighborhood parks and an approximately 2.74-acre open space and wetland preserve area along the western boundary of the project site. Additionally, a 20-foot wide trail corridor, including a 12-foot-wide multi-purpose trail, is proposed along the northern boundary and southwestern edge of the site. The proposed recreational trail is anticipated to become part of the regional San Francisco Bay Trail.

Recreation is discussed in Chapter 4.13 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). The FMC Parcel C Project site is surrounded by several regional recreational resources located both within and outside of the City of Newark. The Don Edwards San Francisco Bay National Wildlife Refuge is a span of 30,000 acres that is located to the south and west of the project site. Coyote Hills Regional Park, which is managed by East Bay Regional Park District, is a 978-acre park located north of the project site. Ardenwood Historic Farm is located about 3.7 miles north of the project site. Several trails that connect to the San Francisco Bay Trail can be accessed near the project site, including the Newark Slough Trail, which is located approximately 2 miles northwest of the project site. Additionally, Willow Street and Central Avenue are unimproved connections to the San Francisco Bay Trail.

The City of Newark Parks and Recreation Division provides and maintains 15 recreational facilities located within the city, which includes parks, sports play facilities, and an aquatic and activity center. Several parks are located within the vicinity of the project site. The closest park is Jerry Raber Ash Street Park, which is located approximately 0.9 mile east of the project site. Other parks include Bridgepointe Park, which is approximately 1.1 miles north of the project site and Civic Center Park, which is located approximately 1.9 miles northeast of the project site.

The City of Newark General Plan Recreation Element identifies policies, programs, and goals for recreational resources. In compliance with the Quimby Act (Section 66477 of State Government Code) the City of Newark General Plan goal for park and recreation dedications is 3.5 acres of parkland per 1,000 residents. The City currently maintains a ratio of 3.47 acres of public parkland per 1,000 residents, which meets the General Plan goal.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

As outlined in the Dumbarton TOD Specific Plan PEIR, the Specific Plan area, which includes FMC Parcel C Project, designates approximately 16.3 acres of parkland for 2,500 residential units. This equates to a ratio of two acres of parkland per 1,000 residents, which falls short of the General Plan goal of 3.5 acres. The Dumbarton TOD Specific Plan proposes a reduced parkland ratio because of the extensive amount of regional open space within the vicinity of the project area that will be available to future Specific Plan residents (Don Edwards National Wildlife Refuge, Coyote Hills Regional Park, and Ardenwood Regional Preserve), as well as the open space and recreational facilities available adjacent to schools, within private development, and facilities not maintained by the City of Newark. In addition, the Specific plan proposes a wide variety parkland and recreational open space for future residents, including a 6.5-acre community park near the center of the neighborhood, a 2.3-acre park on the Gallade property, and a 3.92-acre connection to the Bay Trail at its currently "unimproved connection" on Willow Street.

The Dumbarton TOD Specific Plan PEIR (RBF 2011) concluded that the 16.3 acres of parkland and San Francisco Bay Trail connection that is proposed by the Specific Plan, as well as the regional open space available within the project vicinity, would provide future Specific Plan residents with ample opportunities to enjoy recreational facilities and open space, which would not increase the use or result in the deterioration of existing recreational resources. The PEIR also concluded that construction of parkland could potentially have adverse effects on the environment; however, implementation of construction-related mitigation measures would reduce those impacts to a less than significant level.

## Evaluation of Recreation

### Question a: Less than significant impact

The Dumbarton TOD Specific Plan includes 16.3 acres of park facilities to offset impacts as a result of the overall project, in which the FMC Parcel C Project is included. This is a reduced parkland ratio from goal of the City of Newark General Plan because of the extensive amount of regional open space within the vicinity of the project area that will be available to future Specific Plan residents (Don Edwards National Wildlife Refuge, Coyote Hills Regional Park, and Ardenwood Regional Preserve), as well as the open space and recreational facilities available adjacent to schools, within private development, and facilities not maintained by the City of Newark. In addition, the Specific Plan proposes a wide variety of parkland and recreational open space for future residents, including a 6.5-acre community park near the center of the neighborhood, a 2.3-acre park on the Gallade Property, and a 3.92-acre connection to the San Francisco Bay trail at its currently unimproved connection on Willow Street.

The project proposes to provide approximately 0.23-acre of usable parkland as well as an additional 2.74 acres of open space and wetland preserve area.

The quality and variety of the parkland and open space that could be provided by the Dumbarton TOD Specific Plan, which includes the FMC Parcel C Project, would encourage future residents to use recreational facilities within the Specific Plan area. Additionally, the regional open space located near the project site, along with the proposed recreational trail that would be eligible to be part of the San Francisco Bay Trail, would provide future residents with many opportunities to enjoy recreational resources and open space. The FMC Parcel C Project would result in a less than significant impact on existing neighborhood and regional parks or other recreational facilities, and no mitigation would be necessary.

### Question b: Less than significant with project level mitigation incorporated

The FMC Parcel C Project proposes to construct approximately 0.23-acre of neighborhood parkland and 2.74 acres of open space and wetland preserve area. Construction of the parks and other recreational trails or facilities could result in temporary increases in air emissions, dust, noise, and erosion from construction activities. However, with the implementation of Specific Plan MMRP measures 4.2-1a and 4.2-1b (Air Quality) and 4.10-1a and 4.10-1b (Construction Noise), impacts that could result from the construction of the park and recreation areas would be reduced to a less-than-significant level.

## XVI. TRANSPORTATION/TRAFFIC

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | ☐ | ■ | ☐ | ☐ |
| b) Conflict with an applicable congestion management program, including but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | ☐ | ■ | ☐ | ☐ |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | ☐ | ☐ | ☐ | ■ |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | ☐ | ☐ | ■ | ☐ |
| e) Result in inadequate emergency access? | ☐ | ☐ | ■ | ☐ |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | ☐ | ☐ | ■ | ☐ |

Transportation and Circulation were evaluated in Chapter 4.14 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). Additionally, a project-specific trip generation

evaluation and parking analysis was conducted (Appendix I, Fehr & Peers 2017) to determine the proposed project's contribution to the traffic evaluated in the Specific Plan and to evaluate the project site circulation and access.

### Access and Parking

The proposed vehicular access and street design are described in detail in Section 3, *Description of Project*. Each neighborhood within the residential development would be accessible directly from Enterprise Drive.

The proposed parking is also described in Section 3 and summarized here. A total of 512 parking spaces would be provided for the residential development. Of the 512 parking spaces provided, 398 parking spaces would be off-street garage parking and 114 parking spaces would be on-street surface parking. The parking provided as part of the project exceeds the minimum required parking of 498 parking spaces by 14 parking spaces.

### Fire Access

The minimum width available for driving or turning movements through the project site is 21 feet. Courts 1 through 17 are all 21 feet wide. The neighborhood streets are at least 24 feet wide, and Enterprise Drive is proposed to be 40 feet wide. The project roadway and neighborhood design would provide adequate turning radii and drive areas for fire trucks and other emergency vehicles.

### Trip Generation

The proposed project is estimated to generate 1,810 daily external vehicle trips, 137 a.m. peak hour external vehicle trips, and 181 p.m. peak hour external vehicle trips (Fehr and Peers 2017). The proposed project combined with all other approved and pending projects in the SP area would generate approximately 13,840 daily external vehicle trips, 1,015 a.m. peak hour, and 1,284 p.m. peak hour external vehicle trips. In comparison, the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011) estimates that all land uses within the Specific Plan area will generate 14,131 daily external vehicle trips, 1,165 a.m. peak hour external vehicle trips, and 1,320 p.m. peak hour external vehicle trips. This corresponds to approximately 98 percent of daily, 87 percent of the a.m. peak hour, and 97 percent of p.m. peak hour trips assumed in the SP PEIR. Refer to the memorandum containing the results of the trip generation evaluation in Appendix I.

### Transportation Services

The City maintains a network of pedestrian and bike trails throughout the city, in addition to a network of on-street bike lanes. Sidewalks would be provided along each neighborhood street and would connect to sidewalks along Enterprise Drive. The residential development would include walkways and crosswalks that would connect to off-site sidewalks along Enterprise Drive and the adjacent Tract 8099 – Bridgeway Lennar project, south of the FMC Parcel C project site.

A 20-foot-wide recreational trail corridor is proposed along the northern boundary of the project site as well as the western and southern boundaries of Planning Area 1. The proposed recreational trail is anticipated to become part of the San Francisco Bay Trail. Sidewalks or "pedestrian paseos" leading to the proposed recreational trail would be provided throughout Planning Areas 1 and 2 for pedestrian circulation.

No private or public airports are located within the City of Newark. The nearest airports to the proposed project site are the Palo Alto general aviation airport located 6 miles southwest of the site and the Hayward Executive Airport located 10 miles to the north. The San Jose International Airport is 13 miles southeast of the project site. No private airports are located within 10 miles of the city.

### Emergency Access

The City of Newark identifies most major streets in the city as emergency evacuation routes. No aspect of the project would modify these streets or preclude their continued use as an emergency evacuation route. The project has incorporated turning radius sufficient for fire truck access in the project's roadway design.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Transportation and Circulation were evaluated in Chapter 4.14 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). The PEIR contains a measure for the City to coordinate with AC Transit to improve bus service to the Specific Plan area. The PEIR identifies impacts to traffic on regional roadways in the project vicinity and includes a measure for project applicants to pay all applicable transportation-related fees in accordance with the latest adopted fee schedule at the time the permits are sought (MMRP measure 4.14-8).

## Evaluation of Transportation/Traffic

### Questions a, b: Less than significant impact with project level mitigation incorporated

The proposed parking was evaluated consistent with City requirements and the Dumbarton TOD Specific Plan. The proposed parking exceeds that required by the City (Appendix I, Fehr & Peers 2017). Further, the Dumbarton TOD Specific Plan contains parking policies that are recommended to be incorporated into the design:

Policy C-18 encourages the adoption of parking standards that prevent oversupply through shared parking and reduced minimum off-street requirements. The FMC Parcel C Project has incorporated shared parking (on-street parking) that is consistent with this policy and provided 14 parking spaces in exceedance of the parking required.

Although the project would result in a relatively small increase in trips generated in the area in relation to the capacity of nearby streets, the FMC Parcel C Project is consistent with the Specific Plan and the General Plan and would not conflict with the City's operational standards as projected under those plans. The PEIR prepared for the Dumbarton TOD Specific Plan identifies impacts to regional traffic significant and unavoidable. The FMC Parcel C Project's contribution to traffic impacts would be less than significant, and would not exceed the impacts already identified in the PEIR. The following measure contained in the PEIR prepared for the Dumbarton TOD Specific Plan would be implemented to minimize impacts on regional traffic.

### Dumbarton Mitigation Monitoring and Reporting Program Measure 4.14-8 (Regional Traffic)

The Specific Plan MMRP measure 4.14-8 requires that prior to issuance of building permits, the applicant shall pay all applicable transportation-related fees in accordance with the latest adopted fee schedule at the time permits are sought. Payment of these fees would partially mitigate the impacts of the Specific Plan developments.

### Question c: No impact

No private or public airports are located within the City of Newark. The nearest public airfields are 6, 10, and 13 miles from the project site. No private airports are located within 10 miles of the project site. The project would not result in modification to any air travel route. There would be no impact, and no mitigation would be required.

**Question d: Less than significant impact**

The proposed project would extend Enterprise Drive and construct multiple access roads to the residential development. The access roads proposed would branch from Enterprise Drive. Although the project would modify Enterprise Drive by introducing additional access points, the project is consistent with the existing access of developed areas in the vicinity and the proposed access of the Specific Plan area. The project would not require additional modification to the roadways (e.g. re-alignment) other than already identified in the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011) that will be conducted by others through the Specific Plan buildout. Because the modifications to the roadways would be minor and compatible with the access in the vicinity, and the overall Specific Plan area, the project would result in a less-than-significant impact, and no mitigation would be necessary.

**Question e: Less than significant impact**

No aspect of the project would modify streets currently used for emergency access or preclude their continued use as an emergency evacuation route. The project design has incorporated fire access elements to ensure adequate emergency access to the site. The plans will be approved by the City of Newark Fire Department prior to project implementation; therefore, no significant impact to fire protection would occur, and no mitigation would be necessary.

**Question f: Less than significant impact**

The project would not conflict with any adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities. The project also would not result in the decreased performance or safety of such facilities. The project includes the construction of pedestrian facilities throughout the residential development, including a proposed recreational trail that would be eligible to be a part of the San Francisco Bay Trail. This would result in a less-than-significant impact, and no mitigation would be necessary.

## XVII. UTILITIES AND SERVICE SYSTEMS

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| Would the project: | | | | |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | ☐ | ■ | ☐ | ☐ |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ■ | ☐ | ☐ |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | ☐ | ■ | ☐ | ☐ |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | ☐ | ☐ | ■ | ☐ |
| e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | ☐ | ■ | ☐ | ☐ |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | ☐ | ☐ | ■ | ☐ |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | ☐ | ☐ | ■ | ☐ |

The project area is served by the following service providers:

- Water supply – Alameda County Water District (ACWD) provides water to the cities of Fremont, Newark, and Union City, and would service the project site.

- Wastewater treatment and disposal – Union Sanitary District serves the cities of Fremont, Newark, and Union City, and would service the project site. Build out of the specific plan area could increase wastewater flows rates by 50 percent.

- Storm water drainage facilities – storm drains within the public streets are maintained by the City of Newark, while storm drains within private yards, lanes and passes would be privately maintained by the homeowners.

- Solid waste service –Republic Services, Inc. provides solid waste collection. The landfill servicing the site is the privately-owned Altamont Landfill, with a 30-year capacity.

### Impacts and Mitigation Measures from the Dumbarton Transit Oriented Development Specific Plan Certified PEIR

Utilities are discussed in Chapter 4.12 of the PEIR prepared for the Dumbarton TOD Specific Plan (RBF 2011). The PEIR concludes that the project would result in a population increase that would affect utilities. The PEIR states that policies would be included in the General Plan to address wastewater services for the Dumbarton TOD, and implementation of Mitigation Measure 4.12-2 would reduce impacts to the wastewater system to less than significant. The measure requires that individual projects within the Dumbarton TOD shall determine proposed new connections outside of those included in the Union Sanitary District Master Plan, and those improvements will be installed prior to issuance of a building permit. The City and Union Sanitary District shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which the improvements are needed.

The PEIR concludes that the landfill that would serve the proposed project has sufficient permitted capacity to accommodate the project's solid waste disposal needs.

## Evaluation of Utilities and Service Systems

### Questions a, b, e: Less than significant with project level mitigation incorporated

The Union Sanitary District provides wastewater treatment for the City of Newark and will service the Dumbarton TOD Specific Plan area, which includes the FMC Parcel C Project site. Wastewater lines exist within the Specific Plan area and eventually connect to the Alvarado Treatment Plant in Union City.

The water treatment plant is currently rated to treat and discharge 30 million gallons per day (mgd). The Union Sanitary District has a NPDES General Permit with the California State Water Board that allows treatment and discharge of 33 mgd. Build out of the Specific Plan area could increase wastewater flow rates by 50 percent, which would put the treatment plant at 86.6 percent of capacity. Although the Alvarado Treatment Plant has the capacity to support development within the project area, it may not be able to support full build out of the Specific Plan area. Additional improvements such as a new sewer main or equalization basin may be required, which could potentially have effects on the environment.

The 2013 Draft Updated City of Newark General Plan policies address wastewater services for the Dumbarton TOD Specific Plan. These policies, in addition to the implementation of Mitigation Measure 4.12-2, would reduce the impacts of the wastewater system to a less than significant level.

### Dumbarton Mitigation Monitoring and Reporting Program Measure 4.12-2 (Wastewater)

Mitigation Measure 4.12-2 requires that additional improvements and connections beyond those included in the Union Sanitary District Master Sewer Plan shall be determined by individual projects within the Specific Plan area. Those improvements shall be installed prior to the issuance of a building permit. The City and the Union Sanitary District shall verify that any necessary improvements will be available prior to occupation of those new residential dwelling units for which the improvements are needed. Implementation of this mitigation measure will reduce impacts to wastewater to less than significant.

### Question c: Less than significant with project level mitigation incorporated

As described in Section 8.IX, *Hydrology and Water Quality* of this IS, to ensure the storm water system can adequately accommodate the proposed project, the following mitigation measure from the Dumbarton TOD Specific Plan PEIR will be implemented.

**Dumbarton Mitigation Monitoring and Reporting Program Measure 4.8-4a (Hydrology)**

The Specific Plan MMRP measure 4.8-4a specifies that plans submitted for grading permits shall include detailed hydrology reports. These reports shall demonstrate adequate stormwater conveyance and capacity is available in the existing facilities. If the reports find inadequate facilities, then the project applicant shall develop a detailed stormwater detention plan for the project site in accordance with the City standards and the ACFC.

Implementation of this measure would reduce potential impacts to a less-than-significant level, and no further mitigation would be necessary.

**Question d: Less than significant impact**

The Dumbarton TOD Specific Plan area, which includes the FMC Parcel C Project, is serviced by the ACWD. In compliance with SB 610, a Water Supply Assessment (WSA) was prepared for the Dumbarton TOD Specific Plan, which relies heavily on the Urban Water Management Plan (UWMP). According to the WSA, the Dumbarton TOD Specific Plan is included in the ACWD's water demand forecast and is consistent with planning assumptions.

Under normal precipitation conditions, the water supply is projected to meet the Specific Plan area's demand. However, in the future, water supply to the Specific Plan area, including the project may be cut back because of shortages during dry years. These cut backs would depend on the severity of the dry-year shortage and would be consistent with the rest of the ACWD's service areas. According to the WSA, during critically dry years the ACWD would secure additional water supply through the Department of Water Resources, and, if necessary, would implement a drought contingency plan to cut back on water use. This would ensure the project would have sufficient water supply during drought years.

Compliance with the requirements provided in the WSA will ensure that there will be sufficient water supply to serve the Specific Plan area. Therefore, there would be a less than significant impact, and no mitigation would be necessary.

**Questions f and g: Less than significant impact**

Republic Services, Inc. currently provides the City of Newark with solid waste refuse, recycling, and hazardous materials collection services. After being processed at a facility in San Leandro, waste from the city is hauled to the privately-owned Altamont Landfill located in Livermore. The Altamont Landfill will serve the Dumbarton TOD Specific Plan area, which includes the

FMC Parcel C Project. The Altamont Landfill has a permitted capacity of approximately 125 million cubic yards. Approximately 52.6 percent of this capacity has been used and approximately 48.4 percent remains. The landfill is estimated to cease operation in 2025 (CalRecycle 2017).

In compliance with requirements stipulated under the Integrated Waste Management Act (AB 939), the City of Newark, Republic Services, Inc., and the Alameda County Source Reduction and Recycling Board have implemented measures to reduce the amount of waste hauled to the Altamont Landfill. These agencies are promoting the recycling of many different materials, which will help reduce the amount of solid waste entering the Altamont Landfill and would extend the lifetime of the landfill.

Because the landfill serving the project area is of sufficient capacity to accommodate solid waste needs, the impact would be less than significant, and no mitigation would be necessary.

## XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

| | Potentially Significant Impact | Less Than Significant with Project-level Mitigation Incorporated | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| The lead agency shall find that a project may have a significant effect on the environment and thereby require an EIR to be prepared for the project where there is substantial evidence, in light of the whole record, that any of the following conditions may occur. Where prior to commencement of the environmental analysis a project proponent agrees to mitigation measures or project modifications that would avoid any significant effect on the environment or would mitigate the significant environmental effect, a lead agency need not prepare an EIR solely because without mitigation the environmental effects would have been significant (per Section 15065 of the State CEQA Guidelines): | | | | |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | ☐ | ☐ | ■ | ☐ |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of past, present and probable future projects)? | ☐ | ☐ | ■ | ☐ |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | ☐ | ☐ | ■ | ☐ |

**Question a: Less than significant impact**

The preceding analysis indicates that the proposed FMC Parcel C Project would not have a significant adverse impact on overall environmental quality, including the potential to reduce the habitat of fish and wildlife species, or contribute to lowering populations to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

**Question b: Less than significant impact**

While the project would indirectly contribute to cumulative impacts associated with increased urban development in the city and region, these impacts have previously been evaluated in the PEIR prepared for the Dumbarton TOD Specific Plan, and are incorporated into the City of Newark's 2013 Updated General Plan. The PEIR concluded that development of the project site as allowed under the Dumbarton TOD Specific Plan may contribute to significant cumulative impacts as a result of contribution to the loss of vegetation and wildlife resources, impacts to cultural resources, seismic or soils hazards, greenhouse gas emissions, hazardous materials, hydrology and water quality, and noise levels. With implementation of the measures set forth in this Initial Study (and as previously analyzed in the PEIR), cumulative impacts as a result of the Dumbarton TOD would be less than significant. No additional cumulative impacts as a result of the FMC Parcel C Project are identified.

**Question c: Less than significant impact**

As outlined in other sections of this Initial Study, the project will adhere to mitigation measures previously prescribed in the Dumbarton TOD Specific Plan PEIR for potentially significant impacts to air quality, biological resources, cultural resources, seismic or soils hazards, greenhouse gases, hazardous materials, hydrology, drainage and water quality, noise, wastewater treatment, the environment from constructing Parcel A Park, regional traffic congestion and the stormwater system. These impacts have been reduced to a less-than-significant level at both the project and cumulative level through project design and mitigation measures. Implementation of the project would not result in substantial adverse effects to human beings either directly or indirectly.

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**AGENDA REPORT**
May 9, 2019
Item No. 9

**TO:** Alameda Commissioners

**FROM:** Policy and Budget Committee (Johnson, Marchand, and Pico)
Rachel Jones, Executive Officer

**SUBJECT: Adoption of Final Work Plan and Budget for FY 2019-2020**

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The Commission will consider adopting a final work plan and budget for 2019-2020. Both items return following their adoption in draft-form and subsequent public review. The final work plan and budget remain intact from its initial draft. The final budget expenses total $793,880 and represents a decrease of $2,964 or 0.4% from the current fiscal year with adjustments tied in services and supplies and resources drawn to accomplish items in the final work plan. Revenues are matched to expenses with a slight decrease in agency contributions by 14,464 or 2.4% in conjunction with an increase in the use of reserves by $4,000. Staff recommends approval.

## Background

The Alameda Local Agency Formation Commission (LAFCO) is responsible under State law to adopt a proposed budget by May 1st and a final budget by June 15th. A mandatory review by all local funding agencies is required between the two adoption periods. Alameda LAFCO's ("Commission") annual operating costs are primarily funded by proceeds collected from 29 local public agencies operating within Alameda County. State law specifies the Commission's operating costs shall be divided in one-third increments between the (a) County of Alameda, (b) 14 cities, and (c) 15 independent special districts with the latter two categories apportioned based on total revenues as provided in the most recent annual report published by the State Controller's Office. A relatively small portion, typically representing less than one-tenth of total revenues, is also funded from application fees and interest earnings.

### Current Operating Budget

The Commission's adopted final budget for fiscal year 2018-2019 totals $796,844. This amount represents the total approved operating expenditures divided between three active expenses units: salaries and benefits; services and supplies; and internal service charges. A matching revenue total was also budgeted to provide an operating net of $0 with the purposeful transfer of $176,000 from reserves. Budgeted revenues are divided between three active units: agency contributions, application fees; and interest earnings. The total fund balance as of July 1, 2018 was $595,796.

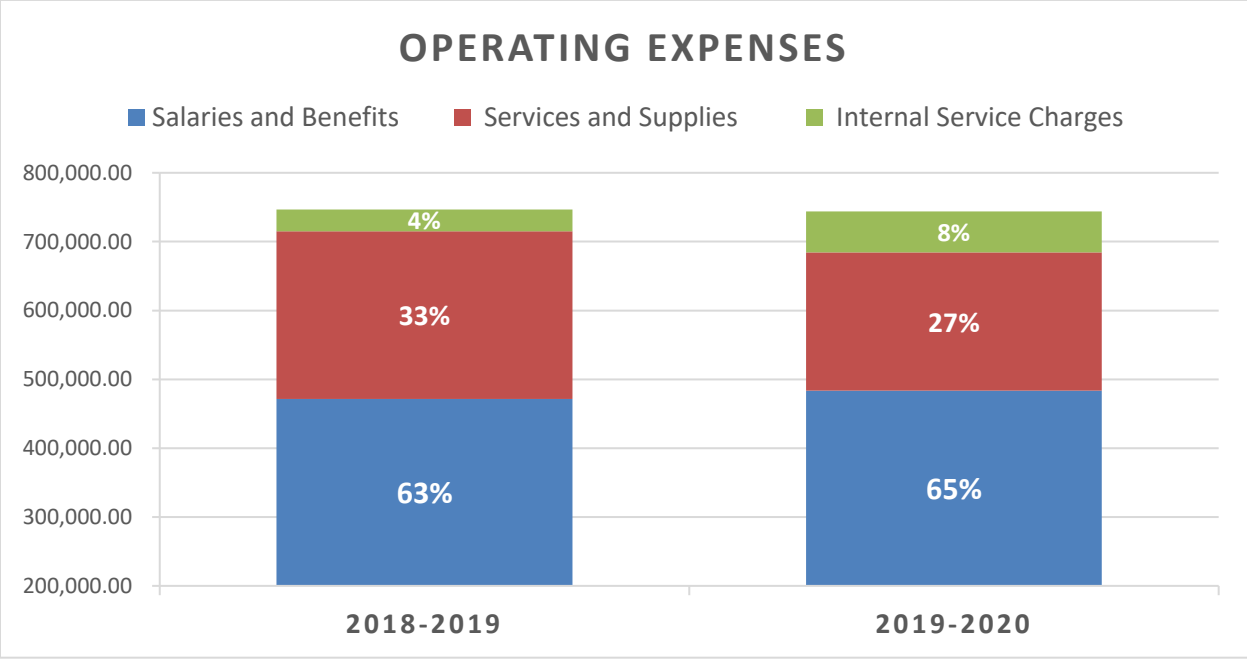
| Budgeted Expenses FY 18-19 | Budgeted Revenues FY 18-19 | Budgeted Year End Balance FY 18-19 | Fund Balance FY 18-19 |
|---|---|---|---|
| $775,843 | $775,843 | $0 | $595,796 |

**Discussion**

This item is for the Commission to consider recommendations by the Policy and Budget Committee (Johnson, Marchand and Pico) in adopting a final (a) operating budget and (b) workplan for the upcoming fiscal year. Both items return to the Commission from their initial presentation and adoption in March and subsequent 45-day public review and comment period. This included providing direct notice to all 29 local funding agencies as required under statute. A summary of the final budget and accompanying work plan follows.

### Final Operating Budget for FY 2019-2020

The final operating budget developed by the Executive Officer and the Policy and Budget Committee sets operating expenses at $793,880; a net decrease of $2,963 or 0.4% from the current fiscal year. The operating expenses total divided between labor and non-labor costs are at an 65% to 35% split. Final operating revenues match operating expenses and is covered by drawing down reserves consistent with the practice to help offset and phase sizable increases to agency contributions. The net effect would be a decrease in contributions of 14,464 or 2.4% from 590,844 to 576,380.



A detailed listing of the notable changes included in the final operating budget by unit follows.

### Operating Expenses

The budget is developed and presented with an eye toward future capacities and goals in conjunction with renewal negotiations with the County of Alameda for LAFCO support and administrative services.

The **Salaries and Benefits Unit** will increase by 11,928 or 2.5% over the next fiscal year from 471,653 to 483,581. The unit covers labor costs tied to staffing 2.15 fulltime employees: Executive Officer, Analyst and Commission Clerk. Notable adjustments may be reviewed below.

- Assumes a 2.0% cost-of-living adjustment in regular salaries with the County of Alameda's contract with unrepresented employees for 2019-2020.

- Assumes the funding of a full-time Analyst and Commission Clerk until the end of the calendar year for a total of 3 full-time employees.

- Assumes the hiring of a full-time Analyst/Clerk at an annual salary of $81,254 by August 2019.

These adjustments are made in relation to LAFCO's succession plan and are as follows:

Three authorized, appropriately classified, LAFCO designated, County Civil Service positions;

- 1 LAFCO Executive Officer
- 1 LAFCO Analyst
- 1 LAFCO Commission Clerk

Each position is ultimately ***budgeted*** at the level desired by the LAFCO Commission (emphasis). The final budget reflects moving through FY 2019-2020 with LAFCO's own civil service classifications while preparing for succession of the LAFCO Analyst and Commission Clerk. In order for this to occur, LAFCO must designate all current staff as full-time employees;

From July 1, 2019 through December 31, 2019

- 1 FTE LAFCO Executive Officer
- 1 FTE LAFCO Analyst
- 1 FTE LAFCO Commission Clerk
- 1 FTE Analyst / Clerk

From January 1, 2020 through June 30, 2020

- Two current staff members have retired (LAFCO Analyst and Commission Clerk)
- 1 FTE LAFCO Executive Officer
- 1 FTE LAFCO Analyst / Clerk

The final budget in the Salaries and Benefits Unit focuses on targeted increases in staffing to accommodate and foster LAFCO's resources and organizational capacity during this transitional phase.

The **Services and Supplies Unit** will decrease by 42,624 or 17.5% over the next fiscal year from 243,500 to 200,876. The unit provides for direct support services necessary to operate Alameda LAFCO. Notable adjustments may be reviewed below.

- Reduces $10,000 in the legal services account to decrease the total line item from $40,000 to $30,000; a difference of 25% over the next fiscal year. The decrease responds to recent trends produced by the Alameda County Counsel's Office.

- Subtracts $20,000 in the planning services account to decrease the total line item from $25,000 to $5,000; a difference of 80% over the next fiscal year. The decrease responds to recent trends in reduced demand of application and proposal review requests.

The **Internal Service Charges Unit** will increase by $27,733 or 87.5% over the next fiscal year from 31,690 to 59,423. The unit provides for indirect support services necessary to operate Alameda LAFCO. Notable adjustments may be reviewed below.

- Adds $21,800 in the office lease account to raise the total line item from $3,200 to $25,000; a difference of 681.3% over the next fiscal year. The increase is attributed to the assumption of leasing a new office space through the County at approximately 1,000 square feet.

### Operating Revenues

The **Intergovernmental Unit** will decrease by 14,464 or 2.4% over the next fiscal year from 590,844 to 576,380. The unit provides payments received from the 29 local government agencies responsible under State law for funding Alameda LAFCO with apportionments divided in three equal shares among the County of Alameda, 14 cities and 15 independent special districts. Actual invoice amounts for cities and special districts would be determined by the County Auditor's Office consistent with the allocation formula outlined under Government Code Section 56383 and based on local revenue tallies.

The **Service Charge Unit** remain as is at $30,000. This unit covers payments received from outside applicants to process change of organizations (annexations, detachments, formations, etc.), outside service extensions, and sphere of influence amendments.

The **Interest Earnings Unit** will increase by $7,500. This reflects anticipated changes in interest earnings consistent with recent quarters.

### Final Work Plan for FY 2019-2020

The final work plan draws on a review of Alameda LAFCO's needs and goals by the Executive Officer and ahead of receiving input and direction from the Commission. It outlines 26 specific projects divided between statutory (legislative directives) and administrative (discretionary) activities. The projects are listed in sequence by assigned priority between high, moderate, and low. The majority of

the projects are new with several remaining items continued from the current and previous fiscal years. A summary of all high priority projects follows.

MOU Update with the County of Alameda
This project involves updating the existing memorandum of understanding (MOU) with the County of Alameda set to expire June 30th. The purpose of the update is to reflect current agency relationship needs, and among other items formalize existing staff classifications and job descriptions.

General MSR on Water, Wastewater and Stormwater Services
The project is being continued from the current fiscal year due to a delay with contract negotiations, but is currently underway with its data collection phase. The project involves a comprehensive countywide study of water, wastewater, stormwater and flood control services and includes recommendations emphasizing opportunities for shared facilities and or services.

Staff Recruitment, Placement and Training
This project aims to coordinate the recruitment of a new analyst/clerk with placement and training/development by August 2019.

**Conclusion**

The final budget and work plan remain the same to the draft versions presented and adopted by Alameda LAFCO at its March meeting. Both documents affirmatively respond to the feedback provided by the Commission along with the functional needs in meeting the agency's existing and expanding duties under State law. This includes advancing the Commission's organizational capacity through administrative duties and policy updates which includes MOU negotiations with the County, recruitment and training of staff, and the completion of the general MSR on wastewater and water services . The principal difference in the final budget is largely tied to the adjustments made in salaries and benefits and services and supplies units to account for the modification of staff hours for the Commission Clerk and Analyst positions, recruitment of staff, and the use of professional services.

**Alternatives for Action**

The following alternatives are available to the Commission:

Alternative One (Recommended):
Adopt the attached resolution approving the final budget and work plan for 2019-2020 with any desired changes; and

Direct the Executive Officer to circulate the final budget for 2019-2020 for review and comment by the funding agencies and general public.

Alternative Two:
Continue consideration of the item to a special meeting scheduled no later than the legislative

deadline of June 15, 2019 and provide direction to staff with respect to any additional information requests.

**Recommendation**

It is recommended the Commission proceed with Alternative Action One.

**Procedures for Consideration**

This item has been placed on the agenda for action as part of a noticed public hearing. The following procedures are recommended for consideration.

1) Receive a verbal report from staff;
2) Invite questions from the Commission;
3) Open the public hearing and invite comments from audience (mandatory); and
4) Close the public hearing, discuss item, and consider recommendation.

Respectfully on behalf of the Policy and Budget Committee,

Rachel Jones
Executive Officer

Attachments:
1. Draft Resolution Adopting the Final Budget and Work Plan for FY 2019-2020
2. Final Budget for FY 2019-2020
3. Final Work Plan for FY 2019-2020

# ALAMEDA LOCAL AGENCY FORMATION COMMISSION

Regional Service Planning | Subdivision of the State of California

## Expense Ledger

| | | FY2016-2017 | | FY2017-2018 | | FY2018-2019 | | FY2019-2020 | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Adopted | Actuals | Adopted | Actuals | Adopted | Estimated | Proposed | Difference | |
| **Salary and Benefit Costs** | | | | | | | | | | |
| Account | Description | | | | | | | | | |
| 60001 | Staff Salaries | - | - | - | - | 321,692 | 263,373 | 308,307 | (13,385) | -4.2% |
| - | Employee Benefits and Retirement (ACERA) | - | - | - | - | 149,961 | 149,961 | 175,275 | 25,314 | 16.9% |
| | | 422,665 | 378,825 | 472,385 | 383,228 | **471,653** | **413,334** | **483,581** | **11,928** | **2.5%** |
| **Service and Supplies** | | | | | | | | | | |
| Account | Description | | | | | | | | | |
| - | Intern | 1,600 | - | 1,600 | - | 1,600 | 0 | 1,600 | - | 0.0% |
| 610077 | Postage | 1,000 | 2,000 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | - | 0.0% |
| 610141 | Copier | 1,800 | 4,000 | 2,000 | 2,503 | 3,000 | 3,000 | 3,000 | - | 0.0% |
| 610191 | Pier Diems | 6,600 | 7,000 | 7,500 | 7,300 | 7,700 | 7,700 | 7,800 | 100 | 1.3% |
| 610211 | Mileage/Travel | - | - | - | 89 | 200 | 2,628 | 1,300 | 1,100 | 550.0% |
| 610461 | Training (Conferences and Workshops) | 18,500 | 12,000 | 20,000 | 17,171 | 20,000 | 20,000 | 13,000 | (7,000) | -35.0% |
| 610241 | Records Retention | 1,000 | 1,100 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | - | 0.0% |
| 610261 | Consultants | 50,000 | 31,000 | 75,000 | 75,000 | 96,000 | 90,000 | 90,000 | (6,000) | -6.3% |
| 610261 | Mapping - County | 5,000 | 6,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | - | 0.0% |
| 610261 | Planning Services | 60,000 | 75,000 | 25,000 | 10,000 | 25,000 | 5,000 | 5,000 | (20,000) | -80.0% |
| 610261 | Legal Services | 30,000 | 50,000 | 40,000 | 35,000 | 40,000 | 40,000 | 30,000 | (10,000) | -25.0% |
| 610311 | CAO - County - Services | 16,000 | 13,000 | 11,000 | 11,000 | 11,000 | 11,000 | 11,000 | 0 | 0.0% |
| 610312 | Audit Services | 7,500 | - | 7,500 | - | 10,000 | 7,500 | 7,700 | (2,300) | -23.0% |
| 610351 | Memberships | 8,157 | 8,157 | 8,675 | 8,774 | 9,000 | 9,026 | 10,476 | 1,476 | 16.4% |
| 610421 | Public Notices | 5,000 | 2,000 | 5,000 | 2,000 | 5,000 | 5,000 | 5,000 | 0 | 0.0% |
| 610441 | Assessor - County - Services | - | - | 5,000 | - | 2,500 | 2,500 | 2,500 | 0 | 0.0% |
| 610461 | Special Departmental | 500 | 500 | 500 | 500 | 1,500 | 1,500 | 1,500 | 0 | 0.0% |
| 620041 | Office Supplies | 3,000 | 1,500 | 3,000 | 500 | 4,000 | 4,000 | 4,000 | 0 | 0.0% |
| | | 215,657 | 213,257 | 218,775 | 176,837 | **243,500** | **215,854** | **200,876** | **(42,624)** | **-17.5%** |
| **Internal Service Charges** | | | | | | | | | | |
| Account | Description | | | | | | | | | |
| 630051 | Office Lease/Rent | 3,200 | 3,200 | 3,200 | 3,200 | 3,200 | 3,200 | 25,000 | 21,800 | 681.3% |
| 630021 | Communication Services | 3,156 | 3,156 | 3,218 | 3,218 | 3,878 | 3,878 | 3,950 | 72 | 1.9% |
| 630061 | Information Technology | 17,726 | 17,726 | 18,081 | 18,081 | 21,578 | 23,370 | 27,373 | 5,795 | 26.9% |
| 630081 | Risk Management | 2,633 | 2,633 | 2,686 | 2,686 | 3,034 | 3,034 | 3,100 | 66 | 2.2% |
| | | 26,715 | 26,715 | 27,185 | 27,185 | **31,690** | **37,482** | **59,423** | **27,733** | **87.5%** |
| **Contingencies** | | 50,000 | | 50,000 | | **50,000** | - | **50,000** | **-** | **0.0%** |
| Account | Description | | | | | | | | | |
| - | Operating Reserve | - | - | - | - | - | - | - | - | - |
| | | - | - | - | - | - | - | - | - | - |
| | **EXPENSE TOTALS** | **715,037** | **618,797** | **768,345** | **587,250** | **796,843** | **666,670** | **793,880** | **(2,963)** | **-0.4%** |

## Revenue Ledger

| | | FY2016-2017 | | FY2017-2018 | | FY2018-2019 | | FY2019-2020 | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Adopted | Estimate | Adopted | Estimate | Adopted | Estimate | Proposed | Difference | |
| **Intergovernmental** | | | | | | | | | | |
| Account | Description | | | | | | | | | |
| - | Agency Contributions | | | | | | | | | |
| | County of Alameda | 196,115 | 196,114 | 196,115 | 196,114 | 196,948 | 196,948 | 192,127 | (4,821) | -2.4% |
| | Cities | 196,115 | 196,114 | 196,115 | 196,114 | 196,948 | 196,948 | 192,127 | (4,821) | -2.4% |
| | Special Districts | 196,115 | 196,114 | 196,115 | 196,114 | 196,948 | 196,948 | 192,127 | (4,821) | -2.4% |
| | | 540,037 | 588,344 | 588,345 | 588,344 | **590,844** | **590,844** | **576,380** | **(14,464)** | **-2.4%** |
| **Service Charges** | | | | | | | | | | |
| - | Application Fees | 25,000 | 50,000 | 30,000 | 16,000 | **30,000** | **10,000** | **30,000** | - | **0.0%** |
| **Investments** | | | | | | | | | | |
| - | Interest | - | 2,000 | - | 4,000 | **-** | **11,531** | **7,500** | **7,500** | **-** |
| **Fund Balance Offset** | | 150,000 | 150,000 | 150,000 | 150,000 | **176,000** | **176,000** | **180,000** | **4,000** | **2.3%** |
| | **REVENUE TOTALS** | **715,037** | **742,037** | **768,345** | **758,344** | **796,844** | **788,375** | **793,880** | **(2,964)** | **-0.4%** |
| **OPERATING NET** | | - | 123,240 | - | 171,094 | - | 121,705 | - | - | - |
| **UNRESTRICTED FUND BALANCE** | | | | | | | 429,370 | | | |
| **As of June 30th** | | | | | | | | | | |

**ALAMEDA LAFCO WORKPLAN | 2019-2020**

| Priority | Urgency | Type | Status | Project | Key Issues |
|---|---|---|---|---|---|
| 1 | High | Administrative | Rollover | MOU Update with County of Alameda | Update existing MOU with the County of Alameda to reflect current agency relationships/needs |
| 2 | High | Statutory | Rollover | General MSR on Water, Wastewater, and Stormwater Services | First Service Specific MSR since 2006 \| Address Infrastructure Needs and Efficiencies and Sustainability |
| 3 | High | Administrative | New | Staff Recruitment, Placement and Training | Recruitment and Training of LAFCO Commission Clerk and Analyst |
| 4 | Moderate | Administrative | New | 2017-2018 Audit | Verify Fund Balance; First Audit in Ten Years |
| 5 | Moderate | Statutory | New | Dissolutions of Inactive Special Districts | Implement Regulatory Functions; SB 448 |
| 6 | Moderate | Statutory | New | Special District Member Elections | Conduct Special District Member Elections to Ensure LAFCO Representation |
| 7 | Moderate | Statutory | New | Study Schedule Update | Improve Efficiency and Effectivenss of Commission Operations and Transparency |
| 8 | Moderate | Statutory | New | General MSR on Fire Protection and Emergency Services | Second MSR on Fire and Emergency Services sine 2006 \| Address Shared Opportunities |
| 9 | Moderate | Statutory | Rollover | Sphere Update for City of Pleasanton | Implement Planning Functions; Update SOIs of Local Government Agencies; Cities MSR |
| 10 | Moderate | Statutory | Rollover | Informational Report on Disadvantaged Unincorporated Communities | Develop and Implement Special Study of Unincorporated Areas focusing on DUCs; Consider Policies |
| 11 | Moderate | Administrative | New | Prepare Informational Report on JPAs | Post Enactment of SB 1266; Enhance Repository on Local Government Services |
| 12 | Moderate | Administrative | New | LAFCO Presentations | Introductory Overview of LAFCO's Duties and Responsibilities to Boards, Councils, Community Groups |
| 13 | Moderate | Administrative | New | Update Applicatinon Packet | Current Application Dated; Make User Friendly |
| 14 | Moderate | Administrative | Rollover | Prepare Informational Report on Unincorporated Islands | Map all Unincorporated Islands and Examine Island Annexation Implementation Issues in Alameda County |
| 15 | Moderate | Statutory | New | Alameda County Resource Conservation MSR | Last MSR conducted in 2013; Open space land preservation |
| 16 | Moderate | Administrative | Rollover | Informational Report on Fairview Fire Protection District | Status Report on District Activites |
| 17 | Low | Administrative | New | Policy Review on Agricultural Protection and Out of Area Service Agreements | Periodical review of existing policies relatiev to practices and trends, and determine whether changes are appropriate to better reflect current preferences |
| 18 | Low | Statutory | New | Master Property Tax Exchange Agreement | Improve Efficiency and Effectiveness of Application Process |
| 19 | Low | Administrative | Rollover | Informational Report on Remen Tract | Special Report on Service Delivery Feasability |
| 20 | Low | Administrative | Rollover | Digital Archiving | Continue Project to Digitize LAFCO Records |
| 21 | Low | Administrative | Rollover | CALAFCO Legislative Committee | Enhanece and Clarify LAFCO Authority and Powers to Perform its State-Mandated Responsibilities |
| 22 | Low | Administrative | New | Host Alameda County Special District Association Meeting | Communicate LAFCO's Mission and Goals to the Community |
| 23 | Low | Administrative | New | LAFCO Annual Report on Status of County | Evaluate LAFCO's Mission and Goals Relative to Local Conditions; Identify Strategies to Achieve Shared Objectives |
| 24 | Low | Administrative | New | GIS Mapping Project | CDA to Create a LAFCO GIS Layer for All Local Agencies under LAFCO Purview |
| 25 | Low | Administrative | New | LAFCO Agency Logo | Establish New Agency Logo for Branding (Website, Publications, etc.) |
| 26 | Low | Administrative | New | Local Agency Directory | User-Friendly Publication Identifying and Summarizing Local Government Agencies and Services in Alameda County |

**ALAMEDA LOCAL AGENCY FORMATION COMMISSION**

**RESOLUTION 2019-XX**

**ALAMEDA LOCAL AGENCY FORMATION COMMISSION ADOPTING A FINAL WORK PLAN AND BUDGET FOR FISCAL YEAR 2019-2020**

**WHEREAS**, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires the Alameda Local Agency Formation Commission ("Commission") to perform certain regulatory and planning duties for purposes of facilitating efficient and accountable local government; and

**WHEREAS**, the Commission is required to adopt proposed and final budgets each year by May 1st and June 15th, respectively; and

**WHEREAS**, the Executive Officer's has prepare a written report and recommendations on a final budget and work plan for 2019-2020; and

**WHEREAS**, the Commission has heard and fully considered all evidence on a final work plan and budget for 2019-2020 presented at a public hearing held on May 9, 2019; and

**WHEREAS**, the adoption of a work plan and budget are not projects under the California Environmental Quality Act;

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE AND ORDER** as follows:

1. The final operating budget for 2019-2020 shown as Exhibit A is APPROVED.

2. The final work plan for 2019-2020 shown as Exhibit B is APPROVED

3. As allowed under Government Code 56107, the Commission authorizes the Executive Officer to make non-substantive corrections to this resolution to address any technical defect, error, irregularity, or omission.

**PASSED AND ADOPTED** by the Alameda Local Agency Formation Commission on May 9, 2019 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:

Ayn Weiskamp
Chair

ATTEST:

Rachel Jones
Executive Officer

**AGENDA REPORT**
May 9, 2019
Item No. 10

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Legislative Report**

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The Commission will receive an update from the Legislative Committee as it relates to proposals impacting Local Agency Formation Commissions (LAFCOs). The report is being presented for discussion with a recommendation for the Commission to proceed and approve a support position for CALAFCO sponsored bill, Assembly Bill 1822. An update is also provided on CALAFCO's efforts to streamline its protest proceedings and the statutes.

**Information**

This item is for Alameda LAFCO to consider bill proposals as part of the first year of the State Legislature's 2019-2020 session that directly or indirectly impact LAFCO's duties and or interests as identified by CALAFCO. This includes considering CALAFCO's recommendations. The Commission is also invited to provide related direction on other legislative matters.

The following are the status on bills that may be of interest to the Commission and other bills affecting local public agencies. All bill proposals must pass out of either the Assembly or Senate no later than May 31st with amendments thereafter through September 6th. All bills must subsequently pass through both houses by September 13th with a 30-day window for the Governor to sign or veto.

**AB 1822 (Assembly Local Government Committee) | Omnibus**

This is an annual omnibus bill sponsored by CALAFCO that makes technical edits to LAFCO law highlighted by a standard definition of a "municipal service review" and the further improvement of streamlining existing out of area service agreement statutes. CALAFCO recommends the Commission approve a support position and authorize the Executive Officer to submit a letter to the author.

*Position:* Support*; Status:* Referred to Committee

**AB 213 (Reyes) | Local Government Finance: Vehicle License Fee Adjustments**

This bill restores funding for inhabited annexations through the vehicle license fee adjustment amount. Alameda LAFCO has submitted a letter of support as CALAFCO has historically supported the bill each year.

*Position:* Support*; Status:* Referred to Committee

**AB 1253 (Rivas) | LAFCO Funding**

This bill seeks one-time grant funding for LAFCOs as a follow up to the Little Hoover Commission report in 2017. It also calls for the reimbursement for the mandatory dissolution of inactive districts pursuant to AB 448 (Wieckowski). Alameda LAFCO has submitted a letter of support on behalf of CALAFCO's call for legislative action.

*Position:* Support*; Status:* Referred to Committee

**AB 1389 (Eggman) | Special Districts – Mitigation of Revenue Loss**

This bill would amend existing statute of the LAFCO approval process and allow LAFCOs when authorizing special districts to activate latent powers to propose that the districts provide payments to any affected local agency for taxes, fees, or any other lost revenue as a result of the new service being provided.

*Position:* Watch*; Status:* Referred to Committee

**Other Related Items**

CALAFCO, in conjunction with tracking and sponsoring bills, has formed an ad hoc committee to develop recommendations on a comprehensive rewrite of protest proceedings for a potential bill proposal by 2020. This proposal would simplify the navigation of statutes along with establishing a standard threshold of landowner and registered voter consent on proposals. The ad hoc committee's first meeting is scheduled May 30th in Sacramento.

Staff is also represented on the CALAFCO Legislative Committee as an alternate member for the coastal region and will continue to monitor and track legislation that impact LAFCOs or other related government agencies in coordination with CALAFCO.

**Alternatives for Action**

The following alternatives are available to the Commission:

Alternative One (Recommended):
Approve a support position for AB 1822 and authorize the Executive Officer to issue a letter to the authors.

Alternative Two:
Continue consideration of the report to a future meeting and provide direction to staff for additional information as needed.

**Recommendation**

It is recommended the Commission proceed with Alternative Action One.

Respectfully,

Rachel Jones
Executive Officer

Attachments:
1. CALAFCO Tracking Report
2. Letter of Support AB 1822

# CALAFCO Daily Legislative Report
# as of Thursday, April 25, 2019

**1**

**AB 508 (Chu D) Drinking water: consolidation and extension of service: domestic wells.**

**Current Text:** Amended: 4/11/2019 html pdf

**Introduced:** 2/13/2019

**Last Amended:** 4/11/2019

**Status:** 4/22/2019-Re-referred to Com. on L. GOV.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1st House | | | | 2nd House | | | | | | | |

**Summary:**

The California Safe Drinking Water Act requires the State Water Resources Control Board, before ordering consolidation or extension of service, to, among other things, make a finding that consolidation of the receiving water system and subsumed water system or extension of service to the subsumed water system is appropriate and technically and economically feasible. This bill would modify the provision that authorizes consolidation or extension of service if a disadvantaged community is reliant on a domestic well described above to instead authorize consolidation or extension of service if a disadvantaged community, in whole or in part, is reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water.

**Position:** Watch

**Subject:** Disadvantaged Communities, Water

**CALAFCO Comments:** This bill allows the SWRCB to order an extension of service in the case a disadvantaged community has at least one residence that are reliant on a domestic well that fails to provide safe drinking water. It allows members of the disadvantaged community to petition the SWRCB to initiate the process. It allows the owner of the property to opt out of the extension.The bill also places limitations on fees, charges and terms and conditions imposed as a result of the extension of service. Finally, the extension of service does not require annexation in the cases where that would be appropriate.

**AB 600 (Chu D) Local government: organization: disadvantaged unincorporated communities.**

**Current Text:** Amended: 4/11/2019 html pdf

**Introduced:** 2/14/2019

**Last Amended:** 4/11/2019

**Status:** 4/22/2019-Re-referred to Com. on L. GOV.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1st House | | | | 2nd House | | | | | | | |

**Summary:**

The Planning and Zoning Law requires a city or county, on or before the due date for the next adoption of its housing element, to review and update the land use element of its general plan based on available data, including, but not limited to, the data and analysis of unincorporated island, fringe, or legacy communities inside or near its boundaries, as provided. That law requires the updated land use element to include, among other things, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each identified community. This bill would define the term "needs or deficiencies" for these purposes to mean both deficient services and lack of services, as specified.

**Attachments:**
CALAFCO Oppose Letter REV April 19, 2019
LAFCo Oppose letter template REVISED
CALAFCO Oppose Letter April 16, 2019
LAFCo Oppose letter template

**Position:** Oppose
**Subject:** Disadvantaged Communities, Water
**CALAFCO Comments:** This bill creates a requirement for all cities, counties and certain special districts to develop an accessibility plan if they have DUCs identified in the land use element of the respective city or county. The accessibility plan is intended to be a plan for services to get those DUCs drinking water, wastewater and fire services. Contents of the plan are questionable (at best) and include things such as the identification of the entity best positioned to provide the service; actions necessary to be taken by the LAFCo to enable the provision of services to the DUC; any action the local agency feels the LAFCo will require them to take; cost/benefit analysis; and funding analysis. The agency then must submit the plan to the LAFCo, who is required to approve or conditionally approve within 90 days of receiving in a public hearing.

The bill includes as a purpose of the commission, to consider "equity" in addition to local circumstance and conditions, yet the bill leaves this term undefined.

The bill allows extension of service without annexation if a majority of residents (not registered voters) oppose the annexation.

The bill gives LAFCo new authority by requiring initiation of a change of org, reorg or service extension for any DUC related to an accessibility plan (by county, city of district) where no action has been taken by the county or city to address the service deficiency. Also, this part of the bill (56378.1) directly conflicts with other parts of the bill 56375(a)(8)(B).

The bill also requires each LAFCo to conduct a public hearing with two years of the approval of an accessibility plan for each entity to review the status of the plan, and if insufficient action has been taken, to authorize and initiate a change of organization, reorg or extension of service. In addition to the many troubling part of this process, the timing does not make sense because the bill also requires the service provider to issue reports to the state at the same time.

The bill also prohibits a LAFCo for adopting, amending or updating a SOI if: (1) a disadvantaged community is being removed from the sphere (unless the LAFCo can make findings that the removal of the area will result in an improvement in service delivery, (2) a sphere that fails to include a disadvantaged community that is contiguous to the proposed sphere unless the commission finds the exclusion of the area results in improved access to drinking or waste water; and if the service provider has not taken action pursuant to their accessibility plan two or more years prior to the amendment or update of the SOI.

All of these actions for LAFCos, cities, counties and special districts are unfunded mandates.

**AB 1253 (Rivas, Robert D) Local agency formation commissions: grant program.**
**Current Text:** Introduced: 2/21/2019 html pdf
**Introduced:** 2/21/2019
**Status:** 4/3/2019-In committee: Set, first hearing. Referred to APPR. suspense file.

| Desk | Policy | **Fiscal** | **Floor** | **Desk** | **Policy** | **Fiscal** | **Floor** | **Conf. Conc.** | **Enrolled** | **Vetoed** | **Chaptered** |
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| 1st House | | | | **2nd House** | | | | | | | |

**Summary:**
This bill would require the Strategic Growth Council, until July 31, 2025, to establish and administer a local agency formation commissions grant program for the payment of costs associated with initiating and completing the dissolution of districts listed as inactive, the payment of costs associated with a study of the services provided within a county by a public agency to a disadvantaged community, as defined, and for other specified purposes, including the initiation of an action, as defined, that is limited to service providers serving a disadvantaged community and is based on determinations found in the study, as approved by the commission. The bill would specify application submission, reimbursement, and reporting requirements for a local agency formation commission to receive grants pursuant to the bill. The bill would require the council, after consulting with the California Association of Local Agency Formation Commissions, to develop and adopt guidelines, timelines, and application and reporting criteria for development and implementation of the program, as specified, and would exempt these guidelines, timelines, and criteria from the rulemaking provisions of the Administrative Procedure Act. The bill would make the grant program subject to an appropriation for the program in the annual Budget Act, and would repeal these provisions on January 1, 2026. This bill contains other existing laws.
**Attachments:**
LAFCo Support Letter Template
CALAFCO Support letter Feb 2016

**Position:** Sponsor
**Subject:** Disadvantaged Communities, LAFCo Administration, Municipal Services, Special District Consolidations
**CALAFCO Comments:** This is a CALAFCO sponsored bill following up on the recommendation of the Little Hoover Commission report of 2017 for the Legislature to provide LAFCos one-time grant funding for in-depth studies of potential reorganization of local service providers. Last year, the Governor vetoed AB 2258 - this is the same bill. The Strategic Growth Council (SGC) will administer the grant program. Grant funds will be used specifically for conducting special studies to identify and support opportunities to create greater efficiencies in the provision of municipal services; to potentially initiate actions based on those studies that remove or reduce local costs thus incentivizing local agencies to work with the LAFCo in developing and implementing reorganization plans; and the dissolution of inactive districts (pursuant to SB 448, Wieckowksi, 2017). The grant program would sunset on July 31, 2024.

The bill also changes the protest threshold for LAFCo initiated actions, solely for the purposes of actions funded pursuant to this new section. It allows LAFCo to order the dissolution of a district (outside of the ones identified by the SCO) pursuant to Section 11221 of the Elections code, which is a tiered approach based on registered voters int he affected territory (from 30% down to 10% depending).

The focus is on service providers serving disadvantaged communities. The bill also requires LAFCo pay back grant funds in their entirety if the study is not completed within two years and requires the SGC to give preference to LAFCOs whose decisions have been aligned with the goals of sustainable communities strategies.

The fiscal request is $1.5 million over 5 years. CALAFCO is attempting to get this in the May revise budget so there is no General Fund appropriation (the reason Gov. Brown vetoed the bill).

**AB 1389** **(Eggman D) Special districts: change of organization: mitigation of revenue loss.**
**Current Text:** Introduced: 2/22/2019 html pdf
**Introduced:** 2/22/2019
**Status:** 3/14/2019-Referred to Com. on L. GOV.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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**Summary:**
Would authorize the commission to propose, as part of the review and approval of a proposal for the establishment of new or different functions or class of services, or the divestiture of the power to provide particular functions or class of services, within all or part of the jurisdictional boundaries of a special district, that the special district, to mitigate any loss of property taxes, franchise fees, and other revenues to any other affected local agency, provide payments to the affected local agency from the revenue derived from the proposed exercise of new or different functions or classes of service.

**Position:** Watch
**Subject:** CKH General Procedures
**CALAFCO Comments:** This bill allows LAFCo, when approving a proposal for new or different functions or class of service for a special district, to propose the district provide payments to any affected local agency for taxes, fees or any other revenue that may have been lost as a result of the new service being provided.

**AB 1751 (Chiu D) Water and sewer system corporations: consolidation of service.**
**Current Text:** Amended: 3/21/2019 html pdf
**Introduced:** 2/22/2019
**Last Amended:** 3/21/2019
**Status:** 4/24/2019-VOTE: Do pass as amended and be re-referred to the Committee on [Appropriations]

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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**Summary:**
Current law authorizes the State Water Resources Control Board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided. This bill, the Consolidation for Safe Drinking Water Act of 2019, would authorize a water or sewer system corporation to file an application and obtain approval from the commission through an order authorizing consolidation with a public water system or state small water system, or to implement rates for the subsumed water system.

**Position:** Watch
**Subject:** Water
**CALAFCO Comments:** This bill allows for water (public or state small) or sewer systems corps to file an application for consolidation with the SWRCB.

**AB 1822 (Committee on Local Government) Local Government: omnibus.**
**Current Text:** Amended: 4/8/2019 html pdf
**Introduced:** 3/11/2019
**Last Amended:** 4/8/2019
**Status:** 4/9/2019-Re-referred to Com. on L. GOV.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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| 1st House | | | | 2nd House | | | | Conc. | | | |

**Calendar:**
5/1/2019 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair
**Summary:**
Currrent law requires a commission to develop and determine the sphere of influence of each city and each special district within the county and enact policies designed to promote the logical and orderly development of areas within each sphere. Current law requires the commission, in order to prepare and update spheres of influence in

accordance with this requirement, to conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission, as specified. Current law defines "sphere of influence" to mean a plan for the probable physical boundaries and service area of a local agency. Current law defines the term "service" for purposes of the act to mean a specific governmental activity established within, and as a part of, a general function of the special district, as specified. This bill would revise the definition of the term "service" for these purposes to mean a specific governmental activity established within, and as a part of, a function of the local agency.

**Attachments:**
CALAFCO Support letter April 16, 2019
LAFCo Support letter template

**Position:** Sponsor
**Subject:** LAFCo Administration
**CALAFCO Comments:** This is the annual Omnibus bill.

**SB 272** **(Morrell R) Fire Protection District Law of 1987.**
**Current Text:** Amended: 4/4/2019 html pdf
**Introduced:** 2/13/2019
**Last Amended:** 4/4/2019
**Status:** 4/4/2019-Set for hearing May 1. From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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| 1st House | | | | 2nd House | | | | Conc. | | | |

**Calendar:**
5/1/2019 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, MCGUIRE, Chair
**Summary:**
The Fire Protection District Law of 1987 provides that whenever a district board determines that it is in the public interest to provide different services, to provide different levels of service, or to raise additional revenues within specific areas of the district, it may form one or more service zones by adopting a resolution that includes specified information, fixing the date, time, and place for public hearing on the formation of the zone, publishing notice, as specified, hearing and considering any protests to the formation of the zone at the hearing, and, at the conclusion of the hearing, adopting a resolution ordering the formation of the zone. If a resolution adopted after the public hearing would substantially expand the provision of services outside of an existing service zone and the extension of service would result in those persons in the expanded area paying charges for the expansion of services, this bill would provide that the resolution does not become effective unless approved by a majority of the voters within the expanded service area.

**Position:** Watch
**CALAFCO Comments:** This bill amends the Health & Safety code regarding the formation of zones within a fire protection district by requiring the district hold an election, regardless of the protest level, if the district wants to substantially expand services outside the zone. This is unrelated to 56133. CALAFCO will retain a Watch position.

**SB 414** **(Caballero D) Small System Water Authority Act of 2019.**
**Current Text:** Amended: 4/4/2019 html pdf
**Introduced:** 2/20/2019
**Last Amended:** 4/4/2019
**Status:** 4/22/2019-April 22 hearing: Placed on APPR. suspense file.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | | Enrolled | Vetoed | Chaptered |
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**Summary:**
Would create the Small System Water Authority Act of 2019 and state legislative findings and declarations relating to authorizing the creation of small system water authorities that will have powers to absorb, improve, and competently operate noncompliant public water systems. The bill, no later than March 1, 2020, would require the state board to provide written notice to cure to all public agencies, private water companies, or mutual water companies that operate a public water system that has either less than 3,000 service connections or that serves less than 10,000 people, and are not in compliance, for the period from July 1, 2018, through December 31, 2019, with one or more state or federal primary drinking water standard maximum contaminant levels, as specified.

**Position:** Watch
**Subject:** Water
**CALAFCO Comments:** This bill is very similar to AB 2050 (Caballero) from 2018. Several changes have been made. This bill is sponsored by Eastern Municipal Water District and the CA Municipal Utilities Assoc. The intent is to give the State Water Resources Control Board (SWRCB) authority to mandate the dissolution of existing drinking water systems (public, mutual and private) and authorize the formation of a new public water authority. The focus is on non contiguous systems. The SWRCB already has the authority to mandate consolidation of these systems, this will add the authority to mandate dissolution and formation of a new public agency.

LAFCo will be responsible for dissolving any state mandated public agency dissolution, and the formation of the new water authority. The SWRCB's appointed Administrator will act as the applicant on behalf of the state. LAFCo will have ability to approve with modifications the application, and the new agency will have to report to the LAFCo annually for the first 3 years.

**SB 646** **(Morrell R) Local agency utility services: extension of utility services.**
**Current Text:** Amended: 4/11/2019 html pdf
**Introduced:** 2/22/2019
**Last Amended:** 4/11/2019
**Status:** 4/18/2019-Set for hearing May 1.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
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**Calendar:**
5/1/2019 9:30 a.m. - Room 112 SENATE GOVERNANCE AND FINANCE, MCGUIRE, Chair
**Summary:**
The Mitigation Fee Act, among other things, requires fees for water or sewer connections, or capacity charges imposed by a local agency to not exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed, unless a question regarding the amount of the fee or charge imposed in excess of the reasonable cost of providing the service or materials is submitted to and approved by 2/3 of the electors voting on the issue. This bill would state that a fee or charge for the extension of water or sewer service may not be utilized for facilities or services other than those for which the fee or charge is imposed.

**Position:** Neutral
**Subject:** CKH General Procedures
**CALAFCO Comments:** UPDATE AS OF THE 4/11/19 AMENDMENTS: These amendments address all of our concerns and the bill now only addresses fees.

This bill does 3 things. (1) Seeks to add a provision to 56133 that requires LAFCo to

approve an extension of service regardless of whether a future annexation is anticipated or not. It further requires the service provider to extend the provision of service to a property owner regardless of a whether there is a pending annexation or pre-annexation agreement. The newly proposed subsection directly contradicts subsection (b). (2) Changes the definition of "fee" by requiring the new few "is of proportional benefit to the person or property being charged." There is no reasonable definition or application of "proportional benefit". (3) Narrows the scope of application of Section 56133 to water or sewer service; and prohibits the service provider to charge higher fees and charges to those outside the jurisdictional boundaries.

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**2**

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**AB 213 (Reyes D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**

**Current Text:** Introduced: 1/15/2019 html pdf

**Introduced:** 1/15/2019

**Status:** 4/10/2019-In committee: Set, first hearing. Referred to APPR. suspense file.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
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**Summary:**
Would, for the 2019–20 fiscal year, require the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount in the 2018–19 fiscal year, the product of that sum and the percentage change in gross taxable assessed valuation within the jurisdiction of that entity between the 2018–19 fiscal year to the 2018–19 fiscal year, and the product of the amount of specified motor vehicle license fee revenues that the Controller allocated to the applicable city in July 2010 and 1.17.

**Attachments:**
CALAFCO Support Letter

**Position:** Support
**Subject:** Tax Allocation
**CALAFCO Comments:** Sponsored by the League, this bill will reinstate ERAF funding for inhabited annexations. This bill is the same as AB 2268 (Reyes) from last year.

**AB 818 (Cooley D) Local government finance: vehicle license fee adjustment amounts.**

**Current Text:** Introduced: 2/20/2019 html pdf

**Introduced:** 2/20/2019

**Status:** 4/3/2019-In committee: Set, first hearing. Referred to APPR. suspense file.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
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**Summary:**
Current property tax law, for the 2006–07 fiscal year, and for each fiscal year thereafter, requires the vehicle license fee adjustment amount to be the sum of the vehicle license fee adjustment amount for the prior fiscal year, if specified provisions did not apply, and the product of the amount as so described and the percentage change from the prior fiscal year in the gross taxable valuation within the jurisdiction of the entity. Current law establishes a separate vehicle license fee adjustment amount for a city that was incorporated after January 1, 2004, and on or before January 1, 2012. This bill would establish a separate vehicle license fee adjustment amount for a city incorporating after January 1, 2012, including an additional separate vehicle license fee adjustment amount for the first fiscal year of incorporation and for the next 4 fiscal years thereafter.

**Attachments:**
LAFCo Support letter template
CALAFCO Support March 2019

**Position:** Support
**Subject:** Financial Viability of Agencies
**CALAFCO Comments:** Sponsored by the League, this bill will reinstate ERAF funding for cities incorporating after 2018. This is the same bill as AB 2491 from 2018.

**AB 1304** **(Waldron R) Water supply contract: Native American tribes.**
**Current Text:** Amended: 4/22/2019 html pdf
**Introduced:** 2/22/2019
**Last Amended:** 4/22/2019
**Status:** 4/23/2019-Re-referred to Com. on L. GOV.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
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**Calendar:**
5/1/2019 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair
**Summary:**
Current law provides for the establishment and operations of various water districts.This bill would specifically authorize a water district, as defined, to enter into a contract with a Native American tribe to receive water deliveries from an infrastructure project on tribal lands.

**Position:** Watch
**Subject:** Municipal Services, Water
**CALAFCO Comments:** This bill amends the water code to allow a Native American tribe to sell/deliver water to a water district (as defined in the water code section 20200).

**SB 379** **(Committee on Governance and Finance) Validations.**
**Current Text:** Introduced: 2/20/2019 html pdf
**Introduced:** 2/20/2019
**Status:** 4/4/2019-Read third time. Urgency clause adopted. Passed. (Ayes 36. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
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**Summary:**
This bill would enact the First Validating Act of 2019, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.
**Attachments:**
CALAFCO Support March 2019

**Position:** Support
**Subject:** LAFCo Administration
**CALAFCO Comments:** This is one of three annual validating acts.

**SB 380** **(Committee on Governance and Finance) Validations.**
**Current Text:** Introduced: 2/20/2019 html pdf
**Introduced:** 2/20/2019
**Status:** 4/4/2019-Read third time. Urgency clause adopted. Passed. (Ayes 36. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
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**Summary:**
This bill would enact the Second Validating Act of 2019, which would validate the

organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.
**Attachments:**
CALAFCO Support March 2019

**Position:** Support
**Subject:** LAFCo Administration
**CALAFCO Comments:** This is one of three annual validating acts.

**SB 381** **(Committee on Governance and Finance) Validations.**
**Current Text:** Introduced: 2/20/2019 html pdf
**Introduced:** 2/20/2019
**Status:** 4/4/2019-Read third time. Passed. (Ayes 36. Noes 0.) Ordered to the Assembly. In Assembly. Read first time. Held at Desk.

| Desk | Policy | Fiscal | Floor | **Desk** | **Policy** | **Fiscal** | **Floor** | **Conf. Conc.** | **Enrolled** | **Vetoed** | **Chaptered** |
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**Summary:**
This bill would enact the Third Validating Act of 2019, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.
**Attachments:**
CALAFCO Support March 2019

**Position:** Support
**Subject:** LAFCo Administration
**CALAFCO Comments:** This is one of three annual validating acts.

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**3**

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**AB 530** **(Aguiar-Curry D) The Fairfield-Suisun Sewer District.**
**Current Text:** Amended: 4/22/2019 html pdf
**Introduced:** 2/13/2019
**Last Amended:** 4/22/2019
**Status:** 4/23/2019-Read second time. Ordered to third reading.

| Desk | Policy | Fiscal | **Floor** | **Desk** | **Policy** | **Fiscal** | **Floor** | **Conf. Conc.** | **Enrolled** | **Vetoed** | **Chaptered** |
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| 1st House | | | | **2nd House** | | | | | | | |

**Calendar:**
4/25/2019 #184 ASSEMBLY THIRD READING FILE - ASSEMBLY BILLS
**Summary:**
The Fairfield-Suisun Sewer District Act creates the Fairfield-Suisun Sewer District and grants to the district various powers relating to the treatment and disposal of sewage. The current act provides for the election of a board of directors for the district and administrative procedures for the operation of the district. Violation of regulations adopted by the board is a misdemeanor. This bill would make various administrative changes to the act, including removing the requirement that the district appoint a clerk and changing the posting requirements for regulations.

**Position:** Watch
**Subject:** Special District Powers, Special Districts Governance
**CALAFCO Comments:** This bill makes administrative changes to this special act district. It also allows for an extension of service pursuant to 56133 (keeping that LAFCo process intact).

**AB 1053** **(Dahle R) Fallen Leaf Lake Community Service District.**
**Current Text:** Amended: 3/25/2019 html pdf

**Introduced:** 2/21/2019
**Last Amended:** 3/25/2019
**Status:** 3/26/2019-Re-referred to Com. on L. GOV.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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| 1st House | | | | 2nd House | | | | Conc. | | | |

**Calendar:**
5/1/2019 1:30 p.m. - State Capitol, Room 447 ASSEMBLY LOCAL GOVERNMENT, AGUIAR-CURRY, Chair
**Summary:**
Would prohibit, on and after January 1, 2020, the Fallen Leaf Lake Community Services District from providing any services or facilities except fire protection, including medical response and emergency services, and parks and recreation services or facilities.

**Position:** Watch
**CALAFCO Comments:** CALAFCO will watch this bill to determine if the outcome of the State Audit on this district will have an impact on all CSDs.

**AB 1457** **(Reyes D) Omnitrans Transit District.**
**Current Text:** Amended: 4/11/2019 html pdf
**Introduced:** 2/22/2019
**Last Amended:** 4/11/2019
**Status:** 4/23/2019-From committee: Do pass and re-refer to Com. on APPR. (Ayes 12. Noes 0.) (April 22). Re-referred to Com. on APPR.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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| 1st House | | | | 2nd House | | | | Conc. | | | |

**Summary:**
Would create the Omnitrans Transit District in the County of San Bernardino. The bill would provide that the jurisdiction of the district would initially include the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa, and specified portions of the unincorporated areas of the County of San Bernardino. The bill would authorize other cities in the County of San Bernardino to subsequently join the district.
**Attachments:**
CALAFCO Oppose unless amended letter April 2019

**Position:** Oppose unless amended
**CALAFCO Comments:** This is a special act district formation. The bill takes what is currently a JPA and transforms it into a special district. The bill specifically addresses annexations and detachments and dissolution processes that do not include LAFCo. Also of concern is the lack of specificity in the process for adding new board members when a territory is annexed.

**SB 654** **(Moorlach R) Local government: planning.**
**Current Text:** Introduced: 2/22/2019 html pdf
**Introduced:** 2/22/2019
**Status:** 3/14/2019-Referred to Com. on RLS.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. | Enrolled | Vetoed | Chaptered |
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| 1st House | | | | 2nd House | | | | Conc. | | | |

**Summary:**
Current law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, makes certain findings and declarations relating to local government organizations, including, among other things, the encouragement of orderly growth and development, and the logical formation and modification of the boundaries of local agencies, as specified. This bill would make nonsubstantive changes to these findings and declarations.

**Position:** Watch
**CALAFCO Comments:** This is a spot bill. The author indicates he has no plans to use this for LAFCo law.

**SB 780** **(Committee on Governance and Finance) Local Government Omnibus Act of 2019.**
**Current Text:** Amended: 4/11/2019 html pdf
**Introduced:** 2/28/2019
**Last Amended:** 4/11/2019
**Status:** 4/11/2019-From committee with author's amendments. Read second time and amended. Re-referred to Com. on GOV. & F.

| Desk | Policy | Fiscal | Floor | Desk | Policy | Fiscal | Floor | Conf. Conc. | Enrolled | Vetoed | Chaptered |
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**Summary:**
Current law requires the governing body of a public agency, within 70 days after the commencement of the agency's legal existence, to file with the Secretary of State, on a form prescribed by the secretary, and also with the county clerk of each county in which the public agency maintains an office, a specified statement of facts about the agency. Current law requires this information to be updated within 10 days of a change in it. Current law requires the Secretary of State and each county clerk to establish and maintain an indexed Roster of Public Agencies that contains this information. This bill would instead require the Secretary of State and each county clerk to establish and maintain an indexed Registry of Public Agencies containing the above-described information.

**Position:** Watch
**CALAFCO Comments:** This is the Senate Governance & Finance Committee's annual Omnibus bill.

Total Measures: 20
Total Tracking Forms: 20

4/25/2019 7:55:05 AM

# LAFCO

*Alameda* Local Agency Formation Commission

May 10, 2019

**Delivered by Mail:**
The Honorable Cecilia Aguiar-Curry, Chair
Assembly Local Government Committee
California State Assembly
State Capital Room 5144
Sacramento, CA 95814

**SUBJECT: Support of AB 1822**

Dear Assembly Member Aguiar-Curry:

The Alameda Local Agency Formation Commission (LAFCO) is pleased to support **Assembly Bill 1822 (**amended April 8, 2019), which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act).

This annual bill includes technical changes to the Act which governs the work of LAFCOs. These changes are necessary as Commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. ***AB 1822*** currently makes minor technical corrections to language used in the Act. Alameda LAFCO is grateful to your Committee, staff and CALAFCO, all of whom worked diligently on this language to ensure there are no substantive changes while creating a significant increase in the clarity of the Act for all stakeholders.

This legislation helps ensure the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state. We appreciate your Committee's authorship and support of this bill, and your support of the mission of LAFCOs.

Sincerely,

Rachel Jones
Executive Officer

cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
Pamela Miller, Executive Director, CALAFCO

**Administrative Office**
Rachel Jones, Executive Officer
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**Scott Haggerty, Regular** County of Alameda
**Nate Miley, Regular** County of Alameda
**Richard Valle, Alternate** County of Alameda
**John Marchand, Regular** City of Livermore
**Jerry Thorne, Regular** City of Pleasanton
**David Haubert, Alternate** City of Dublin
**Ralph Johnson, Regular** Castro Valley Sanitary District
**Ayn Wieskamp, Chair** East Bay Regional Park Dsitrict
**Geogean Vonheeder-Leopold, Alternate** Dublin San Ramon Services District
**Sblend Sblendorio, Regular** Public Member
**Tom Pico, Alternate** Public Member

**AGENDA REPORT**
May 9, 2019
Item No. 11

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Update | Memorandum of Understanding with County of Alameda**

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The Commission will receive an update on progress to date between the Alameda Local Agency Formation Commission (LAFCO) and the County of Alameda in regards to its Memorandum of Understanding (MOU) for administrative and support services set to expire on June 30, 2019. The existing MOU is still under negotiation, but with both parties in agreement to the overall terms outlined, staff expects an MOU agreement ready for Commission approval at Alameda LAFCO's special meeting scheduled on May 29, 2019. The report is being presented for information only along with any Commission feedback.

## Background

The Cortese-Knox-Hertzberg Reorganization Act of 2000 ("CKH") and the Hertzberg Commission encouraged more independence of LAFCOs from counties so they could be granted more power to achieve the State Legislature's goals of rational boundaries, urban sprawl prevention and the preservation of prime agricultural land. It authorizes LAFCOs to enter into agreements or contracts with public and private parties for services necessary to meet its regulatory and planning responsibilities. This includes making independent arrangements for personnel, services, and facilities.

Since CKH, Alameda LAFCO has contracted support services from the County of Alameda including staffing, human resources and financial accounting. Over the past four years, the Commission has conducted multiple strategic planning sessions in which it has articulated affirmative goals for which emphasis on its status as an independent public agency is an important value and mode of operation.

With the MOU between Alameda LAFCO and the County of Alameda set to expire this current fiscal year, both entities seek to strenghen its contract with each other by clearly outlining its operational needs and capacities as reference to its evolving relationship over the years. Overall, the MOU will not only help foster LAFCO's effectiveness through the agreed upon support services, but it will also allow for the County to streamline its provisions.

**Information**

The following items are notable changes proposed to the existing MOU contract:

- The County will provide up to three full-time County employees to serve as staff to LAFCO with the staff allocation ultimately determined by the Commission within that maximum of three through approval of the annual budget. The County employees will have LAFCO-specific job descriptions developed by the County in consultation with LAFCO and approval by the County's Civil Service Commission

- LAFCO staff may not be removed, replaced or changed without communication with the Commission.

- LAFCO will participate in the County's management system as its own business unit to simplify its financial management files.

- The County will provide LAFCO with office space separate from County agencies or departments, but located within County-owned or leased facilities. The MOU indicates separate office space, but the ultimate determination of the new location will be made by the Commission. Alameda LAFCO is currently working with the County Administrator's Office (CAO) to locate office space and believes there is an ideal suite at the Community Development Agency located in Hayward. Currently, the CAO is at capacity with many offices having two employees sharing one space. This move would allow for the CAO to recruit and seek more staff in step with its operational needs.

- The Executive Officer will report directly to the Commission on all policy and LAFCO considerations and to the County Administrator or designee on personnel matters.

The proposed MOU provides clear direction to LAFCO and the County going forward in regards to its support services and organizational structure. Staff expects an MOU agreement ready for Commission approval at Alameda LAFCO's special meeting scheduled on May 29, 2019. Commission feedback is welcomed.

Attachments: none

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**AGENDA REPORT**
May 9, 2019
Item No. 12

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Nomination and Election of Chair and Vice Chair**

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As set forth in the Commission's Policies and Procedures Guidelines, the Alameda Local Agency Formation Commission (LAFCO) elects its officers (Chair and Vice Chair) at the May meeting for a period of two years with the newly elected officers assuming office at the next regular Commission meeting.

The Commission established the following rotation for officers:

- County
- Public
- City
- Special District

Only those members of the Commission authorized to vote at this meeting can nominate and vote for the Chair and Vice Chair.

**Alternatives for Action**

The following alternatives are available to the Commission:

Alternative One (Recommended):
Nominate and elect the Commission Chair and Vice Chair for FY 2019-2020.

Alternative Two:
Continue consideration of the report to a future meeting and provide direction to staff for additional information as needed.

**Recommendation**

It is recommended the Commission proceed with Alternative Action One.

Respectfully,

Rachel Jones
Executive Officer

Attachments: none

**AGENDA REPORT**
May 9, 2019
Item No. 14a

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Current and Pending Proposals**

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The Commission will receive a report identifying active proposals on file with the Alameda Local Agency Formation Commission (LAFCO) as required under statute. The report also identifies pending local agency proposals to help telegraph future workload. The report is being presented to the Commission for information only.

**Information / Discussion**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") delegates LAFCOs with regulatory and planning duties to coordinate the formation and development of local government agencies and their municipal services. This includes approving or disapproving boundary changes involving the formation, expansion, merger, and dissolution of cities, towns and special districts as well as sphere of influence amendments. It also includes overseeing outside service extensions. Proposals involving jurisdictional changes filed by landowners or registered voters must be put on the agenda as information items before any action may considered by LAFCO at a subsequent meeting.

**Current Proposals | Approved and Awaiting Term Completions**

The following proposal was previously approved by Alameda LAFCO, but remains active given that not all approval terms established by the membership have been met. CKH provides applicants one calendar year to complete approval terms or receive extension approvals before the proposals are automatically terminated.

- **Reorganization of East Bay Municipal Utility District and City of Hayward**
  The Commission received a proposal filed by the East Bay Municipal Utility District (EBMUD) involving 273 parcels within the City of Hayward and the unincorporated communities of San Lorenzo and Fairview totaling 269.8 acres. The purpose of the proposal is to align EBMUD's existing service area with its jurisdictional boundary and formalize public water services provided within the affected territory to the correct service provider. The Commission approved the proposal without amendments on November 11, 2018. Terms remain outstanding as of date and therefore remains active.

## Current Proposals | Under Review and Awaiting Hearing

There is currently one active proposal on file with the Commission that remains under administrative review and awaits a hearing as of date of this report.

- **Annexation of Dumbarton Quarry Regional Park| Union Sanitary District**
  The Commission has received a proposal from Pacific States Environmental Contractors on behalf of the East Bay Regional Park District (EBRPD) requesting annexation approval of 9600 Quarry Road (537-0851-002-02) located in the City of Fremont to Union Sanitary District. The affected territory totals 91.0 acres and is currently under development for a public park and camp site. The stated purpose of the proposal is to provide public wastewater service in support of the park. The application is currently under administrative review and is deemed incomplete at this time.

## Pending Proposals

There are no potential new proposals at the moment that staff believes may be submitted to the Commission from local agencies based on ongoing discussions with proponents within the last two years.

The Commission is invited to discuss the item and provide direction to staff on any related matter as needed for future discussion and or action.

Attachments: none

**AGENDA REPORT**
May 9, 2019
Item No. 14b

**TO:** Alameda Commissioners

**FROM:** Rachel Jones, Executive Officer

**SUBJECT:** **Progress Report on Strategic Plan 2018-2020**

The Commission will receive a report on progress made to date to accomplish the goals and objectives set forth in the 2018-2020 Strategic Plan. The report is being presented to the Commission for information only. The Commission is also invited to direct staff with respect to achieving agency goals going forward.

**Discussion**

Alameda LAFCO's current strategic plan was adopted following a planning session on September 22, 2017. The strategic plan is anchored by seven key priorities that collectively orient the Commission to proactively fulfill its duties and responsibilities under the Cortese-Knox-Hertzberg Act of 2000 in a manner responsive to local conditions and needs. These goals and their attendant objectives, which premise individual implementation strategies, are summarized below.

1. Island Annexations
2. Water Supply, Availability and Alternative Options
3. Accommodate Population Growth while Maintaining Quality of Life
4. Agriculture and Open Space Preservation and Urban Growth Boundaries
5. Climate Change Adaptation
6. LAFCO Independence and Other Operational Improvements
7. Comprehensive Study of Unincorporated Areas Focusing on Disadvantaged Unincorporated Communities (DUCs)

A summary of notable action steps in implementing objectives initiated to date:

**Island Annexations | Review Existing Island Annexation Policies and Identify Potential Changes**

- The Community Development Agency of Alameda County is currently creating a geographical boundary layer in its Geographical Information System (GIS) for all jurisdictional boundaries and sphere of influences under LAFCO. This will aid LAFCO in identifying boundary irregularities and serve as a resource to the public and local agencies.

- Staff has met and will continue to meet with city managers, planners and general managers to streamline the application process to encourage annexations of unincorporated islands.

**Accommodate Population Growth | Participate in the California Association of Local Agency Formation Commissions (CALAFCO)**

- Staff currently serves as an alternate member on CALAFCO's Legislative Committee and continues to meet biannually with Bay Area LAFCOs to collaborate on legislation impacting LAFCOs or on special projects for possible shared services and or best practices.

**Climate Change Adaptation | Work with Stakeholders to Identify Impacts**

- QK Associates is the firm selected to conduct the Countywide Municipal Service Review (MSR) on water, wastewater, flood control and stormwater services. Staff has emphasized in its discussions with the consultant the need to analyze future environmental impacts and strains on infrastructure due to climate change as well as examine alternative approaches and shared facilities for the resourceful delivery of services. The MSR is currently underway and QK Associates has almost completed the data acquisition phase of the MSR and will begin data comparisons and analysis of MSR metrics from past studies.

**LAFCO Independence and Operational Improvements | Conduct Operational Study**

- Staff is currently working with the County of Alameda on MOU negotiations that best reflect Alameda LAFCO's current operational needs.

- The Commission has updated its fee schedule after 10 years to improve cost recovery and implementation of boundary change requests.

- Staff has selected Harshwal & Company as the accounting firm to prepare the Commission's FY 2017-2018 audit. This would be LAFCO's first standalone audit in over ten years that will be presented at the Commission's July meeting and would aid the agency in making accurate operational corrections.

**LAFCO Independence and Operational Improvements | Website Update**

- LAFCO's new website has launched with the County's Information Technology Department and staff is continuing to make improvements on the site to foster better transparency and greater accessibility to the public and local agencies.

**Comprehensive Study of Unincorporated Areas | Special Study**

- The Commission has adopted a study schedule calendaring municipal service reviews and sphere of influence updates for the 2019-2024 five-year cycle and includes a special study of disadvantaged unincorporated communities.

- Staff is currently utilizing CALAFCO's Disadvantaged Unincorporated Communities (DUCs) Map to identify any potential DUCs within the County.

Staff will continue to work with the Commission to address Strategic Plan priorities and develop a work plan that encompasses LAFCO's objectives.

The Commission is invited to discuss the item and provide direction to staff on any related matter as needed for future discussion and or action.

Attachments:
1. 2018-2022 Alameda LAFCO Strategic Plan

# Alameda LAFCo 2018-2020 Strategic Plan

**1. Island Annexations** - There are two types of islands: unincorporated islands and unserved islands. Unincorporated islands are pockets of County territory that are surrounded by or adjacent to cities. The residents in these islands typically receive their services from the County. If these island areas meet certain criteria identified in Government Code Section 56375.3, they may qualify for expedited annexation processing procedures. There may be other unincorporated areas within the County that do not meet that criteria but warrant additional study. The boundaries of special districts may include pockets of unserved territory that can be referred to as unserved islands. These types of islands do not qualify for an expedited annexation process. The development and adoption of local policies to incentivize all types of island annexations may lead to more efficient service provision.

| Objectives | Key Action Steps | Timeframe |
|---|---|---|
| A. Eliminate islands by encouraging municipal annexation of unincorporated islands and district annexation of unserved islands. | 1. Review existing island annexation policies and identify potential changes.<br>2. Present draft policy recommendations to the Policy and Budget Committee.<br>3. Present draft Policy and Budget Committee recommendations to the full Commission for consideration.<br>4. Identify and update list of island areas and map the islands based on revised island annexation policies.<br>5. Communicate directly with affected agencies to inform them of revised policies and encourage each agency to identify steps needed to annex the islands within their jurisdictional boundaries and provide that information to LAFCo. | 2019 |
| B. Serve as a resource to the public and to local agencies to support orderly growth and logical, sustainable service provision. | 1. Disseminate revised island annexation policies to all member agencies and key stakeholders, and post updated policies on Alameda LAFCo website.<br>2. Work with affected local agencies and communities to address identified barriers and facilitate community meetings to annexation. | 2019 |

**2. Water Supply and Availability Including Recycled Water** - Water supply and availability is a perennially critical issue throughout California. LAFCo considers the availability of water supplies as one of the 16 factors analyzed as part of reorganization proposals (e.g., annexations). Additionally, LAFCo conducts municipal services reviews which include the study of water supply and availability across the County including recycled water. Alameda LAFCo seeks to promote sustainable, adequate and reliable water sources to support existing and future development, as well as agricultural land uses.

| Objective | Key Action Steps | Timeframe |
|---|---|---|
| A. Promote the sustainability of adequate and reliable water supplies, including the use of recycled water, to support existing and future development and agricultural land uses. | 1. Develop policies and standards to address the sustainability of adequate and reliable water supplies, including the use of recycled water.<br>2. Incorporate standards into municipal services reviews (MSRs) and sphere of influence (SOI) updates.<br>3. Complete MSR of water, waste water, flood control, and storm water services in Alameda County and update SOIs as necessary.<br>4. As appropriate, identify terms and conditions to apply as part of the SOI update process to promote adequate and reliable water supplies including the use of recycled water.<br>5. Follow up as needed with local agencies where terms and conditions have been imposed to monitor agency progress.<br>6. Convene local agencies, regulatory agencies (e.g., the State Regional Water Quality Control Board), the Dublin San Ramon Services District – East Bay Municipal Utility District Recycled Water Authority (DERWA), and other relevant stakeholders to facilitate conversations about regional water and wastewater coordination opportunities. | 2018 |

**3. Accommodate Population Growth While Maintaining Quality of Life** - The State Legislature granted LAFCos the authority to regulate boundaries and establish spheres of influence (SOIs) for cities and special districts that provide municipal services. SOIs are LAFCo-adopted planning areas that show where a local agency's physical boundary and service area should be. In conjunction with the update of SOIs, LAFCo conducts municipal services reviews (MSRs). A MSR evaluates the capability of an agency to serve its existing residents and future development within its SOI and must include specific written determinations including, but not limited to, the level and adequacy of services, financial ability of agencies to provide services, and accountability of local governmental agencies. Through these mechanisms, LAFCo assumes both planning and regulatory roles in accommodating population growth and maintaining the quality of life for Alameda County residents.

| Objectives | Key Action Steps | Timeframe |
|---|---|---|
| A. Encourage orderly growth and development through the logical and efficient provision of municipal services by local agencies best suited to feasibly provide necessary governmental services and housing for persons and families of all incomes. | 1. Implement LAFCo's regulatory functions by processing governmental service reorganization proposals and out-of-area service agreement applications.<br>2. Implement LAFCo's planning functions by periodically updating the SOIs of local governmental agencies and conducting MSRs.<br>3. Update LAFCo's policies and procedures to improve usability and reflect local conditions and circumstances.<br>4. Serve as a resource to the public and to local agencies to support orderly growth and logical, sustainable service provision.<br>5. Participate in regional planning efforts including the update of Plan Bay Area. | 2018, 2019, 2020 |
| B. Be proactive and act as a catalyst for change as a way to contribute to making Alameda County a great place to live and work. | 1. Maintain relationships with member agencies and other identified stakeholders to stay abreast of major service issues and proposed changes of organization (e.g., California Special Districts Association, Mayors' Conference, local agency planning staff, other boards and councils).<br>2. Communicate Alameda LAFCo's mission and goals to the community.<br>3. Identify strategies to achieve shared objectives.<br>4. Participate in the California Association of Local Agency Formation Commissions (CALAFCO) statewide efforts to enhance and clarify LAFCo authority and powers to perform its state-mandated responsibilities. | 2018, 2019, 2020 |
| C. Strengthen local agency oversight. | 1. Identify and adopt accountability and transparency standards for local agencies including Alameda LAFCo (e.g. Special District Leadership Foundation).<br>2. Identify and adopt financial stress test standards for local agencies (e.g., League of Cities Municipal Financial Health Diagnostic Tool).<br>3. Incorporate standards into MSR and SOI update processes.<br>4. As appropriate, identify terms and conditions to apply as part of the SOI update process to strengthen local agency accountability and transparency, and financial ability to provide services.<br>5. Follow up as needed with local agencies where terms and conditions have been imposed to monitor agency progress. | 2018 |

**4. Agriculture and Open Space Preservation and Urban Growth Boundaries -** The State Legislature specifies LAFCos' purposes to be, among others, "discouraging urban sprawl, [and] preserving open space and prime agricultural lands…based upon local conditions and circumstances." Voter-approved urban growth boundaries have been adopted by Alameda County, as well as the cities of Dublin, Livermore, and Pleasanton. LAFCo has decided to strengthen its policies in relation to preserving agriculture and open space. Additionally, LAFCo will determine the need to adopt policies regarding the application of voter-approved urban growth boundaries to matters before it.

| Key Objectives | Key Action Steps | Timeframe |
|---|---|---|
| A. Support the viability of agriculture in Alameda County | 1. Review existing agricultural, in-fill, out-of-area service agreement, and sphere of influence policies.<br>2. Work with stakeholders to identify issues under LAFCo jurisdiction related to the economic viability of agriculture.<br>3. Establish set of standards and revised policies based on best practices and local conditions.<br>4. Disseminate information to key stakeholders and post updates on Alameda LAFCo website.<br>5. Utilize policies to impose conditions on reorganization proposals, sphere of influence updates, and out-of-area service agreement applications to support the viability of agricultural land uses. | 2019 |
| B. Mitigate for loss of agricultural and open space lands. | 1. Establish a set of standards and policies based on best practices and local conditions.<br>2. Present recommendations to Policy and Budget Committee.<br>3. Present Policy and Budget Committee recommendations to full Commission.<br>4. Disseminate information to key stakeholders and post updates on Alameda LAFCo website.<br>5. Utilize policies to impose conditions on reorganization proposals, sphere of influence updates, and out-of-area service agreement applications to support the viability of agricultural land uses. | 2020 |
| C. Determine the need for local policies regarding the application of adopted urban growth boundaries to LAFCo decision making. | 1. Collect and review information and maps regarding all adopted urban growth boundaries in Alameda County, as well as best practices from other LAFCos.<br>2. Present information to Policy and Budget Committee to discuss whether a local policy regarding urban growth boundaries is warranted.<br>3. Based on Policy and Budget Committee recommendation, determine need to develop draft policies and present to full Commission for consideration. | 2020 |

**5. Climate Change Adaptation** - Current and future climate change impacts are of concern in Alameda County. Such impacts may include rising sea levels, flooding, wildfire, extreme heat episodes and drought. An increase in the frequency and severity of extreme events related to these impacts is expected. LAFCo will determine the need for policies regarding climate change adaptation and local agencies' plans to prepare for these challenges.

| Key Objectives | Key Action Steps | Timeframe |
|---|---|---|
| A. Promote the recognition of climate change adaptation needs. | 1. Work with stakeholders to identify the impacts of climate change that local agencies and communities face now and into the future (e.g. infrastructure subject to the effects of climate change, increased fire risks at the wildland-urban interface).<br>2. Facilitate climate adaptation information sharing among local agencies and discussions around long-term needs for adaptation in land use plans, capital infrastructure plans, master plans and other relevant documents.<br>3. Document County-wide climate change adaptation needs and plans to maximize resources and benefits. | 2020 |
| B. Determine the need for local policies regarding climate change adaptation. | 1. Review documentation regarding local circumstances and conditions affecting climate change adaptation.<br>2. Present information to Policy and Budget Committee and discuss whether local policies regarding climate change adaptation are warranted.<br>3. Based on Policy and Budget Committee recommendation, develop draft policies and present to full Commission for consideration. | 2020 |

**6. LAFCo Independence and Other Operational Improvements -** The State Legislature recognized LAFCo's independence as vital to ensuring that LAFCo decisions are credible to the public when it enacted changes as part of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). Among other provisions, CKH authorizes LAFCos to adopt written policies and procedures, incur expenses to accomplish its functions, and to employ staff or contract for professional services to carry out the functions of the Commission. CKH further specifies that LAFCo shall appoint its executive officer and legal counsel. Alameda LAFCo currently obtains its staffing and other services via memorandum of understanding with Alameda County. It has been over 15 years since the CKH was enacted. A study of the costs and benefits of various operational models is warranted.

| Key Objectives | Key Action Steps | Timeframe |
|---|---|---|
| A. Improve efficiency and effectiveness of Commission operations. | 1. Complete a study of various operational options ranging from status quo to full independence that includes general implementation timelines, range of costs, and other implementation factors.<br>2. Present study results to Policy and Budget Committee.<br>3. Present Policy and Budget Committee recommendations to full Commission.<br>4. Implement recommendations adopted by Commission. | 2018 |
| B. Update the Alameda LAFCo website to be more functional for members of the public and local agencies. | 1. Conduct request-for-proposal process to obtain website design services.<br>2. Present proposed changes to Commission for review and comment.<br>3. Implement update.<br>4. Maintain website with updated information as needed. | 2018 |

**7. Comprehensive Study of Unincorporated Areas Focusing on Disadvantaged Unincorporated Communities** - Alameda County has 14 municipalities and six developed unincorporated communities. Beginning in 2012, state law was enacted requiring LAFCos, cities, and counties to plan for municipal service delivery to disadvantaged unincorporated communities (DUCs). A DUC is defined as an area of inhabited territory located within an unincorporated area of a County in which the annual median household income is less than 80 percent of the statewide median household income. The law requires LAFCo to identify and make specified determinations about DUCs. LAFCo does not establish spheres of influence for unincorporated communities, but Alameda LAFCo has determined the need for a more in-depth look at the municipal services provided in the six developed unincorporated communities with a focus on DUCs.

| Key Objective | Key Action Steps | Timeframe |
|---|---|---|
| A. Conduct a service review of the unincorporated areas of Alameda County focusing on disadvantaged unincorporated communities. | 1. Engage stakeholders to identify the most pressing local conditions and circumstances that influence the provision of municipal services in the unincorporated areas of Alameda County.<br>2. Consider the need to develop policies and standards regarding DUCs.<br>3. Develop and implement special study of the unincorporated areas including any identified DUCs.<br>4. As appropriate, identify terms and conditions to apply as part of the SOI update process to improve the provision of municipal services within DUCs.<br>5. Follow up as needed with local agencies where terms and conditions have been imposed to monitor agency progress.<br>6. Disseminate results of study to key stakeholders and post updates on Alameda LAFCo website. | 2019 |

April 10-12, 2019

# CALAFCO

## Staff Workshop



Holiday Inn Silicon Valley

San Jose, CA

*Hosted by Santa Clara LAFCo*

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SANTA CLARA LAFCO

## 2019 Staff Workshop Schedule At-a-Glance

### WEDNESDAY, APRIL 10

*7:45 am* MOBILE WORKSHOP

*1:30 pm* WORKSHOP OPENING – Welcoming remarks

*2:00 pm* GENERAL SESSION
MSRs: Tools and determinations – What will stand legal scrutiny and the test of time?

*3:15 pm* REFRESHMENT BREAK

*3:30 pm* ROUNDTABLES

*5:30 pm* RECEPTION: Bounty of Your County

*7:00 pm* DINNER (On your own)

### THURSDAY, APRIL 11

*7:30 am* CONTINENTAL BREAKFAST BUFFET

*9:00 am* BREAKOUT SESSIONS
- Information Exchange and Knowledge Support of the 21st Century–Clerks Style
- CKH: Reading between the lines
- Making GIS work for the LAFCo layperson

*10:30 am* REFRESHMENT BREAK

*10:45 am* BREAKOUT SESSIONS
- Clerk certification - To be or not to be? That is the question
- CEQA 201
- Succession planning: Is your LAFCo prepared for the Silver Tsunami?

*12:30 pm* LUNCH

*1:45 pm* BREAKOUT SESSIONS
- Analyst 201 – Level up and put a capital "a" in "analyst"
- Master the art of resolution making
- Ethics, politics and decisions – Tales from the trenches

*3:15 pm* REFRESHMENT BREAK

*3:30 pm* ALL-HANDS ROUNDTABLE

*6:00 pm* CALAFCO DINNER

### FRIDAY, APRIL 12

*7:30 am* BREAKFAST BUFFET

*9:00 am* GENERAL SESSION
LAFCo policies – Helpful decision-making framework, constraint on policymaking, or both?

*10:15 am* REFRESHMENT BREAK

*10:30 am* GENERAL SESSION
CALAFCO legislative and organizational update

# CALAFCO GOLD ASSOCIATE MEMBERS


BB&K
BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW

COLANTUONO HIGHSMITH WHATLEY, PC

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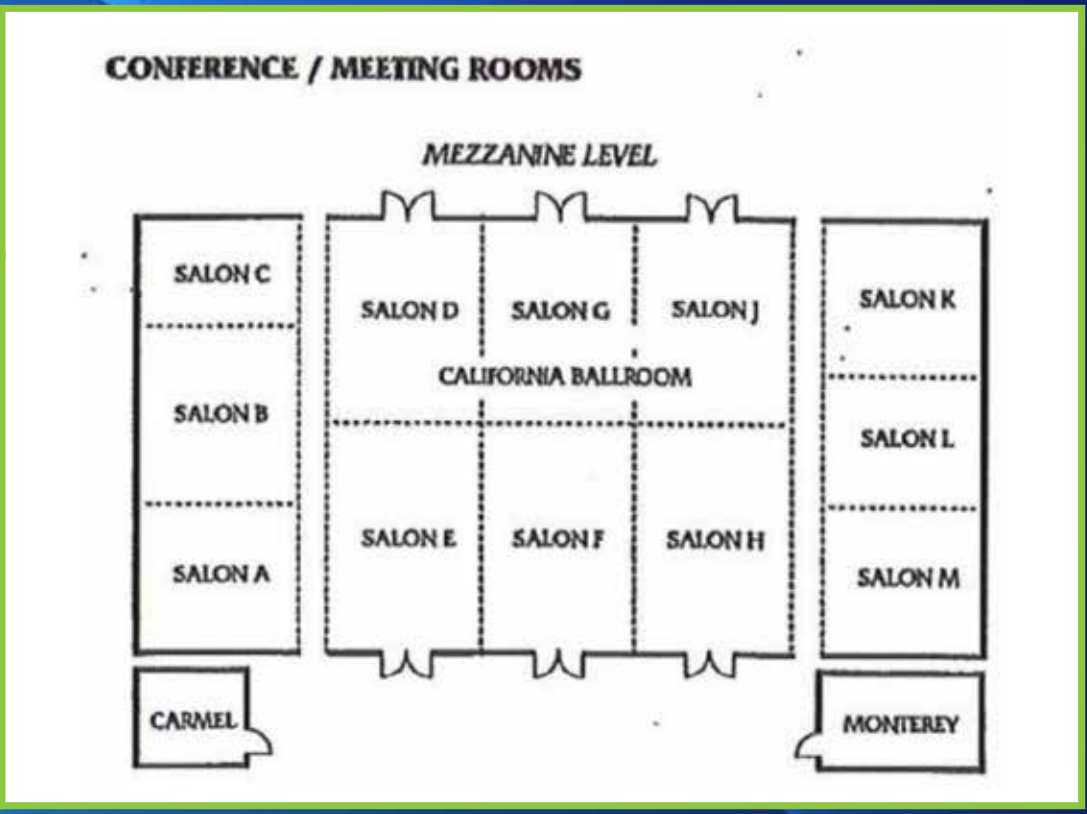
# Holiday Inn Silicon Valley, San Jose - Floor Plan




# AGENDA

## WEDNESDAY, APRIL 10

**7:45 am – 12:30 pm** **MOBILE WORKSHOP**

*Tour two unique San Jose environs and learn how the preservation of open space and ag lands (Coyote Valley) and the revitalization of the downtown (Silicon Valley) go hand in hand in building climate and economic resilience. Stops include the Coyote Ridge Open Space Preserve, San Jose's historic Diridon Station, the San Francisco Bay Area Planning & Urban Research Assoc. office, and we will end with a delicious lunch at Olla Cocina in San Pedro Square.*

BUS LOADS: **7:30 AM** | DEPARTS PROMTPLY: **7:45 AM**

**1:30 pm – 2:00 pm** **WORKSHOP OPENING – Welcoming remarks – *Salons A-B-C***

**SPEAKERS:** Sergio Jimenez, Vice Chair, Santa Clara LAFCo; Pamela Miller, Executive Director, CALAFCO; Neelima Palacherla, Executive Officer, Santa Clara LAFCo

# CALAFCO Staff Workshop: April 10-12, 2019

## WEDNESDAY, APRIL 10

**2:00 pm – 3:15 pm** — **GENERAL SESSION: MSRs: Tools and determinations – What will withstand legal scrutiny and the test of time? –** ***Salons A-B-C***

*Approved for 1.25 AICP CM Credits*

*This interactive session explores the effectiveness and use of a checklist and other tools in the preparation of MSRs. We will also examine determinations, some that have worked well and some that haven't. Will your determination survive a legal challenge?*

**SPEAKERS:** SR Jones, Executive Officer, Nevada LAFCo; David Ruderman, Senior Counsel, Colantuono, Highsmith & Whatley, PC; Keene Simonds, Executive Officer, San Diego LAFCo

**3:15 pm – 3:30 pm** — **REFRESHMENT BREAK –** ***(Foyer)***

**3:30 pm – 5:00 pm** — **ROUNDTABLES –** ***(Salons A-B-C = Staff; Salon J = Counsel; Salon H = Clerks)***

**5:30 pm – 7:00 pm** — **RECEPTION: Bounty of Your County –** ***Lounge and pool area***

**7:00 pm** — **DINNER –** ***(On your own)***

## THURSDAY, APRIL 11

**7:30 am – 9:00 am** — **CONTINENTAL BREAKFAST BUFFET –** ***Salons K-L-M***

**9:00 am – 10:30 am** — **BREAKOUT SESSIONS** ***(3 Choices)***

**Information Exchange and Knowledge Support of the 21st Century – Clerks Style –** ***Salons H-J***

*Part 1: Clerking 101 – A day in the life of an independent and dependent LAFCo Clerk*

*Part 2: Clerk's Resource Guide for the 21st Century*

**SPEAKERS:** Amanda Graham, Office Assistant, Fresno LAFCo; Sandy Hou, Clerk, Alameda LAFCo; Amie Kane, Clerk, Tulare LAFCo; Kate Sibley, Executive Assistant, Contra Costa LAFCo

**MODERATOR:** Tamaron Luckett, Executive Assistant, San Diego LAFCo

**CKH: Reading between the lines –** ***Salons D-E***

*Approved for 1.5 AICP CM Credits*

*Have you ever second-guessed your interpretation of CKH? If so, you'll want to join us for this discussion-style session designed for LAFCo practitioners to exchange common and uncommon terminology and procedural snags within CKH. We will go beyond the text and explore the spirit of CKH through a conversation with LAFCo veterans. Test your skills and improve your rationale as we navigate through the gloomy sections of CKH.*

**SPEAKERS:** Bill Nicholson, Executive Officer, Merced & San Benito LAFCos; Martha Poyatos, Executive Officer, San Mateo LAFCo

**MODERATOR:** David Fey, Executive Officer, Fresno LAFCo

## Making GIS work for the LAFCo layperson – *Salons F-G*

*Approved for 1.5 AICP CM Credits*

*LAFCos are increasingly using ArcGIS as a visualization tool to gain detailed perspective on land use patterns and infrastructure in an effort to limit urban sprawl and conserve resource lands. GIS technology empowers LAFCo staff with enhanced visibility into data, including evaluating project feasibility and their impacts on the environment. This interactive session will cover how to make professional looking maps that can be used in staff reports, presentations and other materials using ArcGIS Online.* **Note: Workshop participants must bring a laptop for this "how-to" session.**

**SPEAKERS:** Greg Bazhaw, GIS Analyst, Santa Clara County Department of Planning & Development; Lakshmi Rajagopalan, Analyst, Santa Clara LAFCo

## 10:30 am – 10:45 am REFRESHMENT BREAK – *(Foyer)*

## 10:45 am – 12:15 pm BREAKOUT SESSIONS – *(3 Choices)*

## Clerk certification - To be or not to be? That is the question. – *Salons H-J*

*Five years ago, a committee worked with CALAFCO to create a proposed process for LAFCo clerk certification, including criteria and a curriculum. For many reasons, the idea was put on hold. Now, with so many new clerks and increased requests for training, it's time to reopen discussions about clerk certification and/or training and what that might entail.*

**SPEAKERS:** Emmanuel Abello, Clerk, Santa Clara LAFCo; Pamela Miller, Executive Director, CALAFCO; Joy Stover, Clerk, Butte LAFCo; Diane Thorpe, Clerk, Sacramento LAFCo; Terri Tuck, Clerk, Yolo LAFCo

**MODERATOR:** Kate Sibley, Executive Assistant, Contra Costa LAFCo

## CEQA 201 – *Salons D-E*

*Approved for 1.5 AICP CM Credits*

*This session will explore LAFCos' use of CEQA exemptions and instances when a LAFCo may need to be the Lead Agency. A panel of experts will discuss items to consider when LAFCo is a Responsible Agency, or in the infrequent CEQA "driver seat," and finally, when an applicant tries to submit incomplete or ill-conceived CEQA work. We will exchange ideas with seasoned EOs and LAFCo legal counsel. Don't be frightened by CEQA, join us and learn how LAFCo's adapt to environmental review.*

**SPEAKERS:** Scott Browne, Attorney, Law Office of P. Scott Browne; Nathaniel Taylor, Senior Planner, Lamphier-Gregory; Holly Whatley, Attorney, Colantuono, Highsmith & Whatley, PC

**MODERATOR:** SR Jones, Executive Officer, Nevada LAFCo

## Succession planning: Is your LAFCo prepared for the Silver Tsunami? – *Salons F-G*

*Approved for 1.5 AICP CM Credits*

*How ready is your LAFCo to deal with inevitable changes in staff? This session focuses on personnel planning for both expected and unexpected turnover at all levels (EO, Analyst and Clerk). We will discuss best practices and pitfalls of succession planning and outside recruitment to replace key personnel, particularly in small agencies where all roles are critical and much of the institutional knowledge lives with just a few staff members.*

**SPEAKERS:** Carolyn Emery, Executive Officer, Orange LAFCo; Brendon Freeman, Executive Officer, Napa LAFCo; Pat McCormick, Executive Officer, Santa Cruz LAFCo

## 12:30 pm – 1:30 pm LUNCH – *Salons K-L-M*

**1:45 pm – 3:15 pm** **BREAKOUT SESSIONS** *(3 Choices)*

## Analyst 201 – Level up and put a capital "a" in "analyst" – *Salons H-J*

*Approved for 1.5 AICP CM Credits*

*This session is designed for new and intermediate-level LAFCo analysts. Participants will be encouraged to exchange ideas, going beyond the introductory phase and stepping into analysis of commission proceedings. We will review project management best practices, applicability and how to successfully navigate commission-initiated proposals.*

**SPEAKERS:** Gavin Centeno, Policy Analyst, Orange LAFCo; Brendon Freeman, Executive Officer, Napa LAFCo; Paula de Sousa Mills, Partner, Best Best & Krieger; Joe Serrano, Executive Officer, Santa Cruz

**MODERATOR:** Paula Graf, Analyst, Imperial LAFCo

## Master the art of resolution making – *Salons F-G*

*Approved for 1.5 AICP CM Credits*

*In this session, participants will gain an understanding of LAFCo processes and procedures relating to different types of resolutions and learn basic practices of submitting a resolution. Explore the key information required for different types of resolutions based on various actions (approval vs. disapproval), the CKH required content and the nuances that make a resolution an informative and powerful record.*

**SPEAKERS:** Gary B. Bell, Shareholder, Colantuono, Highsmith & Whatley, PC; Nancy Mees, Clerk, Amador & Calaveras LAFCos

**MODERATOR:** Doug Dorado, Government Analyst, Los Angeles LAFCo

## Ethics, politics and decisions – Tales from the trenches – *Salons D-E*

*Approved for 1.5 AICP CM Credits & 1.5 Ethics Credits*

*Hear tales amassed over 72 years of collective LAFCo experience of ethics and politics and the sometimes whacky decisions that come from such a mix. This session will delve in to case studies in which ethics – or a lapse thereof – made all the difference. Additionally, we will examine other case studies offered by LAFCos throughout the state in which ethical dynamics were integral to a commission proceeding and subsequent outcome.*

**SPEAKERS:** David Church, Executive Officer, San Luis Obispo LAFCo; Pat McCormick, Executive Officer, Santa Cruz LAFCo

**MODERATOR:** Don Lockhart, AICP, Executive Officer, Sacramento LAFCo

**3:15 pm – 3:30 pm** **REFRESHMENT BREAK –** *(Foyer)*

**3:30 pm – 5:00 pm** **ALL-HANDS ROUNDTABLE –** *(Salons A-B-C)*

**6:00 pm – 7:30 pm** **CALAFCO DINNER –** *(Salons K-L-M)*

# FRIDAY, APRIL 12

**7:30 am – 9:00 am** **BREAKFAST BUFFET –** *(Salons K-L-M)*

**9:00 am – 10:15 am** **GENERAL SESSION: LAFCo policies – Helpful decision-making framework, constraint on policymaking, or both? –** *Salons A-B-C*

*Approved for 1.25 AICP CM Credits*

*Some LAFCos have detailed, articulate policies. Others are skeletal. CKH invites policies on many topics. This panel will identify the range of policy topics, the theory behind detailed policies and the pros and cons of particular policies.*

**SPEAKERS:** Michael Colantuono, Shareholder, Colantuono, Highsmith & Whatley, PC; Ben Giuliani, Executive Officer, Tulare LAFCo; Sblend Sblendorio, Commissioner, Alameda LAFCo

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|---|---|
| **10:15 am – 10:30 am** | **REFRESHMENT BREAK – *(Foyer)*** |
| **10:30 am – 12:00 pm** | **GENERAL SESSION: CALAFCO legislative and organizational update – *Salons A-B-C*** |

***Approved for 1.5 AICP CM & 1.5 Law Credits***

*Join your CALAFCO staff and Legislative Committee leaders for the latest Association news and an up-to-the-minute legislative report on all bills of interest to CALAFCO.*

**SPEAKERS:** Steve Lucas, Executive Officer, Butte LAFCo; Samuel Martinez, Executive Officer, San Bernardino LAFCo; Pamela Miller, Executive Director, CALAFCO; Lou Ann Texeira, Executive Officer, Contra Costa LAFCo

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