BENICIA CITY COUNCIL
REGULAR MEETING AGENDA

City Council Chambers
October 07, 2014
7:00 PM

Times set forth for the agenda items are estimates.
Items may be heard before or after the times designated.

I. CALL TO ORDER (7:00 PM):

II. CLOSED SESSION:

III. CONVENE OPEN SESSION:

A. ROLL CALL.

B. PLEDGE OF ALLEGIANCE.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC.

A plaque stating the fundamental rights of each member of the public is posted at the entrance to this meeting room per section 4.04.030 of the City of Benicia's Open Government Ordinance.

IV. ANNOUNCEMENTS/PROCLAMATIONS/APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS.

1. Announcement of action taken at Closed Session, if any.

2. Openings on Boards and Commissions:

We are currently in the process of interviewing for Board and Commission recommendations for appointment.

3. **Board and Commissions - Council Subcommittee Recommendations:**

   Subcommittee recommendation to Mayor of Kari Birdseye to the Human Services Board for a full term ending July 31, 2018

   Subcommittee recommendation to Mayor of John Maguire to the Parks, Recreation and Cemetery Commission for a full term ending July 31, 2018

4. **Mayor's Office Hours:**
   Mayor Patterson will maintain an open office every Monday (except holidays) in the Mayor's Office of City Hall from 6:00 p.m. to 7:00 p.m. No appointment is necessary. Other meeting times may be scheduled through the City Hall office at 746-4200.

5. **Benicia Arsenal Update**

   Update from City Attorney

B. PROCLAMATIONS.

1. **IN RECOGNITION OF NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH - OCTOBER 2014**

2. **IN RECOGINTION OF THE OBSERVANCE OF BENICIA ARBOR DAY - OCOTBER 11, 2014**

C. APPOINTMENTS.

1. **Reappointment of Sharon Anderson to the Benicia Housing Authority Board of Commissioners for a full term ending July 31, 2018**

2. **Reappointment of Anavi Subramanyam to the Community Sustainability Commission (Student Commissioner) for a one year term ending July 31, 2015**

3. **Appointment of Isabelle Briseno to the Parks, Recreation and Cemetery Commission (Student Commissioner) for a one year term ending July 31, 2015**

D. PRESENTATIONS.

1. **Annual Presentation from Benicia Historical Museum**

V. ADOPTION OF AGENDA:

VI. OPPORTUNITY FOR PUBLIC COMMENT:

This portion of the meeting is reserved for persons wishing to address the Council on any matter not on the agenda that is within the subject matter jurisdiction of the City Council. State law prohibits the City Council from responding to or acting upon matters not listed on the agenda. Each speaker has a maximum of five minutes for public comment. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of your entire group. Speakers may not make personal attacks on council members, staff or members of the public, or make comments which are slanderous or which may invade an individual's personal privacy.

A. WRITTEN COMMENT.

B. PUBLIC COMMENT.

VII. CONSENT CALENDAR (7:30 PM):

Items listed on the Consent Calendar are considered routine and will be enacted, approved or adopted by one motion unless a request for removal or explanation is received from a Council Member, staff or member of the public. Items removed from the Consent Calendar shall be considered immediately following the adoption of the Consent Calendar.

A. APPROVAL OF THE MINUTES OF THE SEPTEMBER 9, 2014 SPECIAL CITY COUNCIL MEETING AND THE SEPTEMBER 16, 2014 REGULAR CITY COUNCIL MEETING. (City Clerk)

B. SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING SECTION 13.35.100 (DROUGHT SURCHARGE) OF CHAPTER 35 (EMERGENCY WATER CONSERVATION) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE. (Public Works Director)

After three consecutive years of below normal rainfall, the State of California is facing a severe drought emergency. To help ensure the health and safety of the community and the financial integrity of the Water Enterprise fund, on September 16, 2014, City Council adopted an urgency ordinance amending Section 13.35.100 (Drought Surcharge), which modified the definition of drought costs, allowed for adoption via a resolution and defined the end of the surcharge period. The same ordinance was also introduced as a non-urgent ordinance. The proposed action is the second reading and adoption of the non-urgent ordinance. This allows the ordinance to be enacted following the established practice. The wording of the ordinance is the same as the enacted urgency ordinance except for minor clerical issues and the Findings section

and the term “urgency” has been removed.

Recommendation: Adopt the ordinance amending Section 13.35.100 (Drought surcharge) of Chapter 35 (Emergency Water Conservation) of Title 13 (Public Services) of the Benicia Municipal Code.

C. AUTHORIZE PURCHASE OF A REPLACEMENT VEHICLE. (Parks and Community Services Director)

The existing Community Services van scheduled for replacement was purchased in 2000. This purchase is budgeted and funding for replacement vehicles is included in the FY 2014-15 budget.

Recommendation: Adopt a resolution authorizing the purchase of a Toyota Sienna Van for the Parks & Community Services Department from Toyota of Vallejo in the amount of $30,730.00 and authorizing the City Manager to sign the purchase order on behalf of the City.

D. DENIAL OF CLAIM AGAINST THE CITY BY ROBIN LANCASTER AND REFERRAL TO INSURANCE CARRIER. (City Attorney)

The claimant alleges that the City crushed her sewer line, either between the City's concrete pressurized sewer line (immediately above her line) and steel pipe carrying surface water (immediately below her line); or, that it could have possibly been crushed during the remodel of the easement walkway approximately 12 years previous.

Recommendation: Deny the claim against the City by Robin Lancaster.

E. DENIAL OF CLAIM AGAINST THE CITY BY DOLORES WITTKOP AND REFERRAL TO INSURANCE CARRIER. (City Attorney)

The claimant alleges that she tripped and fell on the sidewalk at 325 East K Street and fractured her elbow.

Recommendation: Deny the claim against the City by Dolores Wittkop.

F. CLIMATE ACTION PLAN COORDINATOR (CAP) AGREEMENT. (City Manager)

The on-site CAP Coordinator, Alex Porteshawver, works from City Hall and is currently employed by SSU. As of June 20, 2014, the CAP Coordinator was offered and accepted a new position with PMC, a leading California-based planning firm with an exceptional climate change team. If the new contract is approved, Alex Porteshawver will continue to serve as the City's CAP Coordinator 4 days per week through June 30, 2015. The contract terms and

budget will remain the same and staff believes PMC will be able to provide the same or greater level of service to the City.

Recommendation: Authorize City Manager to terminate existing contract with Sonoma State University (SSU) and execute a new agreement (same terms) with Pacific Municipal Consulting (PMC) to continue providing CAP Coordinator services through June 30, 2015.

G. AMENDING THE CITY'S CONFLICT OF INTEREST CODE. (City Attorney)

The City is required to review its conflict of interest code every two years to determine if it needs to be updated. Staff has reviewed the conflict of interest code and has determined that amendments are needed. Changes include updating the designated positions to reflect current job titles and disclosure categories to reflect the economic interest related to the position.

Recommendation: Adopt the resolution amending the City's conflict of interest code.

H. CONTINUING THE DECLARATION OF A LOCAL EMERGENCY DUE TO THE SOUTH NAPA EARTHQUAKE. (City Attorney)

This action continues the declaration of a local emergency due to the South Napa Earthquake. This may allow the City and property owners to access funds to repair damage due to the earthquake. It may also be helpful in case other damage is uncovered due to the earthquake.

Recommendation: Adopt the resolution confirming and continuing the Declaration of a Local Emergency.

I. APPROVAL OF A LICENSE AGREEMENT WITH SOROPTIMIST INTERNATIONAL OF BENICIA TO USE A CLOSET AT THE FORMER YOUTH CENTER TO PROVIDE SUPPORT TO CLIENTS OF THE FAMILY RESOURCE CENTER. (Parks and Community Services Director)

Soroptimist International of Benicia proposes to use space at the former Youth Center to store supplies that would be disbursed by the Family Resource Center. A closet is available at the Center and would provide ready access for the staff of the Family Resource Center. This arrangement would allow the Family Resource Center to provide their clients with non-perishable supplies that may not be available through other resources.

Recommendation: Approve, by motion, the license agreement.

J. PURCHASE OF REPLACEMENT TANKS FOR WATER TREATMENT PLANT. (Public Works Director)

This action authorizes the purchase of two replacement chemical tanks for the Water Treatment Plant. The tanks have reached the end of their useful life and are in need of replacement.

Recommendation: Adopt the resolution authorizing the purchase of two replacement chemical tanks for the Water Treatment Plant from Burlingame Engineers, Inc. of Concord, California, in the amount of $63,090.

K. APPROVAL OF $43,000 LOAN TO ACQUIRE PROPERTY FOR THE BENICIA INDUSTRIAL PARK BUS HUB PROJECT TO BE REPAID BY THE SOLANO TRANSPORTATION AUTHORITY. (Public Works Director)

The Solano Transportation Authority (STA) is leading the right of way phase of the project at the request of the City, which includes acquiring a 1.0 acre parcel for the park-and-ride lot. STA has dedicated $500,000 for the acquisition, but an additional $86,000 is needed to fully fund this phase. It is proposed that each agency contribute half of this funding shortfall, or $43,000, to be reimbursed from future earnings from STA's Regional Traffic Impact Fee program. Loaning the $43,000 from the City's Traffic Impact Fee Fund will not significantly impact that fund's programmed projects and services.

Recommendation: Adopt a resolution approving a $43,000 loan from the Traffic Impact Fee Fund to complete the right of way phase of the Benicia Industrial Park Bus Hub Project and authorizing the City Manager to execute a reimbursement agreement with the Solano Transportation Authority subject to the approval of the City Attorney.

L. APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND BENICIA FIREFIGHTERS ASSOCIATION (BFA). (Assistant City Manager)

The City recently concluded negotiations with Benicia Firefighters Association (BFA). The tentative agreement was ratified by a majority of the unit's members on September 30, 2014.

Recommendation: Adopt the resolution approving the tentative agreement with the Benicia Firefighters Association (BFA) and authorizing the City Manager to take the necessary administrative steps to implement the provisions of the agreement into the July 1, 2014 - June 30, 2016 Memorandum of Understanding (MOU).

M. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

VIII. BUSINESS ITEMS (7:45 PM):

A. THE URBAN WATERFRONT ENHANCEMENT AND MASTER PLAN AND ASSOCIATED ENVIRONMENTAL ANALYSIS. (Parks and Community Services Director)

The Urban Waterfront Enhancement and Master Plan (UWEMP) will guide development of the waterfront park in the area bounded by First and B Streets, the marina channel, and the Carquinez Strait, including the First Street Green, but excluding the Southern Pacific Depot and A Street parcels. An adopted plan has not been in place for a significant piece of the project area since it was rezoned by the Waterfront Park Initiative of 2004. The UWEMP Community Advisory Committee and the Parks, Recreation & Cemetery Commission have both reviewed the Draft Master Plan and the associated Initial Study/Mitigated Negative Declaration and recommend that Council adopt the Master Plan.

Recommendation: Adopt the resolution approving the Initial Study/Mitigated Negative Declaration and adopting the Master Plan that has been developed for the Urban Waterfront Enhancement and Master Plan project.

B. MARIN CLEAN ENERGY (MCE) - MEMBERSHIP ANALYSIS. (City Manager)

CCA allows local governments to purchase and/or develop clean power on behalf of their residents, businesses, and municipal accounts. CCA is an energy supply model that works in partnership with Pacific Gas & Electric (PG&E) to deliver renewable electricity, maintain the energy grid, and provide customer service and billing. On June 17, 2014, the City Council allocated $18,000 in Valero Good Neighbor Steering Committee Settlement Agreement funds and authorized the City Manager to execute a contract with Marin Clean Energy (MCE). Council also held a study session on September 9, 2014 so that the public and Council could learn more about CCAs in general. At the conclusion of the study session, Council directed staff to assess the need for further outside review of the pending MCE Membership analysis. Staff received the completed analysis on September 10, 2014, which concluded that Benicia joining MCE would have a net beneficial impact on MCE's current customers and likely reduce near term electrical energy costs for Benicia residents and businesses.

Recommendation: 1) Review results of Marin Clean Energy (MCE) Membership Analysis and independent assessments prepared for the

City of Richmond and City of Mill Valley;
2) Direct the City Manager, by motion, to enter into a contract with MRW & Associates and Davis Wright Tremaine LLP to conduct additional independent analysis, utilizing General Fund salary/benefit savings to fund the analysis; and
3) Schedule Tuesday November 4, 2014 at 8:00 p.m. as the meeting date/time to review the additional information and make a determination regarding joining MCE.

C. MAYOR PATTERSON'S REQUEST TO AGENDIZE AN ITEM REGARDING TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY COMMITTEE (TPBS). (City Manager)

Mayor Patterson would like the City Council to consider agendizing an item regarding the Traffic, Pedestrian and Bicycle Safety Committee.

Recommendation: Consider Mayor Patterson's request to agendize this topic for future City Council meeting.

IX. ADJOURNMENT (9:30 PM):

Public Participation

The Benicia City Council welcomes public participation.

Pursuant to the Brown Act, each public agency must provide the public with an opportunity to speak on any matter within the subject matter jurisdiction of the agency and which is not on the agency's agenda for that meeting. The City Council allows speakers to speak on non-agendized matters under public comment, and on agendized items at the time the agenda item is addressed at the meeting. Comments are limited to no more than five minutes per speaker. By law, no action may be taken on any item raised during the public comment period although informational answers to questions may be given and matters may be referred to staff for placement on a future agenda of the City Council.

Should you have material you wish to enter into the record, please submit it to the City Manager.

Disabled Access or Special Needs

In compliance with the Americans with Disabilities Act (ADA) and to accommodate any special needs, if you need special assistance to participate in this meeting, please contact Anne Cardwell, the ADA Coordinator, at (707) 746-4211. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

Meeting Procedures

All items listed on this agenda are for Council discussion and/or action. In accordance with the Brown Act, each item is listed and includes, where appropriate, further description of the item and/or a recommended action. The posting of a recommended action does not limit, or necessarily indicate, what action may be taken by the City Council.

Pursuant to Government Code Section 65009, if you challenge a decision of the City Council in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing. You may also be limited by the ninety (90) day statute of limitations in which to challenge in court certain administrative decisions and orders (Code of Civil Procedure 1094.6) to file and serve a petition for administrative writ of mandate challenging any final City decisions regarding planning or zoning.

The decision of the City Council is final as of the date of its decision unless judicial review is initiated pursuant to California Code of Civil Procedures Section 1094.5. Any such petition for judicial review is subject to the provisions of California Code of Civil Procedure Section 1094.6.

Public Records

The agenda packet for this meeting is available at the City Manager's Office and the Benicia Public Library during regular working hours. To the extent feasible, the packet is also available on the City's web page at www.ci.benicia.ca.us under the heading "Agendas and Minutes." Public records related to an open session agenda item that are distributed after the agenda packet is prepared are available before the meeting at the City Manager's Office located at 250 East L Street, Benicia, or at the meeting held in the Council Chambers. If you wish to submit written information on an agenda item, please submit to the City Clerk as soon as possible so that it may be distributed to the City Council. A complete proceeding of each meeting is also recorded and available through the City Clerk’s Office.

Date Received

SEP 2014

CITY CLERK'S OFFICE
CITY OF BENICIA

City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- ☐ Arts and Culture Commission
- ☐ Benicia Housing Authority Board of Commissioners
- ☐ Board of Library Trustees
- ☐ Civil Service Commission
- ☐ Economic Development Board
- ☐ Finance, Audit & Budget Committee
- ☐ Historic Preservation Review Commission
- ☒ Human Services Board
- ☐ Open Government Commission
- ☐ Parks, Recreation & Cemetery Commission
- ☐ Planning Commission
- ☐ Sustainability Commission
- ☐ Sky Valley Open Space Committee
- ☐ Uniform Code Board of Appeals

RECEIVED
SEP 10
CITY CLERK'S OFFICE
CITY OF BENICIA

Name: Kari Birdseye

Address: [redacted] Benicia CA 94510

Phone: (Work) [redacted] (Home) [redacted]

(Cell) [redacted] Fax: —

Email: [redacted] Years as Benicia resident: 14

Occupation/Employer: net Earthjustice - Campaign Manager

Please note your most recent community or civic volunteer experience:

HSB Board, Benicia Stingrays Board President, Matthew Turner PTA Board president

Please describe any applicable experience/training: professional volunteer,

Communications professional, former journalist,

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: Kari Birdseye Date: 9.8.14

IV.A.3.1

Human Services Board Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about this Board? Have you attended a Human Services Board meeting? If so, when?

I have served on this Board for the past two years, and have found the experience to be rewarding because of the priority placed on the disadvantaged citizens of our town.

2. Participation on this Board involves annual visits to an assigned grantee and attending outreach events, as well as review of grantee quarterly reports. Do you feel you have the time and commitment to be a viable member of this Board?

I performed a site visit, wrote the report and regularly volunteer for outreach opportunities such as the farmers market + parades.

3. Is there a particular segment of human services and/or arts that interests you more than others?

Learning more about our community and city government interests me most.

4. Why do you think human services needs to play a lead role in fortifying the quality of life in Benicia? Do you see an area of human services that needs to be expanded at this point?

Working with a talented team of Board members, I have found that thorough examination of the needs of our community has help direct resources to where they are needed most. As needs arise, I have confidence that the HSB will make sound decisions addressing issues that would benefit from the HSB attention.

Date Received

SEP 25 2014

CITY CLERK'S OFFICE
CITY OF BENICIA

BENICIA

City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

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- ☐ Board of Library Trustees
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- ☐ Historic Preservation Review Commission
- ☐ Human Services & Arts Board
- ☐ Open Government Commission
- ☐ Parks, Recreation & Cemetery Commission
- ☐ Planning Commission
- ☐ Sustainability Commission
- ☐ Sky Valley Open Space Committee
- ☐ Uniform Code Board of Appeals

Name: John McGuire

Address: [redacted]

Phone: (Work) [redacted] (Home) [redacted]

(Cell) [redacted] Fax: —

Email: [redacted] Years as Benicia resident: 28

Occupation/Employer: Self

Please note your most recent community or civic volunteer experience:

PRC commissioner for past 9 years

Please describe any applicable experience/training: 9 yrs as PRC commission member

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: [signature] Date: 9/15/24

IV.A.3.1

BENICIA

Parks, Recreation, and Cemetery Commission Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. The Parks, Recreation, and Cemetery Commission is responsible for working closely with the Parks and Community Services Department to direct the City as effectively as possible on behalf of parks, cemeteries and recreational activities. What interests you about serving on the Parks, Recreation, and Cemetery Commission and participating in the work of the commission? Please describe your familiarity with the Commission.

   Have been a member of the commission for the past 9 years

2. Please list current and past volunteer positions.

   PRC

3. Responsibilities of being a Board member includes attending monthly Parks, Recreation, and Cemetery meetings, attending special events, and occasionally appearing at City Council meetings. Further, there are often subcommittees of the commission that will require additional meetings during the month. Do you feel you have the time and commitment to be able to consistently attend these meetings and events?

   Have been doing so for 9 yrs

4. If you could achieve one goal during your term as a Parks, Recreation, and Cemetery Commissioner, what would it be?

   improve park maintenance while working w/ staff & finding a water shortages

5. Is there anything else you would like to share with us regarding your qualifications and/or interests?

   —

SERVING AND ENHANCING OUR COMMUNITY WITH CARE, COMMITMENT AND PRIDE

THE CITY OF BENICIA CALIFORNIA

PROCLAMATION

IN RECOGNITION OF

OCTOBER 2014
as
NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

WHEREAS, domestic violence is a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over an intimate partner or close family member; and

WHEREAS, domestic violence includes not only physical abuse, but also mental abuse, emotional abuse, financial abuse, isolation, and sexual violence; and

WHEREAS, people of all racial, religious and socioeconomic backgrounds are vulnerable to violence by an intimate partner; and

WHEREAS, according to the State of California Victims Compensation Program, on average, 24 people per minute are victims of rape, physical violence, or stalking by an intimate partner in the United States. Over the course of a year, that equals more than 12 million women and men; and

WHEREAS, approximately 33 million (15%) of all U.S. adults admit that they have been a victim of domestic violence and six in 10 adults claim they know someone who has personally experienced domestic violence; and

WHEREAS, one in five children (20.3%) report witnessing a family assault during their lifetime; and

WHEREAS, there were 53 *reported* domestic violence calls for Benicia from January 1, 2014 through October 7, 2014; and

WHEREAS, by working together we can break the cycle of violence and build communities that are safe for everyone.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia on behalf of the City Council, proclaim October 2014 as "Domestic Violence Awareness" Month in Benicia and urge everyone to participate in the Soroptimist International of Benicia Domestic Violence Vigil from 6 p.m. to 6:30 p.m. on **Wednesday, October 8, 2014** on the First Street side of City Park. Come Stand Up Against Domestic Violence!

CITY OF BENICIA CALIFORNIA

_____
Elizabeth Patterson, Mayor
October 7, 2014

PROCLAMATION

IN RECOGNITION OF

THE OBSERVANCE OF BENICIA ARBOR DAY ON OCTOBER 11, 2014

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, the holiday called Arbor Day was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, Arbor Day is now observed at various times of the year throughout the nation and world; and

WHEREAS, trees provide many services and can moderate the temperature, cut heating and cooling costs, improve air quality, produce life-giving oxygen, mitigate stormwater impacts, and provide habitat for wildlife; and

WHEREAS, trees beautify our community, increase property values, reduce heating and cooling costs, and enhance the economic vitality of the business areas; and

WHEREAS, trees can be a source of joy and spiritual renewal.

NOW, THEREFORE, BE IT RESOLVED THAT I, Elizabeth Patterson, Mayor of the City of Benicia on behalf of the City Council, do hereby proclaim the week beginning Sunday, October 5 through Saturday, October 11 as Benicia Arbor Week, and Saturday, October 11, 2014 as Benicia Arbor Day.

_____

Elizabeth Patterson, Mayor
October 7, 2014

IV.B.2.2

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF SHARON ANDERSON TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS FOR A FOUR YEAR TERM ENDING JULY 31, 2018

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the reappointment of Sharon Anderson to the Benicia Housing Authority Board of Commissioners by Mayor Patterson is hereby confirmed.

*****

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October 2014 and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

IV.C.1.2

Date Received

RECEIVED
JUN 10 2014
CITY CLERK'S OFFICE
CITY OF BENICIA

City of Benicia Board/Commission/Committee Application

It is the intent of the City Council to have Boards, Commissions or Committees composed of people from all geographical, social, environmental and economic sectors of the community and to avoid potential conflicts of interest.

Please check the board, commission, or committee you wish to apply for:

- ☐ Finance, Audit & Budget Committee
- ☒ Benicia Housing Authority Board of Commissioners
- ☐ Board of Library Trustees
- ☐ Uniform Code Board of Appeals
- ☐ Civil Service Commission
- ☐ Economic Development Board
- ☐ Historic Preservation Review Commission
- ☐ Human Services & Arts Board
- ☐ Open Government Commission
- ☐ Parks, Recreation & Cemetery Commission
- ☐ Planning Commission
- ☐ Sky Valley Open Space Committee

Name: Sharon Anderson

Address: [redacted]

Phone: (Work) [redacted] (Home) [redacted]

(Cell) _____ Fax: _____

Email: _____ Years as Benicia resident: ≈ 25

Occupation/Employer: Attorney - Contra Costa County

Please note your most recent community or civic volunteer experience:

Benicia Housing Authority

Please describe any applicable experience/training: I practice civil law for a public agency & am familiar with the laws, rules & regulations that govern housing authorities.

All applications are considered public records and will be retained in an active file for at least one year from date of receipt.

Signature: _____ Date: 6-3-14

IV.C.1.3

Housing Authority Board of Commissioners Application

In addition to completing the City of Benicia Board/Commission/Committee Application form, please respond to the following questions:

1. What interests you about the Housing Authority Board?

   It is an excellent, well-run agency that helps people meet critical housing needs. The Housing Authority is a positive program that makes Benicia a better place to live & work

2. What are your expectations for this Board and how do you see your role on the Board?

   To provide policy direction to the Executive Director in fulfilling the mission of the Housing Authority

3. This Board meets on the 4th Wednesday of the month. Currently the meetings begin at 6:00 pm. In addition, there may be several meetings of smaller Board committees during the year. Does this present a problem for you? If so, please explain. NO

4. What has your experience been with the Housing Authority, if any?

   I have been a Board member for many years.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF ANAVI SUBRAMANYAM TO THE COMMUNITY SUSTAINABILITY COMMISSION (STUDENT COMMISSIONER) FOR A FULL TERM ENDING JULY 31, 2015

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Anavi Subramanyam to the Community Sustainability Commission (Student Commissioner) by Mayor Patterson is hereby confirmed.

*****

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October 2014 and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

IV.C.2.2

Community Development Department
MEMORANDUM

Date: September 18, 2014
To: Brad Kilger, City Manager
From: Dan Marks, Interim Community Development Director
Re: Reappointment of Community Sustainability Commission Student Commissioner

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Per Benicia Municipal Code Section 2.60.30, as outlined below, the Community Sustainability Commission, at its September 15, 2014 meeting, unanimously supported Student Commissioner Anavi Subramanyam's desire to extend her term to July 31, 2015.

2.60.030 Term of office.

A. The term of office for members of an advisory body is four years, unless otherwise noted. Each member serves until his or her successor is appointed and qualifies.

B. The following term limits are exceptions to the limits specified above:

> *4. Sustainability Commission. The term of office for the student member is one year with the option of a second term at the recommendation of the commission and reappointment in accordance with BMC 2.60.040.*

Recommendation: Mayor to reappoint Community Sustainability Commission Student Commissioner, Anavi Subramanyam, to a full term expiring July 31, 2015.

IV.C.2.4

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF ISABELLE BRISENO TO THE PARKS, RECREATION AND CEMETERY COMMISSION (STUDENT COMMISSIONER) FOR A FULL TERM ENDING JULY 31, 2015

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that the appointment of Isabelle Briseno to the Parks, Recreation and Cemetery Commission (Student Commissioner) by Mayor Patterson is hereby confirmed.

*****

The above Resolution was approved by roll call by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October 2014 and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

IV.C.3.2

Parks and Community Services
MEMORANDUM

DATE: September 24, 2014

TO: Brad Kilger
City Manager

FROM: Michael Dotson
Director of Parks and Community Services

SUBJECT: APPROVAL OF ISABELLE BRISENO TO SERVE AS THE YOUTH COMMISSIONER TO THE PARKS, RECREATION AND CEMETERY COMMISSION

Per the Youth Commission By Laws, the Youth Commission shall elect from its membership a Chairperson to serve for a one (1) year term and recommend to the Mayor the appointment of the Chairperson to serve as a voting member on the Parks, Recreation & Cemetery Commission. On September 24, 2014 the Youth Commission elected Isabelle Briseno chairperson for the 2014/15 Youth Commission term. Provided below is a bio on Isabelle Briseno.

Isabelle started her junior year at Benicia High School this past August. She is looking forward to what junior year entails from AP classes to prom in April as well as dancing at Benicia Ballet. Isabelle is involved with the Advance Dance Program, Happy Hugging Club, and many other extracurricular activities in Benicia.

For most of her life, Isabelle has lived in Benicia and has loved working with her community in many different events. She was in her middle school leadership class her seventh grade year and in eighth grade she was the president of National Junior Honor Society. She also has been a part of her ballet's nonprofit board since middle school as a liaison from the dancers to the board and she is in a term of being secretary on that board this year.

Isabelle began Benicia Youth Commission (BYC) when she was in 7th grade. In her first year at BYC she and her twin sister were public relation officers for the middle school. She volunteered for the dances, bingo, and was even an elf at Christmas on First. BYC has been and will continue as a great opportunity that allowed Isabelle to become more involved in her community and even in her 5th year at BYC she is constantly learning and becoming more involved. Isabelle's goal for the 2014-2015 Benicia Youth Commission is to find more opportunities for youth to be more involved in their community.

Please ask the Mayor to consider this nomination for the Council meeting scheduled for October 7, 2014.

IV.C.3.4

MINUTES OF THE
SPECIAL MEETING – CITY COUNCIL
September 09, 2014

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the meeting to order at 6:03 p.m.

II. CONVENE OPEN SESSION:

A. ROLL CALL

Council Members Hughes and Strawbridge were absent.

All other Council Members were present.

B. PLEDGE OF ALLEGIANCE

Council Member Schwartzman led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF THE PUBLIC:

III. ADOPTION OF AGENDA:

On motion of Council Member Schwartzman, seconded by Vice Mayor Campbell, Council adopted the Agenda, as presented, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell
Noes: Hughes, Strawbridge

IV. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Seven items were received (copies on file).

B. PUBLIC COMMENT

1. Pat Toth-Smith - Mr. Toth-Smith discussed the Crude by Rail Project. He

spoke in favor of the project.

2. Constance Beutel - Ms. Beutel discussed the issue of increased co2 throughout the world, and the decrease in bird populations throughout the United States.

3. Ed Russell - Mr. Russell discussed the Arsenal clean-up issue. He wondered why it was not on the agenda tonight (workshop/special meeting).

V. BUSINESS ITEMS:

A. COMMUNITY CHOICE AGGREGATION (CCA) - STUDY SESSION

Heather McLaughlin, City Attorney, discussed Council Member Hughes' absence. There was a previous question on whether he had a conflict of interest with this agenda item. Staff is still researching the issue, so he will not participate until the issue is resolved.

Brad Kilger, City Manager, discussed Council Member Strawbridge's absence. Staff could not coordinate a day where all Council Members were available to meet.

Dan Marks, Interim Community Development Director, introduced the staff report.

Alex Porteshawver, Climate Action Plan Coordinator, reviewed the staff report, and introduced the participating panelists.

Vice Mayor Campbell asked Staff to address the issue of using renewable energy in the City of Benicia. Ms. Porteshawver clarified that the panelists would be discussing the issue during their presentation.

Will McQuire, California Public Utilities Commission (CPUC), reviewed a PowerPoint presentation on Community Choice Aggregation: A Regulatory Perspective (copy on file).

Tom Delaney, Southern California Telephone & Energy, reviewed a PowerPoint presentation titled 'California ISO: A Brief Introduction' (copy on file).

Sephra Ninow, Center for Sustainable Energy, reviewed a PowerPoint presentation titled 'Benicia CCA Study Session' (copy on file).

Joe Horak, PG&E, reviewed a PowerPoint presentation titled 'PG&E Overview' (copy on file).

Dawn Weisz, Marin Clean Energy, reviewed a PowerPoint presentation titled 'Marin Clean Energy' (copy on file).

Vice Mayor Campbell and the panelists discussed the issue of supply and demand and the cash out payment to MCE customers.

Mayor Patterson and the panelists discussed the limitations on the amount of how much could be used in California for energy.

Council Member Schwartzman and the panel discussed the issue of facilities and supply and demand.

Mayor Patterson and the panel discussed the issue of supply and demand.

Council Member Schwartzman and the panel discussed the possibility of a solar plant being built locally, the exit fees for departing PG&E customers, public purpose charges, which cities/counties have members on the MCE Board, MCE's growth constraint, Community Choice Aggregation's (CCA's) liabilities, MCE's membership analysis, and the pros and cons of doing a risk assessment.

Mayor Patterson asked Staff to prepare an estimate of time and money and who is available to do a third party review.

Mayor Patterson and the panel discussed the role of cap and trade and the California Public Utilities Commission (CPUC), jobs - doing business locally, performance measures, what PG& E would be charging for the proposed green option, and how many continuous counties were within PG&E's service.

Public Comment:

1. Andres Soto - Mr. Soto spoke in support of Community Choice Aggregation (CCA).
2. Bob Livesay - Mr. Livesay discussed concerns regarding the 'opt out' process, and the overall CCA issue.
3. Constance Beutel - Ms. Beutel discussed the issues of informal complaints, how MCE would work with MCE, keeping an eye on the regulatory issues, the green bundle option, energy cost increases, and whether MCE would be tied into the solar project.
4. Kathy Kerridge - Ms. Kerridge discussed the issue of rates for individual rate payers, exit fees, and whether the cost of energy would be reduced over time.
5. Jon Van Landschoot - Mr. Van Landschoot discussed the importance of renewable energy. He spoke in favor of CCA. He discussed the need for more public outreach.
6. Citizen - the citizen discussed the length someone would have to be involved if they opted in to the CCA.

Mayor Patterson and the panel discussed the issue of energy distribution.

Ms. Ninow discussed whether the City would need to have someone on staff to monitor regulatory issues.

Ms. Weisz discussed the issues of cost comparison, current local solar installations, the possibility of renewable energy systems being built while MCE was in place, tiering effect, whether costs would fluctuate less over time, length of relationship, and public outreach.

Mr. Horak discussed when a green option might be available.

Mr. McQuire discussed the issue of informal complaints, whether any CCA's have failed (no).

Mr. Delainey discussed the issue of electrons and how they flow, opt out/opt in, not being able to elect a board with a large public utility, and overall accountability, and the public noticing policy.

VI. CLOSED SESSION:

A. CONFERENCE WITH LABOR NEGOTIATOR
(Government Code Section 54957.6 (a))
Agency negotiators: City Manager, Assistant City Manager and Senior Human Resources Analyst
Employee organizations: Benicia Firefighters Association (BFA)

VII. ADJOURNMENT:

Mayor Patterson adjourned the Open Session meeting at 8:50 p.m. and went into Closed Session.

Mayor Patterson adjourned the Closed Session meeting at 9:30 p.m.

MINUTES OF THE
REGULAR MEETING – CITY COUNCIL
September 16, 2014

City Council Chambers, City Hall, 250 East L Street, complete proceedings of which are recorded on tape.

I. CALL TO ORDER:

Mayor Patterson called the Closed Session to order at 6:00 p.m.

II. CLOSED SESSION:

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: 1 Commandant's Lane
Negotiating Parties: City Attorney, City Manager & Economic Development Manager
Under Negotiation: Instruction to negotiator on both payment and lease terms

III. CONVENE OPEN SESSION:

Mayor Patterson called the Open Session to order at 7:01 p.m.

A. ROLL CALL

All Council Members were present.

B. PLEDGE OF ALLEGIANCE

Stan Golovich led the Pledge of Allegiance.

C. REFERENCE TO THE FUNDAMENTAL RIGHTS OF PUBLIC

IV. ANNOUNCEMENTS/PROCLAMATIONS/ APPOINTMENTS/PRESENTATIONS:

A. ANNOUNCEMENTS

Brad Kilger, City Manager, announced Karin Schnaider, the City's new Finance Director, and Graham Wadsworth, the City's new Public Works Director.

1. Announcement of action taken at Closed Session, if any.

Heather McLaughlin, City Attorney, reported the following actions taken:

9/9/14 Special Meeting - Council gave direction to staff.

9/16/14 - Council gave direction to staff on negotiations.

2. **Openings on Boards and Commissions:**

3. **Mayor's Office Hours:**

4. **Benicia Arsenal Update**

   Update from City Attorney

Mayor Patterson discussed a meeting she and Staff went to at the Department of Toxic Substance Control (DTSC) in Sacramento. There were two separate meetings with property owners. The City did well. They showed they were working together. DTSC went through some of the technical issues. The City is moving forward with a plan. The Army Corp of Engineers and the Department of Justice were present as well. There are specific timelines associated with the orders. Amports has not been at the meetings, as they have not been named in the current orders. A phone call was made to Amports, but they were not at the meetings. Amended orders will be coming out, and that should take care of the Amports issue.

5. **Boards and Commissions - Council Subcommittee Recommendations:**

   Subcommittee recommendation to Mayor of Sharon Anderson to the Benicia Housing Authority Board of Commissioners for full term ending July 31, 2018

B. PROCLAMATIONS

1. **IN RECOGNITION OF VOTER REGISTRATION DAY - SEPTEMBER 23, 2014**

2. **IN RECOGNITION OF SOFITCITY DAY - SEPTEMBER 27, 2014**

3. **IN RECOGNITION OF FIRE PREVENTION WEEK - OCTOBER 5-11, 2014**

4. **IN RECOGNITION OF EXCELLENCE IN SERVICE FOR CHIEF ANDREW BIDOU**

C. APPOINTMENTS

1. **Reappointment of Phyllis McKeever to the Benicia Housing**

Authority Board of Commissioners for a full term ending July 31, 2018

RESOLUTION 14-100 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF PHYLLIS MCKEEVER TO THE BENICIA HOUSING AUTHORITY BOARD OF COMMISSIONERS FOR A FOUR YEAR TERM ENDING JULY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-100, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

2. **Appointment of Sean Finn to the Economic Development Board for an unexpired ending July 31, 2016**

RESOLUTION 14-101 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF SEAN FINN TO THE ECONOMIC DEVELOPMENT BOARD FOR AN UNEXPIRED TERM ENDING JULY 31, 2016

On motion of Mayor Patterson Council adopted Resolution 14-101, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

3. **Reappointment of Claire McFadden to the Economic Development Board for a full term ending July 31, 2018**

RESOLUTION 14-102 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF CLAIRE MCFADDEN TO THE ECONOMIC DEVELOPMENT BOARD FOR A FOUR YEAR TERM ENDING JULY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-102, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

4. **Reappointment of Duane Oliveria to the Economic Development Board for a full term ending July 31, 2018**

RESOLUTION 14-103 - A RESOLUTION OF THE CITY COUNCIL OF THE

CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF DUANE OLIVEIRA TO THE ECONOMIC DEVELOPMENT BOARD FOR A FOUR YEAR TERM ENDING JULY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-103, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

5. **Appointment of Trevor Macenski to the Historic Preservation Review Commission for an unexpired term ending July 31, 2016**

RESOLUTION 14-104 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF TREVOR MACENSKI TO THE HISTORIC PRESERVATION REVIEW COMMISSION FOR AN UNEXPIRED TERM ENDING JULY 31, 2016

On motion of Mayor Patterson Council adopted Resolution 14-104, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

6. **Appointment of John Potter to the Finance Committee for an unexpired term ending January 31, 2015**

RESOLUTION 14-105 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S APPOINTMENT OF JOHN POTTER TO THE FINANCE COMMITTEE FOR AN UNEXPIRED TERM ENDING JANUARY 31, 2015

On motion of Mayor Patterson Council adopted Resolution 14-105, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

7. **Reappointment of Mike Caplin to the Human Services Board for a full term ending July 31, 2018**

RESOLUTION 14-106 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF MIKE CAPLIN TO THE HUMAN SERVICES BOARD FOR A FULL TERM ENDING JULY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-106, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

8. Reappointment of Sharon Petrellese to the Human Services Board for a full term ending July 31, 2018

RESOLUTION 14-107 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA CONFIRMING THE MAYOR'S REAPPOINTMENT OF SHARON PETRELLESE TO THE HUMAN SERVICES BOARD FOR A FULL TERM ENDING JULY 31, 2018

On motion of Mayor Patterson Council adopted Resolution 14-107, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

D. PRESENTATIONS

1. NANCY HALL BENNETT, LEAGUE OF CALIFORNIA CITIES, WILL PRESENT THE CITY OF BENICIA WITH THE PRESTIGIOUS LEAGUES OF CALIFORNIA CITIES - HELEN PUTNAM AWARD FOR EXCELLENCE IN CITY BUSINESS RELATIONS FOR THE CITY'S BUSINESS RESOURCE INCENTIVE PROGRAM

V. ADOPTION OF AGENDA:

Brad Kilger, City Manager, requested item VII.E be removed from the agenda. Council would still open the public comment on the item.

On motion of Council Member Hughes, seconded by Council Member Schwartzman, Council adopted the Agenda, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

VI. OPPORTUNITY FOR PUBLIC COMMENT:

A. WRITTEN COMMENT

Two items received (copies on file).

B. PUBLIC COMMENT

1. Ken Vanstory - Mr. Vanstory discussed concern regarding broken sprinkler heads and various watering concerns at the Benicia Community Park (dog park). He discussed other concerns regarding the City's watering practices and conservation.

2. Vice Mayor Campbell - Vice Mayor Campbell thanked Brenda Olwin and Steve Salomon for their service to the City.

VII. CONSENT CALENDAR:

Council pulled item VII.E, as it was removed as part of the Adopted of the Agenda.

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted the Consent Calendar, as amended, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

A. APPROVAL OF THE MINUTES OF THE SEPTEMBER 2, 2014 CITY COUNCIL MEETING

B. AUTHORIZE PURCHASE OF THREE (3) REPLACEMENT POLICE VEHICLES

RESOLUTION 14-108 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF THREE (3) REPLACEMENT POLICE VEHICLES UTILIZING VEHICLE REPLACEMENT FUNDS

C. REVIEW OF AUGUST WATER UPDATE

D. SECOND READING AND ADOPTION OF A ZONING ORDINANCE TEXT AMENDMENT TO INCORPORATE REGULATIONS PERTAINING TO MOBILE FOOD VENDING IN THE INDUSTRIAL ZONING DISTRICTS

ORDINANCE 14-6 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 17.12.030 (DEFINITIONS) OF CHAPTER 17.12 (DEFINITIONS), SECTION 17.16.050 (COMMERCIAL USE CLASSIFICATIONS) OF CHAPTER 17.16 (USE CLASSIFICATIONS), SECTION 17.32.020 (IL, IG, IW AND IP DISTRICTS – LAND USE REGULATIONS) OF CHAPTER 17.32 (INDUSTRIAL DISTRICTS), AND SECTION 17.46.010 (SCHEDULE S-1) OF CHAPTER 17.46 (USE

REGULATIONS SUMMARY), SECTION 17.74.030 (OFF-STREET PARKING AND LOADING SPACES REQUIRED) OF CHAPTER 17.74 (OFF-STREET PARKING AND LOADING REGULATIONS) AND ADDING SECTION 17.70.380 (MOBILE FOOD VENDORS) OF CHAPTER 17.70 (SITE REGULATIONS), ALL OF TITLE 17 (ZONING) OF THE BENICIA MUNICIPAL CODE TO ALLOW FOR MOBILE FOOD VENDING IN THE INDUSTRIAL ZONING DISTRICTS

E. APPROVAL OF LICENSE AGREEMENT FOR WIND STUDY ON CITY OWNED PROPERTY NORTH OF LAKE HERMAN

Public Comment:

1. Jon Van Landschoot - Mr. Van Landschoot spoke in support of this item.
2. Stan Golovich - Mr. Golovich discussed the City's Climate Action Plan, and requested Council modify the agreement to include the full scope of wind turbine sites in the City.

F. CONTINUING THE DECLARATION OF A LOCAL EMERGENCY DUE TO THE SOUTH NAPA EARTHQUAKE

G. Approval to waive the reading of all ordinances introduced and adopted pursuant to this agenda.

VIII. BUSINESS ITEMS:

A. CONDUCT A PUBLIC HEARING ON PROPOSED INCREASES TO WATER RATES INCLUDING THE ADOPTION OF AN URGENCY ORDINANCE AND INTRODUCTION OF AN ORDINANCE AMENDING SECTION 13.35.100 (DROUGHT SURCHARGE) OF CHAPTER 35 (EMERGENCY WATER CONSERVATION) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE AND ADOPT A RESOLUTION TO INCREASE WATER RATES THROUGH THE IMPOSITION OF A TEMPORARY DROUGHT SURCHARGE

ORDINANCE 14-7 - AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 13.35.100 (DROUGHT SURCHARGE) OF CHAPTER 13.35 (EMERGENCY WATER CONSERVATION PLAN) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE

ORDINANCE 14- AN ORDINANCE AMENDING SECTION 13.35.100 (DROUGHT SURCHARGE) OF CHAPTER 13.35 (EMERGENCY WATER CONSERVATION PLAN) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE
RESOLUTION 14-110 - A RESOLUTION OF THE CITY COUNCIL OF THE

CITY OF BENICIA INCREASING WATER RATES BY IMPOSING A TEMPORARY DROUGHT SURCHARGE

Heather McLaughlin, City Attorney, reviewed the process for tonight's public hearing.

Karin Schnaider, Finance Director, reviewed the staff report and a PowerPoint presentation (copy on file).

Vice Mayor Campbell and Staff discussed the amount the City has spent on water to date.

Council Member Strawbridge and Staff discussed the low-income senior subsidy.

Council Member Hughes and Staff discussed the low-income senior subsidy.

Mayor Patterson and Staff discussed the issue of medical necessity, the case studies in the staff report.

Vice Mayor Campbell and Staff discussed the issue of water loss, updated technology meters, and concerns regarding meter replacement costs.

Brad Kilger, City Manager, discussed the issue of water loss. The 25% number that has been talked about is not referring to leaks. It is referring to water that is not being picked up by the current meters and is not being billed for.

Council Member Hughes and Staff discussed the issue of water leak surveys and water meter audits, and possibly using a phased approach for replacement.

Council Member Schwartzman and Staff discussed the issue of meter replacement, and possibly using a phasing approach for replacement.

Public Hearing Opened

Public Comment:

1. Mayor Patterson read a letter submitted by a citizen regarding concerns over water loss (copy on file).

Mayor Patterson asked if there were any more written protests to be submitted. There were not.

Public Hearing Closed

Mayor Patterson asked the City Clerk for a final number on written protests received.

Lisa Wolfe, City Clerk, stated that 112 written protests were received, and that

did not meet the requirements of a majority protest.

Mayor Patterson thanked Brenda Olwin, Interim Finance Director, and Steve Salomon, Interim Public Works Director, for their service to the City.

On motion of Council Member Hughes, seconded by Council Member Strawbridge, Council adopted Ordinance 14-7, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

On motion of Council Member Schwartzman, seconded by Council Member Hughes, Council approved the Introduction and First Reading of an Ordinance amending Section 13.35.100 (Drought Surcharge) of Chapter 13.35 (Emergency Water Conservation Plan) of Title 13 (Public Services) of the Benicia Municipal Code, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

On motion of Council Member Strawbridge, seconded by Council Member Hughes, Council adopted Resolution 14-110, on roll call by the following vote:

Ayes: Patterson, Schwartzman, Campbell, Hughes, Strawbridge
Noes: (None)

B. Council Member Committee Reports:

1. **Mayor's Committee Meeting.(Mayor Patterson) Next Meeting Date: December 17, 2014**

2. **Association of Bay Area Governments (ABAG)http://www.abag.ca.gov/. (Mayor Patterson and Council Member Strawbridge)Next Meeting Date: December 10, 2014**

3. **Finance Committee. (Vice Mayor Campbell and Council Member Strawbridge)Next Meeting Date: September 26, 2014**

4. **League of California Cities. (Mayor Patterson and Vice Mayor Campbell) Next Meeting Date: TBD**

5. **School Liaison Committee. (Council Members Strawbridge and Council Member Hughes) Next Meeting Date: October 2, 2014**

6. **Sky Valley Open Space Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: TBD**

7. **Solano EDC Board of Directors. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: October 9, 2014**

8. **Solano Transportation Authority (STA). http://www.sta.ca.gov/ (Mayor Patterson and Council Member Schwartzman) Next Meeting Date: October 10, 2014**

9. **Solano Water Authority-Solano County Water Agency and Delta Committee. http://www.scwa2.com/(Mayor Patterson and Council Member Hughes) Next Meeting Date: October 9, 2014**

10. **Traffic, Pedestrian and Bicycle Safety Committee. (Vice Mayor Campbell and Council Member Schwartzman) Next Meeting Date: October 16, 2014**

11. **Tri-City and County Cooperative Planning Group. (Mayor Patterson and Council Member Strawbridge) Next Meeting Date: TBD**

12. **Valero Community Advisory Panel (CAP). (Mayor Patterson and Council Member Hughes) Next Meeting Date: TBD**

13. **Youth Action Coalition. (Mayor Patterson, Council Member Strawbridge and Council Member Hughes) Next Meeting Date: September 24, 2014**

14. **ABAG-CAL FED Task Force-Bay Area Water Forum. http://www.baywaterforum.org/ (Mayor Patterson)Next Meeting Date: TBD**

15. **SOLTRANS Joint Powers Authority (Mayor Patterson, Council Member Hughes and Council Member Schwartzman) Next Meeting Date: September 18, 2014**

IX. ADJOURNMENT:

Mayor Patterson adjourned the meeting at 8:32 p.m.

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : Sepember 25, 2014

TO : City Manager

FROM : Public Works Director

SUBJECT : **SECOND READING AND ADOPTION OF AN ORDINANCE AMENDING SECTION 13.35.100 (DROUGHT SURCHARGE) OF CHAPTER 35 (EMERGENCY WATER CONSERVATION) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE**

RECOMMENDATION:
Adopt the ordinance amending Section 13.35.100 (Drought surcharge) of Chapter 35 (Emergency Water Conservation) of Title 13 (Public Services) of the Benicia Municipal Code.

EXECUTIVE SUMMARY:
After three consecutive years of below normal rainfall, the State of California is facing a severe drought emergency. To help ensure the health and safety of the community and the financial integrity of the Water Enterprise fund, on September 16, 2014, City Council adopted an urgency ordinance amending Section 13.35.100 (Drought Surcharge), which modified the definition of drought costs, allowed for adoption via a resolution and defined the end of the surcharge period.

The same ordinance was also introduced as a non-urgent ordinance. The proposed action is the second reading and adoption of the non-urgent ordinance. This allows the ordinance to be enacted following the established practice. The wording of the ordinance is the same as the enacted urgency ordinance except for minor clerical issues and the Findings section and the term "urgency" has been removed.

BUDGET INFORMATION:
The ordinance does not impact the budget.

GENERAL PLAN:
Relevant General Plan Goals:

- Goal 2.28: Improve and maintain public facilities and services
- Goal 2.36: Ensure an adequate water supply for current and future residents and businesses

STRATEGIC PLAN:
Relevant Strategic Plan Issues:

- Strategic Issue #1: Protecting Community Health and Safety
- Strategic Issue #2: Protecting and Enhancing the Environment
- Strategic Issue #3: Strengthening Economic and Fiscal Conditions
- Strategy #4: Manage City finances prudently

BACKGROUND:
This is the final step in a process which began on July 22, 2014 when the Council adopted a resolution of intent to impose a drought surcharge and provide notice of a Proposition 218 public hearing.

On July 24, 2014, staff mailed a notice to affected property owners and/or water customers in order to provide a 45-day notice of a public hearing to consider the drought surcharge, and also to provide information regarding the surcharge and procedural instructions for submitting a written protest.

On September 16, 2014, Council conducted a public hearing regarding proposed temporary rate change, adopted an urgency ordinance amending Section 13.35.100 (Drought surcharge) and adopted a resolution to increase water rates through the imposition of a temporary drought surcharge. The surcharge will be implemented on or about October 15, 2014.

To ensure that the amendments adopted in the urgency ordinance also are revised by the normal process, it is recommended that Council also adopt a non-urgent ordinance amending Section 13.35.100 (Drought surcharge). The first reading of this ordinance occurred at the September 16th Council meeting. As done in the urgency Ordinance, changes were made to the definition of drought costs, to allow for adoption via a resolution and for defining the end of the surcharge period.

Attachment:
- Ordinance Amending Section 13.35.100 (Drought Surcharge) of Title 13 (Public Services)

CITY OF BENICIA

ORDINANCE NO. 14-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING SECTION 13.35.100 (DROUGHT SURCHARGE) OF CHAPTER 13.35 (EMERGENCY WATER CONSERVATION PLAN) OF TITLE 13 (PUBLIC SERVICES) OF THE BENICIA MUNICIPAL CODE

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BENICIA DOES ORDAIN as follows:

Section 1.

13.35.100 Drought surcharge.

A. A drought surcharge may be imposed by the city council, upon the recommendation of the director, to compensate for a loss of water revenue, and to pay drought-related costs such as the purchase of water incurred by the city as a result of the drought.

B. The drought surcharge amount shall be established by a resolution adopted by the city council at the time of imposition. The drought surcharge is temporary and will be in effect until drought-related costs are recovered and water supply conditions have stabilized and the city council terminates the surcharge by adoption of a resolution.

Section 2.

Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

****

On motion of Council Member , seconded by Council Member , the foregoing ordinance was introduced at a regular meeting of the City Council on the 16th day of September, 2014, and adopted at a regular meeting of the City Council on the 7th day of October, 2014 by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

ATTEST:

_____
Lisa Wolfe, City Clerk

_____
Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 30, 2014

TO : City Manager

FROM : Parks and Community Services Director

SUBJECT : **AUTHORIZE PURCHASE OF A REPLACEMENT VEHICLE**

RECOMMENDATION:
Adopt a resolution authorizing the purchase of a Toyota Sienna Van for the Parks & Community Services Department from Toyota of Vallejo in the amount of $30,730.00 and authorizing the City Manager to sign the purchase order on behalf of the City.

EXECUTIVE SUMMARY:
The existing Community Services van scheduled for replacement was purchased in 2000. This purchase is budgeted and funding for replacement vehicles is included in the FY 2014-15 budget.

BUDGET INFORMATION:
Replacement of the Community Services van is funded in the Internal Services Fund Vehicle Replacement account number 114-9305-9125. The budgeted amount for FY 14-15 is $35,000. The purchase price for this vehicle is $30,730.00.

GENERAL PLAN:
Relevant General Plan Goals and Policies include:
- Goal #2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:
- Strategic Issue #4: Preserving and Enhancing Infrastructure
    - Strategy #4: Provide adequate funding for ongoing infrastructure needs.

BACKGROUND:
Replacing the Department's oldest and highest mileage vehicles is necessary to keep equipment in good working condition and maintenance costs low. The Community Services van is used seven days a week and must be maintained in top condition for the transportation of staff. Older vehicles begin to experience severe performance and maintenance problems. The department intends to

replace the Ford Econoline van purchased in 2000 and is scheduled for replacement.

Staff decided to replace the Econoline van with a smaller vehicle since the 15 passenger van was bigger than was needed. The Toyota and Honda vans were selected because they make an eight passenger van. This allows transporting the required staff to the sites for the City's after school programs. Other models similar to the Toyota and Honda only allowed for seven or less passengers. If we wanted an eight passenger vehicle from another manufacture we would have had to purchase a cargo van or sport utility vehicle. The decision to choose the smaller van over the sport utility vehicle and cargo van was based on (1) cost, (2) the easier access in and out of the vehicle, and (3) size. Other vehicles that could hold eight passengers like a large SUV or cargo van were too big for the City's purpose.

In July of 2014 City staff received three bids for the replacement of the 2000 Ford Econoline van. Toyota of Vallejo was the low bid in the amount of $30,730.00. Following City Council approval, the new vehicle is anticipated to be in service in September 2014. Below are the bid results:

Bid Results:

RANK	*BIDDER'S NAME*	*Total BID*
1	**Toyota of Vallejo**	**$30,730.00**
2	**Avery Greene Honda Vallejo**	**$33,278.21**
3	**Toyota of Fairfield**	**$35,675.00**

Attachment:

- Resolution

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF A REPLACEMENT COMMUNITY SERVICES VAN UTILIZING VEHICLE REPLACEMENT FUNDS

WHEREAS, the purchase of a new Community Service vehicle was authorized by City Council on October 7, 2014; and

WHEREAS, the Parks and Community Services Department solicited bids from three suppliers; and

WHEREAS, the replacement vehicle will be purchased from Toyota of Vallejo as the low bidder; and

WHEREAS, there are sufficient funds available from the FY 14/15 Internal Services Fund Vehicle Replacement budget, account number 114-9305-9125 to cover the cost of the replacement vehicle.

NOW, THEREFORE, BE IT RESOLVED THAT, the City Council of the City of Benicia approves the expenditure not-to-exceed $30,730.00 from the Vehicle Replacement Fund account 114-9305-9125, for the purchase a Community Services van, and authorizes the City Manager to sign the purchase order on behalf of the City.

*****

On motion of Council Member , seconded by , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October, 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

ATTEST:

_____
Lisa Wolf, City Clerk

_____
Date

VII.C.4

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 9, 2014

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF CLAIM AGAINST THE CITY BY ROBIN LANCASTER AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:
Deny the claim against the City by Robin Lancaster.

EXECUTIVE SUMMARY:
The claimant alleges that the City crushed her sewer line, either between the City's concrete pressurized sewer line (immediately above her line) and steel pipe carrying surface water (immediately below her line); or, that it could have possibly been crushed during the remodel of the easement walkway approximately 12 years previous.

BUDGET INFORMATION:
This claim is for $1,838.05.

GENERAL PLAN:
N/A

STRATEGIC PLAN:
N/A-there is no relevant Strategic Plan Goal that relates to the agenda item.

BACKGROUND:
The claimant states that the area between the two city pipes where her clay tile sewer line was laid has but a 4 and ¾" space. The claimant alleges that her sewer line was either crushed sometime after the installation of the metal surface water pipe, or was crushed due to the compaction done at the time of the remodel of the easement walkway with a concrete walkway. Upon rejection of the claim, the City Clerk should issue a rejection notice to Ms. Lancaster using ABAG's Form Letter No. 3 of the ABAG Plan Claims procedures Manual and process with proof of service by mail form. A copy of the rejection notice and proof of service by mail form should be sent to the Claims Examiner for ABAG and the City Attorney.

Attachment:
- Copy of Claim Against the City

VII.D.2

CLAIM AGAINST THE CITY OF BENICIA

Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): Robin Lancaster
2. CLAIMANT'S ADDRESS: _____
   (Street or P.O. Box Number, City, State, Zip Code)

   HOME PHONE: _____ WORK PHONE: —
3. AMOUNT OF CLAIM: $ 1,838.05 (Attach copies of bills/estimates)

   If amount claimed is more than $10,000, indicate where jurisdiction rests:
   Limited Civil Case _____
   Unlimited Civil Case _____
4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):

   _____
   (Name)

   _____
   (Street or P.O. Box Number, City, State, Zip Code)
5. DATE OF INCIDENT: 6-10-14 TIME OF INCIDENT: AM

   LOCATION OF INCIDENT: _____
6. Describe the incident or accident including your reason for believing that the City is liable for your damages: City of Benicia crushed my sewer line. See photos attached — and correspondence with city.
7. Describe all damages which you believe you have incurred as a result of the incident: Costs to reconnect my sewer line. See invoices attached.
8. Names of public employee(s) causing the damages you are claiming: unknown

Robin Lancaster — Aug. 10, 2014

Signature of Claimant — Date

Any person who with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

VII.D.4

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 19, 2014

TO : City Council

FROM : City Attorney

SUBJECT : **DENIAL OF CLAIM AGAINST THE CITY BY DOLORES WITTKOP AND REFERRAL TO INSURANCE CARRIER**

RECOMMENDATION:
Deny the claim against the City by Dolores Wittkop.

EXECUTIVE SUMMARY:
The claimant alleges that she tripped and fell on the sidewalk at 325 East K Street and fractured her elbow.

BUDGET INFORMATION:
This claim is for $300,000.00.

GENERAL PLAN:
N/A

STRATEGIC PLAN:
N/A-there is not a relevant Strategic Plan Goal that relates to this agenda item.

BACKGROUND:
The claimant alleges that she was walking on the sidewalk in front of 325 East K Street and tripped and fell as a result of broken, uneven sidewalk, fracturing her elbow, which resulted in surgery, medical expenses and lost income. Upon rejection of the claim, the City Clerk should issue a rejection notice to Ms. Wittkop using ABAG's Form Letter No. 3 of the ABAG Plan Claims Procedures Manual and process with proof of service by mail form. A copy of the rejection notice and proof of service by mail form should be sent to the Claims Examiner for ABAG Plan and the City Attorney.

Attachment:
- Copy of Claim Against the City

VII.E.2

RECEIVED
SEP - 4 2014
CITY CLERK'S OFFICE
CITY OF BENICIA

CLAIM AGAINST THE CITY OF BENICIA

Please return to the City Clerk, 250 East L Street, Benicia, CA 94510

Complete the following, adding additional sheets as necessary.

1. CLAIMANT'S NAME (Print): Dolores Michelle Wittkop
2. CLAIMANT'S ADDRESS: _____
   (Street or P.O. Box Number, City, State, Zip Code)

   HOME PHONE: (925) _____ WORK PHONE: (925) _____
3. AMOUNT OF CLAIM: $ 300,000.00 (Attach copies of bills/estimates)

   If amount claimed is more than $10,000, indicate where jurisdiction rests:
   Limited Civil Case _____
   Unlimited Civil Case X
4. Address to which notices are to be sent, if different from lines 1 and 2 (Print):

   R. Nicholas Haney, Esq.
   (Name)

   _____
   (Street or P.O. Box Number, City, State, Zip Code)
5. DATE OF INCIDENT: March 15, 2014 TIME OF INCIDENT: 2:10 pm

   LOCATION OF INCIDENT: Sidewalk in front of 325 East "K" St., Benicia CA
6. Describe the incident or accident including your reason for believing that the City is liable for your damages: Claimant was walking on the sidewalk in front of 325 East "K" St., Benicia, and tripped and fell as a result of a broken, uneven and dangerous sidewalk.
7. Describe all damages which you believe you have incurred as a result of the incident: Fractured right elbow, resulting in hospitalization, surgery, medical expenses, lost income and pain & suffering.
8. Names of public employee(s) causing the damages you are claiming: Public Works Department, names of employees unknown

R. Nicholas Haney
Signature of Claimant

9/4/14
Date

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: YOU must file a claim in compliance with Government Code Section 911.2.

(revised 12/18/02)

VII.E.4

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 10, 2014

TO : City Council

FROM : Community Development Director

SUBJECT : **CLIMATE ACTION PLAN COORDINATOR (CAP) AGREEMENT**

RECOMMENDATION:
Authorize City Manager to terminate existing contract with Sonoma State University (SSU) and execute a new agreement (same terms) with Pacific Municipal Consulting (PMC) to continue providing CAP Coordinator services through June 30, 2015.

EXECUTIVE SUMMARY:
The on-site CAP Coordinator, Alex Porteshawver, works from City Hall and is currently employed by SSU. As of June 20, 2014, the CAP Coordinator was offered and accepted a new position with PMC, a leading California-based planning firm with an exceptional climate change team. If the new contract is approved, Alex Porteshawver will continue to serve as the City's CAP Coordinator 4 days per week through June 30, 2015. The contract terms and budget will remain the same and staff believes PMC will be able to provide the same or greater level of service to the City.

BUDGET INFORMATION:
In December 2011, the Council allocated $150,000 of the Valero Good Neighbor Steering Committee Settlement Agreement funds and in March 2013, allocated an additional $135,000 to extend the existing CAP Coordinator Agreement through June 30, 2015. Transferring the contract to PMC will not result in any budget change and no additional expenditures are necessary.

GENERAL PLAN:
The overarching Goal of the General Plan is Sustainability.

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment
    - Strategy #1: Reduce greenhouse gas emissions and energy consumption

- Strategy #3: Pursue and adopt sustainable practices

BACKGROUND:
In December 2011, the Council allocated $150,000 for a two year contract to assist in implementation of the Climate Action Plan (CAP). After reviewing several proposals, Sonoma State University was selected. Among the services it provided was a part-time CAP Coordinator for two years (February 2012 - February 2014). In March 2013, the City Council allocated an additional $135,000 to add a fourth day per week (originally three days) and extend the contract with SSU through June 2015. The on-site CAP Coordinator, Alex Porteshawver, works from City Hall and is currently employed by SSU.

As of June 20, 2014, the CAP Coordinator was offered and accepted a new position with Pacific Municipal Consultants (PMC), a leading California-based planning firm with an exceptional climate change team. In order to maintain continuity and complete the work she began, Alex worked with Sonoma State University and PMC to allow for the contract to be transferred from SSU to PMC. Should the City Council approve this new contract with PMC, Alex Porteshawver will continue to serve as the City's CAP Coordinator 4 days per week through June 30, 2015. The work program in the new contract is the same as the work program in the current contract. Supervisorial responsibility will be transferred from Alex Hinds Director of the Center for Sustainable Communities at SSU, to Tammy Seale, Principal, Sustainability and Climate Change Services at PMC (see below for further discussion). Alex will also work on other projects for PMC, but this work will not affect her commitment to Benicia's program. Alex will continue to work with SSU to identify qualified students for internship opportunities.

On September 15, 2014, Staff presented this issue to the Community Sustainability Commission (CSC). The CSC recommends that the City Council to approve terminating the existing contract with SSU and authorize the City manager to execute a new agreement with PMC.

I. Management (October 2014 – June 2015)
Alex Porteshawver will continue to serve as the on-site CAP Coordinator and report to the CSC and the City Council on matters related to CAP implementation. Currently, the CAP Coordinator receives input from Alex Hinds, Director of the Center for Sustainable Communities at SSU, when necessary and then receives supervision and direction from City Staff. If the new contract is approved, the CAP Coordinator will be supervised by Tammy Seale, Principal, Sustainability and Climate Change Services at PMC (see attached resume). Ms. Seale has over 20 years of experience serving public agencies. As Director of PMC's Sustainability and Climate Change Services team, she manages the day-to-day functions of the team and serves as the project director for comprehensive planning projects in the areas of sustainability, climate action

planning, and conservation planning. The City will have access to PMC's expertise and resources related to climate change planning for the duration of the existing contract. City Staff will continue to review and have final approval authority for all project and program related documents and reports per the existing contract.

II. PMC Qualifications

PMC offers a full range of planning services related to sustainability, energy awareness, and climate change (see attached). It is committed to promoting and supporting projects, plans, and programs that advance economic vitality and environmental sustainability. Since 2007, PMC's Sustainability and Climate Change team has assisted more than 50 local governments across the state with addressing climate change issues, including climate adaptation, hazard mitigation, and sustainability. PMC provides technical expertise to quantify and forecast GHG emissions, to engage stakeholders, and to develop strategies to reduce energy consumption and GHG emissions. Below is a sample of PMC's climate and sustainability related projects:

- City of Sunnyvale – Climate Action Plan
- City of Santa Rosa – Climate Action Plan
- City of Los Altos – Climate Action Plan
- Qualified Greenhouse Gas Reduction Strategy Guidance – Bay Area Air Quality Management District (BAAQMD)

PMC also recently participated in the inaugural California Adaptation Forum. A PMC sustainability planner led a presentation about how climate change related impacts will create new challenges for the elderly. PMC was also a forum sponsor.

III. Conclusion

City Staff requests that the City Council approve the termination of the CAP Coordinator agreement with SSU and establish a contract with PMC. Staff believes this transfer will result in no change to the existing contract, budget, or CAP Coordinator 2014-15 Work Plan and that PMC will be able to provide the same or better level of service that SSU has provided.

Attachments:

- September 15, 2014 CSC Meeting Minutes (Draft)
- Tammy Seale Resume
- PMC Statement of Qualifications
- CAP Coordinator Agreement FINAL
- Exhibit A Scope of Work

VII.F.4

EXHIBIT A

Climate Action Plan (CAP) Coordinator
Work Plan – April 2014-June 2015
Prepared by Alex Porteshawver, Consulting CAP Coordinator
March 10, 2014

I. Introduction

In February 2012, Alex Porteshawver of the Center for Sustainable Communities at Sonoma State University (SSU) was hired to serve as the CAP Coordinator, working three days per week from City Hall, assisted by other team members from the Center. From February 2012-December 2013, the CAP Coordinator focused on implementing Community Sustainability Commission (CSC) and City Council approved priorities. In addition, as time permitted, the CAP Coordinator worked on other CAP-related projects in an effort to further reduce greenhouse (GHG) emissions and to promote Benicia's exceptional sustainability work.

In March 2013, the CAP Coordinator contract was extended until June 2015 and therefore, an updated work plan is required for April 2014-June 2015. The updated work plan will contain on-going and new reduction strategies. Utilizing the January 2012 CSC Criteria[1], SSU criteria[2], the results of the 2010 Greenhouse Gas Inventory Update, and CSC/City Council feedback on proposed reduction strategies, the CAP Coordinator developed a recommended work program for CSC review and final Council approval.

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[1] The CSC proposed the following criteria in December 2011 and approved the criteria in January 2012:

- Significant greenhouse gas reduction: energy and water, industrial and commercial
- Related to assisting the community: industrial/commercial/retail, residential, city government
- Retain funds for continuing public education through 2015
- Project is within the scope/ability of the CAP Coordinator

[2] The SSU team utilized the following criteria when selecting priorities for the 2012-2013 CAP Coordinator Work Plan:

- Sector addressed
- Financial feasibility
- Timeliness
- Consistency with City Approvals

II. 2012-2013 CSC Approved Priorities

In May 2012, the CSC approved priorities to serve as a work plan for the CAP Coordinator. Many of the deliverables have been successfully implemented and are considered completed and others are on-going through June 2015.

Below is an overview of the status of these priorities:

a. Property Assessed Clean Energy (PACE) Program & Residential Solar Program
   - California FIRST program launched – 16 active contracts, most in Northern California, none in Benicia.
   - Residential solar program approved by CSC – September 2012; program includes partnerships with 5 solar installation companies, WattzOn, PG&E, and Bright Current; 34 systems/rebates installed.

b. Monitor & Evaluate Emissions Reduction Progress
   - Completed GHG Inventory update for baseline year (2000).
   - Completed 2010 GHG Inventory Update.
   - Developed monitoring and tracking tool for City solar sites and energy efficiency upgrades.
   - Began tracking activities in "Best Practices Areas" for Beacon Award (statewide program) recognition.
   - Hired SSU Intern to track energy and savings associated with City facility upgrades and rate changes; on-going

c. Building Audit & Efficiency Program (Business Resource Incentives Program – BRIP)
   - Assisted Economic Development Department to select 2 qualified consultants to implement BRIP.
   - Developed project environmental assessment form and environmental benefit tool to be used when allocating funding.
   - Continued partnership with PG&E to target highest energy users in the Industrial Park.
   - Facilitated a coordinated outreach event with the Chamber, Benicia Industrial Park Association (BIPA), PG&E, PACE program administrators, and electric vehicle (EV) infrastructure experts.

d. Incentives for Residential Plumbing Fixture Upgrades
   - CSC approved program structure – September 2012.
   - Developed program reporting documents, application forms, and guidelines.
   - Formed partnership with two local hardware stores (rebate vouchers).

- Formed partnership with WattzOn to assist with outreach and application process.
- 11 rebates issued.

e. Research Additional Grant Funding
- Transportation for Clean Air Fund (TFCA)--stripe Class II bike lanes and bike sharrows; completed Fall 2013.
- Jumpstart grant—received free Level II charging station installed and operational at City Hall.
- California Energy Commission (CEC) grant—assisted the City to construct battery storage, electric vehicle fast charging project at City Hall; open to public April 3.

f. Increase Wind Generation within City Limits
- Assessed viable sites for wind turbines and determined feasibility of pursuing project; complete; not currently feasible.

g. Implement Bicycle and Pedestrian Safety Measures
- Applied for and was awarded a TFCA grant to stripe additional Class II bike lanes and bike sharrows; complete Fall 2013.

h. Update & Maintain Sustainable Benicia Website
- Edited and developed content for Sustainable Benicia.org.
- Assisted City Staff during design and content review process.
- Launched website Spring 2013.
- Maintain content; on-going

i. Small Communities Climate Action Partnership (SCCAP-PG&E Innovator Pilot Grant)
- Conducted energy audit at City Hall.
- Identified eligible energy saving projects.
- Developed Municipal Energy Plan.
- Conducted rate analysis (annual savings of $3,000).
- Presented at Bay Area workshop and statewide call about our participation.
- Helped launch spin-off group to assist small communities to engage in regional and statewide policy efforts and discussions.
- Identified opportunity for energy savings at City Hall vending machines.
- Hired SSU intern to use energy management software to track and analyze City facility energy use and cost trends, identify savings attributed to energy efficiency retrofits, analyze existing rate schedules for water pumps, and track energy and cost savings attributed to streetlight retrofits; report complete; on-going tracking

j. Other CAP-related Projects

In addition to implementing CSC CAP Coordinator priorities, the coordinator has identified and worked on other projects that will assist the City and community to reduce greenhouse gas (GHG) emissions.

- Electric Vehicle (EV) Infrastructure Planning
    1. Awarded $79,200 CEC grant for the construction of a battery-backed, solar powered DCFC station at City Hall.
    2. Received statewide recognition on Small Communities Climate Action Network (SCCAN) call for progressive EV planning efforts.
    3. Installed 2 Level II stations at City Hall; developed fee structure, liability policy, and signage replicable at other City sites.
- Engaged in conversations with nearby Bay Area cities about Benicia's efforts and policies.
- Community Choice Aggregation (CCA)
    1. Engaged in discussions with City of Richmond to discuss process for joining Marin Clean Energy (MCE).
    2. Engaged in discussions with MCE Executive Director about potential for Benicia to join.
- Beacon Award
    1. Received certificate recognizing our Interim Accomplishments:
    2. Completed activities in 10 Best Practice Areas.
    3. According to PG&E, achieved 7.9% reduction in electricity use and 8% reduction in natural gas use since 2005.
    4. Working toward achieving a Silver Award by showing a 5% decrease in total GHG emissions.
- Statewide Policy & Planning
    1. Informed of Cap and Trade auction results; participated in discussions and attended hearings related to how auction proceeds will be allocated in California; submitted official comments on Investment Plan and related legislation.
    2. Attended Statewide Climate Action Planning conference to discuss new guides, policies, and best practices.
- Coastal Conservancy Climate Ready Grant
    1. Conservancy grant committee recommended approval of a $150,000 award to the City to conduct a scientific risk study and develop an adaptation plan; currently develop grant agreement.

III. 2014-2015 Recommended CAP Coordinator Priorities & Work Plan

According to the 2010 GHG Inventory Update, the City needs to achieve 314,000MTCO2e reduction annually to meet its 2020 goal.

- State legislation will reduce annual emissions by approximately 110,000MTCO_2e.
- Strategies in non-CAP City planning documents that will be implemented between now and 2020 account for approximately 25,000 - 100,000MTCO_2e reductions.
- Completed CAP projects that will continue to achieve annual reductions account for 2,500 MTCO_2e. (included in the 25,000 - 100,000mTCO_2e range).

This leaves between 104,000 and 179,000MTCO_2e that needs to be reduced annually to meet the 2020 reduction target.

Below is a summary of recommended priorities that will help the City achieve its 2020 reduction goals (new strategies are explained in more detail in Section IV). Next to each priority are deliverables with estimated completion dates and annual reductions (MTCO_2e) that will be achieved if the strategy is implemented. In addition to the reduction strategies listed below, the CAP Coordinator will attend local, regional, and statewide climate policy and planning meetings to stay up to date on legislation, regulations, and funding that may impact implementation of the strategies below.

Short-term timeframe (April 2014-June 2014)
NEW Projects
1. Promote the City's Sustainability Efforts (0) ***On-going***

Strategy EO 1.1. Update and Maintain Sustainable Development Website

Deliverable: Marketing plan – written report with recommendations for promoting the City's sustainability efforts.
July 2014

2. Combined Heat and Power (CHP) Demonstration Project
Fuel Cell Integration at City Wastewater Treatment Plant (5,625)
Objective E-2: Increase Amount of Renewable Energy in Benicia
Strategy E-2.3. Renewable Energy for City Facilities ***In process***

Deliverable: Written Report – update on feasibility assessments and integration with the Business Resource Incentive Program (BRIP).[3]
July 2014

3. Strategy E-2.6. Community-Choice Aggregation Feasibility Assessment (680 – Residential, 110 – Commercial/Industrial) ***In process***

Deliverable: Written report: recommendations for action and potential funding sources for required feasibility study.
May 2014

4. Oversee Implementation of Coastal Conservancy Climate Ready Grant (unknown) ***In process***

Deliverable: Status report – verbal update on grant activity including project milestones.
On-going at every CSC meeting starting March 2014

5. Greening Existing Building Stock
B-3.1. Residential Energy Conservation Ordinance (RECO) (8,120)
IC-1.4. Commercial Energy Conservation Ordinance (CECO) (90,225)
In process

Deliverable: None; Begin research and analysis.
April 2014

Deliverable: Written report; overview of potential ordinance requirements including residential and commercial energy conservation requirements; proposed work plan (outlining development/implementation steps); and time line for adoption.
September 2014

On-going Projects
1. Monitor + Evaluate Progress (0) ***In process***

Deliverable: Status report – overview of emissions reductions as a result of CAP strategy implementation.

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[3] The CAP Coordinator would assist the Economic Development Department to develop a project scope and Request for Proposal (RFP) if needed, review proposal submissions and provide feedback, and review work products of consultant and make recommendations for what proposed projects should be funded.

On-going at every CSC meeting
Deliverable: Status report – verbal update on Beacon Award status (requires on-going project reporting to the Institute for Local Government).
On-going at every CSC meeting

2. Strategy E-2.2 Property Assessed Clean Energy (PACE) Program (7,440 – Commercial/Industrial) (1,560 – Residential) ***Complete***

Deliverable: Status report – enrollment data.
On-going at every CSC meeting
Deliverable: Written report – report with recommendations for joining/establishing an additional PACE financing district.
May 2014

3. Research Additional Grant Funding (0) ***On-going***

Deliverable: Status report – overview of potential grants; status of pending applications.
On-going at every CSC meeting

4. Residential Plumbing Fixture Upgrade Program ***On-going***

WW1.6. Incentivize Water Conservation (40)
Deliverable: Written report – changes to program, expanded list of eligible products, new marketing methods and results.
May 2014

5. Benicia Efficiency and Climate Action Team ***On-going***

Deliverable: Status report – overview of BECAT work plan and status of projects.
September 2014; On-going at every CSC meeting

Near-term timeframe (July 2014-December 2014)
NEW Projects
1. T2.4 Traffic Signal and Stop Sign Optimization (12,630) ***Incomplete***

Deliverable: Begin research and determine if synchronization of traffic signals is possible in Benicia and cost of upgrades; draft language to update Stop Sign Warrant Ordinance; investigate other options for creating 'Complete Streets,' i.e. roundabouts.
November 2014

EXHIBIT A

On-going Projects

1. Monitor & Evaluate Progress

Deliverable: Status report – overview of emissions reductions as a result of CAP strategy implementation.

On-going at every CSC meeting

2. Strategy E-2.2 Property Assessed Clean Energy (PACE) Program

Deliverable: Status report – enrollment data and status of additional financing district.
On-going at every CSC meeting

3. Research Additional Grant Funding

Deliverable: Status report – overview of potential grants; status of pending applications.

On-going at every CSC meeting

4. Promote the City's Sustainability Efforts (0)

Strategy EO 1.1. Update and Maintain Sustainable Development Website
Deliverable: Status report – verbal update on promotion methods and successes.
On-going at every CSC meeting

5. Combined Heat and Power (CHP) Demonstration Project

Fuel Cell Integration at City Wastewater Treatment Plant (5,625)
Objective E-2: Increase Amount of Renewable Energy in Benicia
Strategy E-2.3. Renewable Energy for City Facilities

Deliverable: Written Report – overview of RFP process (if needed) and selected CHP project sites; project costs.
September 2014

6. Strategy E-2.6. Community-Choice Aggregation Feasibility Assessment (680 – Residential, 110 – Commercial/Industrial)

Deliverable: Status Report – verbal update on funding status and feasibility study.
July 2014

7. Oversee Implementation of Coastal Conservancy Climate Ready Grant (unknown)

Deliverable: Status report: verbal update on grant activity including project milestones.
On-going at every CSC meeting

8. Greening Existing Building Stock

B-3.1. Residential Energy Audit/Conservation Ordinance (8,120)
IC-1.4. Commercial Energy Audit/Conservation Ordinance (90,225)
Deliverable: Written report - research potential ordinance requirements including residential and commercial energy audit requirements; proposed ordinance, work plan, and timeline for adoption.
September 2014

9. E-3.3. Promote California Solar Initiative and Other Applicable Incentive Programs (350 assuming 1.5% participation rate)

Deliverable: Written Report - new program guidelines and project implementation timeline.
July 2014

10. Benicia Efficiency and Climate Action Team

Deliverable: Status report – overview of BECAT work plan and status of projects.
On-going at every CSC meeting

Long-term timeframe (January 2015 – June 2015)

1. Monitor & Evaluate Progress

Deliverable: Status report – overview of all projects including status and GHG reductions achieved.
On-going at every CSC meeting

Deliverable: Written report – status of all CAP projects and recommendations for continued implementation and tracking after June 2015.
May 2015

2. T2.4 Traffic Signal and Stop Sign Optimization (12,630)

Deliverable: Written report – overview of potential options, cost, feasibility, and proposed implementation schedule.
March 2015

3. Coastal Conservancy Climate Ready Grant

Deliverable: Written report: summary of grant activities and final adaptation plan/strategies.
May 2015

Project Management
CAP Coordinator will continue to manage the projects listed in the near and short term time frames. The status of each project along with recommended next steps will be included in the final written report in May 2015.

If all of the above projects are implemented in one calendar year by 2019, the City will achieve the following *estimated reductions:*

133,860MTCO$_2$e

IV. Selection of Priorities

The SSU team selected *new* 2014-2015 strategies and *updated* 2012-2013 strategies based on the overall impact of each selected strategy. Overall impact was determined considering the following factors:

- CSC feedback on proposed new CAP policies (November 2013/January 2014)
- City Council feedback on proposed new CAP policies (March 2014)
- CSC approved criteria (January 2012)
- Financial feasibility
- Timeliness
- Consistency with City Approvals
- 2010 GHG Inventory Update Results
- Emission reduction potential

This analysis was conducted only for those strategies selected. Conducting an analysis of all 100+ CAP strategies would require many assumptions to be made about strategy implementation and cost and staff did not feel that was the best use of limited time and resources. Emission reduction potential was considered heavily in selecting the implementation strategies since one of the main goals of CAP implementation is to achieve the GHG reduction targets listed in the plan. Additional analysis was completed to show co-benefits of each selected strategy and further financial analysis will be completed as part of strategy implementation. The analysis is attached to this report.

A. New Strategies

PROMOTE THE CITY'S SUSTAINABILITY EFFORTS

Education and outreach are critical components of climate protection planning because of the changes in citizen behavior and business practices that are needed to meet the City's emission reduction targets. In May 2013, the City launched SustainableBenicia.org. This website was intended to promote the City's and Community Sustainability Commission's (CSC) efforts. The website needs to be updated and/or migrated to a new platform that is more user-friendly and accessible and additional outreach and marketing efforts are needed to generate interest in existing incentive programs and overall sustainability efforts.

Deliverable: Marketing plan that includes a new user interface to promote the City's sustainability efforts via website, social media, and other online mediums. *July 2014*

2010 GHG Inventory Update	Emission Reduction Potential	Financial Feasibility	Timelines	Consistency with City Approvals
N/A	-Reduction estimate not applicable; this is a supportive measure that will encourage behavior change and increase public awareness	-CAP Coordinator contract covers cost to develop marketing plan and increase social media presence -An updated user interface will cost the City approximately $7,500 -Additional funding may be necessary to hire marketing professional.	-CAP Coordinator can implement upon approval of work plan	-The adopted CAP document includes 14 education and outreach strategies -Council expressed support for increased community outreach at 3/4/14 Council Meeting

COMBINED HEAT AND POWER (CHP) RESEARCH STUDY & DEMONSTRATION PROJECT

Objective E-2: Increase Amount of Renewable Energy in Benicia

Strategy E-2.3. Renewable Energy for City Facilities

Fuel Cell Integration at City Wastewater Treatment Plant (proposed new strategy)

Natural gas usage in the Industrial Park provides an excellent opportunity for GHG emissions reductions. CHP involves the production of on-site electricity so that the heat by-product from the generation process can be recovered and used for steam production or process and space heating, rather than being wasted. There are many different CHP technologies including waste heat-to-power generation and fuel cells.

A consulting firm could conduct a no-cost assessment at those businesses that it identifies as ideal candidates for CHP integration. This initial assessment includes a physical site visit and analysis of 1 year of natural gas use data as well as 15-minute incremental demand data supplied by PG&E. After conducting this initial assessment, the consultant will identify the top sites for CHP implementation and BRIP funding may be used to fund an engineering study and design the project at one or more sites. In addition, a consultant could also conduct a no-cost assessment at the City's Wastewater Treatment Plant.

Deliverable: Status Report – update on initial assessment; selection of consultant for additional engineering studies and project design, proposed funding and integration with the Business Resource Incentive Program (BRIP).[4]

July 2014

[4] The CAP Coordinator would assist the Economic Development Department to develop a project scope and Request for Proposal (RFP), review proposal submissions and provide feedback, and review work products of consultant and make recommendations for what proposed projects should be funded.

2010 GHG Inventory Update	Emission Reduction Potential (Annual)	Financial Feasibility	Timelines	Consistency with City Approvals
Commercial/ Industrial Energy Use (48% of 2010 emissions); Wastewater Facilities (16% of Local Government Operations emissions)	-Fuel cell integration at WWTP could reduce 5,625MTCO_2e -Reductions associated with other CHP projects are unknown until feasibility studies are completed	-No-cost initial assessment -Additional engineering studies can range from $10,000 -$100,000 depending on the complexity of the project -Utility (PG&E) incentives for renewable energy generation may help offset the costs of CHP technologies -Business Resource Incentive Program (BRIP) funding may be utilized to complete study and to install proposed technologies	-CAP Coordinator can implement upon approval of work plan -BRIP funding available for feasibility study(s) -Additional time will be needed to identify consultant for project installations -Additional funding may be needed depending on the cost of proposed projects	-City Council approved the Sustainable Business Management Program on 4/17/2012 - Consistent with General Plan Goal 2.5 (Facilitate and encourage new uses and development which provide substantial and sustainable fiscal and economic benefits to the City and the community while maintaining health, safety, and quality of life) -Consistent with Table 7-1 in Wastewater System Master Plan (GHG Emissions Reduction Goals Relevant to Wastewater System)

STRATEGY E-2.6. COMMUNITY-CHOICE AGGREGATION FEASIBILITY ASSESSMENT
Community Choice Aggregation (CCA), created by State Assembly Bill 117, provides communities with the opportunity to establish a program that provides a clean energy option to residents and business owners. Under a CCA arrangement, the utility continues to own, operate, and maintain the transmission lines and bill customers, but the community(s) dictates the type of energy sources. For example, Marin Clean Energy (MCE), an aggregation program managed by the Marin Energy Authority, procures some of its renewable power locally and some from out of state. Procuring renewable energy reduces "marginal emissions" or the actual incremental emissions that PG&E would incur if it were serving customers that are instead participating in the CCA.

Benicia has the option of joining (MCE), but needs to complete the following two steps:

- City Council sends a letter requesting consideration of membership to MCE; MCE evaluates City to determine if it meets membership criteria.
- City contracts with MCE to complete an economic feasibility study; approximately $18,000 ($10,000 to verify MCE's ability to provide cost-effective service to Benicia while maintaining existing rates and $8,000 for MCE staff time and PG&E load data fees); may be more if City wishes to investigate establishing its own CCA.

Deliverable: Written report: recommendations for action and potential funding sources for required feasibility study.
May 2014

2010 GHG Inventory Update	Emission Reduction Potential (Annual)	Financial Feasibility	Timelines	Consistency with City Approvals
Commercial/Industrial Electricity Use (5% of 2010 emissions); Residential Electricity Use (6% of 2010 emissions)	-680 $MTCO_2e$ (Residential) -110 $MTCO_2e$ (Commercial/ Industrial)	-City needs to identify funding for feasibility study; potential sources include: grants and crowd funding -CSC applied for 14-15 CSC grant funding ($18,000) to cover cost of technical study	-MCE is accepting new member applications -CSC conducted CCA panel to inform community on 3/3/13 -If CSC is awarded funding, CAP Coordinator can initiate member process with Marin Clean Energy (Council approval needed)	-City Council Approved the CAP including Strategy E-2.6 Community Choice Aggregation Feasibility Assessment; Strategy E-2.3. Renewable Energy for City Facilities

OVERSEE IMPLEMENTATION OF COASTAL CONSERVANCY CLIMATE READY GRANT
The California State Coastal Conservancy (Conservancy) announced the availability of funding for projects through its Climate Ready program on June 13, 2013. Climate Ready grants are intended to encourage local governments and non-governmental organizations to act now to prepare for changing climate by advancing planning and implementation of on-the-ground actions that reduce greenhouse gas emissions and lessen the impacts of climate change on California's coastal communities and natural resources.
In August 2013, the Council authorized submission of an application after City Staff received necessary support from a variety of local, regional, and state partners to conduct an assessment of the risks from climate change to natural resources and public infrastructure, develop an adaptation plan that outlines strategies to reduce those risks, and implement that plan by conducting case studies with businesses in the industrial park while leveraging the existing Business Resource Incentive Program (BRIP). On April 15, 2014, the Council authorize the City Manager to enter into a grant agreement with the Conservancy and accept $150,000 to implement the above project.

The CAP Coordinator will:

- Develop grant agreement with Conservancy Staff support;
- Assist in preparing a request for proposal (RFP); assist with interviewing and hiring process;
- Prepare monthly invoicing materials;
- Assist with public outreach;
- Review consultant work products;
- Make periodic reports to CSC and City Council on status of grant deliverables; and
- Prepare final grant report.

Deliverable: Status report – verbal update on grant activity including project milestones.
On-going at every CSC meeting starting March 2014

2010 GHG Inventory Update	Emission Reduction Potential (Annual)	Financial Feasibility	Timelines	Consistency with City Approvals
Commercial/Industrial Energy Use (48% of total 2010 emissions)	-Unknown; depends on the types of adaptive strategies implemented by the City and businesses	-City was awarded a $150,000 Coastal Conservancy Climate Ready Grant	-City Staff expects to present the grant agreement to Council for approval in early April 2014	-On August 20, 2013 City Council approved submission of the Coastal Conservancy grant application -On April 15, 2014 City Council authorized the City Manager to enter a grant agreement with the Conservancy and accept $150,000

GREENING EXISTING BUILDING STOCK

Strategy B-3.1. Residential Energy Audit/Conservation Ordinance (RECO) (8,120)
Strategy IC-1.4. Commercial Energy Audit/Conservation Ordinance (CECO) (90,225)

Several local agencies have moved away from a mandatory/prescriptive model towards a goal of market transformation, requiring all properties to conduct a baseline energy assessment by a 'date certain' (i.e. 5 years for adoption of ordinance). This new model focuses on disclosure of energy usage as way to motivate reductions /competition in the market rather than mandated improvements. It has been favored and supported by the real estate business community in several East Bay jurisdictions. The City may consider setting a date certain of 2019 so that potential reductions can be included when the 2020 inventory is completed.

Deliverable: Begin research and analysis.
April 2014

Deliverable: Written report; overview of potential ordinance requirements including residential and commercial energy conservation requirements; proposed work plan (outlining development/implementation steps); and time line for adoption.
September 2014

2010 GHG Inventory Update	Emission Reduction Potential (Annual)	Financial Feasibility	Timelines	Consistency with City Approvals
Commercial/Industrial Energy Use (48% of total 2010 emissions); Residential Energy Use (6% of total 2010 emissions)	-RECO: 8,120 $MTCO_2e$ -CECO: 90,225 $MTCO_2e$[5] *reductions may vary depending on the impact of energy performance disclosures.	-No additional funding outside staff time (CAP Coordinator) is needed to implement the project; there may be additional costs for outreach and implementation of program if/when ordinance is developed and approved	-The City can expect a 1-year public engagement process (City of Berkeley estimates); additional staff time may be needed closer to implementation (2018/19)	-City Council Approved the CAP, including Strategy B-3.1 Residential Energy Conservation Ordinance; Strategy IC-1.4 Commercial Energy Conservation Ordinance

[5] These reduction estimates assume that 100% of businesses participate and that each business reduces energy consumption by 20%. Reductions assumptions may change as further research and analysis is conducted and the CAP Coordinator can better predict resulting energy reductions.

STRATEGY T2.4 TRAFFIC SIGNAL AND STOP SIGN OPTIMIZATION

According to the 2010 GHG Inventory Update, transportation is the second largest contributor to GHG emissions, representing 44% of community-wide emissions. Transportation related emissions are linked to the mode of transportation, trip length, number of trips, efficiency of vehicles, and from land use and development patterns. One way to reduce emissions is to address the efficiency of the trips made within the City.

Synchronizing traffic signals and limiting uphill stop signs improve traffic flow and minimize idling, therefore reducing GHG emissions and overall travel time. A variety of different control systems are used to accomplish this, ranging from simple clockwork mechanisms to sophisticated computerized control and coordination systems that self-adjust to minimize delay to people using the road. In 2011, the City participated in a Metropolitan Transportation Commission (MTC) grant funded program to improve efficiency on traffic arterials. This included West 7th Street and East 2nd Street corridors. MTC contracted consulting firm TJKM Transportation Consultants to interconnect signals along these corridors so that they would optimize together for improved traffic flow.

Staff recommends individually optimizing 6 additional stoplights, and updating the existing Stop Sign Warrant Ordinance to require that GHG emissions be considered in all future stop sign installations. Staff may also research additional 'Complete Streets' options such as roundabouts.

Deliverable: Define scope of work for optimization of six traffic signals; draft language to update Stop Sign Warrant Ordinance; written report assessing other Complete Streets/improved traffic flow options.
November 2014

2010 GHG Inventory Update	Emission Reduction Potential (Annual)	Financial Feasibility	Timelines	Consistency with City Approvals
Transportation (44% of total 2010 emissions)	-12,630 $MTCO_2e$[6]	-Will require an investment of approximately $15,000[7] for consulting services (signal optimization only) -Additional funding may be necessary if other options are identified (i.e. roundabouts); financial analysis will be conducted as part of strategy implementation	-Additional funding is needed to pursue this project -Staff can begin work on updating ordinance without additional funding	-City Council Approved the CAP, including Strategy T-2.4 Traffic Signal and Stop Sign Optimization.

[6] This estimate is partially based on vehicle miles traveled (VMT) reduced by bicycle and pedestrian mode shift due to increased safety in crosswalk signaling. Reductions from vehicles assumes a 6% fuel savings as a result of reduced idling and start/stops for in-City fuel use only. The 6% assumptions was developed by PMC (consulting firm) and the Metropolitan Transportation Commission (MTC).

[7] Staff researched costs of similar optimization projects; Fairfield completed a similar project, which cost roughly $2,350 per stoplight x 6 signals = approximately $15,000. Some additional staff time (i.e. City Engineer) may be needed to work with the consultant to implement the project if funding is identified.

B. Existing Strategies (Updated)

Existing strategies were only included here if there is an update/change from the current CAP Coordinator Work Plan (2012-2013).

STRATEGY E-2.2 PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM
As of September 2012, there is one active PACE financing district administered by Renewable Funding. The California FIRST program offers project financing (min. project size is $50,000) for a variety of renewable energy and energy efficiency measures. Property owners agree to a voluntary contractual assessment based on the assessed value of their property and land. To date, there are no active California FIRST projects in Benicia. However, the City is diligently working to identify a project in conjunction with the Business Resource Incentive Program (BRIP) that qualifies for this financing.

In addition and as directed by Council and the CSC, the CAP Coordinator has been researching the potential to join other financing districts. For example, there is also potential to join an additional PACE financing district – Home Energy Renovation Opportunity (HERO) Program. Finally, the existing California FIRST program is expanding its program to the residential sector in summer 2014. CAP Coordinator is research details of this program that will be presented to the CSC at its May meeting.

Deliverable: Status Report - enrollment data.
On-going at every CSC meeting

Deliverable: Written report – recommendations for joining/establishing an additional PACE financing district.
May 2014

Residential Plumbing Fixture Upgrade Program
STRATEGY WW1.6. INCENTIVIZE WATER CONSERVATION
The Community Sustainability Commission approved a Residential Plumbing Fixture Upgrade Program in September 2012. Since then, there have been low participation rates and only 14 rebates have been approved and 11 have been issued as of April 21, 2014. The CAP Coordinator will consider how best to boost participation including changing the type and/or amounts of rebates and vouchers (i.e. including recirculating heat pumps as eligible products, "cash for grass", etc.) and developing new marketing methods; additional funding may be necessary to support increased marketing efforts.

Deliverable: Written report – changes to program, expanded list of eligible products, new marketing methods, and results.
May 2014

Benicia Efficiency and Climate Action Team (BECAT)
PRINCIPLE 1. EXPAND THE ROLE OF THE INTERNAL GREEN TEAM
The mission of the BECAT is to help ensure a healthy environment for all City employees, to increase environmental awareness, and when feasible, increase the efficiency of City operations to achieve greenhouse gas (GHG) reductions and cost savings. The team will help implement existing and develop new policies and procedures to efficiently and effectively manage maintenance, fleet procurement, transit, and facility energy use.

The CAP Coordinator will:

- assist staff to develop work plan
- provide direction and oversight when staff implements various projects

Deliverable: Status report - overview of BECAT work plan and status of projects.
September 2014

Residential Solar Incentive Program
Strategy E-3.3. Promote California Solar Initiative and Other Applicable Incentive Programs (350 assuming 1.5% participation rate)
As part of the existing CAP Coordinator work plan, a residential solar incentive program was developed and approved by the CSC in September 2012. It officially launched as of April 15, 2013. Since then, all rebates (34) have been issued. The program was extremely successful, but all funds designated for the program have been expended.

Deliverable: Status Report - Overview of potential funding sources, new program guidelines and project implementation timeline.
July 2014

V. Conclusion

During the remainder of Sonoma State University's contract with the City (through June 2015), the CAP Coordinator will implement the above strategies that will help the City achieve additional GHG reductions. If all of the above listed strategies are implemented by 2019, the City should be able to reach its 2020 goal for community-wide reductions, 10% below 2000 levels by 2020. Reduction estimates may need to be refined as project feasibility analysis and

implementation is completed; this is an on-going process that is continually updated to ensure the most up to date and accurate information is used while the City is working toward achieving the reduction target.

VII.F.30

Exhibit A - CAP Coordinator Deliverables

TIME FRAME & TASK	PRIMARY ROLE	DELIVERABLE	WORK PRODUCT	% OF WORK TIME (32 HRS/WEEK)	DUE DATE	POTENTIAL FUNDING
New Projects - Short Term (March 2014-June 2014)						
Promote the City's Sustainability Efforts	CAP Coordinator	Marketing Plan.	Written report with recommendations for promoting the City's sustainability efforts via existing website, social media, and other mediums.	20	Jul-14	TBD
Combined Heat & Power Research Study & Demonstration Project	CAP Coordinator; Economic Development Dept.	Written Report	Update on selection of consultant, overview of proposed analysis and funding options.	10	Jul-14	Business Resource Incentive Program (BRIP); no cost initial assessments; PG&E incentive programs.
Community Choice Aggregation Feasibility Assessment	CAP Coordinator	Written Report	Recommendations for action and potential funding sources for required feasibility study.	5	May-14	TBD
Coastal Conservancy Climate Ready Grant	CAP Coordinator	Status Report	Verbal update on grant activity including project milestones.	15	Mar-14	Grant awarded for $150,000
Greening Existing Building Stock	CAP Coordinator		Begin research & analysis.	15	May-14	N/A
On-Going Projects						
Monitor + Evaluate Progress	CAP Coordinator	Status Report	Overview of emissions reductions as a result of CAP strategy implementation; overview of Climate Pathways Suite; verbal update on Beacon Award status.	5	On-going	SSU Budget
Property Assessed Clean Energy (PACE)	CAP Coordinator	Status Report	Verbal update on enrollment data.	5	On-going	N/A
		Written Report	Recommendations for joining/establishing an additional PACE financing district.	5	May-14	No additional funds are needed.
Research Additional Grant Funding	CAP Coordinator	Status Report	Verbal update and overview of potential grants; status of pending applications.	5	On-going	N/A
Residential Plumbing Fixture Upgrade Program	CAP Coordinator	Written Report	Recommendations for changes to program, expanded list of eligible products, new marketing methods, and results.	10	May-14	GNSC Settlement Agreement designated $10,000 for this program.
Attend local, regional, state, and federal policy and planning events, meetings, and conferences.	CAP Coordinator	Status Report	Verbal update on meetings attended and how they facilitate CAP implementation.	5	On-going	No additional funds are needed.
			TOTAL	**100**		
New Projects Near-term (July 2014-December 2014)						
Signal & Stop Sign Optimization	CAP Coordinator; Public Works Dept.		Begin research and determine if synchronization of traffic signals is possible in Benicia; cost of upgrades.	10	Nov-14	Public Works may have funding to allocate to this project; additional grant funding may be needed.

TIME FRAME & TASK	PRIMARY ROLE	DELIVERABLE	WORK PRODUCT	% OF WORK TIME (32 HRS/WEEK)	DUE DATE	POTENTIAL FUNDING
ing Projects						
r + Evaluate Progress	CAP Coordinator	Status Report	Overview of emissions reductions as a result of CAP strategy implementation; overview of Climate Pathways Suite; verbal update on Beacon Award status.	5	On-going	N/A
Property Assessed Clean Energy (PACE)	CAP Coordinator	Status Report	Enrollment data; update on formation of additional district.	1	On-going	N/A
Research Additional Grant Funding	CAP Coordinator	Status Report	Verbal update and overview of potential grants; status of pending applications.	5	On-going	N/A
Promote the City's Sustainability Efforts	CAP Coordinator	Status Report	Verbal update on promotion methods and successes; presentation of marketing platform/materials.	10	On-going	TBD
Combined Heat & Power Research Study & Demonstration Project	CAP Coordinator; Economic Development Dept.	Written Report	Overview of feasibility analysis locations and cost; proposed funding and integration with Business Resource Incentive Program; potential GHG and cost savings.	20	Sep-14	Business Resource Incentive Program (BRIP); no cost initial assessments; PG&E incentive programs.
Community Choice Aggregation Feasibility Assessment	CAP Coordinator	Status Report	Verbal update on funding status and feasibility study.	4	Jul-14	TBD
Coastal Conservancy Climate Ready Grant	CAP Coordinator	Status Report	Verbal update on grant activity including project milestones.	15	On-going	Grant awarded for $150,000
Greening Existing Building Stock	CAP Coordinator	Written Report	Overview of potential ordinance requirements including residential and commercial energy conservation requirements; proposed ordinances, work plan, and timeline for adoption.	20	Sep-14	TBD
Promote California Solar Initiative and Other Applicable Incentive Programs	CAP Coordinator	Written Report	Proposed new program guidelines, project implementation timeline, and funding sources.	10	Jul-14	CAP Coordinator applied for $30,000 grant (pending); additional funds TBD
Benicia Efficiency and Climate Action Team (BECAT)	CAP Coordinator; City Staff	Status Report	Status of projects.	5	Sep-14	No additional funds are needed.
Attend local, regional, state, and federal policy and planning events, meetings, and conferences.	CAP Coordinator	Status Report	Verbal update on meetings attended and how they facilitate CAP implementation.	5	On-going	No additional funds are needed.
			TOTAL	100		
Long-term - (January 2015-June 2015)						
Monitor + Evaluate Progress	CAP Coordinator	Status Report	Overview of emissions reductions as a result of CAP strategy implementation; update on Beacon Award status.	5	On-going	N/A

TIME FRAME & TASK	PRIMARY ROLE	DELIVERABLE	WORK PRODUCT	% OF WORK TIME (32 HRS/WEEK)	DUE DATE	POTENTIAL FUNDING
		Written Report	Status of all CAP projects and recommendations for continued implementation and tracking after June 2015.	15	May-15	N/A
Project Management	CAP Coordinator		CAP Coordinator will continue to manage projects listed in the near and short term time frames.	45	On-going	N/A
Traffic Signal and Stop Sign Optimization		Written Report	Overview of potential options, cost, feasibility, and proposed schedule for implementation.	15	Mar-15	TBD.
Coastal Conservancy Climate Ready Grant	CAP Coordinator	Written Report	Summary of grant activities; assessment results; business evaluation tool; adaptation plan.	20	On-going	Grant awarded for $150,000
			TOTAL	**100**		

VII.F.34

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE CITY MANAGER TO TERMINATE THE EXISTING CAP COORDINATOR AGREEMENT WITH SONOMA STATE UNIVERISTY (SSU) AND TRANSFER THAT AGREEMENT TO PACIFIC MUNICIPAL CONSULTING (PMC), IN THE AMOUNT NOT TO EXCEED $73,740 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY

WHEREAS, a Request for Proposals for the Climate Action Plan Coordinator was released in October 2011; and

WHEREAS, the Center for Sustainable Communities, Sonoma State University, was determined to be the proposer submitting the most comprehensive proposal; and

WHEREAS, Alex Porteshawver is currently employed by SSU and has served as on the on-site CAP Coordinator since February 2012; and

WHEREAS, the CAP Coordinator accepted a new Senior Sustainability Planner position with PMC as of June 20, 2014; and

WHEREAS, the CAP Coordinator and PMC will continue to provide the same level of service and abide by the terms of the existing CAP Coordinator agreement through June 30, 2015; and

WHEREAS, PMC will maintain a relationship with SSU and work with SSU students while providing additional resources for the project.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council transfers the consultant contract to PMC, in the amount not to exceed $73,740 and authorizes the City Manager to sign the contract on behalf of the City, subject to approval by the City Attorney.

BE IT FURTHER RESOLVED THAT funds sufficient to cover the consultant contract of $73,740 have already been allocated by the City Council from the Valero/Good Neighbor Steering Committee Settlement Agreement Funds.

*****

On motion of Council Member and seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October 2014, and adopted by the following vote.

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

CONSULTANT AGREEMENT

This agreement ("Agreement") entered into _____, 2014, is between the City of Benicia, a municipal corporation (hereinafter "CITY"), and Pacific Municipal Consultants, dba PMC, a California corporation with its primary office located at 2729 Prospect Park Drive, Suite 220, Rancho Cordova, CA 95670 (hereinafter "CONSULTANT") (collectively, "the Parties").

RECITALS

WHEREAS, CITY has determined it is necessary and desirable to secure certain professional services for a Climate Action Plan Coordinator. The scope of work for said service (hereinafter "Project") is attached hereto as Exhibit A and is hereby incorporated by reference; and

WHEREAS, CONSULTANT is specially trained, experienced and competent to perform the services required by this agreement; and

WHEREAS, CONSULTANT represents it is qualified and willing to provide such services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, IT IS AGREED by and between CITY and CONSULTANT as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. SCOPE OF SERVICE.

(a) Services to be Furnished. Subject to such policy direction and approvals as CITY through its staff may determine from time to time, CONSULTANT shall perform the services set forth in the Task Order labeled Exhibit A, which is attached hereto and incorporated herein by reference.

(b) Schedule for Performance. CONSULTANT shall perform the services identified in Exhibit A according to the completion schedule included in Exhibit A and as expeditiously as is consistent with generally accepted standards of professional skill and care, and the orderly progress of work.

(i) CONSULTANT and CITY agree that the completion schedule in Exhibit A represents the best estimate of the schedule. CONSULTANT shall comply with completion dates noted in Exhibit A unless a written waiver is granted by the CITY's project manager.

(ii) CONSULTANT shall not be responsible for performance delays caused by others, or delays beyond CONSULTANT'S control, and such delays shall extend the times for performance of the work by CONSULTANT.

(c) Standard of Quality. All work performed by CONSULTANT under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in CONSULTANT'S field of expertise. CONSULTANT shall function as a technical advisor to CITY, and all of CONSULTANT'S activities under this Agreement shall be performed in accordance with the terms of this Agreement.

(d) Compliance With Laws. CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders, and decrees. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for CONSULTANT to practice its profession or are necessary and incident to the due and lawful prosecution of the services it performs under this Agreement. CONSULTANT shall maintain a City of Benicia business license. CONSULTANT shall at all times during the term of this Agreement, and for one year thereafter, provide written proof of such licenses, permits, insurance, and approvals upon request by CITY. CITY is not responsible or liable for CONSULTANT'S failure to comply with any or all of the requirements contained in this paragraph. If a conflict between such federal, state and local laws, codes, ordinances, regulations, orders and decrees arises, thereby causing CONSULTANT to not comply with the terms herein, CONSULTANT shall immediately notify CITY of the situation in writing and describe the conflict. The parties shall work together to seek resolution within 30 days and CITY will not interpret such conflict as a breach of this Agreement by CONSULTANT unless CONSULTANT fails to implement the agreed upon solution.

3. COMPENSATION.

(a) Schedule of Payment. The compensation to be paid by CITY to CONSULTANT for the services rendered hereunder shall be on a time and materials basis based upon the rate schedule in Exhibit B attached hereto and hereby incorporated by reference. The rate schedule in Exhibit B itemizes those standard and expected expenses for which CONSULTANT shall receive compensation. If CONSULTANT obtains CITY'S prior written approval from the Interim Community Development Director, CONSULTANT may be reimbursed for extraordinary costs incurred on the Project. CONSULTANT shall only be compensated for services rendered up to the remaining budget amount listed in Exhibit B.

(b) Additional Services. CITY shall make no payment to CONSULTANT for any additional services unless such services and payment have been mutually agreed to and this Agreement has been formally amended in accordance with Section 7.

(i) Only the City Council can act on behalf of CITY to authorize CONSULTANT to perform additional services.

(ii) CONSULTANT shall not commence any work or services exceeding the Scope of Services in Section 2 without prior written authorization from CITY in accordance with Section 7. CONSULTANT'S failure to obtain a formal amendment to this Agreement authorizing additional services shall constitute a waiver of any and all right to compensation for such work or services.

(iii) If CONSULTANT believes that any work CITY has directed CONSULTANT to perform is beyond the scope of this Agreement and constitutes additional services, CONSULTANT shall promptly notify CITY of this fact before commencing the work. CITY shall make a determination as to whether such work is beyond the scope of this Agreement and constitutes additional services. If CITY finds that such work does constitute additional services, CITY and CONSULTANT shall execute a formal amendment to this Agreement, in accordance with Section 7, authorizing the additional services and stating the amount of any additional compensation to be paid.

(c) Invoicing and Payment. CONSULTANT shall submit monthly invoices for the services performed under this Agreement during the preceding period. Invoices or billings must be submitted in duplicate and must indicate the hours actually worked by each classification and employee name, as well as all other directly related costs by line item in accordance with Exhibit B; CONSULTANT will continue to bill at $50/hour (existing CAP Coordinator rate) and $150/hour (Supervisor rate) through June 30, 2015 . CITY shall approve or disapprove said invoice or billing within thirty (30) days following receipt thereof and shall pay all approved invoices and billings within thirty (30) days. Interest at the rate of one and one-half (1.5) percent per month will be charged on all past due amounts starting thirty (30) days after the invoice date, unless not permitted by law, in which case interest will be charged at the highest amount permitted by law. Payments will be credited first to interest, and then to principal.

4. PRODUCT REVIEW AND COMMENT. CONSULTANT shall provide CITY with at least two (2) copies of each product described in Exhibit A. Upon the completion of each product, CONSULTANT shall be available to meet with CITY. If additional review and/or revision is required by CITY, CITY shall conduct reviews in a timely manner.

5. TERM OF AGREEMENT. This Agreement shall be effective immediately upon the signatures of both Parties and shall remain in effect until completed, amended pursuant to

Section 7, or terminated pursuant to Section 6.

6. TERMINATION:

(a) Each party shall have the right to terminate this Agreement for any reason whatsoever at any time by serving upon the other party 30-days written notice of termination. The Agreement shall terminate three (3) business days after notice of termination is given. The notice shall be deemed given on the date it is deposited in the U.S. mail, certified, postage prepaid, addressed to CONSULTANT at the address indicated in Section 11.

(b) If either party issues a notice of termination,

(i) CONSULTANT shall immediately cease rendering services pursuant to this Agreement;

(ii) CONSULTANT shall deliver to CITY copies of all writings, whether or not completed, which were prepared by CONSULTANT, its employees, or its subcontractors, if any, pursuant to this Agreement. For purposes of this Agreement, the term "writings" shall include, but not be limited to, handwriting, typewriting, computer files and records, drawings, blueprints, printing, photostatting, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof;

(iii) CITY shall pay CONSULTANT for work actually performed up to the effective date of the notice of termination, subject to the limitations prescribed by Section 3 of this Agreement, less any compensation to CITY for damages suffered as a result of CONSULTANT'S failure to comply with the terms of this Agreement. Such payment shall be in accordance with Exhibit B. However, if this Agreement is terminated for fault of CONSULTANT, CITY shall be obligated to compensate CONSULTANT only for that portion of CONSULTANT'S services which are of benefit to CITY.

7. AMENDMENTS. Modifications or amendments to the terms of this Agreement shall be in writing and executed by both Parties.

8. NONDISCLOSURE OF CONFIDENTIAL INFORMATION. CONSULTANT shall not, either during or after the term of this Agreement, disclose to any third party any confidential information relative to the work of CITY without the prior written consent of CITY.

9. INSPECTION. CITY representatives shall, with reasonable notice, have access to the work and work records, including time records, for purposes of inspecting same and determining that the work is being performed in accordance with the terms of this Agreement. Inspections by

CITY do not in any way relieve or minimize the responsibility of CONSULTANT to comply with this Agreement and all applicable laws.

10. INDEPENDENT CONTRACTOR. In the performance of the services in this Agreement, CONSULTANT is an independent contractor and is not an agent or employee of CITY. CONSULTANT, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit CITY to any decision or course of action, and shall not represent to any person or business that they have such power. CONSULTANT has and shall retain the right to exercise full control of the supervision of the services and over the employment, direction, compensation, and discharge of all persons assisting CONSULTANT in the performance of said service hereunder. CONSULTANT shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security and income tax withholding, workers' compensation insurance, and all other regulations governing such matters.

11. NOTICE. Any notices or other communications to be given to either party pursuant to this Agreement shall be in writing and delivered personally or by certified U.S. mail, postage prepaid, addressed to the party at the address set forth below. Either party may change its address for notices by complying with the notice procedures in this Section. Notice so mailed shall be deemed delivered three (3) business days after deposit in the U.S. mail. Nothing shall preclude the giving of notice by facsimile machine provided, however, that notice by facsimile machine shall be followed by notice deposited in the U.S. mail as discussed above.

If to CITY: Brad Kilger, City Manager
City of Benicia
250 East L Street
Benicia, CA 94510

If to CONSULTANT: Philip O. Carter, President
PMC
2729 Prospect Park Drive, Suite 220
Rancho Cordova, CA 95670

12. OWNERSHIP OF MATERIALS. CITY is the owner of all records and information created, produced, or generated as part of the services performed under this Agreement. At any time during the term of this Agreement, at the request of CITY, CONSULTANT shall deliver to CITY all writings, records, and information created or maintained pursuant to this Agreement. In addition, CONSULTANT shall not use any of the writing, records, or information generated for the Project under this Agreement for any other work without CITY's consent. CONSULTANT shall not be held liable for any modification or reuse of the CITY-owned work product for purposes outside this Agreement.

13. EMPLOYEES; ASSIGNMENT; SUBCONTRACTING.

(a) Employees. CONSULTANT shall provide properly skilled professional and technical personnel to perform all services required by this Agreement. CONSULTANT shall not engage the services of any person(s) now employed by CITY without CITY's prior express written consent.

(b) Assignment. CONSULTANT shall not assign, delegate, or transfer its duties, responsibilities, or interests in this Agreement without the prior express written consent of CITY. Any attempted assignment without such approval shall be void and, at CITY's option, shall terminate this Agreement and any license or privilege granted herein.

(c) Subcontracting. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the prior express written consent of CITY. If CITY consents to CONSULTANT'S hiring of subcontractors, CONSULTANT shall provide to CITY copies of each and every subcontract prior to its execution. All subcontractors are deemed to be employees of CONSULTANT, and CONSULTANT agrees to be responsible for their performance. CONSULTANT shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control.

14. BINDING AGREEMENT. This Agreement shall bind the successors in interest, legal representatives, and permitted assigns of CITY and CONSULTANT in the same manner as if they were expressly named herein.

15. WAIVER.

(a) Effect of Waiver. Waiver by either party of any default, breach, or condition precedent shall not be construed as a waiver of any other default, breach, or condition precedent or any other right under this Agreement.

(b) No Implied Waivers. The failure of either party at any time to require performance by the other party of any provision hereof shall not affect in any way the right to require such performance at a later time.

16. NONDISCRIMINATION.

(a) Consultant shall not discriminate in the conduct of the work under this Agreement against any employee, applicant for employment, or volunteer on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated.

(b) Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, CONSULTANT agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by CONSULTANT or CONSULTANT'S employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, pregnancy, sex, age, sexual orientation or other prohibited basis will not be tolerated. CONSULTANT agrees that any and all violation of this provision shall constitute a material breach of the Agreement.

17. INDEMNITY. CONSULTANT specifically agrees to indemnify, defend, and hold harmless CITY, its officers, agents, and employees from and against any and all actions, claims, demands, losses, expenses including reasonable attorneys' fees, damages, and liabilities resulting from injury or death of a person or injury to property, to the extent caused by any negligent acts, errors or omissions by CONSULTANT in the performance of this Agreement, excepting only such injury or death as may be caused by the negligence or willful misconduct of the CITY. The CONSULTANT shall pay all costs that may be incurred by CITY in enforcing this indemnity, including reasonable attorneys' fees.

CITY specifically agrees to indemnify, defend, and hold harmless CONSULTANT, its officers, agents, and employees from and against any and all actions, claims, demands, losses, expenses including reasonable attorneys' fees, damages, and liabilities resulting from injury or death of a person or injury to property, to the extent caused by any negligent acts, errors or omissions by CITY in the performance of this Agreement, excepting only such injury or death as may be caused by the negligence or willful misconduct of the CONSULTANT. The CITY shall pay all costs that may be incurred by CONSULTANT in enforcing this indemnity, including reasonable attorneys' fees.

18. INSURANCE.

(a) Required Coverage. CONSULTANT, at its sole cost and expense, shall obtain and maintain in full force and effect throughout the entire term of this Agreement the following described insurance coverage. This coverage shall insure not only CONSULTANT, but also, with the exception of workers' compensation and professional liability insurance, shall name as additional insureds CITY, its officers, agents, employees, and volunteers, and each of them:

Policy	Minimum Limits of Coverage
(i) Workers' Compensation	Statutory
(ii) Comprehensive Automobile Insurance Services Office, form #CA 0001 (Ed 1/87 covering auto liability code 1 (any auto)	Bodily Injury/Property Damage $1,000,000 each accident

(iii) General Liability Insurance Services Office Commercial General Liability coverage on an occurrence basis (occurrence form CG 0001)	$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply separately to this Project/ location, the general aggregate limit shall be twice the required occurrence limit
(iv) Errors and Omissions/ Professional's Liability, errors and omissions liability insurance appropriate to the CONSULTANT's profession.	Generally $1,000,000 per claim

(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by CITY.

(c) Required Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

(i) For any claims related to this Project, the CONSULTANT'S insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, and volunteers working on this Project. Any insurance or self-insurance maintained by CITY, its officers, officials, employees, or volunteers working on this Project shall be in excess of the CONSULTANT'S insurance and shall not contribute with it;

(ii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees, or volunteers working on this Project;

(iii) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability;

(iv) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after giving CITY 30 days' prior written notice by certified mail, return receipt requested.

(d) Acceptability of Insurers. CONSULTANT shall place insurance with insurers with a current A.M. Best's rating of no less than [A:VII] unless CONSULTANT requests and

obtains CITY'S express written consent to the contrary.

(e) Verification of Coverage. If requested by the CITY, CONSULTANT must provide complete, certified copies of all required insurance policies, including original endorsements affecting the coverage required by these specifications. The endorsements are to be signed by a person authorized by CONSULTANT'S insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences.

19. WORKERS' COMPENSATION.

(a) Covenant to Provide. CONSULTANT warrants that it is aware of the provisions of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. CONSULTANT further agrees that it will comply with such provisions before commencing the performance of the work under this Agreement.

(b) Waiver of Subrogation. CONSULTANT and CONSULTANT'S insurance company agree to waive all rights of subrogation against CITY, its elected or appointed officials, agents, and employees for losses paid under CONSULTANT'S workers' compensation insurance policy which arise from the work performed by CONSULTANT for CITY.

20. FINANCIAL RECORDS. CONSULTANT shall retain all financial records, including but not limited to documents, reports, books, and accounting records which pertain to any work or transaction performed pursuant to this Agreement for four (4) years after the expiration of this Agreement. CITY or any of its duly authorized representatives shall, with reasonable notice, have access to and the right to examine, audit, and copy such records.

21. CONFLICT OF INTEREST. CONSULTANT shall exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict with CITY'S interest. During the term of this Agreement, CONSULTANT shall not accept any employment or engage in any consulting work which creates a conflict of interest with CITY or in any way compromises the services to be performed under this Agreement. CONSULTANT shall immediately notify CITY of any and all violations of this Section upon becoming aware of such violation.

22. TIME OF THE ESSENCE. CONSULTANT understands and agrees that time is of the essence in the completion of the work and services described in Section 2.

23. SEVERABILITY. If any court of competent jurisdiction or subsequent preemptive legislation holds or renders any of the provisions of this Agreement unenforceable or invalid, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

24. GOVERNING LAW AND CHOICE OF FORUM. This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Solano County.

25. COSTS AND ATTORNEYS' FEES. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees. In any action seeking recovery of monetary damages, the plaintiff shall not be considered to be the prevailing party unless it recovers at least 66% of the dollar amount requested in the complaint's prayer for relief.

26. INTEGRATION. This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 7.

Executed by CITY and CONSULTANT on the date shown next to their respective signatures.
The effective date of this Agreement shall be the date of execution by the CITY as shown below.

PMC

CITY OF BENICIA

BY:_____
DATED

BY:_____
DATED:

RECOMMENDED FOR APPROVAL

_____
Brad Kilger, City Manager

APPROVED AS TO FORM

_____
City Attorney

EXHIBIT A
Scope of Services

Consultant shall assign employees to perform Climate Action Plan Coordinator services for the City of Benicia as outlined in the Work Plan April 2014-June 2015. The majority of the services will be performed by Alex Porteshawver with minimal support from Project Director Tammy Seale. The parties agree that the majority of work shall be done by Alex Porteshawver to maximize the services provided under this Agreement and for continuity of service. No more than 10% ($6,750) of the remaining budget, not including Coastal Conservancy funding, shall be billed by Tammy Seale.

The City anticipates it will require the services of the Consultant through June 30, 2015. Normal work hours while assigned to the City shall be as mutually agreed by the City and Consultant.

EXHIBIT B
Consultant Fees

Alex Porteshawver	**$50.00/hr.**
Tammy Seale	**$150.00/hr.**

Contract is for a total not-to-exceed amount of $73,740 ($67,500 remains in the original CAP Coordinator Contract budget plus an additional $6,240 for time spent overseeing the Coastal Conservancy Climate Ready Grant). This is the estimated amount remaining in the contract budget as of 10/1/14. CONSULTANT shall verify with the City of Benicia the exact amount of remaining funds prior to beginning work and submitting its first invoice.

Reimbursable expenses for travel will be charged as discussed and approved by the CITY prior to CONSULTANT incurring such costs.

VII.F.50

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 16, 2014

TO : City Council

FROM : City Attorney

SUBJECT : **AMENDING THE CITY'S CONFLICT OF INTEREST CODE**

RECOMMENDATION:
Adopt the resolution amending the City's conflict of interest code.

EXECUTIVE SUMMARY:
The City is required to review its conflict of interest code every two years to determine if it needs to be updated. Staff has reviewed the conflict of interest code and has determined that amendments are needed. Changes include updating the designated positions to reflect current job titles and disclosure categories to reflect the economic interest related to the position.

BUDGET INFORMATION:
There is no impact on the City's budget.

GENERAL PLAN:
N/A

STRATEGIC PLAN:
N/A

BACKGROUND:
The California Political Reform Act provides that "no public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest." (Government Code section 87100.) Certain public officials are required to disclose economic interests that could be impacted by the officials' decisions. Whether the official is required to disclose their economic interests is determined by their position being listed in either Government Code section 87200 or the local agency's conflict of interest code. Positions such as the City Council Members, City Treasurer, Planning Commissioners, City Manager, City Attorney, Finance Director and Assistant Finance Director are listed in Government Code section 87200 and so are not listed in the City's conflict of interest code.

Each local agency is required to adopt a conflict of interest code to cover positions that are not listed in Government Code section 87200. The Political Reform Act allows agencies to adopt the provisions of Title 2 California Code of Regulations section 18730. In 1990, the City adopted these provisions and designated "employees" subject to the disclosure provisions. These employees have positions that make or participate in making governmental decisions that may have a material effect on financial interests. These employees are required to disclose various types of financial interests that may be impacted by decisions made by them.

State law requires the City to review its conflict of interest code every two years to make sure that it designates the correct positions and disclosure categories. Staff has reviewed the code and suggested the attached changes. Changes include updating the designated positions to reflect current job titles and disclosure categories to reflect economic interest related to the position. Please see the redlined copy of Appendix A for details. You will note that proposed code includes some positions such as the deputy city attorney that are not currently filled by an employee. This allows the city not to have to amend the code every time a position is added or removed.

Several positions have been added to Appendix A: the assistant city manager and the code enforcement officer. Several positions have been removed such as the administrative services director, the land use and engineering manager. Finally, the list of positions has been alphabetized, but this is not shown in the redline.

It is important to note that an employee or official may still have a conflict of interest and have to disqualify him or herself from participating in a decision even though the conflict of interest code does not require that particular interest to be disclosed. A prime example is the employee or official's residence.

Following adoption of the proposed revisions, the Code will be amended and become effective.

Attachments:

- Resolution Amending the City's Conflict of Interest Code
- Redlined Version of Appendix A

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AMENDING THE CITY'S CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act of 1974, Government Code section 87100 et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes; and

WHEREAS, the Fair Political Practices Commission has adopted a regulation at Title 2 California Code of Regulations section 18730 which contains terms of a standard conflict of interest code; and

WHEREAS, the standard conflict of interest code may be adopted by reference by the City; and

WHEREAS, the City Council adopted the standard conflict of interest code by Resolution No. 90-200; and

WHEREAS, the City Council now desires to amend its Conflict of Interest Code by amending Appendix A that designates the positions required to file conflict of interests disclosure forms.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia that:

1) Appendix A to the City of Benicia Conflict of Interest Code, adopted by the City Council in Resolution No. 90-200, is amended in its entirety as set forth in the attachment to this resolution.

2) All other provisions of the City of Benicia Conflict of Interest Code shall remain in full force and effect.

* * * * *

On motion of Council Member , seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October, 2014 and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

Appendix A

CONFLICT OF INTEREST CODE
for the
CITY OF BENICIA
(Redlined)

DESIGNATED POSITION	**DISCLOSURE CATEGORY**
ADMINISTRATIVE SERVICES[1]	
~~Administrative Services Director~~	~~1~~
Assistant City Manager	1
Economic Development Manager I/II	1
Human Resources Director	1
Human Resources Manager	1
IT Analyst II	3
IT Manager	3
Management Analyst	2
Sr. Human Resources Analyst	2
CITY ATTORNEY'S OFFICE[1]	
Deputy City Attorney	1
COMMUNITY DEVELOPMENT DEPARTMENT	
Associate Planner	1
Assistant Planner	1
Building Inspector	5
Building Official	5
Development Services Technician	5
Director	1
~~Land Use and Engineering Manager~~	~~1~~
Management Analyst	2
Principal Planner	1
Senior Planner	1

[1] The following positions are required by statute (see Gov. Code §§ 87200-87209) to disclose investments, any business entity in which the filer is a director, officer, partner, trustee, employee or holds any position of management, interests in real property, and income (including gifts and loans): members of planning commissions, mayors, city managers, city attorneys, city treasurers, chief administrative officers, members of city councils, other public officials who manage public investments, and candidates for any of these offices. These "87200 filers" are not designated in the Code.

FIRE DEPARTMENT	
Chief	1
Code Enforcment Officer	5
Division Chief	5
Fire Marshal	5
LIBRARY	
Library Director	1
Library Manager	2
PARKS and COMMUNITY SERVICES DEPARTMENT	
Community Services Superintendent	2
Director	1
Management Analyst	2
Parks and Building Maintenance Superintendent	2
POLICE DEPARTMENT	
Chief	1
IT Analyst II	3
Lieutenant	2
Management Analyst	2
PUBLIC WORKS DEPARTMENT	
Assistant Public Works Director/Utilities Manager	1
Director	1
Maintenance Superintendent	2
Management Analyst	2
Principal Civil Engineer	2
Senior Civil Engineer	4
Water Plant Superientendent	2
Waste Water Plant Superintendent	2
COMMISSIONS[1]	
Design Review Commission	1
Historic Preservation Review Commission	1
Open Government Commission	1

[1] The following positions are required by statute (see Gov. Code §§ 87200-87209) to disclose investments, any business entity in which the filer is a director, officer, partner, trustee, employee or holds any position of management, interests in real property, and income (including gifts and loans): members of planning commissions, mayors, city managers, city attorneys, city treasurers, chief administrative officers, members of city councils, other public officials who manage public investments, and candidates for any of these offices. These "87200 filers" are not designated in the Code.

CONSULTANTS See Page 5
RETIRED ANNUITANTS See Page 5

DISCLOSURE CATEGORIES

The disclosure categories are based upon the Fair Political Practices Commission's Form 700. For example, if you are required to disclose investments and sources of income, you must disclose investments and sources of income that are located in or; doing business in the City, are planning to do business in the City, or that have done business during the previous two years in the City.

Please note the following:

- Gifts are reportable regardless of the location of the donor. For example, a state agency official with full disclosure must report gifts from sources located outside of California. (Designated employees should consult their disclosure categories to determine if the donor of a gift is of the type that must be disclosed.)

- For reporting interests in real property, property is considered to be located within the City's jurisdiction if any part of the property is located in, or within two miles of, the City or if the property is located within two miles of any land owned or used by the City. Property within the City's jurisdiction must be reported as noted.

Please review the individual Fair Political Practices regulations and Form 700 instructions for a detailed explanation of the rules.

Category 1
(Broadest Category)

Persons in this category must disclose all investments, any business entity in which the filer is a director, officer, partner, trustee, employee or holds any position of management, all interests in real property, and all sources of income (including gifts and loans).

Category 2
(Suppliers, Contractors, Equipment, Etc. Used by Department and Property)

Persons in this category must disclose all investments, any business entity in which the filer is a director, officer, partner, trustee, employee or holds any position of management, and income (including gifts and loans) from sources that provide services, supplies, materials, machinery or equipment of the type utilized by the person's Department, and all interests in real property.

Category 3
(Computer Consultants or Equipment Related)

Persons in this category must disclose investments, any business entity in which the filer is a director, officer, partner, trustee, employee or holds any position of management, and income (including gifts and loans) from sources that provide, supply, manufacture or service computer hardware or software of the type utilized by the City.

Category 4
(Transportation Related Services)

Persons in this category must disclose investments, any business entity in which the filer is a director, officer, partner, trustee, employee or holds any position of management, and income (including gifts and loans) from sources that provide transportation services subject to the review or approval of the City and all interests in real property.

Category 5
(Planning, Architectural, Building, Fire Related Inspection or Review and Property)

Persons in this category must disclose investments, any business entity in which the filer is a director, officer, partner, trustee, employee or holds any position of management, and income (including gifts and loans) from sources that provide planning, architectural, building, or fire services including inspection subject to the review or approval of the Public Works Department, Community Development Department or Fire Department, and all interests in real property.

Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to Category 1, subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to file under Category 1. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of alternate disclosure requirements. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Retired Annuitants

Retired annuitants who are appointed to positions corresponding to categories listed in this Code shall disclose under that position's category.

VII.G.10

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 17, 2014

TO : City Council

FROM : City Attorney

SUBJECT : **CONTINUING THE DECLARATION OF A LOCAL EMERGENCY DUE TO THE SOUTH NAPA EARTHQUAKE**

RECOMMENDATION:
Adopt the resolution confirming and continuing the Declaration of a Local Emergency.

EXECUTIVE SUMMARY:
This action continues the declaration of a local emergency due to the South Napa Earthquake. This may allow the City and property owners to access funds to repair damage due to the earthquake. It may also be helpful in case other damage is uncovered due to the earthquake.

BUDGET INFORMATION:
State or Federal funds may be available to assist with repairs and recovery efforts.

GENERAL PLAN:
N/A

STRATEGIC PLAN:
N/A

BACKGROUND:
The South Napa Earthquake caused some damage in the City. This action may allow State or Federal funds to assist in the recovery and repair efforts.

Attachment:
- Resolution Continuing the Emergency Declaration

VII.H.2

RESOLUTION NO. 14-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA PROCLAIMING THE CONTINUED EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, Government Code Section 8630 authorizes and empowers the City Council of the City of Benicia to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, Chapter 2.64 of the Benicia Municipal Code empowers the Director of Emergency Services to request the City Council to proclaim the existence or threatened existence of a local emergency when said City is affected by or likely to be affected by a public calamity; and

WHEREAS, the City Manager of the City of Benicia, acting as Director of Emergency Services, has requested the City Council to find that conditions of extreme peril to the safety of persons and property have arisen in the City of Benicia, said conditions caused by the South Napa earthquake; and

WHEREAS, said earthquake is known to have caused severe structural damage to a building on First Street, to various water lines in the City, to sidewalks, vaults, and related structures at the Wastewater Treatment, and may have cause other damage unknown at this time.

WHEREAS, such condition of extreme peril occurred on August 24, 2014 at 3:20 A.M; and

WHEREAS, the City Council declared at the September 2, 2014 City Council meeting the existence of an emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Benicia confirms and continues the proclamation of a local emergency as follows:

1. The City Council hereby finds that conditions of extreme peril to the safety of persons and property have arisen within the City of Benicia as of September 2, 2014 due to damage from the South Napa Earthquake on August 24, 2014.

2. In consequence of said conditions and pursuant to Benicia Municipal Code Chapter 2.64, the City Council hereby proclaims and orders that a local emergency now exists in various locations of Benicia including the Downtown area, the Wastewater Treatment Plant and other locations of water lines.

3. The City Council also proclaims and orders that during this local emergency the powers, functions and the duties of the Benicia City Manager/Emergency Services Director and the emergency organization of the City of Benicia shall be those prescribed by State law and the ordinances, resolutions and approved emergency

services plans of the City of Benicia.

4. The City Council directs the Benicia City Manager/Emergency Services Director to publish and promulgate, in as widespread a manner as is reasonably feasible in light of the conditions prevailing during the local emergency, this proclamation and the contents.

5. The City Council shall review, at its regularly scheduled meetings until the local emergency is terminated, the need for continuing the local emergency and shall proclaim the termination of the local emergency at the earliest possible date that conditions warrant.

* * * * *

On motion of Council Member , seconded by Council Member , the above resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October, 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 18, 2014

TO : City Manager

FROM : Parks and Community Services Director

SUBJECT : **APPROVAL OF A LICENSE AGREEMENT WITH SOROPTIMIST INTERNATIONAL OF BENICIA TO USE A CLOSET AT THE FORMER YOUTH CENTER TO PROVIDE SUPPORT TO CLIENTS OF THE FAMILY RESOURCE CENTER**

RECOMMENDATION:
Approve, by motion, the license agreement.

EXECUTIVE SUMMARY:
Soroptimist International of Benicia proposes to use space at the former Youth Center to store supplies that would be disbursed by the Family Resource Center. A closet is available at the Center and would provide ready access for the staff of the Family Resource Center. This arrangement would allow the Family Resource Center to provide their cilients with non-perishable supplies that may not be available through other resources.

BUDGET INFORMATION:
N/A

GENERAL PLAN:
N/A

STRATEGIC PLAN:
Strategic Issue #5 Maintain and Enhance a High Quality of Life
Strategy 5) Provide support to disadvantaged segments of the community

BACKGROUND:
The City's Family Resource Center (FRC) provided local families information about local resources and helps them access necessary services. In 2013, the FRC helped 329 families. To do this work, the FRC works cooperatively with a variety of community based organizations to provide a wide range of services. Soroptimist International of Benicia has offered to help support the work of the FRC by providing non-perishable supplies such as baby formula that may not be readily available through other resources. A small closet at the Youth Center is

available to store the supplies. This will allow the FRC easy access to the supplies so they can dispense them as appropriate.

The license agreement is for five years and may be terminated on 30 days' notice by either party. Because of the supplies and service being provided to the FRC, there is no "rent" for the closet.

Attachment:

- License Agreement

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is hereby made and entered into this ____day of _____, 2014 by and between the City of Benicia, a municipal corporation, (hereinafter, LICENSOR) and Soroptimist International of Benicia, a California nonprofit corporation, (Hereinafter, LICENSEE).

WITNESSETH

WHEREAS, LICENSOR is the fee simple owner of certain real property located at 150 East K Street, Benicia, California, commonly known as the Old Youth Center; and

WHEREAS, LICENSEE desires to use a portion of the property as more particularly described in Exhibit "A" attached hereto and made a part hereof, for the purpose of providing necessities that the Family Resource Center will distribute on behalf of LICENSOR; and

WHEREAS, LICENSEE's activities on LICENSOR's property will provide a benefit for Benicia residents through the services of the Family Resource Center; and

WHEREAS, LICENSOR desires to grant LICENSEE a license for the aforementioned purpose.

NOW, THEREFORE, for and in good consideration of the terms, conditions and mutual covenants contained herein and other good and valuable consideration received by each party, the sufficiency of which is hereby acknowledged, LICENSOR and LICENSEE, hereby agree as follows:

1. LICENSOR hereby grants LICENSEE, its agents, servants and assigns, the right, privilege and license to use property described in Exhibit "A" (License Area) as an area for storage of goods and materials that provide necessities that the Family Resource Center distributes on behalf of the LICENSOR and attain ingress and egress to and upon the License Area for the purpose of exercising the rights, privileges and license granted herein. LICENSEE may place one small sign on the closet door identifying Soroptimist.
2. This License is granted for a primary term of 5 years from the date first written above and shall continue in full force and effect thereafter until terminated by LICENSOR or LICENSEE on 30 days written notice.
3. LICENSOR retains the right to use the any part of the property that is not subject to this License and may also use the License Area in any manner that is not inconsistent with the rights granted to LICENSEE and further upon reasonable written notice to LICENSEE.
4. LICENSEE shall not permit the storage of and hazardous materials in the License Area. The term "Hazardous Materials" means any hazardous or toxic substance, hazardous or radioactive material, hazardous waste, pollutant or contaminant at any concentration that

is, or during the term of this Agreement becomes, regulated by any local or regional government authority having jurisdiction over the Licensed Premises, by the State of California, or by the United States.

5. LICENSEE accepts the License Area in "as is" condition without warranty or representation that the License Area is suitable for the purpose and uses of the License Area by LICENSEE.
6. LICENSEE expressly acknowledges and accepts responsibility for any loss, damage or injury to persons or property, arising out of or resulting from its use of the License Area, unless, however, such claim or demand shall arise out of or result from the negligence or willful misconduct of LICENSOR, its employees, agents, officers or assigns.
7. Upon termination of this License Agreement, LICENSEE shall, within a reasonable time, and at LICENSEE's sole cost and expense, remove all equipment, accessories, goods and materials owned by LICENSEE from the License Area and restore the License Area as nearly as practicable to its condition prior to the granting of the License.
8. All notice permitted or required hereunder shall be addressed as follows and shall be deemed delivered upon posting the notice first class, U.S. mail, postage prepaid:

If to the LICENSOR: Brad Kilger, City Manager
City of Benicia
250 East L Street
Benicia, CA 94510

If to the LICENSEE: Karen Hubbard, President
P.O. Box 282
Benicia, CA 94510

IN WITNESS WHEREOF, the undersigned parties have executed this License Agreement on the day and year first above written.

CITY OF BENICIA
LICENSOR
A municipal corporation
of the State of California

SOROPTIMIST INTERNATIONAL OF
BENICIA, CALIFORNIA
LICENSEE

By: _____ _____ _____ _____
Brad Kilger **Date** **Karen Hubbard** **Date**
City Manager **President**

APPROVED AS TO FORM:

_____ _____
City Attorney **Date**

Exhibit A

Insert diagram showing the small closet.

VII.I.6

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 26, 2014

TO : City Manager

FROM : Public Works Director

SUBJECT : **PURCHASE OF REPLACEMENT TANKS FOR WATER TREATMENT PLANT**

RECOMMENDATION:
Adopt the resolution authorizing the purchase of two replacement chemical tanks for the Water Treatment Plant from Burlingame Engineers, Inc. of Concord, California, in the amount of $63,090.

EXECUTIVE SUMMARY:
This action authorizes the purchase of two replacement chemical tanks for the Water Treatment Plant. The tanks have reached the end of their useful life and are in need of replacement.

BUDGET INFORMATION:
The cost of the two chemical tanks is $63,090. There is over $400,000 in the Water System Replacement Fund 594 reserve. A budget increase in the amount of $71,590 is requested from Fund 594 reserves to Account No. 594-8259-9960 (water system replacement) to cover the cost of the tanks ($63,090) along with the cost of installation by another contractor ($5,000) and miscellaneous supplies (PVC piping, valves and fittings) purchased separately by City staff ($3,500). Sufficient funds are available in Fund 594 reserves. (Note: City Council approval is required for the purchase of the tanks, but not for the installation contractor or miscellaneous supplies as those costs are below the threshold requiring City Council approval. The installation and supply costs are noted above to show the total cost of the project that necessitates the need for a budget increase that is higher than the cost of the tanks.)

GENERAL PLAN:
Relevant General Plan Goal:

- Goal 2.28: Improve and maintain public facilities and services.

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #4: Preserving and Enhancing Infrastructure

- Strategic Issue #1: Protecting Community Health and Safety

BACKGROUND:
The aluminum sulfate and sodium hydroxide chemical tanks were installed in 1989 as part of the Water Treatment Plant (WTP) Expansion Project. The life span for these high density, polyethylene (HDPE) tanks was estimated to be 20-25 years. The tanks are leaking and must be replaced in order to comply with the California Hazardous Material Spill/Release regulations. The leaks are small at this time, forming crystal deposits at the flange fittings, and thus not forming a chemical spill. Solano County Environmental Health Department recommends repairing or replacing leaking tanks whenever there could be a threatened release. The option to drain each chemical tank to repair the flange was deemed ineffective for a tank that has reached its maximum lifespan. It is therefore recommended to replace the two tanks.

A Request for Quotation (RFQ) for two chemical tanks was placed on the City's website and mailed to the two known chemical tank manufacturers and their representatives in this area on September 16, 2014. Two bids were received on September 25, 2014 and were deemed responsive and responsible. The low bidder is Burlingame Engineers, Inc., representing PolyProcessing. The low bid amount for the delivery of two 12,150 gallon cross-linked, HDPE tanks with ladder and restraint system is $63,090 (tax included).

The tank manufacturer does not do installation work and City staff does not have the expertise nor the specialized equipment to do the installation. Spiess Construction Co., the contractor that recently completed the Plant Influent Improvement Project and scheduled to start the Filter Slide Gate Replacement Project in mid-October, will be hired to help install the two tanks at a cost not to exceed $5,000. Spiess will provide the crane, install the tank restraining system and assist the WTP Maintenance Division installing the ladder, feed, discharge, and overflow pipes. The miscellaneous equipment (PVC piping, valves, and fittings) will cost $3,500, which the City will purchase separately.

Attachment:
- Proposed Resolution

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA AUTHORIZING THE PURCHASE OF TWO REPLACEMENT CHEMICAL TANKS FOR THE WATER TREATMENT PLANT FROM BURLINGAME ENGINEERS, INC. OF CONCORD, CALIFORNIA, IN THE AMOUNT OF $63,090

WHEREAS, replacement tanks are needed for the Water Treatment Plant as they have reached the end of useful life and are in need of replacement; and

WHEREAS, a Request for Quotation (RFQ) for two tanks was sent to the two known qualified vendors in this area and posted on the City's bidder notification website; and

WHEREAS, Burlingame Engineers, Inc. was determined to be a responsible and responsive vendor submitting the lowest quote.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia approves the purchase of two replacement chemical tanks for the Water Treatment Plant from Burlingame Engineers, Inc. of Concord, California, in the amount of $63,090.

BE IT FURTHER RESOLVED THAT a budget increase in the amount of $71,590 is authorized from Fund 594 reserves to Account No. 594-8259-9960 (water system replacement) to cover the cost of the tanks ($63,090) along with the cost of installation by another contractor ($5,000) and the cost of miscellaneous materials (PVC piping, valves and fittings) purchased separately by City staff ($3,500).

*****

On motion of Council Member , seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October, 2014, and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

ATTEST:

_____
Lisa Wolfe, City Clerk

_____
Date

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : September 26, 2014

TO : City Manager

FROM : Public Works Director

SUBJECT : **APPROVAL OF $43,000 LOAN TO ACQUIRE PROPERTY FOR THE BENICIA INDUSTRIAL PARK BUS HUB PROJECT TO BE REPAID BY THE SOLANO TRANSPORTATION AUTHORITY**

RECOMMENDATION:
Adopt a resolution approving a $43,000 loan from the Traffic Impact Fee Fund to complete the right of way phase of the Benicia Industrial Park Bus Hub Project and authorizing the City Manager to execute a reimbursement agreement with the Solano Transportation Authority subject to the approval of the City Attorney.

EXECUTIVE SUMMARY:
The Solano Transportation Authority (STA) is leading the right of way phase of the project at the request of the City, which includes acquiring a 1.0 acre parcel for the park-and-ride lot. STA has dedicated $500,000 for the acquisition, but an additional $86,000 is needed to fully fund this phase. It is proposed that each agency contribute half of this funding shortfall, or $43,000, to be reimbursed from future earnings from STA's Regional Traffic Impact Fee program. Loaning the $43,000 from the City's Traffic Impact Fee Fund will not significantly impact that fund's programmed projects and services.

BUDGET INFORMATION:
There is sufficient funding for this $43,000 loan in the Traffic Impact Fee Fund in the Fiscal Year 2014-15 Budget in Account No. 034-8705-9747 (Columbus Parkway). It is anticipated repayment from STA's Regional Traffic Impact Fee program will take 5 years or less depending upon the rate their program generates revenue.

GENERAL PLAN:
Relevant General Plan Goals:

- Overarching Goal of the General Plan: Sustainability
- Goal 2.28: Improve and maintain public facilities and services

STRATEGIC PLAN:
Relevant Strategic Plan Issue:

- Strategic Issue #4: Preserving and Enhancing Infrastructure
  - Strategy #4: Provide adequate funding for ongoing infrastructure needs

SUMMARY:
Since the January 21, 2014 Council meeting (staff report attached), the Solano Transportation Authority (STA) has been negotiating with the property owners to acquire the 1.0 acre property that will be used for the park n ride component of the project. A tentative agreement has been reached to purchase the property for $520,000. Additionally, STA has incurred a cost of $64,000 for their real property negotiator and legal fees for a total cost of $586,000 to complete the right of way phase of the project. STA previously dedicated $500,000 in funding and is proposing that each agency front half of the $86,000 funding shortfall, or $43,000, to be repaid by STA's Regional Traffic Impact Fee over a period of up to 5 years, depending upon how fast the program generates revenue. Escrow on the project could close within a month and a reimbursement agreement is being written that will provide both agencies assurances on the loan.

Final design is underway and the property must be acquired for the project to proceed to construction next summer.

Attachments:
- Proposed Resolution
- Conceptual Plan
- Right-of-Way Acquisition Plan
- January 21, 2014 Council Staff Report

RESOLUTION NO. 14 -

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING A $43,000 LOAN FROM THE TRAFFIC IMPACT FEE FUND TO COMPLETE THE RIGHT OF WAY PHASE OF THE BENICIA INDUSTRIAL PARK BUS HUB PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT WITH THE SOLANO TRANSPORTATION AUTHORITY SUBJECT TO THE APPROVAL OF THE CITY ATTORNEY

WHEREAS, the preliminary design of the Benicia Industrial Park Bus Hub Project has been completed; and

WHEREAS, the final design for the project is underway; and

WHEREAS, the Solano Transportation Authority (STA) is completing the right of way phase of the project on behalf of the City including purchasing a 1.0 acre parcel for the project which must be acquired for the project to move forward to construction next summer; and

WHEREAS, the total cost for STA to complete the right of way phase is $586,000 and STA previously allocated $500,000 in State Transit Assistance Funds to complete this work; and

WHEREAS, STA has proposed the City split the remaining $86,000 cost and the resulting $43,000 payment for each agency be repaid by future earnings from STA's Regional Traffic Impact Fee over an estimated five year period; and

WHEREAS, there is sufficient funding in the City's Traffic Impact Fee Program to loan this funding without significantly impacting the delivery of projects and programs from this fund; and

WHEREAS, it is anticipated the $43,000 will be needed within the next month to close escrow and a reimbursement agreement is currently being written that will provide both parties the necessary assurances for repayment.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves a $43,000 loan from the Traffic Impact Fee Program to complete the right of way phase for the Benicia Bus Hub Project and authorizes the City Manager to execute a reimbursement agreement with the Solano Transportation Authority subject to the approval of the City Attorney.

*****

On motion of Council Member , seconded by Council Member, the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the day of October, 2014 and adopted by the following vote:

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

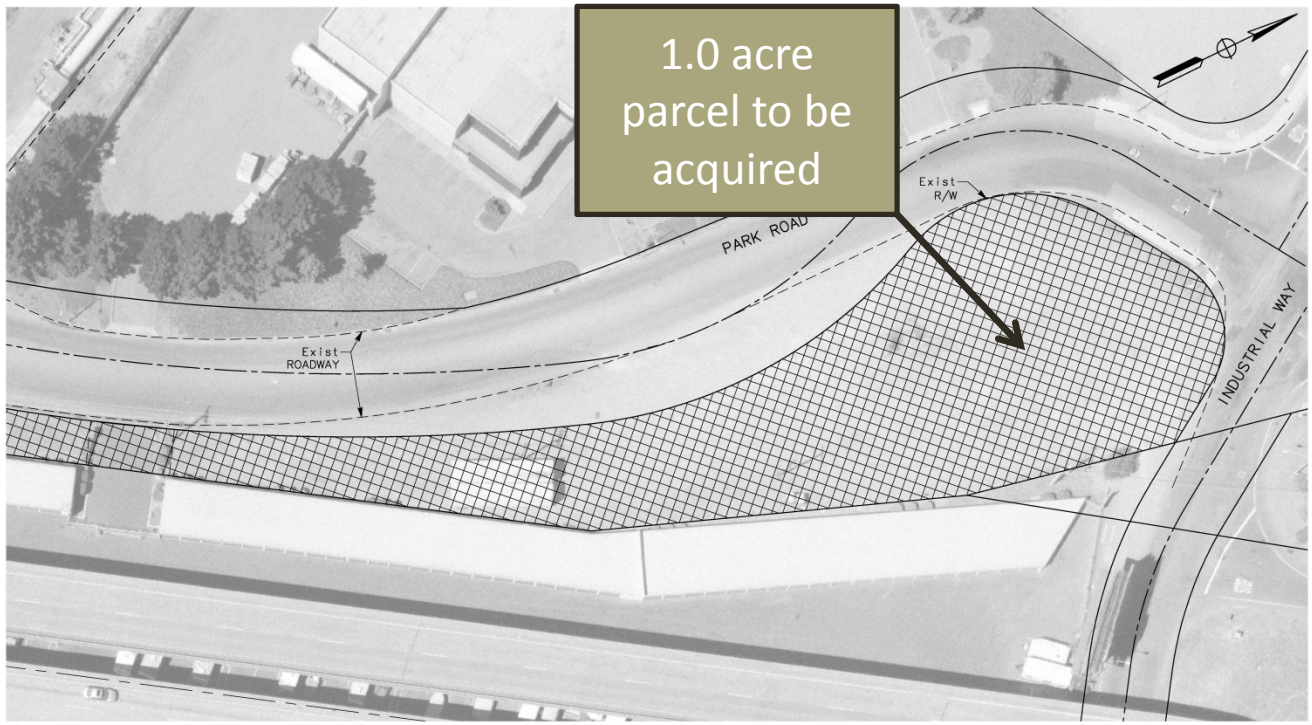
Conceptual Plan

Project Landscape Plan Figure 3

Source: Mark Thomas & Company, Inc., 2013.

VII.K.6

Right-of-Way Acquisition



SCALE: 1" = 20'
DATE: JAN 2014
FILE:

BENICIA INDUSTRIAL BUS HUB PROJECT
EXISTING RIGHT OF WAY
CITY OF BENICIA

MARK THOMAS & COMPANY, INC.
Providing Engineering, Surveying and Planning Services

VII.K.8

AGENDA ITEM
CITY COUNCIL MEETING DATE - JANUARY 21, 2014
BUSINESS ITEMS

DATE : January 11, 2014

TO : City Manager

FROM : Interim Public Works Director

SUBJECT : **BENICIA INDUSTRIAL PARK BUS HUB PROJECT: ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND APPROVAL OF THE CONCEPTUAL PLAN, CONFIRMATION OF COMPLIANCE WITH REGIONAL MEASURE 2, APPROVAL OF AN AGREEMENT FOR FINAL PROJECT DESIGN, APPROVAL OF AN AGREEMENT WITH SOLANO TRANSPORTATION AUTHORITY TO ACQUIRE THE PROPERTY AND USE $500,000 IN STATE TRANSIT ASSISTANCE FUNDING FOR THE PROJECT, AND DIRECTION TO STAFF TO INITIATE THE PUBLIC HEARING PROCESS FOR CONSIDERATION OF A MOBILE FOOD VENDING ORDINANCE FOR THE INDUSTRIAL ZONING DISTRICT**

RECOMMENDATION:

A. Adopt the following resolutions:

1. Adopting the December 2013 Mitigated Negative Declaration, approving the conceptual plan for the Benicia Industrial Park Bus Hub Project and authorizing the City Clerk to file the Notice of Determination;
2. Confirming project compliance as the Regional Measure 2 (RM2) implementing agency and requesting the Metropolitan Transportation Commission (MTC) allocate $175,000 in RM2 funding for the final design phase of the Benicia Industrial Park Transit Hub Project;
3. Approving a consultant contract with Mark Thomas & Company in the amount of $163,926 for the final design phase of the Benicia Industrial Park Bus Hub Project contingent upon award of the $175,000 RM2 grant request from MTC, and authorizing the City Manager to execute the agreement on behalf of the City;
4. Approving an agreement for the Solano Transportation Authority to acquire the right-of-way on behalf of the City and contribute $500,000 in State Transit Assistance Funding (STAF) to the Benicia Industrial Park Transit Hub Project, and authorizing the City Manager to execute the agreement on behalf of the City.

B. Direct City staff to initiate a public hearing process for consideration of a draft mobile food vendor ordinance.

EXECUTIVE SUMMARY:
The Benicia Industrial Park Bus Hub Project is a proposed project that would develop a privately-owned one acre lot at the southeast corner of the intersection of Park Road and Industrial Way into a public bus hub. The proposed bus hub would improve access to transit buses by creating a parking lot for approximately 50 cars, a passenger drop off area, bike storage, a shelter for people waiting for buses, and location for up to two mobile food vending trucks. The project contemplates the future development of carport-style structure, which would support solar panels. The project will also improve Park Road with bus pullouts, sidewalks and a realignment of the street.

Actions required for this project include adoption of the environmental documents and approvals of funding agreements, design agreements and agreements for assistance in acquiring the property. These actions are discussed in more detail in the staff report.

BUDGET INFORMATION:
The Mitigated Negative Declaration and development of the Conceptual Plan was funded with a $135,000 Regional Measure 2 (RM2) grant awarded to the City from the Metropolitan Transportation Commission. Additional RM2 funds and $500,000 in State Transit Assistance Funds (STAF) are available to complete the project.

The proposed budget for the project is outlined below:

Grant Budget
Proposed Budget

Environmental & Preliminary Engineering (RM2 funding)	$135,000
Right of Way (STAF funding)	$350,000
Final Design (RM2 funding)	$175,000
Construction ($940K RM2 & $150K STAF funding)	$1,090,000
Total Project Grant Funding	**$1,750,000**

The actual expenditure amount for the right-of-way phase will depend upon the appraisal and other variables related to the acquisition of the property. Once the final cost of the right-of-way acquisition is known, value engineering will be employed to ensure the project can be built within the available construction budget.

The City has also spent a significant amount of staff time in facilitating this project. Some outside counsel time has been incurred as well.

GENERAL PLAN:
Relevant Goals include:

- Overarching Goal: Sustainability
- Goal 2.17: Provide an efficient, reliable, and convenient transit system
- Goal 2.20: Provide a balanced street system to serve automobiles, pedestrians, bicycles, and transit
- Goal 2.28: Improve and maintain public

STRATEGIC PLAN:
Relevant Strategic Plan Issue and Strategies include:

- Strategic Issue #2: Protecting and Enhancing the Environment
  - Strategy #4: Protect air quality/pursue mass transit opportunities

- Strategic Issue #3: Strengthening Economic and Fiscal Conditions
  - Strategy #2: Strengthen Benicia Industrial Park competitiveness

- Strategic Issue #4: Preserving and Enhancing Infrastructure
  - Strategy #2: Increase use of mass transit

ENVIRONMENTAL REVIEW:
On December 3, 2013, the City Council adopted an Initial Study/Mitigated Negative Declaration. Subsequently, it was determined that this document was not correctly noticed. As a result, that Initial Study/Mitigated Negative Declaration had to be renoticed and recirculated. Staff took the opportunity to revise the document to provide more information about the solar panels.

Both the original and the attached Initial Study were prepared by Mark Thomas & Associates and its subcontractor, Circlepoint. The Initial Study analyzed whether the proposed project could result in significant environmental impacts. The Initial Study relied upon and incorporated several focused studies (including a record search at the California Historical Resources Information System at Sonoma State University, an Initial Site Assessment to examine potential for contaminated soils/groundwater, and a Transportation Impact Analysis). The Initial Study found that there were potentially significant impacts to Cultural Resources and Hazards and Hazardous Materials, but that with the application of standard mitigation measures, no significant environmental effects would occur.

The potential Cultural Resources impacts are to (1) archaeological resources, (2) paleontological resources and (3) human remains outside a formal cemetery. The project was found to have a potential impact on unknown or unrecorded archaeological resources because construction of the project could uncover unknown items. See page 33 of the Initial Study. In order to address this potential impact, mitigation measures to require an archaeologist review any

finds and to require training of contractors so they can identify potential finds and implement the proper procedures. (Mitigation Measures CUL-1 and 2.) A similar potential impact was found for unknown paleontological resources and a similar mitigation measure was proposed. See page 34 of the Initial Study. A similar potential impact was found for finding human remains outside of a formal cemetery and similar mitigation measures were proposed. See page 34 of the Initial Study. A potential impact on Hazards and Hazardous Materials was also found due to the location of the property in the Benicia Arsenal and its proximity to the Refinery. See pages 44 and 45 of the Initial Study. The mitigation measure is to require a Phase II site investigation and to implement any of its recommendations.

The Initial Study and proposed Mitigated Negative Declaration were noticed and recirculated for a 20-day public review period which occurred from December 20, 2013 to January 9, 2014. Noticing included (1) posting the notice

- on the City Hall's bulletin board,
- at the Benicia Library,
- in the vicinity of the project site,
- on the City's website;

(2) mailing approximately 400 notices to both property owners and businesses (occupants) in the Benicia Industrial Park; and (3) e-mailing the notices to SolTrans (the Benicia – Vallejo transit provider), Fairfield and Suisun Transit (FAST), and the Solano Transportation Authority (STA). No written comments were submitted during the circulation period; however, correspondence was subsequently received after the close of business on the evening of January 9 from the Barragans' attorney reiterating the comments submitted in the prior letter of protest. An additional letter from Ed Ruszel was also received on January 10. The letters and responses to these comments are attached.

No significant environmental issues have been raised that were not already adequately addressed in the Initial Study/Mitigated Negative Declaration. Staff recommends adoption of the Mitigated Negative Declaration by the adoption of the draft resolution.

BACKGROUND:

Project History

The Bus Hub at Park Road and Industrial Way has been in the planning stages for over a decade. The original request to receive Regional Measure 2 grant funding from the Metropolitan Transportation Commission to complete the bus hub, including street improvements and on-site parking facilities, was approved by the City Council in May 2004 (Resolution No. 04-69). This funding request was subsequently modified in December 2005 to allow the project to be constructed in two phases: the first phase being the construction of on-street improvements

for two bus stops including transit and pedestrian related facilities, the second phase consisted of constructing the Bus Hub including on-site parking and associated amenities (Resolution No. 05-95). The first phase was completed in May 2007. The first phase installed ramps and curb, gutter and sidewalk along Park Road and Industrial Way, two bus pads, and minor paving and striping. Local monies (Traffic Mitigation Fund) were used for these improvements so that the RM2 funding could be used for the second phase.

After completing the first phase, City staff was required to focus on other priorities and work on the second phase of the project was not initiated. In Spring of 2013, the City was notified by the Metropolitan Transportation Commission that in March of 2014, which is the 10 year anniversary of the RM2 program, all RM2 funding would need to be allocated to the project or have an approved implementation plan from the Solano Transportation Authority. If this was not done, the funding will be reallocated to other projects. As a result, the Solano Transportation Authority subsequently notified the City that unless the Bus Hub project moved forward expeditiously, the $1.25M in RM2 funding would be diverted to other Solano County public agencies to prevent the Metropolitan Transportation Authority from redirecting the funding outside the County.

In response, City staff met with members of the Barragan family, who are the owners of the site proposed for the Bus Hub, in mid-April to discuss the potential acquisition. At that time the Barragan family members indicated to staff they were not opposed to selling the property if they could receive adequate compensation. Following the meeting with the Barragans, staff then recommended to the City Council at their June 18, 2013 meeting that they authorize staff to pursue $135K in RM2 funding for the environmental/conceptual phase. Council granted this request at the June 18, 2018 Council meeting. On July 24, 2013, MTC approved the City's funding request.

As of this date (with the adoption of the related documents), the environmental review and preliminary engineering design work phase have been completed. In order to move the project forward and secure the remaining $1,115,000, the following actions (along with the approval of the environmental review) are required.

Grant Request for $175,000 in RM2 Funding from the Metropolitan Transportation Commission ("MTC") for Final Design

A total of $1.25 million in RM2 funding was earmarked by MTC for the bus hub project. At their June 18, 2013 meeting, the Benicia City Council authorized City staff to pursue $135,000 of this RM2 funding from MTC for the environmental/conceptual design. MTC subsequently awarded this funding at their July 24, 2013 meeting. Now that this phase of work has been completed, staff is recommending a $175,000 funding request be submitted to MTC to fund

the final design, which is the next phase in the project delivery process. In order to obtain the funding, a resolution certifying compliance with the RM2 requirements and requesting allocation of the $175,000 is required. The proposed resolution is the second resolution attached to this report.

Award of Consultant Contract with Mark Thomas & Company (MT&Co)

After a thorough selection process, staff initially awarded MT&Co a $46,586 contract on August 22, 2013 to begin the environmental/design phase. (The contract was authorized at a staff level in order to meet the funding timelines). At their October 1, 2013 meeting, City Council then awarded an $88,388 contract amendment for a total contract amount of $134,974. MT&Co diligently pursued this phase of work to completion on an expedited time line, which will also be needed for the final design.

Based upon MT&Co's knowledge of the project and high level of performance to date, staff is now recommending award of a $163,926 contract with MT&Co to complete the final design contingent upon award of the $175,000 RM2 grant by MTC, which will fund this work. The MTC chief executive office is able to award this funding without formal approval by the Board, which will allow the project to move forward without further delay. The proposed resolution is attached as the third resolution in this report. A copy of the agreement including the scope of work is attached as well.

Agreement with the Solano Transportation Authority (STA)

In August 2013, City staff contacted STA staff regarding the possibility of their agency managing the right-of-way acquisition phase of the project, given the complexity and tight time line. Staffing reductions as well as budget cut backs have reduced the City's ability to handle these types of transactions. Also, STA has significant experience in handling property acquisitions on very large transportation projects and has a very successful track record in completing them on time and on budget. STA staff indicated they were receptive to the request. In addition, STA staff recommended that $500,000 in State Transit Assistance Funds (STAF) that had been identified as a potential funding source be allocated to the project. This combined recommendation was unanimously approved by the STA Transit Consortium on September 24, the STA Technical Advisory Committee on September 25, and the STA Board on October 9, 2013.

Staff recommends approval of the agreement formalizing STA as the lead for the right-of-way phase and the allocation of $500,000 in STAF funding to the project. The agreement also includes provisions for the development of an operations and maintenance (O&M) plan and engagement with SolTrans and Fairfield and Suisun Transit (FAST) as the present and future operators serving the facility.

Subsequent Conversations with the Property Owners and their Representative
At the December 3, 2013 Council meeting, members of the property owner's family and their legal representative attended the meeting and stated that the City had not contacted them regarding its intent to acquire their property for the Bus Hub project. In response, the City Council continued the matter to its December 17 meeting and directed staff to meet with the property owners and family members to address their concerns. It was subsequently ascertained by staff that though staff did meet with members of the family in April of last year they had not received notification of the December meeting or the intent to issue a mitigated negative declaration for the project. As a result, the City staff informed the Council that the Initial Study/Mitigated Negative Declaration would be renoticed and recirculated and requested that the matter be continued to the Council's January 21, 2014 meeting.

At the December 17th meeting, the attorney for the Barragan family, John Gardner, submitted a letter dated December 17, 2013 (attached) wherein the family submitted their formal comments regarding the project approval process and the adequacy of the IS/MND. The Council continued the matter as requested by staff and further directed staff to continue to meet with the Barragan family and their representative to see if any consensus could be reached on resolving their concerns. In addition, the Council formed a subcommittee consisting of Mayor Patterson and Council Member Hughes to monitor the discussions between staff and the Barragans.

The family also submitted a December proposal to the City containing a list of six discussion points (attached) that they requested the City consider as part of any property acquisition process. In reviewing the list, staff has determined that there are some that are appropriate for the City Council to consider prior to the initiation of the acquisition process. These include reserving a location in the project for them to site their truck on, initiating a mobile food vending ordinance for the industrial park, and waiving any possible development application fees. The other items, however, should be addressed during the acquisition process. These include paying all engineering design, off-site improvements, and curb, gutter and sidewalk modifications on another property within the Industrial Park should they choose to relocate. The cost of such engineering design and construction improvements cannot yet be determined since a replacement property has not yet been obtained by the property owners.

On January 13, 2014, the Barragans submitted a revised proposal. The primary modification to the original list is that the property owners would retain an easement on the property for either a permanent or mobile food service. Related to that would be the reservation of at least 20 spaces for 20 minute parking and the requirement that big rig trucks have access on the site. Because of the size and shape of the lot, it is not feasible to allow big rigs on the

site and accommodate the full operation of the Bus Hub. Similarly, reserving 20 of the planned 50 spaces for the mobile food service conflicts with the functioning of the project and is inconsistent with the purpose intended for the grant funding by MTC and STA.

During the project scoping sessions, consensus was reached by the Project Development Team that the Bus Hub had to include three essential elements to function effectively. They were the 45+/- parking stalls identified in the City's funding request to MTC, bus pullouts for Fairfield and Suisun Transit to operate Route 40, and the drop-off/pick-up (or "kiss & ride") for non-parking transit riders and SolTrans to operate their cut-away buses in the future. Since each of these three agencies play an essential role for the Bus Hub to operate successfully into the future, STA as the regional transportation planning agency and administer of the RM2 funding program required this consensus for the project to advance.

Given these required design elements, the feasibility of every potential alternative to provide for on-site truck parking was evaluated (i.e. shared parking with buses, on-site parking stalls, exclusive on-site corridor for bus travel, etc...). However, it was determined that the parcel is too small and irregularly shaped to accommodate trucks due to their large size and large turning radius.

The good news is that in conversations with the attorney for the Barragans about the January proposal, it may be that there is some misunderstanding by staff and that there may be flexibility in their proposal. Staff and outside counsel have tentatively planned to meet with the representatives on Friday. An update will be provided at the January 21st meeting.

Project Site Selection

One of the questions that has been raised is why this specific property was proposed for the Bus Hub site. The main use being considered for the property is transit. In reviewing the documents and talking with former staff, this site was proposed because of its location, size and shape. The intersection of Park Road and Industrial Way is literally in the midst of the I-680 interchange at the entrance to the Industrial Park. This site works well for both buses as well as vehicles and riders. The site accommodates a “kiss and ride” as well as spaces for long term and short term parkers. All three uses are important because they provide flexibility and the potential to maximize ridership. The site is situated so that it minimizes the turns and the time for both buses and vehicles using the site. Vehicles entering and leaving the site can do one turn on or off Park Road and move directly to the interchange. This minimizes the headway on the bus routes and the time it takes for riders to reach the buses. The one acre site is underdeveloped and has utility easements that make building development difficult on the site.

The most often mentioned alternative site is a three acre undeveloped parcel to the north. This parcel would need to be subdivided for this use and its development as a bus hub would require motor vehicles to make additional turns to get access to the site resulting in a loss of time and more potential for turning accidents.

Should Council approve the agreement to move the project forward, STA will then begin acquiring the property. This will include having STA's right-of-way agent and an independent appraiser meet with the property owner to explain the land acquisition process and hear any concerns or unique circumstances surrounding the property. Once the appraisal has been completed, formal negotiations with the property owner can begin and may also include compensation for business loss and relocation costs. However, if negotiations with the property owner are unsuccessful, it may be necessary for STA to hold public hearings and ultimately condemn the property. Following this process is the expectation of both STA and MTC to ensure public tax dollars are spent effectively. As previously stated, the City Council has appointed Mayor Patterson and Council Member Hughes to monitor the acquisition process especially should condemnation become necessary.

Mobile Food Vending Ordinance

Although some of the items the property owners have requested the City to consider must be considered as part of the property acquisition process that STA will handle, the mobile food vending ordinance is one that the City can address ahead of any acquisition. Because of the desire to implement the ordinance soon to allow the property owners' business to be a properly permitted business, the ordinance has only been drafted to apply to the Industrial zoning districts. A city-wide ordinance would require a thorough outreach to the restaurants and impacted community. Because there are only a handful of restaurants serving the industrial zones, staff felt more comfortable with a more limited research and outreach period. As proposed, the ordinance would require mobile food trucks to be on paved surfaces such as a parking lot. A draft ordinance has been prepared and is attached. It will need to go through environmental review and be presented to the Planning Commission before the City Council may act on it.

Attachments:

- Resolution Approving the Initial Study/Mitigated Negative Declaration
  - Initial Study/Mitigated Negative Declaration
    - Appendix
  - Mitigation Monitoring Program
  - Comment Letter from John Gardner January 9, 2014
  - Comment Letter from John Gardner December 12, 2013
  - Comment Letter from Dan Smith December 12, 2013

    - Comment Letter from Ed Ruszel January 10, 2014
    - Response to Comments
- Proposed Resolution of Project Compliance including Initial Project Report
    - RM2 Initial Project Report
    - RM2 Project Funding Plan
- Proposed Resolution approving a Consultant Contract with Mark Thomas & Company for Final Design including Scope of Work & Fees
    - Agreement
        - Exhibit A Scope
        - Exhibit A Schedule
        - Exhibit B Rates
        - Exhibit B Fee
- Proposed Resolution approving an Agreement with the Solano Transportation Authority for the right-of-way phase and $500,000 in State Transit Assistance Funding
    - Agreement
- Barragan December Proposal (6 Points)
- Barragan January Proposal (7 Points)
- Draft Mobile Food Vending Ordinance

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
CONSENT CALENDAR

DATE : October 1, 2014

TO : City Manager

FROM : Assistant City Manager

SUBJECT : **APPROVE THE AGREEMENT BETWEEN THE CITY OF BENICIA AND BENICIA FIREFIGHTERS ASSOCIATION (BFA)**

RECOMMENDATION:
Adopt the resolution approving the tentative agreement with the Benicia Firefighters Association (BFA) and authorizing the City Manager to take the necessary administrative steps to implement the provisions of the agreement into the July 1, 2014 - June 30, 2016 Memorandum of Understanding (MOU).

EXECUTIVE SUMMARY:
The City recently concluded negotiations with Benicia Firefighters Association (BFA). The tentative agreement was ratified by a majority of the unit's members on September 30, 2014.

BUDGET INFORMATION:
With Council approval, the 2014-15 Budget will be amended to reflect a cost of approximately $98,000. Sufficient reserves exist to cover the cost in the current budget. The estimated cost for 2015-16 is approximately $114,000.

STRATEGIC PLAN:
Relevant Strategic Plan Goals and Strategies:
- Strategy Issue #3: Strengthening Economic and Fiscal Conditions
  - Strategy #4: Manage City finances prudently

BACKGROUND:
In 2010 and 2011, City employees took structural reductions in compensation of approximately 10%, resulting in much needed savings for the City's budget. In subsequent years, due to continuing fiscal challenges, the majority of the City's bargaining units agreed to status quo one-year extensions with no salary increases.

In recognition of the City's ongoing efforts to address budget challenges and develop a Sustainable Community Services Strategy with the goal of a fiscally resilient organization, this agreement has minimal increases to leave time and

medical benefits, and no ongoing salary increases. This significantly limits the ongoing cost impact to the City's budget.

It should be recognized that BFA worked very cooperatively and diligently with the City to reach agreement on the proposed MOU in a timely manner. Their efforts on the proposed agreement are very much appreciated.

Attachment:

- Resolution and Exhibit A (Summary of MOU Amendments)

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE AGREEMENT BETWEEN THE CITY OF BENICIA AND BENICIA FIREFIGHTERS ASSOCIATION (BFA)

WHEREAS, the existing Memorandum of Understanding (MOU) between the City and Benicia Firefighters Association (BFA), which cover salaries and other conditions of employment expired on June 30, 2014; and

WHEREAS, the City has recently concluded negotiations with BFA; and

WHEREAS, BFA has agreed to the proposed amendments to their MOU as outlined in Exhibit A; and

WHEREAS, unless otherwise amended by the MOU language, as summarized in Exhibit A, all terms of the existing MOU shall remain in effect from July 1, 2014 – June 30, 2016; and

WHEREAS, with this action, the 2014-15 Budget will be amended to reflect a cost of approximately $98,000 for BFA, and sufficient reserves in each fund exist to cover the cost in the current budget.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the amendments to the agreement between the City of Benicia and BFA.

BE IT FURTHER RESOLVED THAT the City Council of the City of Benicia authorizes the City Manager to take the necessary administrative steps to implement the provisions of the agreements and actions approved by this resolution.

****

On motion of Council Member , and seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October, 2014 and adopted by the following vote.

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

EXHIBIT A

VII.L.6

Tentative Agreement Between

The City of Benicia and

The Benicia Firefighters Association

1. **Term**

   2 Years (expires June 30, 2016)

2. **Holiday Closure – Sunsets June 30, 2016**

   If the parties approve and ratify this agreement, the City agrees to December holiday leave for 2014, and 2015, equivalent to four (4) eight-hour days for each year. There will be no City Manager days conferred during this time. This Holiday Closure leave will be non-precedent setting, with the purpose of recognizing the cooperation of BFA in negotiating a two-year agreement.

   For 56 hour employees, the Holiday Time Off will be converted pursuant to Section 11.3.1.

   Use of Leave
   Use of Holiday Closure Leave will be subject to the same restrictions as vacation leave (MOU Sec. 11.4).

   Fiscal Year 2014-15

   BFA members will be credited the equivalent of 32 hours of Holiday Leave effective the first pay period following Council approval of this agreement. The parties agree that the use of this holiday leave leads to an increase in overtime cost and that any Holiday Leave not used prior to December 15, 2014 will be cashed out in the December paycheck to ensure that additional overtime costs are minimize as a result of this holiday leave.

   Fiscal Year 2015-16

   BFA members will be credited the equivalent of 32 hours of Holiday Leave on the first full pay period following July 1, 2015. The parties agree that the use of this holiday leave lends to an increase in overtime cost and that any Holiday Leave not used prior to December 15, 2015 will be cashed out in the December paycheck to ensure that additional overtime costs are minimize as a result of this holiday leave.

3. MOU Leave

Accrual of MOU Leave for FY 2014-15 and 2015-16

Effective the first pay period following Council approval of this agreement, employees will accrue 2.66 hours of "MOU leave" per month for fiscal years 2014-15 and 2015-16. This accrual shall cease effective June 30, 2016.

The City will credit employees with the full fiscal year's accrual (up to 32 hours) on the first full pay period following July 1 of the fiscal year. The City will prorate this amount for employees hired after July 1 of the fiscal year or if the agreement takes effect partway through a fiscal year.

Example 1: if the Council adopts this agreement prior to August 31, 2014, the City will credit all employees with 26.6 hours of MOU Leave (2.66 hours times ten months) on September 1, 2014. **Example 2:** if Employee is hired on January 1, 2015, the City will credit Employee with 16 hours of MOU leave (2.6 hours times six months) in the first full pay period following his or her appointment.

For 56 hour employees, the MOU Leave will be converted pursuant to Section 11.3.1.

Additional Accrual for Fiscal Year 2014-15
If BFA ratifies this agreement on or before September 30, 2014, the City will credit all bargaining unit members with an additional 7.98 hours of MOU Leave on October 8, 2014 for a total of 32 hours for the fiscal year.

Use of MOU Leave
Use of MOU Leave will be subject to the same restrictions as vacation leave (MOU Sec. 11.4).

Payout of MOU Leave
If any employee has not used his or her MOU leave by June 15 of the fiscal year in which it has been accrued, any remaining balance will be paid out in the June paycheck at the employee's regular rate of pay. MOU leave is not carried forward into the next fiscal year.

Sunset
MOU leave sunsets after the term of this contract.

4. Health Benefits

23.1 Health and Welfare

The City shall continue to offer hospital-medical, dental and vision plans as those plans are currently structured or as the plans may be amended from time to time by the plan providers. The City may substitute plans currently offered with plans of substantially similar benefits.

~~Effective July 1, 2011, t~~The City's contribution towards medical premiums for the term of the contract shall be a maximum up to the following contributions for any plan:

Employee:	$622.00/Month
Employee plus One:	$1,244.00/Month
Employee plus Family:	$1,655.20/Month

Effective the first full pay period following adoption by the City Council and ratification by the membership, the City's contribution towards medical premiums for the term of the contract shall be a maximum up to the following contributions for any plan:

Employee:	**$642.00/Month**
Employee plus One:	**$1,294.00/Month**
Employee plus Family:	**$1,730.20/Month**

Effective July 1, 2015, the City's contribution towards medical premiums for the term of the contract shall be a maximum up to the following contributions for any plan:

Employee:	**$662.00/Month**
Employee plus One:	**$1,344.00/Month**
Employee plus Family:	**$1,805.20/Month**

During the term of the MOU, the parties agree to participate with the other bargaining units to determine whether or not any medical plan design changes would assist in reduction of costs to the City and/or reduction of premiums for employees. The parties recognize that any such changes in plan design require agreement by all City bargaining units.

The City shall allow employees who have dual coverage on their health plan to receive the equivalent amount of the single contribution rate as describe above; this amount is to be added to the employee's paycheck.

~~Additional Medical Contribution and Plan Design Changes: Effective July 1, 2011, a pre-tax deduction equivalent to the anticipated reduction of costs for this unit to move from a zero co-pay plan to a $ 15.00 co-pay plan for the 2011-12 plan year. As of July 1, 2011, that deduction is:~~

~~In lieu or Employee:~~	~~$19.54/month~~
~~Employee + 1:~~	~~$39.07/month~~
~~Employee plus Family:~~	~~$52.64/month~~

~~Given that health care plan design change did not occur in 2011-12 to achieve the savings of the $15 co-pay plan, employees continue to make a pre-tax deduction toward health in order to achieve the equivalent amount of savings.~~

5. **Holiday Schedule**

21.6.3 ~~Whenever a shift falls on both December 24th and 25th, the shift will change to December 23rd and 25th and the shift that is scheduled to work December 22nd and 23rd will change to December 22nd and 24th.~~

~~**21.6.4**~~ The maximum number of consecutive hours worked shall not exceed 96 except in case of emergency.

6. **CalPERS Cost Share**

Text of Letter of Understanding (to be attached to MOU):

In 2012, the City and the Benicia Firefighters Association (BFA) negotiated a cost sharing agreement whereby bargaining unit members would pay a portion of the City contribution towards CalPERS retirement benefits (Employee-paid City contribution). At that time, the BFA understood that, pursuant to the enclosed letter from CalPERS dated June 1, 2011, the Employee-paid City contribution would be reduced from 5.41% to 1.394% effective November 18, 2020. However, because of the amendments to Section 20516 of the California Government Code occasioned by the passage of the Public Employees Pension Reform Act (PEPRA), the reduction was no longer required at the time the employees voted to accept the Employee-paid City contribution and the City's contract with CalPERS does not reflect any reduction in that contribution 2020.

By this letter, the parties confirm their mutual understanding and intent that the Employee-paid City contribution will be reduced from 5.41% to 1.394% effective November 18, 2020. The parties recognize that this understanding may need to be reflected in the language of the MOU and through a further contract amendment with CalPERS in 2020.

For the BFA:

_____

Todd Matthews

_____

Ken Akins

For the City

_____

Kim Imboden

_____

Charles Sakai

VII.L.12

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
BUSINESS ITEMS

DATE : September 25, 2014

TO : City Manager

FROM : Parks and Community Services Director

SUBJECT : **THE URBAN WATERFRONT ENHANCEMENT AND MASTER PLAN AND ASSOCIATED ENVIRONMENTAL ANALYSIS**

RECOMMENDATION:
Adopt the resolution approving the Initial Study/Mitigated Negative Declaration and adopting the Master Plan that has been developed for the Urban Waterfront Enhancement and Master Plan project.

EXECUTIVE SUMMARY:
The Urban Waterfront Enhancement and Master Plan (UWEMP) will guide development of the waterfront park in the area bounded by First and B Streets, the marina channel, and the Carquinez Strait, including the First Street Green, but excluding the Southern Pacific Depot and A Street parcels. An adopted plan has not been in place for a significant piece of the project area since it was rezoned by the Waterfront Park Initiative of 2004. The UWEMP Community Advisory Committee and the Parks, Recreation & Cemetery Commission have both reviewed the Draft Master Plan and the associated Initial Study/Mitigated Negative Declaration and recommend that Council adopt the Master Plan.

BUDGET INFORMATION:
The Master Plan is being completed at a cost of $185,165. The Coastal Conservancy is providing $160,996 while the City of Benicia is providing $24,169 cash, as well as staff time.

GENERAL PLAN:
Relevant General Plan Goals and Policy:

- Goal 2.12: Strengthen the Downtown as the City's central commercial zone.
    - Policy 2.12.4: Create a social, recreational, and economic anchor at the waterfront end of First Street by establishing a waterfront park which provides a site for community festivals, preserves open space, and allows commercial and civic uses at the Depot site
- Goal 2.32: Expand the City's park system to accommodate future community needs

    - Policy 2.32.2: Continue to develop and enhance recreational benefits of the shoreline and seek public access along the waterfront
- Goal 3.6: Support and promote the arts as a major element in Benicia's community identity
    - Policy 3.6.3: Enhance public places with art
- Goal 3.13: Improve urban design qualities of the waterfront and public access to the shoreline
    - Policy 3.13.1: Enhance waterfront vistas
    - Policy 3.13.2: Improve pedestrian amenities along waterfront streets and walkways
    - Policy 3.13.3: Take advantage of water orientation for recreation and industrial uses
        - Program 3.13.B: Develop a plan for public and pedestrian access to and along the waterfront and shoreline
- Goal 3.17: Link regional and local open spaces
    - Policy 3.17.1: Attempt to link existing regional and local open spaces using trails and open space corridors

STRATEGIC PLAN:
Relevant Strategic Issues and Strategies and Actions:
- Strategic Issue 3: Strengthening Economic and Fiscal Conditions
    - Strategy 1: Implement Economic Development Strategy
        - Action 1(e): Complete master plan for Downtown Waterfront Park
- Strategic Issue 5: Maintain and Enhance a High Quality of Life
    - Strategy 2: Implement the Downtown Master Plan
        - Action 2(a): Pursue outside funds for Downtown improvements

PARKS, TRAILS AND OPEN SPACE MASTER PLAN:
Relevant Master Plan Goal and Objective:
- Goal 2: Provide a range of trail opportunities with a variety of settings in a comprehensive, City-wide trail network
    - Objective 2.2: Seek continuous public access along the waterfront

BACKGROUND:
In June of 1977, the City received approval from BCDC to proceed with a number of projects in the Waterfront Area between the Fifth Street and First Street peninsulas, including construction of the marina, fishing pier, public boardwalks, tidal marsh, commercial and residential uses, public walkways and bikeways, parking areas, and overlooks. The permit has been amended 34 times since it was issued in 1977. Many of the projects have since been completed, including marsh restoration in the UWEMP project area.

The 1991 Benicia Urban Waterfront Restoration Plan sought more comprehensive use of Benicia's underutilized Waterfront. The Plan actively sought to preserve open space and important historical characteristics of the site, increase access to the Waterfront, and create opportunities for new activities and commerce. The public space component was to include a major open space system "with continuous Waterfront pedestrian access linking large areas of passive and active recreation." The First Street Promenade and Peninsula Pier projects were designed and constructed as a result of this plan.

The City Council adopted the Waterfront Park Initiative (also known as Measure C) in November, 2004. The purpose of the Initiative was to establish a waterfront park on the city-owned land south of B Street, between First Street and the Harbormaster's Office, and extending to the water's edge, but excluding the Southern Pacific Depot site and A Street right of way. The Initiative changed the land use designation of this area from Waterfront Commercial/Downtown Commercial to Open Space.

A group of citizens formed the Waterfront Park Committee in 2008 in an effort to develop a conceptual plan for the waterfront that expanded on the vision for the area contained in the 1997 Parks, Trails, and Open Space Master Plan within the context of the land use changes created by the 2004 adoption of the Waterfront Park Initiative. The group became a subcommittee of the Parks, Recreation and Cemetery Commission in March 2009.

In 2009, City Council approved a concept plan for a plaza south of the Depot, primarily on a parcel included in the UWEMP project area. This concept plan was considered during the UWEMP plan process and has been included in this Master Plan.

City staff submitted a grant application to the Coastal Conservancy in October 2009, for funding to develop a site master plan that would build on the subcommittee vision. The Coastal Conservancy approved a grant award to fund development of the site master plan in September 2011.

On October 16, 2012, Council approved a contract with PlaceWorks (which was doing business as 'The Planning Center/DC&E' at that time), the lead on an interdisciplinary consultant team that includes TranSystems Corporation, Balance Hydrologics, and Environmental Collaborative. Council also directed staff to establish a Community Advisory Committee (CAC) with representatives from eleven commissions, committees, and community-based organizations.

PLANNING PROCESS TO DATE:
The major steps taken to develop the Draft Master Plan include:

Baseline Reconnaissance/Existing Conditions Analysis
In coordination with staff, the consultant team completed an Existing Conditions Analysis in May, 2013 that documents site history and previous site plans, site use and design analysis, biological and hydrologic assessments, and preliminary wetland and sea level rise assessments.

Alternatives Development and Analysis
The alternatives development and analysis process included a general community workshop and two Community Advisory Committee (CAC) meetings at which the CAC was asked to assist in conducting the alternatives analysis and developing the Alternative Concept Plans. The public process included consideration of alternatives for:

- The mix and physical distribution of active and passive recreation areas.
- The type and level of urban improvements, such as plazas, parking, and landscape and streetscape improvements.
- Strategies for accommodating stormwater and drainage requirements.
- Delineation and protection of natural resources, including tidal marshland.
- Site circulation and connectivity to the adjacent commercial district and residential neighborhood.
- Responses to sea level rise and other climate adaptation strategies.

Review Meetings
Four review meetings were held in the fall of 2013 in order to facilitate input that guided the refinement of the three draft alternative concepts to one Draft Preferred Alternative concept that would be the foundation for development of the Draft Master Plan. The four meetings included a second Community Workshop, the third CAC meeting, a Parks, Recreation and Cemetery Commission meeting, and the November 19, 2013 City Council meeting. At that time, Council directed staff to proceed with the development of the Draft Master Plan.

Wetland Delineation
A Wetland Delineation was prepared and submitted to the U.S. Army Corps of Engineers (Corps) in October, 2013. An on-site verification was completed in December, 2013. The Corps formally verified the wetland delineation in July, 2014. The wetland delineation and preliminary feedback on permitting received from the Corps drove some restructuring of the elements of the Draft Preferred Alternative to better reflect the likely limits on fill and associated mitigation requirements.

Resource Agency Preliminary Consultations
During the December on-site wetland verification, the Corps provided preliminary consultation on likely permit issues associated with the Draft Preferred Alternative (dated 11/5/13) that Council reviewed in November, 2013. Staff and

project consultants subsequently met on site with staff from the Regional Water Quality Control Board and California Department of Fish and Wildlife in January. Staff from the Bay Conservation and Development Commission (BCDC) were not able to attend either on-site meeting, so City staff met with BCDC staff at their San Francisco offices in late January. These preliminary consultations led to changes in the Draft Preferred Alternative that built around a need to maximize fill at ½ acre or less, and to provide mitigation wetlands at a minimum 2:1 ratio. Higher mitigation rates may be required as a permit requirement for fill of Coastal Salt Marsh. This is specifically relevant for the proposed filling of the isolated Coastal Salt Marsh along First Street, which would serve to consolidate the green along First Street. The mitigation Coastal Salt Marsh would serve to consolidate the wetlands elsewhere by expanding the biggest Coastal Salt Marsh on site. In addition, the ½ acre limit for fill and the delineation of a Seasonal Wetland between 2nd Street and the marina effectively meant that it would not be feasible to develop this area into a bioswale. Instead, the majority of the Seasonal Wetland will need to be retained as is, and additional mitigation Coastal Salt Marsh is now proposed for the 'panhandle' of the green and some of the area in the northeast corner of the project area that had been proposed as bioswale in the 11/5/13 Draft Preferred Alternative.

In February, BCDC requested that the City present the Draft Preferred Alternative for review by the Design Review Board (DRB), which advises the Bay Conservation and Development Commission on the adequacy of public access proposed as part of projects in the BCDC 100' shoreline band jurisdiction. The DRB conclusions typically address:

- Whether the proposed public access is adequate, in accordance with the Bay Plan policies on public access.
- Where appropriate, suggestion on how a project might be changed to improve public access; and
- The appropriateness and need for fill proposed for public access or for improving the appearance of the shoreline.

The DRB was broadly supportive of conceptual site plan. Following the May 5 DRB meeting, work resumed on the Draft Master Plan for review by the Community Advisory Committee, Parks Recreation & Cemetery Commission, and City Council.

DRAFT MASTER PLAN:

The Draft Master Plan, attached, includes the following key elements:

- an entry plaza at the corner of First Street and B Street with seat walls and public art
- an expanded, raised green
- a secondary plaza at the eastern end of the site, also incorporating seating and public art

- a depot plaza, as included in the 2009 Depot Site Plan
- Bay Trail alignment within the park, running parallel to B Street;
- a perimeter trail around the green
- a boardwalk, including a guardrail, following the historic railroad alignment, with designated viewing platforms overlooking the wetlands, salt marshes, and the Carquinez Strait
- improved beach access located on the southwestern edge of First Street, north of the Pier
- widened sidewalks and palm trees on the east side of First Street, to mirror the promenade on the west side of First Street
- removing pilings from the 1st Street beach
- more efficient parking along B Street
- stormwater rain gardens between B Street and the Bay Trail
- interpretive signage
- marsh habitat

Three principal alternatives and multiple plan elements were considered during the plan development process. A number of factors contributed to selection of the design included in the Draft Master Plan, driven by community input and reflecting analysis and review by the Community Advisory Committee and project team, including:

- The consolidated green will reinforce the vital role that the First Street Green plays as Benicia's most significant special event space.
- The proposed configuration provides the strongest relationship between the waterfront and 1st Street, and lays a good foundation for a healthy relationship between the park and the two commercial parcels south of B Street (A Street and the Depot).
- Consolidating and raising the elevation of the green will protect prior investments made to raise the elevation of lower 1st Street and to improve the Peninsula Pier. It will provide partial protection from sea-level rise for the green itself, the two commercial parcels south of B Street.
- The plan expands wetlands and provides limited passive park space in the area between East 2nd Street and the marina, which will complement the residential fabric on the north side of B Street. Activity—particularly more intense special event activity—is focused on the 1st Street edge of the park. This arrangement should also work well for the Bay Trail/Bay Ridge Trail linkage along the B Street edge of the park.
- Consolidating the Coastal Salt Marsh should improve its overall habitat and hydrologic functions, and enable a buffer between the street and Coastal Salt Marsh. It is also expected to improve the role of the Coastal Salt Marsh as a sea-level rise and storm surge buffer. The site plan provides a functional relationship between the Coastal Salt Marsh and the green that enhances the functionality of both park elements.

Key changes since City Council approved the preliminary design in November, 2013 include:

- The location and extent of mitigation wetlands was reconfigured in order to maximize both wetland function and the extent of the green, while accommodating likely mitigation requirements.
- A non-motorized small boat (NMSB) launch was not included at the First Street Beach because the tide is not high enough often enough at this location to justify the designation. However, the plan does still call for piling removal and beach cleanup that will improve safety for NMSB users and pedestrians that choose to access the water here. Likewise, additional research and outreach regarding a prospective non-motorized boat launch led to an evaluation of the beach on the west side of the First Street Promenade and sea wall. Ultimately, the elevations at this site also did not support a formally designated NMSB launch. However, it was clear that this site is and will continue to be used by NMSB users, as well as pedestrians that would like to access the beach from the promenade when the tide permits. As such, the plan now calls for access to the beach from the peninsula pier.

ENVIRONMENTAL ANALYSIS

In accordance with the California Environmental Quality Act (CEQA), an Initial Study was conducted to determine whether the Draft Master Plan could have a significant adverse effect on the environment. On the basis of that study, a Mitigated Negative Declaration was prepared. The Initial Study/Mitigated Negative Declaration was prepared concurrently with the Draft Master Plan and circulated July 23, 2014, with the public period ending August 22, 2014.

RESIDUAL ISSUES:

Two issues have been identified that require further research and consideration, but which could not be addressed within the scope of the project:

- **B Street:** Development and evaluation of the draft alternatives made it clear that stormwater management and sea-level rise improvements included in the Plan need to consider B Street. The sea-level rise solutions included in the Draft Master Plan will provide a limited resolution of B Street issues, without precluding the development of a more comprehensive solution for B Street outside of the project area. The current Climate Adaptation project is assessing conditions along the City's entire coastline, is expected to help inform such a prospective response on B Street. However, a separate engineering study is needed to properly address flooding on B and East 2nd Streets. Raising the elevation of a significant portion of the green may serve to reduce the required scope and cost of this future solution. Staff recommend that, as possible, improvements to B

Street be designed concurrently with improvements in the UWEMP project area.

- **1st Street:** Consideration of Bay Trail connectivity and traffic circulation indicate a need to improve pedestrian and bicycle access to the project area across the south side of 1st Street/B Street intersection. It may be prudent to concurrently plan for and improve pedestrian and bicycle circulation on all sides of this intersection.

NEXT STEPS:
The phasing plan and costs are outlined in Chapter 6 of the Master Plan. Each phase will be preceded by proposals for State, regional, and federal funding in order to effectively leverage City funds. Staff anticipates submitting several grant proposals over the course of 2015 to help fund Phase I, as relevant Requests For Proposals are opened.

Phase I will involve the detailed design and engineering that will be necessary in order to apply for the required permits from the multiple resource agencies with regulatory authority over some or all of the project area.

Phase II will implement the following small subset of project elements on the edges of the project area that are expected to be particularly impactful and that can be completed without first completing the expensive work of raising and reconfiguring the green: the Depot Plaza, an Eastern Plaza, and beach access improvements at two sites at the foot of 1st Street.

Phase III will complete the majority of the project. Raising and reconfiguring the green and restoring Coastal Salt Marsh will enable the development of other dependent project elements, including an entry plaza at the corner of 1st and B Streets, an interior pathway, the First Street Promenade, and marsh overlook platforms. The B Street edge of the park, including the Bay Trail segment, improved B Street parking, and rain gardens, is also included in the third phase.

The Trainwalk Boardwalk is the sole item included in Phase IV of the project. This project element has been isolated as a last phase because of the challenges inherent in engineering and permitting the boardwalk, as reflected in preliminary consultations with the four resource agencies with which staff have met. The balance of the site plan has been designed to ensure that the plan will be effective even if the boardwalk were ultimately not to be permitted.

A number of suitable funding sources have been identified, and are detailed in Chapter 6 of the Master Plan. Key funding sources include the California Coastal Conservancy, Strategic Growth Council, Association of Bay Area Governments, the California Active Transportation Program (Caltrans,

Metropolitan Transportation Commission, and Solano Transportation Authority), San Francisco Bay Trail Project, Department of Water Resources, and the Wildlife Conservation Board. It will be necessary for the City to provide matching funds in order to leverage these state and regional funding sources to implement the project.

The Draft Master Plan, IS/MND, and other key project documents developed throughout the plan process have been made available online on the Parks & Community Services pages of the City's website, and can be found by following the 'Urban Waterfront and Enhancement Master Plan' link on the PCS homepage, www.ci.benicia.ca.us/Parks.

Attachments:

- Resolution
- Draft Master Plan Conceptual Plan Graphic and Section
- Draft Master Plan
- Draft Master Plan Appendices A and B
- Draft Initial Study/Mitigated Negative Declaration

VIII.A.10

RESOLUTION NO. 14-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING THE ADOPTION OF THE MASTER PLAN AND ASSOCIATED INITIAL STUDY/MITIGATED NEGATIVE DECLARATION THAT HAVE BEEN DEVELOPED FOR THE URBAN WATERFRONT ENHANCEMENT AND MASTER PLAN PROJECT

WHEREAS, three Community Advisory Committee meetings, two Community Workshops, and one Parks Recreation & Cemetery Commission meeting guided the development and refinement of a Draft Preferred Alternative site plan; and

WHEREAS, at its November 8, 2013 meeting, City Council approved the Draft Preferred Alternative and directed staff to proceed with the development of the Draft Master Plan and concurrent Environmental Review; and

WHEREAS, staff and the consultant team then sought preliminary consultation with the resource agencies regarding mitigation and permit considerations; and

WHEREAS, a Draft Master Plan was prepared and subject to public review; and

WHEREAS, an Initial Study/Mitigated Negative Declaration was prepared and circulated for public comment from July 23, 2014 to August 22, 2014; and

WHEREAS, the UWEMP Community Advisory Committee recommended approval of the Draft Master Plan at its July 29, 2014 meeting; and

WHEREAS, the Parks, Recreation & Cemetery Commission held a public hearing at its August 13, 2014 meeting and recommended approval of the Draft Master Plan.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia adopts the Mitigated Negative Declaration that has been developed for the Urban Waterfront Enhancement and Master Plan project and adopts the Master Plan.

*****

On motion of Council Member , seconded by Council Member , the above Resolution was introduced and passed by the City Council of the City of Benicia at a regular meeting of said Council held on the 7th day of October, 2014, and adopted by the following vote.

Ayes:

Noes:

Absent:

_____
Elizabeth Patterson, Mayor

Attest:

_____
Lisa Wolfe, City Clerk

_____
Date

Figure 4-1: Conceptual Plan

VIII.A.14

City of Benicia
July 18, 2014

Benicia Urban Waterfront Enhancement and Master Plan

Draft for Public Review

PLACEWORKS

in association with
Environmental Collaborative
Balance Hydrologics
TranSystems Corporation

VIII.A.15

This Plan was made possible with a grant from the Coastal Conservancy.

ACKNOWLEDGEMENTS:

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Community Advisory Committee
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Sue Wickham, California Native Plant Society
Nancy Lund, Solano Transportation Authority Bicycle Advisory Committee
Tim Rose, Benicia Yacht Club
Pete Turner, Solano Transportation Authority Pedestrian Advisory Committee

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CHAPTER 1: INTRODUCTION

A. PURPOSE

Located in Solano County along the Carquinez Strait in the northwest part of the San Francisco Bay Area, the City of Benicia lies east of Vallejo and across the Strait from Martinez (see map). The City is approximately 15 square miles and supports a residential community of about 27,000 as well as a thriving downtown. The project area is located on the southern edge of historic Downtown Benicia, encompassing the First Street Green and bounded by B Street to the north, First Street to the west, the Marina channel to the east, and the Carquinez Strait to the south.

Regional context map.

The City acquired the property in 1975, as part of a land transfer that included waterfront property from the Peninsula Pier at First Street on the west to Fifth Street on the east. Most of this waterfront property was subsequently developed, with the exception of the project area. Though most of the site was zoned for commercial uses until 2004, several plans have included a waterfront pathway and a park on the eastern edge of the site.

City Council adopted the Waterfront Park Initiative in 2004, changing the zoning of the project area to 'Open Space' and creating the need for a park master plan that would produce a unified design for the site. A concerned group of citizens later formed an ad hoc Waterfront Committee that developed a concept plan for the park in 2008.

The existing First Street Green.

The City of Benicia initiated the Urban Waterfront Enhancement and Master Plan (Master Plan) in November 2012, with the assistance of a planning grant awarded by the Coastal Conservancy and additional funding from the City. The design for the Master Plan includes three plazas, a Bay Trail segment, an interior pathway, the First Street

The First Street Promenade looking toward Downtown Benicia.

Promenade on the east edge of First Street, improved access to the water, public art, improved parking and circulation, enhanced and expanded coastal salt marsh, rain gardens to manage stormwater, and an expanded, elevated, and reconfigured green.

B. GOALS

The City of Benicia identified the following goals to guide plan development:

- Improve public access to and along the shoreline.
- Improve amenities for visitors, such as interpretive and educational displays.
- Increase passive recreation and non-motorized boat use of the area.
- Explore the potential for developing a launch site for the San Francisco Bay Area Water Trail.
- Protect and restore existing tidal wetlands, and other fish and wildlife habitat.
- Improve stormwater management and integrate it with other project objectives.
- Plan for adaptation of all Project elements to rising sea level.
- Ensure that the Plan is cost-effective and affordable.
- Achieve other objectives that may be identified during consultation with stakeholders.

C. DOCUMENT ORGANIZATION

This document is organized in the following chapters:

Chapter 1 – Introduction gives an overview of the Project Area, the purpose of the Master Plan, and the Project goals.

Chapter 2 – Existing Conditions identifies the biological and aesthetic conditions of the Project Area, such as native vegetation, wind patterns, wetland habitat, views, trails/roadways, and existing structures.

Chapter 3 – Community Outreach and Process describes the stakeholder engagement process, including the Community Advisory Committee, Parks Recreation and Cemetery Commission, City leaders, and the community.

Chapter 4 – Conceptual Plan specifies the purpose, vision, and design of the future Benicia Urban Waterfront Park.

Chapter 5 – Resource Management Plan describes the approach to natural resource protection and management as part of implementation of the preferred conceptual plan, including the protection and enhancement of wetlands, the creation of mitigation areas, and the management of stormwater. It also describes the approach to sea-level rise adaptation.

Chapter 6 – Phasing and Implementation specifies operations and maintenance, costs of the project and potential funding sources.

Views across the existing marsh and pilings.

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CHAPTER 2: EXISTING CONDITIONS

The 16-acre Project Area is owned by the City of Benicia and includes a variety of elements that make it popular among local residents, such as tidal wetlands, a small, sandy beach, historic remnants of the shoreline railroad, and a large lawn or community green, referred to as the First Street Green. The following sections describe recent planning efforts that have affected the Project Area, as well as the current conditions of the site.

Northern corner of the existing Green, looking north.

The existing wetland edge.

A. RELEVANT PLANNING POLICIES/DOCUMENTS

The Project Area has undergone a number of planning efforts in recent years. Those that have resulted in policy changes are summarized on the following pages. In addition, a number of waterfront planning initiatives have been completed for the area and provide context for this project. These initiatives include the 1991 Urban Waterfront Restoration Plan, the 1991 Benicia Waterfront Marsh Restoration Project, the 1997 Mayor's Waterfront Task Force Report, the 1997 Parks Trails and Open Space Master Plan, the 2004 Benicia Waterfront Park Initiative, the 2009 Historic Depot Site Plan, BCDC's 2011 Sea-Level Policies, the San Francisco Bay Area Water Trail Plan, and the San Francisco Bay Trail Plan.

1. General Plan, 1999

The Project Area is primarily designated as Open Space - Parks in the Benicia General Plan, as illustrated in Figure 2-1. The areas surrounding the Project Area are designated as Commercial and Residential.

The General Plan includes Parks and Recreation goals, policies, and programs, which outline the City's vision for improving and maintaining the City's park and recreation network. A number of policies influence the design of the Project Area, including resource conservation, protection of biologically important resources, and community access. Of particular relevance to this Plan are the following General Plan policies and goals:

- Policy 2.12.4: Create a social, recreational, and economic anchor at the waterfront end of First Street by establishing a waterfront park which provides a site for community festivals, preserves open space, and allows commercial and civic uses at the Depot site.
- Policy 2.32.2: Continue to develop and enhance recreational benefits of the shoreline and seek public access along the Waterfront.
- Goal 3.13: Improve urban design qualities of the waterfront and public access to the shoreline.

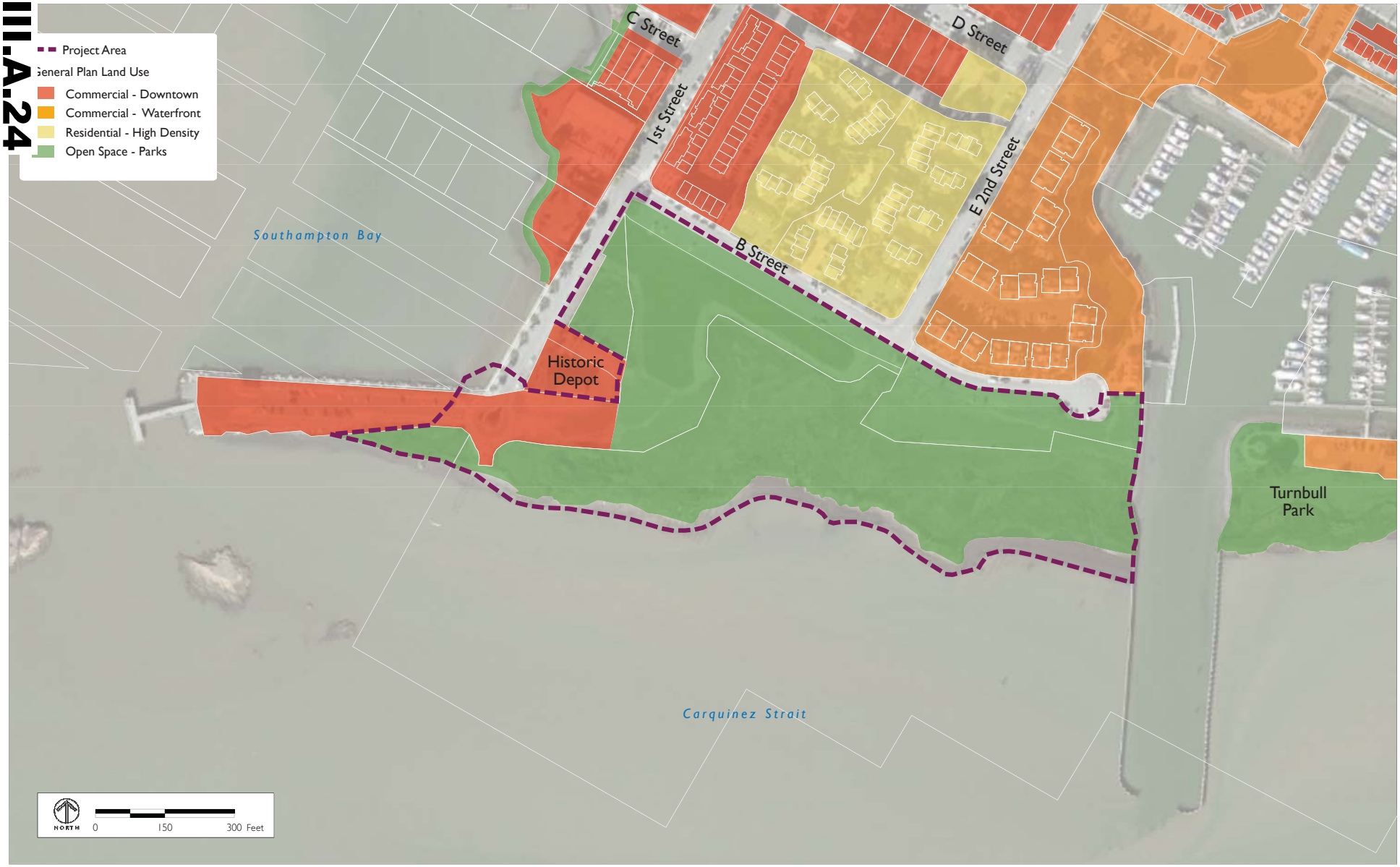


Figure 2-1: General Plan Land Use

The General Plan also identifies the Project Area as having important biotic resources, including Marshland, Northern Coastal Salt Marsh, and Coastal Brackish Marsh. These resources are further discussed in the Natural Environment section, later in this chapter. The General Plan includes goals, policies, and programs to preserve, protect, and enhance special-status plants, animals, and native vegetation, and to protect and enhance wetlands to ensure that no net loss of wetlands occurs. Implementing these goals and policies will entail protecting and enhancing special vegetation, habitats, and wetlands that exist in the Project Area, which is discussed in detail in Chapter 5: Resource Management.

The Historic Depot and the remnant A Street right-of-way.

2. Downtown Mixed Use Master Plan and Zoning, 2007

As illustrated in Figure 2-2: Existing Zoning, the Project Area is primarily zoned Open Space with a small portion that includes the historic Southern Pacific Depot zoned Town Core. The First Street Peninsula, B Street parcels between First Street and Marina Village Way, and First Street parcels adjacent to the Project Area are also zoned Town Core, which allows a variety of commercial uses. These areas are subject to the land use regulations and development standards of the Downtown Mixed Use Master Plan, 2007 (DMUMP) which focuses on achieving a "mix of compatible uses adjacent to the Downtown, upgrading of existing buildings, preservation, and adaptive reuse of historic buildings, and introduction of new, compatible mixed-use buildings." The purpose of the Town Core zoning designation is to "enhance the vibrant, pedestrian-oriented character of First Street…[and] mixed use within this zone primarily refers to vertical mixed use where retail or commercial are on the ground floor and residential or commercial are above." The Pointe Benicia condominiums at B Street west of East Second Street and east of Marina Village Way are zoned Medium Density Residential, which allows 8–14 dwelling units per acre. The Marina Condominiums east of East Second Street and the Harbormaster's office are zoned Waterfront Commercial.

Coastal salt marsh areas.

The Circulation and Transportation Element strategies of the DMUMP identify the Historic Pier as the best location for a new ferry terminal, if ferry service to Benicia is restored. The DMUMP also recommends that the City continue its Shoreline Trail around the Marina and west side of Downtown Benicia for a more complete bicycle connection, and it proposes new bus routes to provide access to the waterfront.

3. San Francisco Bay Conservation and Development Commission (BCDC) Resolution No. 46 (adopted May 19, 1977)

Resolution No. 46 was adopted by the SF Bay Conservation and Development Commission (BCDC) to rectify inconsistencies between the adopted San Francisco Bay Plan of 1969, and the later adopted Benicia Waterfront Plan of 1976 (Comprehensive Plan Amendment and amendment to the Open Space Plan). The City undertook a special area planning process with the BCDC, forming the Special Area Plan No. 3: Benicia Waterfront for the

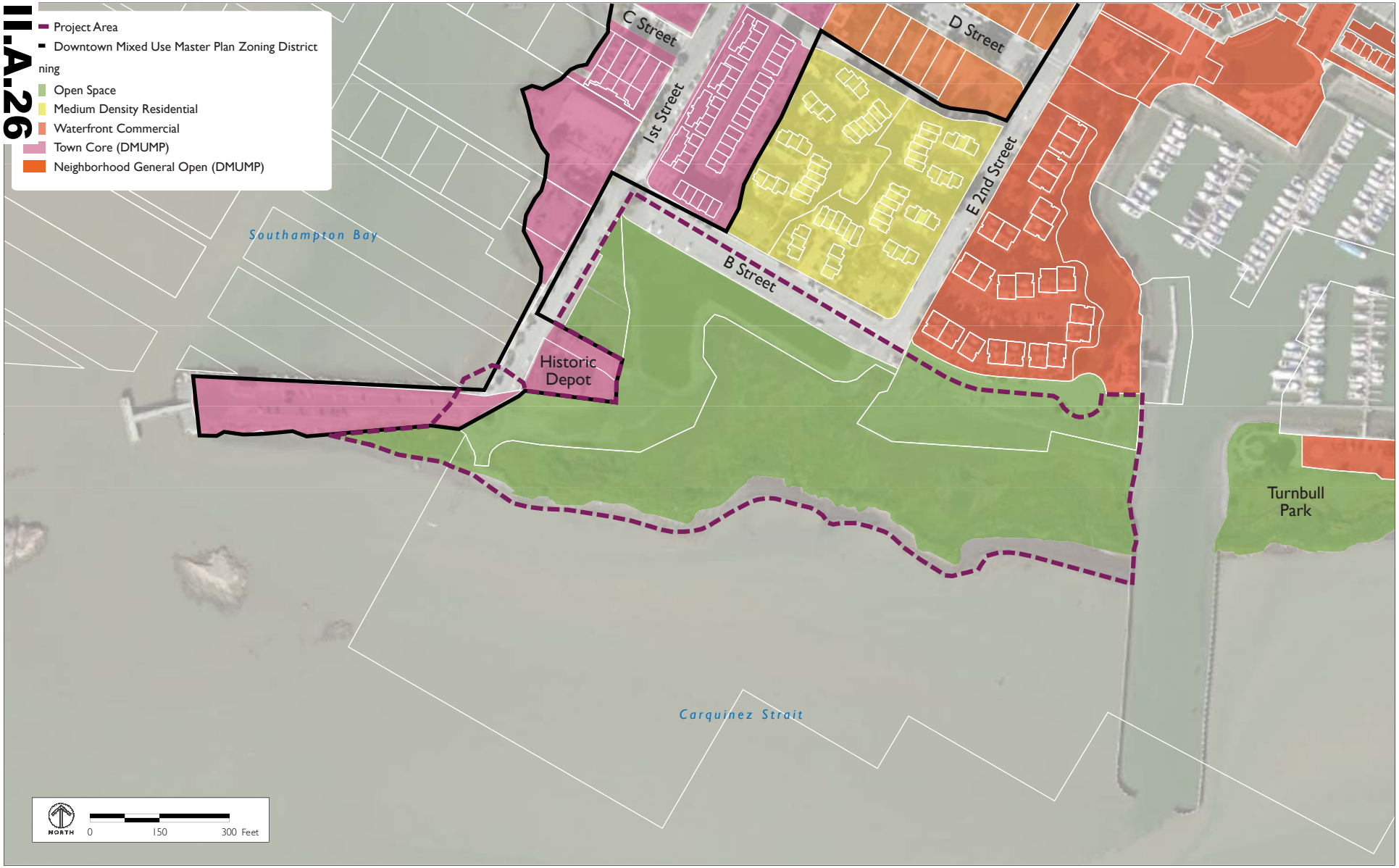
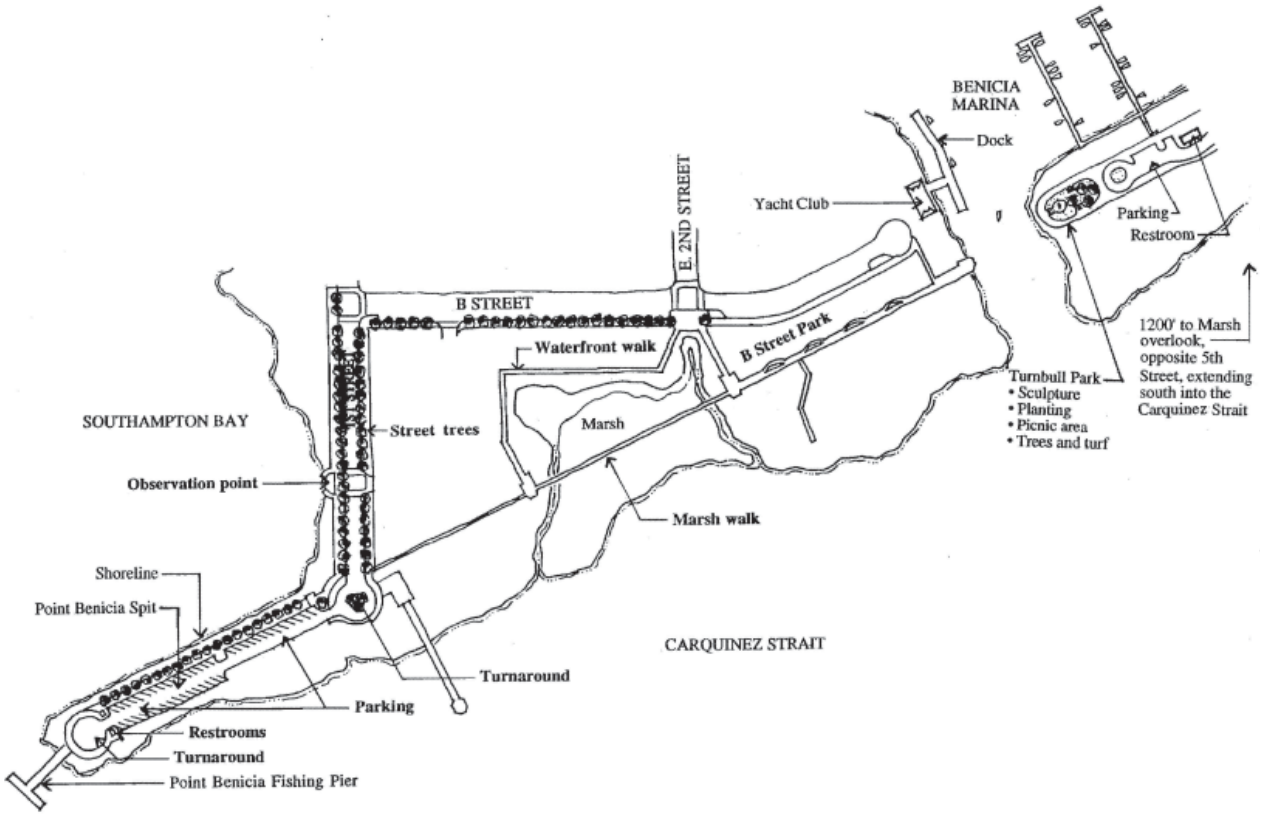


Figure 2-2: Existing Zoning

waterfront from East Fifth Street through the First Street Peninsula Pier. The City proposed to improve and protect the wetland marsh as a wildlife preserve, while the 45-acre area located immediately east of the wetland was to be developed "as a public marina with some 309 berths and related commercial uses." When the Resolution was adopted, it became part of both the Comprehensive Plan of Development for Benicia and the Bay Plan. The City later adopted the supplemental zoning measures and land use controls that the Resolution recommended.

4. BCDC Permit 5-77

BCDC jurisdiction in the Project Area includes: 1) the open water, marshes, and mudflats of greater San Francisco Bay, including the Carquinez Strait, 2) the 100-foot shoreline, which includes the first 100 feet inland from the mean high-tide shoreline around San Francisco Bay, including the Carquinez Strait and 3) The Benicia Waterfront Area Special Area Plan No. 3.



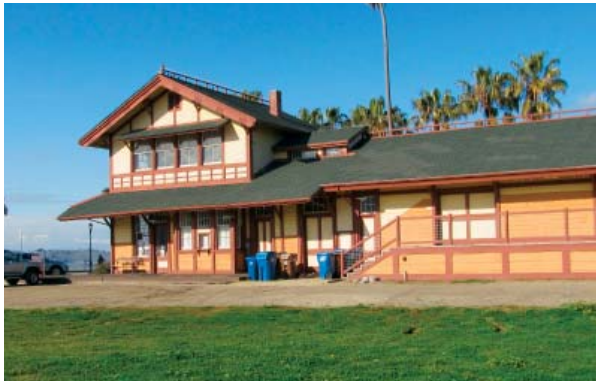
Site Plan from Benicia Parks, Trails, and Open Space Master Plan.

In June 1977, the City received approval from BCDC to proceed with a number of projects in Special Area Plan #3, which includes the Project Area, including construction of a marina, riprap, fishing pier, public boardwalks, tidal marsh, commercial and residential uses, public walkways and bikeways, parking areas, and overlooks. The permit has been amended 34 times since it was issued in 1977, and the majority of permitted projects have been completed. However, the current Project Area remains unfinished.

Any proposed changes to the Project Area will require approval by BCDC, and either amendment of Permit 5-77 or the issuance of a new permit.

5. Benicia Parks, Trails, and Open Space Master Plan, 1997

This plan is the City's guiding document for parks, open space, and trails. It incorporates the 1991 Urban Waterfront Restoration Plan proposals for the portion of the Benicia Waterfront located between First Street Peninsula (also



The Historic Depot and existing parking area.

referred to as Point Benicia Peninsula) and Turnbull Park. The recommended waterfront improvements included three marsh overlooks, a neighborhood park, improvements to First Street Peninsula, and an extension of the Benicia Waterfront Path. Phase One included marsh improvements and the creation of the Marsh overlook Train Walk. Phase Two envisioned a pier marsh overlook, First Street Peninsula improvements, a waterfront trail, and the Turnbull Park marsh overlook.

In 2004, the City of Benicia constructed the First Street Peninsula improvements, which built upon the previously built First Street Promenade project. This project included paved parking areas, street lights, an ADA-accessible restroom, storm drain improvements, a turnaround, interpretive signage, curbs, and lane striping.

6. Phase II Small Municipal Separate Storm Sewer System (MS4) Program, 2013

The City of Benicia intends to manage its stormwater in compliance with the provisions of its most recent MS4 Phase II Permit (currently 2013), regulated by the State Water Resources Control Board, San Francisco Bay Region 2. The permit consists of the following elements:

- Program Management Element
- Education and Outreach Program
- Public Involvement and Participation Program
- Illicit Discharge Detection and Elimination
- Construction Site Stormwater Runoff Control Program
- Post-Construction Stormwater Management Program
- Pollution Prevention/Good Housekeeping for Permittee Operations Program
- Water Quality Monitoring
- Program Effectiveness Assessment and Improvement
- Total Maximum Daily Loads and Compliance Requirements
- Annual Reporting Program

Subsequent to this plan, the City implemented the National Pollution Discharge Elimination System Phase II, which regulates construction activity for the purposes of protecting water quality. All improvements made as part of implementation of the Master Plan will need to comply with this permit.

7. Benicia Waterfront Park Initiative ("Measure C"), 2004

The Benicia Waterfront Park Initiative amended the City of Benicia General Plan Zoning for the section of the Benicia waterfront included in the Project Area. The General Plan and Zoning previously allowed for a variety of commercial uses on the waterfront; however, when the City Council adopted the measure with Resolution No. 04-178, the land was re-zoned from Waterfront Commercial and Downtown Commercial to Open Space. The purpose of the measure was to "establish a Waterfront park on the City-owned land south of B Street, between First Street and the Harbormaster's Office, and extending to the water's edge, but excluding the site upon which the Depot sits." It also calls for the preservation of marshlands within the Waterfront Park. The measure included provisions that the area only be allowed to provide park uses and serve as a community gathering space for local festivities and other low-impact recreational uses. The Initiative prohibits permanent sports fields, courts, or equipment. It also prohibits permanent buildings, except for a public restroom or similar amenities. However, the Initiative does permit walkways, benches, drinking fountains, and trash receptacles.

The 2008 Waterfront Park Plan was prepared (see drawing, right) by a Waterfront Park Committee of volunteers who worked to develop a vision for the 2004 initiative. The purpose of this plan was to implement the 2004 Benicia Waterfront Park Initiative "to preserve and enhance the marsh and its transition into an urban Waterfront park," and to "envision a multi-purpose asset for all citizens that addresses sustainability, tourism, downtown revitalization, habitat restoration, Benicia history, the Arts, and public recreation." The 2008 Waterfront Park Plan envisioned "an inviting entrance, drawing people down from First Street into the park." This concept plan was a precursor to the Urban Waterfront Enhancement and Master Plan.

2008 Waterfront Park Plan.

Views of the hills of Martinez and Mt. Diablo from the Project Area.

Existing conditions along A Street right-of-way.

B. EXISTING CONDITIONS

1. Natural Environment

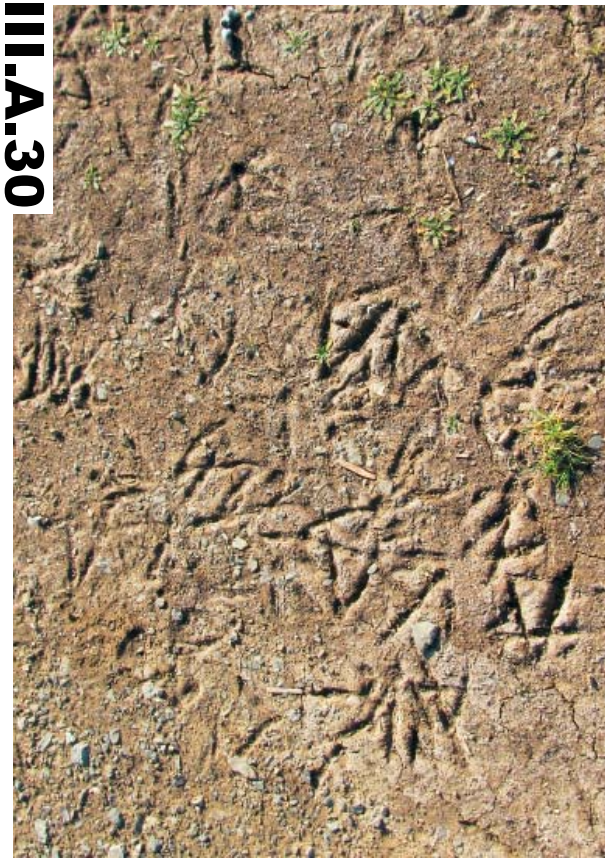
a. Views

The Benicia Waterfront provides sweeping views of the Carquinez Strait. On most days, Mt. Diablo and Martinez are visible to the southeast; the rolling hills of Port Costa and Crockett are visible to the south; and the Carquinez Bridge and San Pablo Bay are visible to the west. These extraordinary views are one of the reasons visitors are drawn to the waterfront; future planning for the waterfront should enhance and preserve them.

b. Climate

The climate in Benicia is temperate with warm summers and mild winters. The mean annual temperature is 63–69 degrees Fahrenheit with an average annual rainfall of 18–19 inches; rainfall primarily occurs December through April.[1] Benicia's waterfront location results in ocean breezes year-round with prevailing winds from west to southeast.

1 Source: City of Benicia Website; January 10, 2014. http://www.ci.benicia.ca.us/index.asp?Type=B_



Wildlife tracks found along the wetland edge.

c. Vegetation

Coastal salt marsh, brackish water marsh, and open water habitat of the Strait occupy the southern, lower elevations of the Project Area. The southern portion of the Project Area was restored to wetlands by the City in the 1970s. As part of past development in the area over the past 150 years, fills were place over the northern portion of the Project Area to improve access and reduce potential flooding. Upland areas are now covered with graveled or barren surfaces, or support irrigated turf and areas of ruderal (weedy) grassland.

d. Wildlife

Located at the interface of upland and aquatic habitat along the shoreline of the Carquinez Strait, the Project Area supports a wide diversity of wildlife. The shoreline and open water of the Carquinez Strait provides foraging opportunities for many species of birds, and aquatic habitat for fish, mollusks, and invertebrates. The mudflats support a diverse assemblage of benthic macro-invertebrates, which in turn attract large numbers of migrating and wintering shorebirds. Upland areas of turf and landscaping have only limited habitat value, but the irrigated turf areas are frequently grazed by Canada geese and provide occasional foraging opportunities for birds found in urban habitat.

e. Special-Status Species

Special-status species are plants and animals that are legally protected under the State and/or federal Endangered Species Acts or other regulations, as well as other species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or denning locations, communal roosts, and other essential habitat (see Appendix: Biological Assessment and Environmental Baseline Memo prepared by Environmental Collaborative for a full description and regulatory framework). Special-status species receive varying degrees of legal protection under both the federal and California Endangered Species Acts, and the California Environmental Quality Act (CEQA). The U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NOAA Fisheries), and the California Department of Fish and Wildlife (CDFW) share responsibility for protection and management of natural resources. If a listed species may be affected by proposed development, the lead agency must initiate a consultation with the USFWS, NOAA Fisheries, and/or CDFW, as required by state or federal law. Without adequate mitigation, habitat modification could result in a "take" of a listed species.

Figure 2-3 shows the distribution of special-status plant and animal species monitored by the California Natural

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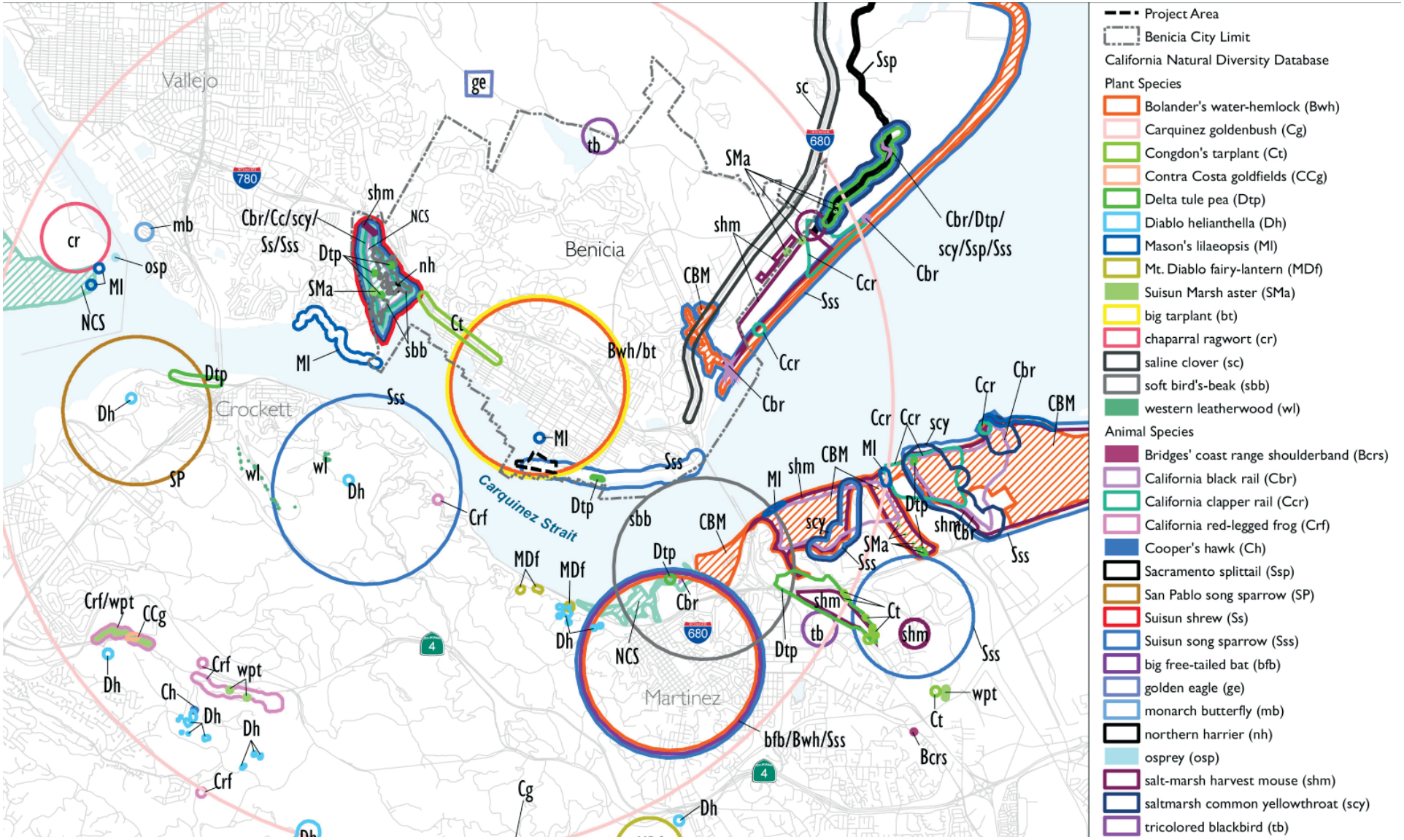

Figure 2-3: CNDDB Occurrences of Special-Status Species and Sensitive Natural Communities

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Remnants of pilings along the shoreline.

The shoreline along First Street and Southampton Bay.

Diversity Data Base (CNDDB) within approximately five miles of the site. Past development has eliminated suitable habitat for special-status species in upland areas on the site. However, areas of coastal salt marsh and open water habitat support a number of special-status species with varying protective status. These include special-status bird species, such as the Suisun song sparrow and saltmarsh common yellowthroat, numerous special-status fish species that migrate and forage through the open waters of the Strait, and possibly other special-status species as well. Suitable habitat for a number of special-status plant species also occurs in the marshland and exposed shoreline of the site, such as Mason's lilaeopsis, Delta tule pea, and soft bird's-beak. However, no special-status plant species have been encountered during systematic surveys of the site.

A number of special-status bird species are known to forage in the marshlands on the site, including northern harrier, white-tailed kite, and possibly the California black rail and California clapper rail along the shoreline of the Strait. Similarly, there is a remote possibility that the salt marsh harvest mouse and Suisun shrew could disperse along the shoreline of the Strait and utilize the protective cover of the marshlands in the Project Area. Nevertheless, it is unlikely that sustainable populations of special-status mammals would be present, given the relatively small extent of suitable habitat and lack of protective upland refuge areas. Even so, the marshland and open water habitats on the site are an important resource for special-status species and must be accommodated in future planning and enhancement plans.

f. Sensitive Natural Communities

In addition to species-oriented management, protecting habitat on an ecosystem-level is increasingly recognized as vital to the protection of natural diversity in the state. The CNDDB also monitors the locations of natural communities that are considered rare or threatened, known as sensitive natural communities. The CNDDB has compiled a list of sensitive natural communities that are given a high inventory priority for mapping and protection.[2] Although these natural communities have no legal protective status under the State or federal Endangered Species Acts, they are provided some level of protection under the CEQA Guidelines.

The coastal salt marsh and brackish water marsh on the site are considered sensitive natural community types. Seasonal wetlands and upland areas of turf and ruderal grasslands are dominated by non-native species and are not considered a sensitive natural community type. However, the seasonal wetlands are regulated by the US Army Corps of Engineers (USACE) and any modifications subject to agency authorization, as discussed below.

2 California Department of Fish and Game, 2010.

Field Surveys conducted on March 1, June 27, and August 15, 2013 by Dianne Lake and James Martin, Environmental Collaborative.
Field verification conducted by Katerina Galacatos of the U.S. Army Corps of Engineers on December 20, 2013 with Jim Martin of Environmental Collaborative and Rick Knight of the City of Benicia.

Figure 2-4: Potential Jurisdictional Wetlands

NOTE: The Historic Depot site is included in the preliminary wetland study, but is not part of the Plan Area. The limits of the wetland delineation limits encompass areas outside of the actual Plan Area.

The Bay Trail makes Benicia a popular biking destination for cycling enthusiasts.

Paved path on the Peninsula Pier.

g. Jurisdictional Waters

Although definitions vary to some degree, wetlands are generally considered to be areas that are periodically or permanently inundated by surface or ground water, and that support vegetation adapted to life in saturated soil. Wetlands are recognized as important features on a regional and national level due to their high inherent value to fish and wildlife, use as storage areas for storm and flood waters, and water recharge, filtration, and purification functions. Technical standards for delineating wetlands have been developed by USACE and the USFWS, which generally define wetlands through consideration of three criteria: hydrology, soils, and vegetation.

Based on the results of the wetland delineation of the Project Area prepared by Environmental Collaborative, jurisdictional waters consist of areas of coastal salt marsh and scattered areas of seasonal wetlands in filled uplands, as well as navigable waters along the Carquinez Strait. Figure 2-4 shows the extent of jurisdictional waters on the site, which have been preliminarily confirmed by USACE during a field verification conducted on December 20, 2013. These consist of an estimated 6.45 acres of coastal salt marsh and 0.46 acre of scattered seasonal wetlands regulated under Section 404 of the Clean Water Act. Most of the coastal salt marsh occurs along the fringe of the open waters of the Carquinez Strait, but an area of approximately 0.41 acre to the north of the Historic Depot is physically isolated by upland fills, and appears to have only a partial hydrologic connection to extreme high tides through a partially functioning culvert. Figure 2–4 also shows the Mean High Water elevation, which is typically used by USACE in determining the limits of their jurisdiction under Section 10 of the Rivers and Harbors Act. On the site, the Mean High Water Elevation generally occurs at the edge of the marshlands and open waters of the Carquinez Straits.

2. Circulation Patterns and Accessibility

a. Public Access and Connectivity

The First Street Promenade includes a formal 15-foot wide sidewalk and an elongated plaza area along the western portion of First Street. There are 4-foot sidewalks on the east side of First Street, adjacent to the First Street Green. There is also a 4-foot wide asphalt path that is located around the entire edge of the First Street Peninsula (also referred to as the Pier). There are 4-foot formal sidewalks along the north side of East B Street; however, there are no sidewalks on the south side of the street, adjacent to the First Street Green.

There are no formal paths within the First Street Green. However there is an unpaved service road used for special event access. Ranging in width from 10 to 20 feet, the service road also serves as an informal walking path along the edge of the coastal salt marsh.

Figure 2-5: Existing Open Space, Bicycle Facilities, and Trails

Existing gravel parking lot and parallel parking along B Street.

The Benicia Marina harbors boats of various sizes and is situated adjacent to the Project Area.

b. Vehicular Circulation

The Project Area is located east of First Street and south of East B Street. First Street terminates at the water's edge with a roundabout that allows cars to either drive into the First Street Peninsula parking area or turn around and head north back onto First Street. B Street's entire length borders the First Street Green and waterfront. To the east, B Street terminates at the water near the Marina inlet. To the west, B Street terminates at First Street. The only through-traffic in the area is on B Street between First and East Second streets.

c. Trails and Bicycle Access

The Project Area includes a gap in the regional shoreline San Francisco Bay Trail, and the Bay Ridge Trail alignment is currently just outside the Project Area on B Street. East of the Project Area, the Bay Trail is implemented as a shared-use, off-street path along the waterfront at the Benicia Marina. Both the Bay Trail Plan and the City of Benicia General Plan conceptually identify a multi-use path (Class I Bikeway) though the First Street Green. However, the path does not currently exist within the Project Area.

The Benicia Waterfront Trail continues to be developed in segments along the waterfront west of First Street, as development and redevelopment projects necessitate Waterfront Trail development. An existing segment along the lower downtown waterfront ends at the north end of the First Street Promenade, across First Street from the Project Area.

d. Parking

There is on-street parking within and surrounding the Project Area. The Peninsula Pier includes 64 parking spaces, which includes three ADA accessible spaces. Adjacent to the First Street Green, there are a total of 46 parallel parking spaces on both sides of First Street.

There are two gravel parking areas along the south side of East B Street. The western parking area is approximately 40 feet wide by 540 feet long. It is separated from the street by a curb, and is used for perpendicular parking. In this portion of the road, parallel parking is also permitted on East B Street. The eastern parking area is less formal; it has a gravel surface, and is approximately 40 feet wide by 400 feet long. At its terminus near the Benicia Marina, a roundabout includes 10 formal, paved parking spaces, one of which is ADA accessible.

e. Boat Access

Within the Project Area, water access for boaters exists on the small public beach at the southern terminus of First Street and in the cove north of the pier. The adjacent marina also provides water access. The small beach is gen-

tly sloping and sandy, without major vegetation. The beach provides water access for non-motorized small boats (NMSB), but its utility is limited by high winds, strong currents and extensive mudflats at low tide. The cove north of the Peninsula Pier is more protected from wind and currents and is currently used to launch some NMSB such as stand-up paddleboards and kayaks. The cove has a small, sandy beach, but extensive mudflats and very shallow water can impede use by NMSBs at low tide. The Benicia Marina, located directly east of the Project Area, provides long-term harboring and transient access for power and sailboats. In addition, a public boat launch on the east side of the marina provides access for both motorized boats and NMSBs.

View across the Carquinez Strait of adjacent islands and the Carquinez Strait Regional Shoreline.

The waterfront edge of Southampton Bay and First Street.

3. Hydrology

The following section addressing the hydrology and sea-level rise is based on the Hydrologic Site Assessment and Environmental Baseline for the Urban Waterfront Enhancement and Master Plan completed by Balance Hydrologics, and included as Appendix B of this document.

a. Flooding and Drainage

The Project Area is located on a relatively flat, low-lying area adjacent to the Carquinez Strait, with elevations ranging from zero to 11 feet above sea level. The pervious portions of the Project Area include the lawn and wetland areas; they slope toward the Carquinez Strait and drain by gravity through overland flow. The impervious portions of the Project Area are generally drained by engineered storm drain lines. The B Street storm drain system is subject to localized street flooding during significant storm events that occur during high tide.

For planning purposes, cities look to the Federal Emergency Management Agency (FEMA) to predict the extent of flooding in especially strong storms known as the "1 percent flood event" – the size of flood that, based upon past records, has a 1 percent chance of happening in any given year[3]. FEMA designates base flood elevations (BFE) for the Carquinez Strait and surrounding areas at 9 feet North American Vertical Datum (NAVD), according to the Flood Insurance Rate Map. As shown in Figure 2-6, the majority of the Project Area would be inundated by the 1-percent chance flood event (flood that has a 1 percent chance of happening in any given year). In this type of event, flooding would be expected to cover the entire central and southeastern portions of the site, including most of the lawn area, several hundred feet of B Street, and the lowermost part of East Second Street. The highest observed water surface elevation at the Port Chicago tide station was 9.02 feet on December 3, 1983, approximately equivalent to the predicted base flood elevation.

3 FEMA uses the terms "1 percent chance flood event," "100-year event," and "base flood" interchangeably.

Figure 2-6: FEMA-Based Flood Elevation with and without Projected Sea-Level Rise

b. Sea-Level Rise

Located directly adjacent to the Carquinez Strait, the Benicia waterfront is susceptible to sea-level rise over the next 100 years and beyond. As part of the project grant requirements, the Urban Waterfront Enhancement and Master Plan must consider potential sea-level rise affecting the Project Area. The City recognizes the importance of addressing increasing vulnerability of the waterfront and low-lying areas due to sea-level rise. This will be crucial in order to avoid costs of inundation and resulting damage to commercial and residential areas, as well as public infrastructure.

The need to appropriately prepare for rising sea levels has led the State of California to set standards to frame adaptive planning activities in coastal areas. The San Francisco Bay Conservation and Development Commission has identified scenarios of sea-level rise for various time horizons, using values of 16 inches of sea-level rise by 2050 and 55 inches by 2100.

Figure 2-6 illustrates potential future base flood scenarios using both the value of 16 inches for 2050 (areas that are likely to flood are shown in green), as well as the longer-term scenario of 55 inches of sea-level rise at 2100 (areas that are likely to flood are shown in yellow).[4] As shown, the higher base flood conditions would inundate progressively more areas. With 16 inches of sea-level rise (BFE = 10.3 feet), the entire Urban Waterfront would be subject to flooding during a 1-percent chance event, the only exceptions being First Street upslope of the Depot and the northwest portion of B Street. With 55 inches of sea-level rise, all of B Street and all areas to the south would be susceptible to inundation during a 1-percent chance event.

4 This is equivalent to a BFE of 13.6 feet (e.g. 9 feet current BFE + 4.6 feet sea-level rise).

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CHAPTER 3: COMMUNITY OUTREACH AND PROCESS

A. COMMUNITY PROCESS SUMMARY

Community involvement and participation was a major component in establishing a successful design for the Urban Waterfront Enhancement and Master Plan throughout the 18-month planning process. Outreach for the project included print ads placed in Benicia Magazine and the Benicia Herald to generate awareness in advance of the first public workshop. Flyers for each workshop were distributed by email and posted at various locations in the City, including City Hall, Benicia Community Center, in waterfront kiosks, and local coffee shops. In addition, all workshop and meeting announcements were posted at City Hall and Benicia Community Center, and were made available on the City's website along with key project documents.

The project team held three Community Advisory Committee Meetings and two Community Workshops to review the project goals, understand the community's priorities, develop design alternatives, and determine the community's preferred alternative. Comments and questions were encouraged throughout the design phases, recorded for future design consideration, and integrated into the final conceptual plan.

The project team then met with the Parks, Recreation and Cemetery Commission and the City Council to review the community's priorities and get the Commission and Council's approval of the preferred alternative. The preferred alternative then became what is referred to as the conceptual plan in this document, described in detail in Chapter 4: Conceptual Plan. This chapter describes each of the community meetings and the individual steps of the planning process.

Community Workshop #1 Flyer.

1. Community Advisory Committee (CAC) Meetings

The CAC was formed to provide guidance on the project. Members of the CAC included representatives from the following:

- Parks, Recreation and Cemetery Commission
- Historic Preservation Review Commission
- Arts and Culture Commission

Participants worked in groups to discuss their ideas for the Benicia Urban Waterfront Park at Community Workshop #1.

Speakers report back to all participants and summarize each group's ideas and concerns.

- Economic Development Board
- Planning Commission
- Community Sustainability Commission
- Benicia Main Street
- Benicia Yacht Club
- California Native Plant Society
- Solano Transportation Authority Bicycle Advisory Committee
- Solano Transportation Authority Pedestrian Advisory Committee

a. CAC Meeting #1

The CAC, City staff, members of the public, and the consultants met on April 18, 2013 to introduce the Urban Waterfront Enhancement and Master Plan and discuss the site's existing conditions and initial design ideas. A slide show illustrated the goals for the Project Area, such as improving public access, providing amenities for visitors, adding a non-motorized boat launch and a launch site for the SF Bay Area Water Trail, and protecting existing wetland and wildlife habitat. The Committee provided input regarding project goals, and the public was also invited to provide feedback and comments.

b. CAC Meeting #2:

A second meeting of the CAC was conducted on July 25, 2013 to review the three design alternatives and determine whether or not they aligned with the ideas members of the public and City leaders had envisioned. The consultants began the meeting by first reviewing the existing conditions analysis, the CAC Meeting #1 Summary, and the Community Workshop #1 summary. The consultants then presented the three draft site alternatives and discussed how each alternative incorporated the desired design features from CAC Meeting #1. The meeting was later opened up for discussion so participants could share their ideas and concerns about the alternatives.

c. CAC Meeting #3

The third CAC Meeting was held on September 26, 2013. It began by first recapping the project goals, opportunities and constraints, as well as the three alternative site plans. After a short discussion with CAC members, the consultants introduced the draft preferred alternative that garnered the most support at Community Workshop #2. Several elements of the draft preferred alternative drew inconclusive community support and required discussion from the CAC. These elements included a new restroom, palm trees on the east side of First Street, and the location of a non-motorized boat launch.

The CAC made the following requests:

- Identify locations for special event auto access.
- Do not include a restroom, since there is one at the end of the First Street Peninsula.
- Include palm trees on the east side of First Street to mirror the promenade streetscape on the west side of First Street.
- Include boardwalks in alignment with the historic railroad, with viewing platforms.
- Include a "Train Walk Boardwalk" through the tidal marsh.
- Do not include a non-motorized boat launch into the marina channel at the end of B Street.

2. Community Workshops

a. Community Workshop #1

Approximately 50 people participated in a walking tour of the Benicia Urban Waterfront Park on June 5, 2013 to better understand the Project Area's existing conditions, constraints, and areas of opportunity. A more formal meeting that was later held at the Benicia Community Center consisted of approximately 85 community leaders and members of the public. The consultants gave a brief summary regarding the goals and schedule of the project and then presented a summary of the history and existing conditions of the Project Area.

Community members were given an opportunity to ask questions regarding the project before working in nine small groups. Participants discussed the types of uses and improvements they would like to see incorporated throughout the Project Area and identified any concerns they had. Speakers from each group then shared their group's thoughts and recommendations with the rest of the participants.

Many of the common design ideas incorporated the creation of an entrance to the park, such as a gateway or plaza at the corner of First Street and B Street. In addition, the majority of the participants talked about the need for formalized parking along B Street and expanding the size of the lawn to better accommodate the City's special events. Other common elements discussed among the groups included the integration of public art throughout the Project Area, walkways/boardwalks, boat launches for kayaks and other small watercraft, restrooms, and wetland restoration.

City staff and residents worked with PlaceWorks staff to determine their preferred alternative.

Community members present their group's preferred alternatives to all workshop participants.

Local residents, City staff, and PlaceWorks team members touring the Project Area.

This historic aerial shows the alignment of the railroad.

b. Community Workshop #2

A second community workshop meeting was held on September 18, 2013 to review three design alternatives and solicit input regarding a preferred alternative. Approximately 25 community members attended the workshop held at the Benicia Community Center. The consultants recapped the project goals, existing conditions, constraints, and opportunities, and presented an updated schedule. The meeting progressed with a presentation of the three conceptual alternatives for the park design, which incorporated the ideas from the first community workshop and direction received at the second CAC meeting. The consultants explained how each alternative adhered to Project Area constraints and specified site improvements, but differed in various design configurations, such as the expanded Green and parking layout.

Following the presentation, community members worked in four small groups to determine their preferred alternative among the three presented, and discuss how that alternative could be improved or modified to reflect their vision. Common elements desired by all groups included a larger Green, a new entry plaza at the corner of First Street and B Street, a secondary plaza at the eastern edge of the Project Area, boardwalks in alignment with the historic rail corridor, a restroom closer to First Street, a formalized non-motorized boat launch, and diagonal parking along B Street. One of the few issues where there was not complete consensus was whether the First Street Promenade improvements (wide sidewalk with palm trees) on the west side of First Street should be mirrored on the east side of First Street, adjacent to the waterfront park. A draft preferred alternative was developed based on the results of the second Community Workshop, the third CAC Meeting, and input from City staff.

B. PARKS, RECREATION AND CEMETERY COMMISSION

The Parks, Recreation and Cemetery Commission reviewed the draft preferred alternative at its October 9, 2013 meeting. The consultants presented the draft preferred alternative that resulted from Community Workshop #2 and the Commission provided their feedback and recommendations for refining the draft preferred alternative.

C. BENICIA CITY COUNCIL

The draft preferred alternative was presented to the City Council on November 19, 2013. The City Council passed a resolution approving the draft preferred alternative (now referred to as the Conceptual Plan, Figure 4-1) and directed staff to proceed with the development of the Draft Master Plan and concurrent environmental review. The Council will review the Master Plan at its September 16, 2014 hearing and will consider adoption of the Master Plan and associated environmental review documents.

CHAPTER 4: CONCEPTUAL PLAN

The conceptual plan for the City of Benicia's Urban Waterfront Enhancement and Master Plan was developed with input from the public and Community Advisory Committee. Two principal design alternatives were developed and refined throughout the planning process to reflect the community's priorities for an open green space, environmentally sensitive design, and improved access for all users. This chapter describes the design components included in the preferred conceptual plan and provides a brief overview of each of its proposed elements.

The tidal wetland habitat is in need of restoration for the health of the habitat and to improve flood control.

A. COMMUNITY PRIORITIES

Through the planning process, the community identified priorities for achieving the goals of the Urban Waterfront Enhancement and Master Plan to create a waterfront that provides a multi-benefit open space for the community while protecting and enhancing natural resources. These priorities include:

- Expand the Green for recreation and community activities.
- Improve Access to the shoreline and visual access to wetland habitat.
- Improve Circulation to and through the park for vehicles, pedestrians, and bicyclists.
- Create Plazas that serve as everyday gathering spaces and focal points for special events.
- Protect and Restore tidal wetland habitat.

The design elements of the Benicia Urban Waterfront Park have been developed to achieve these priorities.

B. KEY DESIGN COMPONENTS

This section summarizes the proposed components and how they influence the overall design of the Project. The design elements are illustrated on the Conceptual Plan and Expanded Green and Wetland Section in Figures 4-1 and 4-2, respectively.

Expanded Green: The existing Green and usable area will be expanded by almost 100,000 square feet of functional park space, consisting of irrigated lawn and other landscaped areas to better accommodate daily recreational activities; some of this space will only be used during special events, such as the farmers' market and annual car show.

Figure 4-1: Conceptual Plan

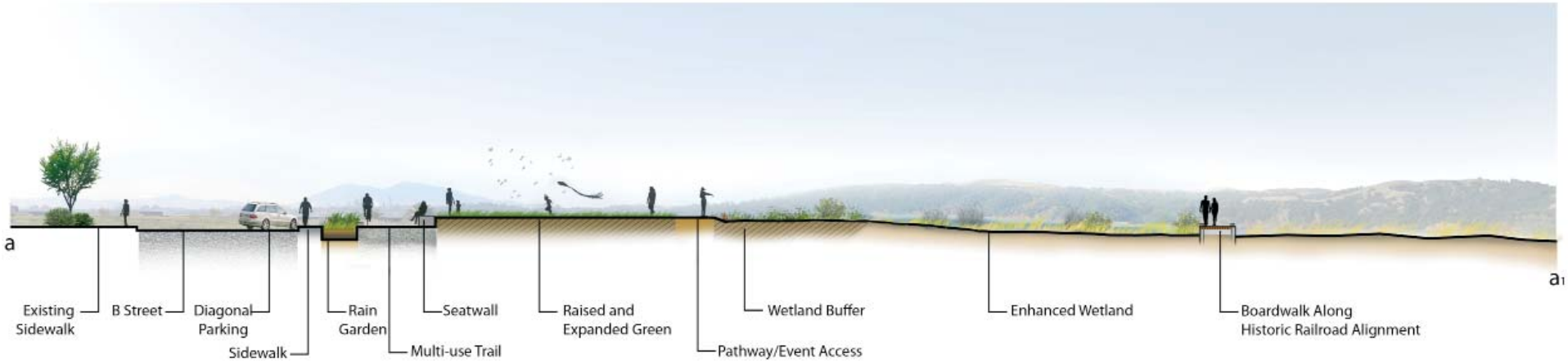

Figure 4-2: Expanded Green and Wetland Section

Expansion of the Green will be possible in part through the filling of the isolated coastal salt marsh to the north and east of the Depot. New wetland will be created in the eastern part of the Project Area, contiguous with existing marsh. The Green will be raised between 18 inches and as much as three feet to protect the Green from flooding that is expected as the sea-level rises. A curvilinear trail of decomposed granite will border the Green and provide a path of travel, as well as a needed separation between the enhanced wetland area and reconfigured Green. This trail will also provide for vehicle access for special event set up. A seat wall will span the northern edge of the Green, stepping down gradually along the eastern edge of the Green.

Entry Plaza: The entry plaza will be located at the corner of First Street and B Street and will function as the gateway to the waterfront park from downtown Benicia, providing opportunities for additional civic activity on First Street. The plaza will contain seat walls, signage, site furnishings, lighting, and public art.

Eastern Plaza: The eastern plaza is located at the terminus of B Street near the Benicia Marina, and will incorporate seat walls, signage, site furnishings, and minimal lighting. This plaza will provide exceptional views of the Benicia Marina, Mt. Diablo, and the Martinez hills.

Depot Plaza: The Depot Plaza will be improved as was proposed in the 2009 Depot Site Plan. This includes the development of a plaza/parking area that features permeable paving and stormwater treatment.

Existing lighting and palm trees on the west side of First Street Promenade.

Figure 4-3: Visual Simulation of Rain Gardens along the Parking Area

Rain Gardens: A series of rain gardens will be located along the park's edge along B Street. These gardens will be planted with native plants and grasses, and will create a landscaped edge along the parking area (see Figure 4-3). Rain gardens are shallow depressions filled with porous soils and deep-rooted native plants and grasses that capture and filter many of the pollutants found in stormwater runoff, such as heavy metals, pollutants, and oils. These gardens are most effective when located near impermeable surfaces, such as asphalt driveways and paved streets. See Chapter 5: Resource Management for more specifics.

Figure 4-4: Visual Simulation of a Viewing Platform and Boardwalk in the Enhanced Wetlands

The existing pilings at the beach at the end of First Street.

Parking: The existing gravel parking lot will be replaced by diagonal parking along the south side of B Street, which will provide roughly 60 parking spots for park visitors. A sidewalk between the parking spaces and the rain gardens will provide a transition from the parking area to the multi-use path, as well as the expanded Green (See Figures 4-3 and 4-5). The parking area along the east end of B Street will also be formalized with curbs, lighting that complements existing nearby lighting, and lane and parking space striping. Approximately 45 parallel spaces will continue to be accommodated on the north side of the street.

Boardwalks: A boardwalk will be situated along the historic railroad alignment, offering views of Mt. Diablo, the Carquinez Strait, and the marsh and wetlands. A segment of the boardwalk will traverse an area of coastal salt marsh. Due to the sensitivity of the area, this segment will be narrower than the other segments. The two platforms along the boardwalk will contain seating, viewing telescopes, and interpretive signage (see Figure 4-4).

Enhanced/Expanded Wetland Areas: Wetlands in the Project Area, which consist of northern coastal salt marsh and coastal brackish marsh, as well as seasonal wetlands, will be protected and enhanced as part of the Master Plan. The loss of the isolated coastal salt marsh feature north and east of the Depot will be mitigated through the creation of new coastal salt marsh habitat that is contiguous and hydrologically connected to the existing 5.71 acre marsh, as shown in Figure 4-1. The completion of the Bay Trail on the eastern end of the site will result in the loss of a very small area of seasonal wetland. This loss will be mitigated through replacement of seasonal wetlands and enhancement of the remaining wetland features. Chapter 5: Resource Management describes the resource management plan and approach for the expansion and creation of wetlands as part of the Master Plan.

First Street Promenade: Palm trees will be planted and street lights installed to mirror the existing streetscape along the west side of First Street, formalizing the entrance to the Waterfront Park and balancing the improvements made along First Street. The palm trees and lighting will help create a stronger connection to the First Street Peninsula and waterfront, as well as the First Street business district.

Public Art: Public art will be included throughout the Project Area, especially in the plaza and along the pathways adjacent to the Green; it will showcase the work of local artists and celebrate the character of Benicia. Art has played a major role in Benicia's culture for decades; the city is a popular destination for sculptors, painters, and photographers. Art should be integrated into the circulation, landscaping, and wayfinding design early in the site design process.

Bay Trail/Ridge Trail: The Bay Trail connection will run parallel to B Street, located between the Green and the rain gardens (see Figure 4-5). Pedestrians and cyclists will be able to share this Class I multi-use trail, and will be buffered from vehicular traffic by the rain gardens. This route provides a direct link to the Bay Trail segment to the

east at the marina and to the west along the waterfront west of First Street, and will improve circulation within and through the Project Area.

Beach Access: One goal of the Master Plan is to maintain beach access and allow for better water access for non-motorized boating. The existing beach at the terminus of First Street will be improved by removing the existing pilings and several of the large rocks and boulders along the beach, improving access for non-motorized boating. Additional beach access will be located on the corner of the First Street Promenade and the Peninsula Pier, just north of the First Street roundabout. A new ramp will make this small beach area more accessible for non-motorized small boat users, as well as pedestrians.

Based on the project components described above, circulation in and around the Project Area will be significantly enhanced as shown in Figure 4-5.

C. INTERPRETATION PLAN

This section lists the historic, cultural, and environmental themes such as Benicia's early history and natural systems, which could be explained throughout the Waterfront Park using interpretive signs and public art.

1. History

Benicia's rich history and role in culture and art have greatly influenced the Bay Area. As referenced in the City of Benicia Historic Context Statement, Benicia's time as the State Capital, role in the Gold Rush and Pony Express, and influence on famous author Jack London, have made Benicia a California landmark. This history could be incorporated into the waterfront park in a number of ways, including interpretive signage at various locations. These signs would tell the story of Benicia's early history through historic photos, artifacts, maps, and descriptive narratives. Specific historic themes could include:

- Benicia as the State Capital
- Benicia's role in the Gold Rush
- Benicia's role in the Pony Express
- 19th and Early 20th Century Waterfront Industry
- Rail Ferries and the Transcontinental Railroad
- Jack London
- Archaeology
- Significant Architecture

The former Western Creameries Company. Source: Benicia Historical Museum

The Benicia Depot in 1904. Source: Benicia Historical Museum

Benicia Ferry. Source: Benicia Historical Museum

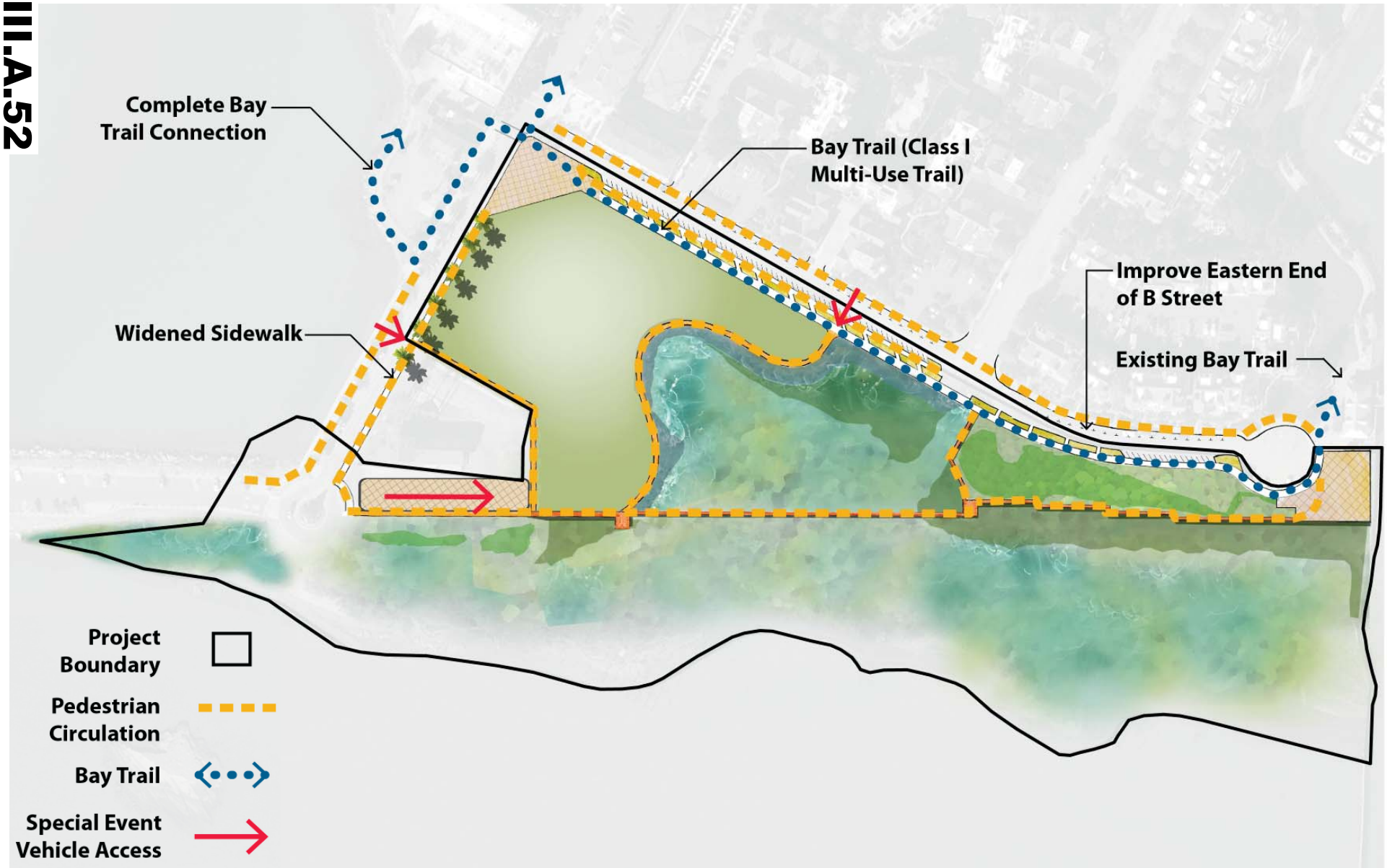

Figure 4-5: Circulation Improvements

2. Natural Systems

The waterfront park's natural systems, including wildlife, wetland habitat, stormwater, and flood management could be included as interpretive themes. The purpose of some of the park's new features could be explained, such as how the permeable surfaces of the rain gardens and lawn allow filtration to occur on site. The signage could depict ecological functions and responsible wetland management practices. For example, trampling by humans can damage the wetlands' marsh vegetation, particularly clumps of relatively brittle pickleweed shrubs. Access into the marsh by humans and dogs tramples and destroys the marsh vegetation, and compromises the habitat value of these areas to wildlife. Possible natural systems themes include:

- Treating Stormwater and Preventing Runoff
- Wetland Habitat and Wildlife
- Flood Control Benefits of Wetland Ecosystems
- The Bay/Delta System
- Sea-Level Rise

D. WAYFINDING PLAN

Wayfinding and directional signage should also be included to provide residents and visitors the information they need to access Benicia's Waterfront and amenities. Wayfinding signage might include some of the following elements:

- Downtown and First Street Businesses
- San Francisco Bay Trail/Ridge Trail
- Carquinez Scenic Loop Trail
- San Francisco Bay Area Water Trail
- Benicia's Waterfront/Shoreline Path of History
- Fishing Pier
- Marina
- Benicia Parks Map

Interpretive signage can help educate residents about the importance of natural resources, habitat preservation, flood managment, stormwater practices, and the potential harmful impacts people and their pets can have on sensitive wetland habitat.

Lighting in the Benicia Marina.

Street lights and benches along the watefront in Benicia.

E. DESIGN GUIDANCE

The character, history, and natural environment will greatly determine the Project Area design features and therefore should be carefully considered during the design process. The design components should enhance the existing character of the Project Area and not conflict with the existing natural environment. They should be consistent with site elements found in other Benicia parks, open spaces, and streets. Where possible, park features should be constructed with natural and durable materials that will provide long-term use and minimal maintenance. Recommendations for ensuring durable and sustainable use for key components of the Project Area are provided below.

1. Lighting

New lighting in the three plazas and along the First Street Promenade, the Bay Trail, and the B Street parking lot should be consistent with other park and open space light fixtures in Benicia. LED (light-emitting diode) lighting is a sustainable form of lighting that uses less energy than conventional lighting and provides adequate light. Pedestrian-scaled lighting should be used in areas where key design features will be highlighted, such as community art pieces and popular gathering spaces including plazas.

2. Furnishings

New furnishings, such as benches, bicycle racks, seat walls, and trash cans should complement existing furniture. Site furnishings should be made of durable materials, such as metal, concrete, wood, or locally sourced stone, and should have a durable finish.

3. Sustainable Materials

Sustainable materials should be used wherever possible. Sustainable materials, such as pervious paving, will help manage stormwater and better protect the adjacent wetland area. Other sustainable materials could include reclaimed wood for the boardwalk area and decomposed granite surrounding the expanded Green.

Park benches should match existing in wood or Trex with a durable finish.

Existing bike rack at the end of First Street.

Existing railing along First Street.

Example of a seat wall adjacent to the lawn.

Signage should be durable and consistent with the character of the Benicia Waterfront.

Public art should be integrated throughout the park.

Typical bicycle and Bay Area Ridge Trail wayfinding signage in Benicia.

Public art should relate to the surroundings and be functional.

4. Signage

Signage should be limited to necessary usage to avoid clutter along roadways and should be unobtrusive in placement within the park. Framing/support structures should be made of natural, durable materials, where possible. Text and graphics displayed on signage should be specific to the character of the Benicia Waterfront and should include the City of Benicia logo. Additional discussion of interpretive and wayfinding signage is included in the previous section.

5. Public Art

Public art should relate to the natural, cultural, and historical site features. It should be interactive, durable, and integrated into the Park design to enrich the user experience. Public art should not obstruct scenic views of the Strait, Mt. Diablo, the Carquinez Strait Regional Shoreline and Hills, or the Carquinez Bridge. A public art plan and program should be developed as part of implementation of the Master Plan. The program should be developed in conjunction with representatives from the Benicia Arts Community and should emphasize the work of local artists.

CHAPTER 5: RESOURCE MANAGMENT

The following chapter describes how the proposed Master Plan addresses natural resource management, including stormwater control, adaptation to sea-level rise, and protection of sensitive biological resources.

A. STORMWATER MANAGEMENT

The proximity of the site to the Carquinez Strait results in limited opportunities to treat stormwater before it is released to adjacent on-site wetlands. However, the proposed Project includes a more sustainable stormwater management approach that is integral to and compatible with the site plan, as explained below.

Rain gardens will help mitigate flooding and stormwater related issues around impermeable surfaces.

The Master Plan proposes to incorporate rain gardens along B Street between the sidewalk and Bay Trail/Ridge Trail alignment. The rain gardens are constructed below-grade such that they will capture stormwater runoff from curb cuts along B Street, from parking areas along B Street, and from sidewalks. Rain gardens provide what is generally considered the most effective and cost efficient physical and chemical treatment of stormwater. They provide the initial treatment of stormwater runoff from impervious surfaces, such as parking lots and sidewalks, through retention, detention, and filtering of stormwater prior to entering the City's stormwater system. Appropriate native plant species, including rushes and grasses, act as physical filters and bio-retention treatment soil provides biochemical filtration. This multi-stage filtering is part of a sustainable stormwater management plan and will help the City meet Total Maximum Daily Load (TMDL) target values established by the Regional Water Quality Control Board, which regulates and monitors water quality constituents such as pH, temperature, sediment, organics, and more.

Parking and paving improvements associated with the Master Plan are part of a sustainable stormwater management plan that will improve the overall water quality of stormwater and reduce the amount of runoff generated from the Project Area. While the stormwater features associated with the proposed Project are not specifically designed to improve existing stormwater backup at the B street storm drain, the rain gardens will be able to capture not only the additional runoff created due to the parking area, but also some of the existing runoff along B Street. Both the existing runoff from B Street and the expected additional runoff from any new impervious surfaces would be treated before it continues to the storm drain. Currently, stormwater along B Street flows untreated directly into the City's stormwater system, which discharges into the adjacent marsh and seasonal wetlands in the Project Area. Additionally, parking improvements throughout the Project Area (along B Street and adjacent to the Depot) will

incorporate design criteria specified by the City of Benicia, which include guidelines for grading and the use of ground cover plants and pervious areas. City guidelines dictate that all parking areas and road improvements be graded for proper stormwater drainage. Pervious areas within the proposed Project allow water to filter through the surface and infiltrate underlying soils. The movement of stormwater into underlying soils provides biochemical filtering of stormwater.

B. ADAPTATION TO SEA-LEVEL RISE

The Master Plan accommodates projected sea-level rise at the Benicia Waterfront Project Area. Elevation of the Green by a minimum of 18 inches will address the 16-inch rise in sea-level that is anticipated to occur by 2050 and which was described in Chapter 2. Consolidating and raising the First Street Green will reduce the likelihood and duration of flooding impacts to the Green and associated improvements. Expanding the Project Area's principal coastal salt marsh will reduce tidally-induced flooding by attenuating (slowing down) wave runup.

The location of site improvements also demonstrates how the plan accommodates anticipated sea-level rise. The development of the majority of boardwalks and viewing platforms in areas currently not considered wetlands minimizes impacts to existing sensitive biological resources, and recognizes the anticipated rise in water levels, particularly at high tides and during storm events. This demonstrates an adaptive approach to developing public access facilities. Over time, these facilities will provide additional habitat viewing and educational opportunities for users due to the anticipated transition from uplands to wetlands.

The installation of tide gates on stormwater outfalls within the Project Area is also recommended to help alleviate local flooding due to rising tides during the dry season. As the tide levels increase, local flooding along B Street will increase due to the inability of the water to gravity-drain against the higher tide. Increases in local flooding along B Street will also need to be addressed through improvement to the existing stormwater system, and eventual inclusion of a lift station to pump water from the low point at the foot of B Street.

C. BIOLOGICAL RESOURCES

This section includes information on habitat protection and management of sensitive biological resources on the site, focusing on the creation and enhancement of jurisdictional wetlands, phasing and basic procedures for implementation, and ongoing invasive species eradication and control. The Master Plan includes limited filling of existing jurisdictional wetlands and creation of new wetlands to serve as compensatory mitigation and to enhance existing habitat. Modifications to jurisdictional waters would require further review and authorization from regulatory agencies, including USACE and the Regional Water Quality Control Board.

The newly created wetlands will be located along the perimeter of the larger areas of existing coastal salt marsh and seasonal wetlands, to complement their habitat functions and values. The created wetlands will be bordered by upland buffer areas that provide important refugia (i.e., retreat areas) for native wildlife during high tide events, and will serve as future marsh habitat as sea levels rise and eventually inundate the existing marsh terrace, transforming it into mudflats and open water of the Carquinez Strait.

The existing coastal salt marsh.

The following sub-sections provide information on wetland habitat creation, protection, and management, including recommendations for site grading and re-contouring associated with creation of new wetland habitat, recommendations on new native habitat plantings and landscape improvement features, and maintenance and monitoring methods to ensure successful establishment and management of jurisdictional wetlands and the adjacent upland areas that serve as important buffer zones. Guidance and detailed measures provided in Appendix A: Biological Assessment and Environmental Baseline Memo should be followed during project implementation.

1. Wetland Habitat Creation and Protection

Implementation of the Master Plan will include the creation of new and enhanced areas of coastal salt marsh, seasonal wetlands, and associated transitional areas that will provide important buffer habitat and will separate natural habitat from the First Street Green. Existing signage along the perimeter of the coastal salt marsh habitat is intended to prevent entry into the wetlands, but is ignored by some park visitors. Numerous foot trails currently cut through the marshlands, trampling native vegetation and disturbing wildlife in this sensitive habitat area along the shoreline of the Carquinez Strait. By consolidating existing wetlands, providing an upland buffer with restrictive fencing and signage, and creating a controlled boardwalk experience where visitors can enjoy the wetlands without direct impacts, existing habitat values of the marshland will be greatly improved. This requires maintenance of access controls by the City to effectively protect the marshlands from disturbance.

The Master Plan assumes that just under half an acre of existing jurisdictional coastal salt marsh and seasonal wetlands would be filled or modified to accommodate an expanded Green along the east side of First Street, improved parking and plaza area on the eastern edge of the park, and a linear boardwalk that spans the largest stand of coastal salt marsh. The approximately 0.41 acre of coastal salt marsh habitat to be filled as part of the expanded Green is physically isolated from other marsh habitat and the open water of the Carquinez Strait, which greatly limits its existing habitat value. Invasive perennial pepperweed currently forms a continuous canopy over the pickleweed marsh in this area, and the abrupt transition to managed uplands further limits its usefulness to native wildlife. By consolidating the created coastal salt marsh habitat adjacent to the larger intact stands, providing an expanded buffer and restricting human access, there is an opportunity to greatly improve the overall habitat values of the existing marshlands.

A preliminary assessment performed during preparation of the Master Plan confirmed that adequate land area is available on-site to provide replacement and enhanced wetlands. The assessment assumed that a minimum 2:1 ratio of replacement wetlands would be provided for wetlands filled or modified as part of Master Plan implementation. As directed by resource agency representatives, that wetland replacement must be in-kind, meaning that the replacement wetlands have to be the same type as those lost or modified. Figure 4-1 in the Master Plan shows the conceptual approach to achieving required compensatory mitigation, with in-kind replacement coastal salt marsh and seasonal wetland provided on-site along the periphery of the largest stands of these habitat types. Additional buffer zones would be established along the edge of the existing marshlands to improve upland refugia (retreat areas) for native wildlife during high-tide events and to complement the existing habitat value of the marshlands. Restrictive fencing and interpretive signage would be provided at the interface between active use areas in the park, and the enhanced upland buffer zone to control human access and disturbance in the areas of coastal salt marsh. The cross-section in Figure 4-2 shows how the new and existing wetland areas, buffer area, active use areas, and proposed boardwalk would occupy different zones in the park.

A detailed wetland habitat creation plan and authorization from regulatory agencies will be required to successfully implement the proposed fills, new wetland habitat to be created, and other modifications to jurisdictional habitat, such as the linear boardwalk. Ideally, newly created wetlands would be completed in advance of fills to the relatively isolated 0.41 acre of coastal salt marsh, to avoid the short-term reduction in salt marsh habitat as vegetation becomes established in the newly created wetlands. The detailed wetland habitat creation plan will include a maintenance and monitoring program to ensure successful implementation. Major components and important tasks to be accomplished as part of the wetland modifications include the following:

- Created wetlands will be designed to be installed at appropriate elevations to allow for natural expansion of existing mid- and upper-terrace coastal salt marsh and seasonal wetlands. Native plant species will be established through a combination of seeding, plug plantings, and natural dispersal, and native vegetation will dominate created and enhanced habitat areas, including marshlands, seasonal wetlands, and adjacent upland areas. Table 5-1 provides a list of suitable plant species to be utilized as part of revegetation, along with typical installation methods and rates of application.
- Provide for short-term establishment of native plant cover in mid- and upper-terrace coastal salt marsh through seeding with an appropriate native mix (see application rates in Table 5-1), while allowing for natural establishment and dominance by native pickleweed. When appropriate conditions are created in the coastal salt marsh expansion area, pickleweed will rapidly colonize and eventually spread through appropriate elevation zones.

- Ensure that problematic invasive species, such as perennial pepperweed, Canary Island fan palm, sweet fennel, star thistle, and arundo are properly controlled and prevented from taking over the created wetlands and enhanced upland buffer areas. Install restrictive fencing, barriers of dense vegetation, and interpretive signage to more effectively limit human access into sensitive wetlands and adjacent buffer habitat. Any restrictive fencing will be of relatively low height to avoid visual impacts, and could be accomplished using a split rail or other low-fencing type barrier system in combination with appropriate signage. Interpretive signage will clearly indicate the sensitivity of the marshlands and need to control public access.

Existing invasive species.

2. Wetland Management

Wetland management will include the following:

- The initial phases of the project should involve a concerted effort to remove invasive species, focusing on Canary Island fan palm, perennial pepperweed, sweet fennel, arundo, wild radish, and yellow star-thistle. Table 5-1 provides information on target invasive species, typical treatment methods, and other details on effective controls.
- Expansion of coastal salt marsh and seasonal wetlands will involve excavation of areas adjacent to the existing coastal salt marsh and seasonal wetlands and revegetation with native wetland, grassland, and upland species. Table 5-1 provides information on suitable native species to be installed in each created habitat type, including installation rates and other details, heavy reseeding with a native seed mix, native plug and shrub plantings, and follow-up monitoring and management, as detailed further in Section 4 below. This expansion could be combined with enhancement of the existing seasonal wetland to increase native plant species diversity and improve habitat values.
- For each phase of treatment, areas disturbed by grading, grubbing, and invasive species removal will be stabilized to prevent erosion and sedimentation onto nearby sensitive habitat areas, and ensure successful establishment of native cover. Graded and disturbed slopes will be seeded with a native seed mix in advance of the fall rains. Installation of silt fencing, straw wattle, and other appropriate erosion control measures will be used in addition to hydroseeding and rice hull mulch to prevent erosion of areas disturbed during initial grading and removal of invasive species.
- Enhancement upland plantings to improve species diversity and protective cover with low-growing native shrubs can either be accomplished at the same time as wetland or transitional species are planted, or in subsequent years.
- On-going monitoring and adaptive management will be provided to ensure successful establishment of native plantings and effective control of invasive species. Any herbicide application must be carefully controlled to protect desired native vegetation, and protect the aquatic habitat of the wetlands and the Carquinez Strait, as detailed further in Section 5 below.

Table 5-1: Suitable Native Plant Species

Species	Rate/Size	Treatment Details
Grassland/Buffer Zone Seed Mix:		
Creeping wildrye *(Leymus triticoides)*	15 lbs per acre	Seed shall be applied over all graded surfaces (except in areas of new turf, trails, and other developed improvements, or areas to be enhanced as seasonal wetlands or coastal salt marsh, specified below) before onset of fall rains, prior to October 15. Seeding will supplement plug plantings, described below, to ensure effective grassland cover is established to minimize opportunities for invasive species. Seed source shall be as local as possible, supplied on a basis of Pure Live Seed (PLS), and not contain an excess of one percent (1%) of weed seed. Seed shall preferably be applied by hydroseeding to improve erosion control function with tackifier, rather than by hand broadcast. Hydroseed may include seed, dye, fertilizer, lime, mulch, and synthetic binder.
California brome *(Bromus carinatus)*	15 lbs per acre	
California poppy (Eschscholzia californica)	2 lbs per acre	
Lupine *(Lupinus nanus)*	2 lbs per acre	
Seasonal Wetland Zone Seed Mix:		
Creeping wildrye *(Leymus triticoides)*	10 lbs per acre	Expansion of seasonal wetlands shall be accomplished through creation of shallow topographic depression adjacent to existing seasonal wetland and heavy seeding with suitable plant cover. Seed shall be applied by hydroseeding or broadcast seeding. Seed shall be applied over entire seasonal wetland area following final grading of expanded wetlands in the early fall before onset of fall rains, prior to October 15. Seed source shall be as local as possible, supplied on a basis of Pure Live Seed (PLS), and not contain an excess of one percent (1%) of weed seed. Tackifier used in hydroseeding tends to hold seed in place and is therefore preferable to broadcast application, although the small treatment area may be impractical. If hydroseeding technique is used, it may include seed, dye, mulch, and synthetic binder.
Meadow barley *(Hordeum brachyantherum)*	15 lbs per acre	
Coastal Salt Marsh Zone Seed Mix:		
Salt grass *(Distichlis spicata)*	10 lbs per acre	Expansion of coastal salt marsh shall be accomplished by grading to appropriate elevations to allow for suitable conditions for recruitment by pickleweed, salt grass, and other mid-terrace marsh species. Grassland seeding will facilitate more rapid establishment of marshland cover. Seed shall be applied over entire coastal salt marsh area following final grading of expanded wetlands in the early fall before onset of fall rains, prior to October 15. Seed source shall be as local as possible, supplied on a basis of Pure Live Seed (PLS), and not contain an excess of one percent (1%) of weed seed. Tackifier used in hydroseeding tends to hold seed in place and is therefore preferable to broadcast application. If hydroseeding technique is used, it may include seed, dye, mulch, and synthetic binder.
Meadow barley *(Hordeum brachyantherum)*	10 lbs per acre	

Grassland/Buffer Zone Plantings:		
Prostrate coyote brush *(Baccharis pilularis)*	Buffer Zone to create barrier and protective cover – grouped mosaics from one gallon plants on 5-foot centers.	Grass plugs provide an effective method of dense cover establishment, important to minimize potential spread of invasive species. Plugs and plantings should be installed prior to hydroseeding to prevent disturbance to hydroseeded slopes. Temporary spray irrigation should preferably be provided for grassland/buffer zone treatment areas during the dry season for one or two years to facilitate establishment, and irrigation lines should be installed before hydroseeding is applied. Shrub plantings should preferably have drip irrigation lines that provide dry season irrigation for 3 or more years.
Baltic rush *(Juncus Balticus)*	Buffer Zone to create barrier and protective cover – grouped mosaics from one gallon plants on 3-foot centers.	
California rose *(Rosa californica)*	Buffer Zone to create barrier and protective cover - grouped mosaics from one gallon plants on 5-foot centers.	
Creeping wildrye *(Leymus triticoides)*	Grassland/Buffer Zone to establish dense cover to limit potential for invasive establishment – plugs installed on 1-foot centers.	
Seasonal Wetland Zone Plantings:		
Creeping wildrye *(Leymus triticoides)*	Upper edge of Seasonal Wetland Zone to provide protective cover and establish a visual barrier around wetland habitat - plugs installed on 1-foot centers.	Grass plugs provide an effective method of dense cover establishment, important to minimize potential spread of invasive species. Plugs and plantings should be installed prior to hydroseeding to prevent disturbance to hydroseeded slopes. Temporary spray irrigation should preferably be provided for Seasonal Wetland Zone treatment areas during the dry season for one or two years to facilitate establishment, and irrigation lines should be installed before hydroseeding is applied.
Baltic rush *(Juncus Balticus)*	Upper and middle edge of Seasonal Wetland Zone to provide protective cover and establish a visual barrier around wetland habitat - grouped mosaics from one gallon plants on 3-foot centers.	

ble 5-1: Suitable Native Plant Species (cont.)

oastal Salt Marsh Zone Plantings:		
lt grass *istichlis spicata)*	Upper edge of mid-terrace Coastal Salt Marsh Zone to provide protective cover and vegetative plant source - plugs installed on 1-foot centers.	Grass plugs provide an effective method of dense cover establishment, important to minimize potential spread of invasive species. Plugs and plantings should be installed prior to hydroseeding to prevent disturbance to hydroseeded slopes. Temporary spray irrigation should preferably be upper edge of Coastal Salt Marsh Zone during the dry season for one or two years to facilitate establishment.
Gum plant *(Grindelia stricta)*	Upper edge of Coastal Salt Marsh Zone to provide species diversity – grouped mosaics from dee posts or one gallon plants on 3-foot centers.	
Marsh lavender *(Limonium californicum)*	Upper edge of Coastal Salt Marsh Zone to provide species diversity – grouped mosaics from dee pot or one gallon plants on 3–foot centers	

3. Labor and Consultation

The following recommendations address labor and consultation for successful implementation of the Master Plan:

- Hire professional consultants and contractors to coordinate or perform the initial wetland creation and fills, major invasive species removal, and native seeding and planting efforts. A qualified biologist will be required to oversee construction activities in sensitive habitat areas, train all workers, and provide preconstruction surveys, construction inspections, and monitoring and post-construction monitoring to confirm successful establishment of newly created jurisdictional wetlands.
- Possible chemical treatment of the invasive species must be carefully controlled according to the California Department of Pesticide Regulations and the Solano County Agricultural Commissioner using Best Management Practices to prevent exposure to park users, avoid sensitive aquatic habitat, and utilize the most effective and appropriate products available at the time field work is performed.
- Hire public groups such as California Conservation Corps (CCC) to assist with initial and ongoing removal and planting under direction of selected contractor.
- Use park volunteers, directed and coordinated by experienced restoration specialists, to participate in the initial invasive species removal and provide the bulk of ongoing removal, planting, and management efforts.

Invasive species have affected the health of existing wetlands.

4. New Plantings and Landscape Features

Native vegetation will be established in newly created wetland and upland habitat, and in areas where invasive species have completely eliminated existing native cover. This section provides general instructions for hydroseeding and stock planting in areas to be revegetated. Table 5-1 provides information on suitable native plant species, installation rates, and methods. Recommendations for hydroseeding, stock plantings, native revegetation monitoring and maintenance, and restrictions on access to marshland and buffer habitat areas are provided in Appendix A.

5. Invasive Species Eradication and Control

Invasive species control will require intensive initial removal and long-term, ongoing removal and monitoring to prevent reinfestations and establishment of new undesirable species. The abundance of perennial pepperweed in the physically isolated 0.41 acre of coastal salt marsh north of the Historic Depot limits the desirability of attempting to salvage and transplant plugs of native pickleweed, sea lavender, and gumplant to areas of restored marshlands, given the likelihood that the seeds and root systems of this invasive species would most likely be transported into the newly created habitat. Some native revegetation of areas currently occupied by dense cover of invasive fan palm and arundo will also be necessary to prevent invasive species from becoming established in these areas. Appendix A describes management guidelines addressing initial treatment, disposal, and follow-up requirements of dominant invasive plant species that are addressed as part of this Master Plan.

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CHAPTER 6: PHASING AND IMPLEMENTATION

A. PHASING AND COSTS

Due to anticipated costs of implementation of the Master Plan, the City will likely implement the Plan in phases. Table 6-1 identifies the proposed phasing for the project elements.

Table 6-1: Planning-Level Phasing and Cost Estimate

Phase	*Estimated Cost*
Phase I (Years 0–2)	
Design/Engineering	$600,000
Phase II (Years 2–7)	
Improvements to Existing Beach Access (removal of piles and boulders)	$125,000
New Beach Access (ramp)	$50,000
Eastern Plaza (seat wall, sign, site furnishings, lighting)	$306,000
Depot Plaza/Parking (gravel paving, signage, trail)	$400,000
Phase III (Years 7–12)	
Entry Plaza at First and B Street (seat walls, sign, site furnishings, lighting)	$340,000
Bay Trail Segment (paving, crosswalk striping, signage, curb/gutter)	$350,000
B Street Parking (parking striping, grading, curb/gutter)	$392,500
Rain Gardens (soil/mulch/plantings, irrigation, deepened curbs)	$175,500
Seasonal Wetland Enhancement (grading, clearing, plantings, irrigation)	$100,000
Raised and Reconfigured Green (grading, fill, irrigation, turf, stairs, lighting)	$2,000,000
Mitigation Coastal Salt Marsh Restoration (grading, clearing, plantings, irrigation	$400,000
Interior Pathway (decomposed granite trail along marsh edge)	$100,000
Marsh Overlook Platforms (platforms, railing, signage)	$115,000
First Street Promenade (new sidewalk, palm trees, street lights)	$200,000
Phase IV (Years 12 –17)	
Trainwalk Boardwalk (boardwalk, railing)	$1,110,000
TOTAL	***$6,764,000***
Total plus 25% Contingency	**$8,455,000**
Annual Maintenance (0.25 PBMJ FTE@ $83,000)	$20,750

Cost Assumptions:

1. Cost estimate is preliminary and will require project refinement to further develop estimates.
2. Cost estimate is based on 2013 costs.
3. Boardwalk does not include lighting.
4. Expanded Green assumes 3 feet of fill average over the site.
5. Reuse excavated soil on-site for fill at expanded Green.
6. Costs do not include soft costs such as permitting and construction management.
7. Costs do not include development or installation of public art.
8. Cost estimate includes repaving the parking areas on B Street, not the entire right-of-way.

Table 6.1 includes a preliminary cost estimate of the preferred concept components, as well as estimates for maintenance and operations. These are planning-level cost estimates and will be refined in the site design and construction phases. Resource management costs will vary depending on the extent of resource management and mitigation determined to be necessary during the project permitting process, but are estimated to range between $10,000 and $30,000 annually, with higher costs the first three years following creation and enhancement of wetland areas.

B. OPERATIONS AND MAINTENANCE

The City of Benicia will be responsible for operating and maintaining the Park. However, it is anticipated that partners could assist in the operations and maintenance of several project elements, as described in section D of this chapter.

Maintenance and management of the Park will include the following:

- **Park landscape maintenance.** This would include maintenance of public spaces (plazas, pathways, and the Green), including landscaping, irrigation, signage, lighting, and furnishings. It is anticipated that maintenance of the Park when fully completed will require .25 FTEs (full-time equivalent employees).
- **Wetland area maintenance.** In addition to park landscape maintenance, the City will need to maintain new and enhanced wetland areas through removal of trash, control of trespass through fencing and signage, and resource management and monitoring.
- **Special Use Permits and Events Coordination.** The expanded Green will likely experience an increase in special events over current use. It is anticipated that the City Parks and Recreation Department will continue to grant special use permits for the Green.
- **Security.** Similar to the existing conditions, the City will be responsible for ongoing security at the Waterfront Park. Currently, the City's police department patrols the First Street Green Area.
- **Long-term monitoring.** This will be necessary to evaluate the condition of facility improvements such as paving, the Green, trails, furnishings, and landscape areas, and may result in replacement, repairs, and adjustments. Annual reports will be prepared which summarize major improvements, maintenance activities, facilities conditions, and recommended adjustments to maintenance activities. Natural resource monitoring will be consistent with the guidelines described in Chapter 5: Resource Management.

C. COORDINATION AND PARTNERSHIPS

The Benicia Parks and Community Services Department will work with the following commissions, committees, and organizations in Benicia to shepherd the Plan through site design and implementation.

1. City Boards and Commissions

Parks, Recreation, and Cemetery Commission. City Staff will continue working with the Parks, Recreation, and Cemetery Commission to finalize phasing and implementation strategies for the Park, and to seek input on the details and implementation of the various components included in the Plan.

Historic Preservation Review Commission. City Staff will work with the Historic Preservation Review Commission to address the historic railway boardwalk alignment, interpretive signage about the area's history, and the Historic Depot parking area.

Arts and Culture Commission. The Arts and Culture Commission can assist City Staff in preparing the Request for Proposals (RFP) to Bay Area artists for the three phases of public art design and installation for the Waterfront Park. The Commission could help identify the criteria for the art, including its functionality and relevance to the Project Area, and help in the selection of the art work.

Economic Development Board. The Economic Development Board can help identify funding sources for constructing and maintaining the Park's components.

Planning Commission. The Planning Commission will need to be informed and consulted regarding changes to the uses and circulation that result from the Waterfront Enhancement and Master Plan adoption.

Community Sustainability Commission. The Community Sustainability Commission can aid in the early stages of site planning to guide decisions and ensure the Waterfront Park and its various components uphold the most progressive, sustainable features and techniques.

2. Community Organizations

Benicia Main Street. Coordination with Benicia Main Street can help with the development of the arts program, as well as the wayfinding component of the Plan. Future coordination with Benicia Main Street will also be crucial to the success of events that draw people from the commercial corridor into the Waterfront Park.

Benicia Yacht Club. Coordination with the Benicia Yacht Club will be helpful in the planning of future B Street Improvements, as well as the eastern plaza features, and the non-motorized boat activity that will result from Plan components.

California Native Plant Society. During site planning and design, the California Native Plant Society could be instrumental in providing guidance of the appropriate plants to be used in the various Plan components, including the expanded Green and adjacent landscaping, rain gardens, and wetland enhancement areas.

3. County and State Agencies

Solano Transportation Authority (STA) Bicycle Advisory Committee. The STA Bicycle Advisory Committee and STA staff can help ensure that the Bay Trail improvements meet STA standards and optimize connectivity to the existing Bay Trail.

STA Pedestrian Advisory Committee. The STA Pedestrian Advisory Committee can help ensure that the Waterfront Park pedestrian components meet STA standards with regard to dimensions, materials, and wayfinding.

California Coastal Conservancy. The City will continue working with the California Coastal Conservancy, which funded the Master Plan, to ensure that the project is implemented in a manner that is consistent with the original grant goals.

San Francisco Bay Trail Project. The Benicia Urban Waterfront Enhancement and Master Plan includes a segment of the San Francisco Bay Trail. San Francisco Bay Trail Project staff will be important partners, and the Bay Trail Plan an important resource, in successfully implementing the Bay Trail component of the plan.

D. FUNDING SOURCES

This section summarizes funding sources for parks, open space, natural resource projects, and pedestrian and bicycle improvement projects in California. These programs and grants are potential sources of funding for the development of improvements proposed as part of the Benicia Urban Waterfront Enhancement and Master Plan.

California Active Transportation Program (Caltrans and Metropolitan Transportation Commission). The California Active Transportation Program (ATP) began in 2014 with the goal to increase the number of biking/walking trips, improve the safety and mobility of pedestrians/cyclists, reduce greenhouse gas emissions per Senate Bill 375, enhance public health, and ensure that disadvantaged communities fully benefit from these improvements. Funding is being distributed to cities and counties through an application program. Over three years, the ATP will distribute $359 million. The minimum project size is $250,000, but projects can be bundled together. A match is required at 11.47 percent.[1]

California Coastal Conservancy. The California Coastal Conservancy, which funded the Benicia Waterfront Enhancement and Master Plan, may be a source of funding for implementation. Coastal Conservancy grant programs fund projects that are consistent with the Conservancy's goals to "protect, restore, and enhance coastal resources, and to provide access to the shore." Proposals for funding from the Conservancy are accepted on a continuous basis, and there are no established grant minimum or maximum amounts. Funds awarded through the Coastal Conservancy include those from bond measure Proposition 84.[2]

California Department of Water Resources, Division of Integrated Regional Water Management. This agency offers Stormwater Flood Management Grants funded by Proposition 1E, The Disaster Preparedness and Flood Protection Bond Act of 2006. Projects typically funded include implementation actions to reduce flooding and provide multiple benefits.[3]

Federal Land and Water Conservation Fund (LWCF). This fund can be used to reimburse development costs for outdoor recreation areas and facilities. The funds provide matching grants to cities and counties funds for up to 50 percent of project costs. Parks that are developed with LWCF funding must be retained as parkland in perpetuity.[4]

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1 http://www.dot.ca.gov/hq/LocalPrograms/atp/

2 http://scc.ca.gov/applying-for-grants-and-assistance/forms/

3 http://bondaccountability.resources.ca.gov/plevel1.aspx?id=92&pid=5

4 www.parks.ca.gov/default.asp?Page_id=21360

San Francisco Bay Trail Project. The Benicia Urban Waterfront Enhancement and Master Plan includes a portion of the San Francisco Bay Trail. The Bay Trail project is currently funding design and construction of segments of the Bay Trail projects in other communities.[5]

San Francisco Bay Restoration Authority (Authority). Formed in 2008, this agency raises and will allocate funds for restoration and protection of wetlands in the San Francisco Bay and its shoreline. While the Authority is still in its early phases, the Benicia Waterfront would be a model candidate for funding due to its consistency with the Authority's mandate to fund projects that enhance tidal wetlands in conjunction with flood management features and public access improvements.[6]

Strategic Growth Council Urban Greening and Sustainable Community Planning Grants. The Strategic Growth Council Urban Greening and Sustainable Community Planning Grants (funded through Proposition 84) allocated an additional $40.2 million of funding in June 2014 to fund projects, such as urban forests, open spaces, wetlands, and climate action plans, similar to this Master Plan. There's a possibility that a future bond measure will make similar funding available.[7]

Wildlife Conservation Board. The Wildlife Conservation Board (WCB) provides public access funding and can enter into cooperative project agreements with local agencies or nonprofit organizations for the development of facilities for "public access for hunting, fishing, or other wildlife-oriented recreation," such as wildlife viewing and bird watching. The WCB may fund the construction of project elements, such as trails, boardwalks, and interpretive facilities. Applications are accepted on a continuous basis.[8]

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5 http://www.baytrail.org/grants.html

6 http://www.sfbayrestore.org/SFBRA-FAQ.pdf

7 http://sgc.ca.gov/

8 http://www.wcb.ca.gov/Access/examples.html

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APPENDIX A

BIOLOGICAL ASSESSMENT AND ENVIRONMENTAL BASELINE MEMO

APRIL 12, 2013

VIII.A.76

ENVIRONMENTAL COLLABORATIVE

Consultation • Documentation • Restoration
1268 64th Street • Emeryville, CA 94608
Phone 510/654-4444 • FAX 510/655-4444

MEMORANDUM

TO: Isabelle Minn
The Planning Center/DCE
1625 Shattuck Avenue Suite 300
Berkeley, CA 94709

DATE: 12 April 2013

FROM: Jim Martin
ENVIRONMENTAL COLLABORATIVE

SUBJECT: Biological Assessment and Environmental Baseline for
The Urban Waterfront Enhancement and Master Plan, City of Benicia

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As requested, this memo serves as the Biological Assessment and Environmental Baseline Report (BAEB) for the Urban Waterfront Enhancement and Master Plan site in Benicia, California. The BAEB provides a description of biological and wetland resources known or suspected from the site, a summary of relevant State and federal regulations related to the protection of biological and wetland resources, and factors to consider in evaluating options for future uses and enhancement of the site. The site is owned by the City of Benicia and is located along the north shoreline of Carquinez Strait at the south end of 1st Street, with commercial development to the northwest along 1st Street, residential development directly to the north along the north side of B Street, and the Benicia Marina to the northeast.

This BAEB was prepared based on a review of available background information and a field reconnaissance of the site. Prior to conducting the field survey, available literature and mapping of biological and wetland resources were reviewed. This included review of records maintained by the California Natural Diversity Data Base (CNDDB) of the California Department of Fish and Wildlife (CDFW) on special-status species and sensitive natural communities in the Benicia vicinity, mapping prepared by the U.S. Fish and Wildlife Service as part of the National Wetland Inventory, and other available background information.

A field reconnaissance of the site was conducted on 1 March 2013 to determine vegetation and wildlife habitats, provide a preliminary assessment of the extent of potential jurisdictional waters, and conduct a habitat assessment for special-status species. A preliminary wetland assessment was conducted as part of the field reconnaissance, evaluating indicators of vegetation, hydrology and soils to determine an estimated boundary between potential jurisdictional waters and uplands. Given the timing of the field work in the early spring, it was difficult to accurately identify some plant species and determine their wetland indicator status. But the preliminary wetland assessment does provide an initial indication of the possible extent of jurisdictional waters on the site. A thorough wetland delineation would still be necessary to provide additional information on potential wetlands, which would then have to be confirmed by

the U.S. Army Corps of Engineers (Corps) to officially determine the extent of jurisdictional waters on the site. No protocol surveys for special-status species were performed as part of the field reconnaissance, although habitat conditions were evaluated to determine the likelihood of occurrence on the site.

SITE BIOLOGICAL AND WETLAND RESOURCES

The following provides a description of the vegetation and wildlife resources on the site, potential for occurrence of special-status species and sensitive natural communities, and presence of jurisdictional waters.

1. Vegetation

The location of the site along the shoreline of Carquinez Strait and edge of the developed downtown area of Benicia are major influences on the existing vegetation and wildlife resources. Natural coastal salt marsh, brackish water marshlands, and open water habitat of the Strait occupy the southern, lower elevations of the site. As part of past development in the area over the past 150 years, fills were placed to improve human access and reduce the potential for flooding in parts of the northern portion of the site, reducing the original extent of marshland habitat. Upland areas are now covered with impervious and gravel surfaces, or support irrigated turf and areas of ruderal (weedy) grassland.

The developed uplands on the site support a limited number of primarily non-native species. These consist of several species of palms, irrigated turf, and other ornamental plantings. Individual Canary Island date palms (*Phoenix canariensis*) are scattered through the margins and upper terraces of the marshlands, and are displacing native cover due to shading from the dense thicket of fronds. Invasive species such as sweet fennel (*Foeniculum vulgare*), yellow-star thistle (*Centaurea solstitialis*), and wild radish (*Raphanus sativus*) occur at the margins of developed areas where routine mowing and maintenance are not performed.

Ruderal grasslands continue to dominate the southeastern upland area of the site, and along the margins of upland areas. These areas are dominated by non-native species common in the Benicia area, such as slender wild oat (*Avena barbata*), ripgut grass (*Bromus diandrus*), lotus (*Lotus scoparius*), common vetch (*Vicia sativa*), and English plantain (*Plantago lanceolata*). Where surface water appears to pond for prolonged periods, seasonal wetland indicator species are present in areas that have been filled in the past. Depending on the depth and duration of inundation, some of the depressional areas are devoid of vegetation, with the margins supporting seasonal wetland indicator species such as brass buttons (*Cortula coronopifolia*), brome fescue (*Vulpia bromoides*), perennial ryegrass (*Lolium multiflorum*), Bermuda grass (*Cynodon dactylon*), salt grass (*Distichlis spicata*), and hyssop loosestrife (*Lythrum hyssopifolia*).

Coastal salt marsh and brackish water marsh occurs along the lower elevations of the site, generally below about 7.4 NAVD.[1] Tidal marsh habitats are similar in vertical structure, starting at the low elevation mud flat to the upland vegetation. The lowest elevation vegetation zone support open stands of cordgrass (*Spartina* spp.), with pickleweed (*Salicornia virginica*) co-dominated in places by saltgrass in the mid-marsh zone. Pickleweed and saltgrass are still dominant components in some areas in the upper marsh zone, together with patches of alkali heath (*Frankenia salina*), gumplant (*Grindelia stricta* ssp. *angustifolia*). Dense stands of bullrush (*Scirpus maritimus*) and cattail (*Typha latifolia*) occur along the upper end of the

[1] NAVD refers to North American Vertical Datum of 1988.

brackish-water marsh along the drainage that discharges onto the site from the culver under East 2nd Street. The upper margins of the marshlands transition into areas of ruderal grassland cover, dominated by non-native grasses and ruderal herbaceous species such as mustard (*Brassica* sp.), iceplant (*Mesembryanthemum* sp.), ripgut grass, English plantain, and sweet fennel.

Highly invasive perennial pepperweed (*Lepidium latifolium*) has spread throughout the isolated stand of coastal salt marsh habitat north of the historic A Street stub, north of the railroad station building and east of 1st Street, and is spreading through the other areas of coastal salt marsh on the site. This non-native species forms a dense cover over native marsh species and disrupts foraging and other activities of wildlife.

Several stands of common reed (*Phragmites australis*) occur along the upper marsh zone as well. It is uncertain whether this species is native or an introduced hybrid, but it appears to be spreading through the marsh zone, forming dense thickets that shade out all other plant species. Genetic testing is typically required to accurately distinguish whether it is the native species, or an introduced hybrid with more aggressive tendencies for spreading.

2. Wildlife

The site supports a wide diversity of wildlife, given the interface of upland and aquatic habitat along the shoreline of Carquinez Strait. Upland areas of turf and landscaping have only limited habitat value, but the irrigated turf areas are frequently grazed by Canada goose and provide occasional foraging opportunities for birds found in urban habitat such as American robin, scrub jay, house finch and northern mockingbird. Ruderal grasslands in the eastern portion of the site and margins of the marshlands continue to provide important cover for grassland-dependent species such as California vole, pocket gopher, gopher snake, sparrows, finches, and other passerine birds. Several species of raptors utilize the grasslands and marshlands for foraging, but suitable nesting habitat is absent given the lack of nesting trees and intensity of human activity in upland areas.

The shoreline and open water of Carquinez Strait provides foraging opportunities for a large number of bird species, and aquatic habitat for fish, mollusks, and invertebrates. The mudflats support a diverse assemblage of benthic macro-invertebrates which in turn attracts large numbers of migrating and wintering shorebirds such as willet, long-billed curlew, marbled godwit, dowitchers, and sandpipers. Shorebirds and wading birds most likely use the stands of marsh, shallow mudflats, and exposed shoreline for foraging. These species forage on mudflats as they are exposed by receding tides, often concentrating at the water's edge where worms, crustaceans, and bivalves are closer to the mud's surface. Wading birds such as snowy egret, great egret, and great blue heron forage along the margins of tidal channels and marsh edges. Dabbling (i.e., surface-feeding) ducks, such as mallard, forage over inundated mudflats and tidal channels. When inundated by high tides, tidal channels and mudflats provide important foraging habitat for a variety of estuarine species, including bat ray, leopard shark, and various fish species.

3. Special-Status Species

Special-status species receive varying degrees of legal protection under both the federal and California Endangered Species Acts, and the California Environmental Quality Act. The U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NOAA Fisheries), and the CDFW share responsibility for protection and management of natural resources (see detailed descriptions below under Regulatory Context). Special-status species with legal protection often represent a major constraint to development, particularly when these species

are wide ranging or highly sensitive to human disturbance. If a listed species may be affected by proposed development, the lead agency must initiate a consultation with the USFWS, NOAA Fisheries, and/or CDFW, as required by state or federal law. Without adequate mitigation, habitat modification could result in a "take" of a listed species.

Information on the occurrence of special-status species known or suspected to occur in the site vicinity was collected from several sources. These included: the CNDDB records, the California Wildlife Habitat Relationships species notes of the CDFW (1988 and 1990), the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants of California (2013), and miscellaneous information available through the USFWS, CDFW, and technical publications.

Based on recorded geographic range and preferred habitat, a number of special-status species have been reported from or are suspected to occur along the Carquinez Strait and Benicia vicinity. **Figure 1** shows the distribution of special-status plant and animal species monitored by the CNDDB within approximately five miles of the site. As indicated in **Figure 1**, an occurrence of Suisun song sparrow (*Melospiza melodia maxillaris*) has been reported from marshland habitat along the shoreline of the Strait encompassing the site eastward to the Benicia Bridge. And specific occurrences of Mason's liliaeopsis which was observed on pilings along the shoreline and Delta tule pea (*Laythrus jepsonii* var. *jepsonii*) which was observed in marshland habitat east of the Benicia Marina have been reported from within half a mile of the site. General occurrences of Bolander's water-hemlock (*Cicuta maculata* var. *bolanderi*) and big tarplant (*Blepharizonia plumosa*) have been reported by the CNDDB as historic records that extend over most of the Benicia vicinity, as does an historic record of Carquinez goldenbush (*Isocoma arguta*). The following provides a summary of special-status plant and animal species suspected to possibly occur on the site.

Special-Status Plants. **Table 1** provides information on the status and typical habitat characteristics of those special-status plant species considered to have the greatest likelihood for occurrence in the site vicinity, together with their likelihood of occurrence on the site. A number of these have been reported from grassland, freshwater marshes, and woodland habitat, such as big tarplant, fragrant fritillary (*Fritillaria liliacea*), Congdon's tarplant (*Hemizonia parrayi* ssp. *congdonii*), and Chaparral ragwort *(Senicio aphanactis)*. Suitable habitat for these species is absent in the site vicinity due to the extent of past development in upland areas, and these species are not suspected to occur on the site. However, the remaining natural marshlands could support a number of marsh-dependent special-status plant species, and the scattered piers on the site could support one or more occurrences of Mason's lilaeopsis. Marshland-dependent special-status plant species that could occur on the site include: Bolander's water hemlock, soft bird's-beak, Delta tule pea, and Marin knotweed (*Polygonum marinense*), among others. Systematic surveys would have to be conducted during the appropriate time of the year to confirm the presence or absence of any populations of special-status plant species from the site, and there is a possibility that new occurrences could become established in the future through seed dispersal along the Strait.

Special-Status Animals. As indicated in **Figure 1**, Suisun song sparrow is the only special-status animal species to actually have been reported from the site by the CNDDB, but saltmarsh common yellowthroat were heard vocalizing in dense marsh vegetation during the field reconnaissance in March 2013. Occurrences of coastal salt marsh-dependent species, such as California black rail (*Laterallus jamaicensis coturniculus*), California clapper rail (*Rallus longirostris obsoletus*), Salt marsh harvest mouse (*Reithrodontomys raviventris*), Suisun shrew

(*Sorex ornatus sinuosus*), and Suisun song sparrow have been reported from Southampton Bay about two miles to the west of the site, and from Suisun Marsh about three miles to the east of the site. It is highly likely that these and other special-status bird species occasionally forage along the shoreline of the Strait between larger areas of high quality habitat, and may frequent or occassionally forage in the marshland habitat on the site. Although the stands of pickleweed on the site are most likely not large enough to sustain occurrences of special-status mammals know from coastal salt marsh, particularly given the absence of essential upland refugia during flood events, there remains a possibility that salt marsh harvest mouse and/or Suisun shrew could occassionally disperse along the shoreline of the Strait during flood events and could seek refuge in the marshland habitat on the site.

Table 2 provides information on the status and typical habitat characteristics of those special-status animal species considered to have the greatest likelihood for occurrence in the site vicinity, together with their likelihood of occurrence on the site. Most of these species are associated with open water and tidal marshland habitat or utilize open grasslands as foraging habitat. Delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinichus thaleichthys*), Sacramento splittail (*Pogonichthys macrolepidotus*), and winter-run chinook salmon (*Oncorhychus tshawytscha*) all occur in the open water habitat of Carquinez Strait and Suisun Bay to the east. Salt marsh harvest mouse, Suisun shrew, California black rail, California clapper rail, and Suisun song sparrow have all been sighted in the marshland habitat of Southampton Bay to the west and Suisun Marsh to the east, and as noted above may occasionally forage or disperse across the marshland habitat on the shoreline of the site.

Other species of concern are generally associated with grassland and woodland habitats, and most of these have been reported from the extensive undeveloped open space in the Sky Valley area several miles to the northeast. These include: callippe silverspot butterfly (*Speyeria callippe callippe*), Cooper's hawk (*Accipter cooperi*), golden eagle (*Aquila chrysaetos*), burrowing owl (*Athene cunicularia*), northern harrier (*Circus cyaneus*), white-tailed kite (*Elanus leucurus*), prairie falcon (*Falco mexicanus*), Peregrine falcon (*Falco peregrinus anatum*), loggerhead shrike (*Lanius ludovicianus*), California tiger salamander (*Ambystoma tigrinum californiense*), western pond turtle (*Eyms marmorata*), California red-legged frog (*Rana draytonii*), and foothill yellow-legged frog (*Rana boylii*). Suitable habitat for most of these species is absent from the site, although special-status bird species may occasionally forage in the remaining natural areas on the site, such as loggerhead shrike, white-tailed kite, prairie falcon, and peregrine falcon. Northern harrier is a frequent visitor to the site, foraging in the open marshlands. But suitable nesting habitat is absent for this ground nesting species because of the on-going disturbance by humans and dogs in the upper marsh zone. A number of special-status bat species are known from Solano County, including big free-tailed bat (*Nyctinomops macrotis*), but suitable roosting habitat is absent from the site, with the possible exception of the attic area in the restored train station on the site. Further assessment of the interior of the structure, especially the attic, may be appropriate to ensure absence of bats before any further modifications.

4. Sensitive Natural Communities

In addition to species-oriented management, protecting habitat on an ecosystem-level is increasingly recognized as vital to the protection of natural diversity in the state. The CNDDB also monitors the locations of natural communities that are considered rare or threatened, known as sensitive natural communities. The CNDDB has compiled a list of sensitive natural communities that are given a high inventory priority for mapping and protection (CDFG, 2010). Although these natural communities have no legal protective status under the State or federal Endangered Species Acts, they are provided some level of protection under the CEQA

Guidelines. A project would normally be considered to have a significant effect on the environment if it would substantially affect a sensitive natural community such as a riparian woodland, native grassland, or coastal salt marsh. Further loss of a sensitive natural community could also be interpreted as substantially diminishing habitat, depending on the relative abundance, quality and degree of past disturbance, and the anticipated impacts.

The coastal salt marsh and brackish water marsh on the site are considered sensitive natural community types. Areas of potential seasonal wetlands and upland areas of turf and ruderal grasslands are dominated by non-native species and are not considered a sensitive natural community type. However, the areas of potential seasonal wetland may qualify as jurisdictional waters and if determined to be regulated features, would be regulated and any modifications subject to agency authorization as discussed below.

5. Jurisdictional Waters

Although definitions vary to some degree, wetlands are generally considered to be areas that are periodically or permanently inundated by surface or ground water, and support vegetation adapted to life in saturated soil. Wetlands are recognized as important features on a regional and national level due to their high inherent value to fish and wildlife, use as storage areas for storm and flood waters, and water recharge, filtration, and purification functions. Technical standards for delineating wetlands have been developed by the Corps and the USFWS, which generally define wetlands through consideration of three criteria: hydrology, soils, and vegetation.

The CDFW, Corps, and Regional Water Quality Control Board (RWQCB) have jurisdiction over modifications to shorelines, open water, stream channels, river banks, and other waterbodies (see detailed descriptions below under Regulatory Context). Jurisdiction of the Corps is established through the provisions of Section 404 of the Clean Water Act, which prohibits the discharge of dredged or fill material into "waters" of the United States without a permit, including wetlands and unvegetated "other waters". All three of the identified technical criteria must be met for an area to be identified as a wetland under Corps jurisdiction, unless the area has been modified by human activity. The Corps is also responsible for administration of Section 10 of the Rivers and Harbor Act, which serves to regulate access over navigable waters. Jurisdictional authority of the CDFW over wetland areas is established under Section 1601-1606 of the Fish and Wildlife Code, which pertains to activities that would disrupt the natural flow or alter the channel, bed, or bank of any lake, river, or stream. The Fish and Wildlife Code stipulates that it is unlawful to substantially divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake without notifying the Department, incorporating necessary mitigation, and obtaining a Streambed Alteration agreement.

Based on the results of the preliminary wetland assessment, jurisdictional waters on the site consist of areas of coastal salt marsh and possible areas of seasonal wetlands and scalds.[2] **Figure 2** shows the extent of assumed potential jurisdictional waters on the site. Areas of coastal salt marsh have strong wetland indicators and would be regulated waters. Wetland indicators associated with the potential seasonal wetland were less conspicuous, and in some locations these features could be considered hydrologically isolated or the vegetation criteria may not meet the Dominance Test or prevalence index for wetlands under the Wetland Delineation Manual for the Arid West Region used by the Corps, and therefore not qualify as

[2] Scalds are areas that pond mineralized water for long enough periods that very little vegetation can become established and crusts form once the water dries out during the late spring and summer months, in this case salts from the brackish waters of Carquinez Strait.

jurisdictional under Section 404 of the Clean Water Act. Field indicators were difficult to determine during the field reconnaissance due to the timing of the site visit in early spring when many of the dominant grasses could not be identified to species in the potential seasonal wetland areas. However, the features mapped in **Figure 2** do contain one or more characteristics of seasonal wetlands and should be considered as such as part of site planning exercises until a formal wetland delineation is prepared and verified by the Corps.

Figure 2 also shows the Mean High Water elevation, which is typically used by the Corps in determining the limits of their jurisdiction under Section 10 of the Rivers and Harbors Act. On the site, the Mean High Water Elevation generally occurs at the edge of the marshlands and remaining shoreline areas.

REGULATORY CONTEXT

The following provides a summary of federal and state regulatory jurisdiction over biological and wetland resources that could influence future planning and feasibility of future modifications to the site where sensitive resources could be affected.

1. Endangered Species Act

The USFWS has jurisdiction over federally listed threatened and endangered plant and animal species. The federal Endangered Species Act (ESA) and its implementing regulations prohibit the take of any fish or wildlife species that is federally listed as threatened or endangered without prior approval pursuant to either Section7 or Section 10 of the ESA. ESA defines "take" as "*harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct*." Federal regulation 50CFR17.3 defines the term "harass" as an intentional or negligent act that creates the likelihood of injuring wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns such as breeding, feeding, or sheltering (50CFR17.3). Furthermore, federal regulation 50CFR17.3 defines "harm" as an act that either kills or injures a listed species. By definition, "harm" includes habitat modification or degradation that actually kills or injures a listed species by significantly impairing essential behavior patterns such as breeding, spawning, rearing, migrating, feeding, or sheltering (50CFR217.12).

Section10(a) of the ESA establishes a process for obtaining an incidental take permit that authorizes nonfederal entities to incidentally take federally listed wildlife or fish. Incidental take is defined by ESA as take that is *"incidental to, and not the purpose of, the carrying out of another wise lawful activity*." Preparation of a habitat conservation plan, generally referred to as an HCP, is required for all Section 10(a) permit applications. The USFWS and National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries Service) have joint authority under the ESA for administering the incidental take program. NOAA Fisheries Service has jurisdiction over anadromous fish species and USFWS has jurisdiction over all other fish and wildlife species.

Section 7 of the ESA requires all federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any species listed under the ESA, or result in the destruction or adverse modification of its habitat. Federal agencies are also required to minimize impacts to all listed species resulting from their actions, including issuance or permits or funding. Section 7 requires consideration of the indirect effects of a project, effects on federally listed plants, and effects on critical habitat (ESA requires that the USFWS identify critical habitat to the maximum extent that it is prudent and determinable when a species is listed as threatened or endangered). This consultation results in a Biological Opinion prepared by the

USFWS stating whether implementation of the HCP will result in jeopardy to any HCP Covered Species or will adversely modify critical habitat and the measures necessary to avoid or minimize effects to listed species.

Although federally listed animals are legally protected from harm no matter where they occur, the Section 9 of the ESA provides protection for endangered plants by prohibiting the malicious destruction on federal land and other "take" that violates State law. Protection for plants not living on federal lands is provided by the California Endangered Species Act.

2. Clean Water Act

The Corps is responsible under Section 404 of the Clean Water Act to regulate the discharge of fill material into waters of the U.S. These waters, and their lateral limit, are defined in 33 CFR Part 328.3(a) and include streams that are tributaries to navigable waters and their adjacent wetlands. The lateral limits of jurisdiction for a non-tidal stream are measured at the line of the Ordinary High Water Mark (33 CFR Part 328.3[e]) or the limit of adjacent wetlands (33 CFR Part 328.3[b]). Any permanent extension of the limits of an existing water of the U.S., whether natural or man-made, results in a similar extension of Corps jurisdiction (33 CFR Part 328.5).

Waters of the U.S. fall into two broad categories: wetlands and other waters. Other waters include waterbodies and watercourses generally lacking plant cover such as rivers, streams, lakes, springs, ponds, coastal waters, and estuaries. Wetlands are aquatic habitats that support hydrophytic wetland plants and include marshes, wet meadows, seeps, floodplains, basins, and other areas experiencing extended seasonal soil saturation. Seasonally or intermittently inundated features, such as seasonal ponds, ephemeral streams, and tidal marshes, are categorized as wetlands if they have hydric soils and support wetland plant communities. Seasonally inundated waterbodies or watercourses that do not exhibit wetland characteristics are classified as other waters of the U.S.

Waters and wetlands that cannot trace a continuous hydrologic connection to a navigable water of the U.S. are not tributary to waters of the U.S. These are termed "isolated wetlands." Isolated wetlands are jurisdictional when their destruction or degradation can affect interstate or foreign commerce (33 CFR Part 328.3[a]). The Corps may or may not take jurisdiction over isolated wetlands depending on the specific circumstances.

In general, a project proponent must obtain a Section 404 permit from the Corps before placing fill or grading in wetlands or other waters of the U.S. Prior to issuing the permit, the Corps is required to consult with the USFWS under Section 7 of the ESA if the project may affect federally listed species.

All Corps permits require water quality certification under Section 401 of the Clean Water Act. In the San Francisco Bay Area, this regulatory program is administered by the San Francisco Bay RWQCB. Project proponents who propose to fill wetlands or other waters of the U.S. must apply for water quality certification from the RWQCB. The RWQCB has adopted a policy requiring mitigation for any loss of wetland, streambed, or other jurisdictional area.

3. Rivers and Harbors Act

The Rivers and Harbors Act was enacted in 1899 and addresses projects and activities in navigable waters and harbor and river improvements. Section 10 of the Rivers and Harbors Act(33 USC 403) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. Section 10 of the Act provides that the construction of any structure in or over

any navigable water of the United States, or the accomplishment of any other work affecting the course, location, condition, or physical capacity of such waters is unlawful unless the work has been authorized by the Corps. Regulated activities include the placement/removal of structures, work involving dredging, disposal of dredged material, filling, excavation, or any other disturbance of soils/sediments or modification of a navigable waterway. Navigable waters of the United States are those waters of the U.S. that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past or may be susceptible to use to transport interstate or foreign commerce.

4. Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits the taking, hunting, killing, selling, purchasing, etc. of migratory birds, parts of migratory birds, or their eggs and nests. As used in the MBTA, the term "take" is defined as "to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires." Most bird species native to North America are covered by this act.

5. California Endangered Species Act

The CDFW has jurisdiction over State-listed endangered, threatened, and rare plant and animal species under the California Endangered Species Act (CESA). CESA is similar to the federal ESA both in process and substance; it is intended to provide additional protection to threatened and endangered species in California. Species may be listed as threatened or endangered under both acts (in which case the provisions of both State and federal laws apply) or under only one act. A candidate species is one that the Fish and Wildlife Commission has formally noticed as being under review by CDFW for addition to the State list. Candidate species are protected by the provisions of CESA.

6. California Environmental Quality Act

The California Environmental Quality Act (CEQA) applies to "projects" proposed to be undertaken or requiring approval by State and local government agencies. Projects are defined as having the potential to have physical impact on the environment. Under Section 15380 of CEQA, a species not included on any formal list "shall nevertheless be considered rare or endangered if the species can be shown by a local agency to meet the criteria" for listing. With sufficient documentation, a species could be shown to meet the definition of rare or endangered under CEQA and be considered a "de facto" rare or endangered species.

7. California Fish and Wildlife Code

The CDFW is also responsible for enforcing the California Fish and Wildlife Code, which contains several provisions potentially relevant to construction projects. For example, Section 1602 of the Fish and Wildlife Code governs the issuance of Lake and Streambed Alteration Agreements by the CDFW. Lake or Streambed Alteration Agreements are required whenever project activities substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated as such by the CDFW.

The Fish and Wildlife Code also lists animal species designated as Fully Protected or Protected, which may not be taken or possessed at any time. The CDFW does not issue licenses or permits for take of these species except for necessary scientific research, habitat restoration/species recovery actions, or live capture and relocation pursuant to a permit for the protection of livestock. Fully Protected species are listed in Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the Fish and Wildlife Code, while Protected amphibians and reptiles are listed in Chapter 5, Sections 41 and 42.

Section 3503 of the Fish and Wildlife Code prohibits the take, possession, or needless destruction of the nest or eggs of any bird. Subsection 3503.5 specifically prohibits the take, possession, or destruction of any birds in the orders Falconiformes (hawks and eagles) or Strigiformes (owls) and their nests. These provisions, along with the federal MBTA, essentially serve to protect nesting native birds.

Non-native species, including European starling, house sparrow, and rock pigeon, are not afforded any protection under the MBTA or California Fish and Wildlife Code.

8. Porter-Cologne Water Quality Control Act

Under this Act (California Water Code Sections 13000–14920), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the State's waters. The RWQCB asserts jurisdiction over isolated waters and wetlands, as well as waters and wetlands that are regulated by the Corps. Therefore, even if a project does not require a federal permit, it still requires review and approval by the RWQCB. When reviewing applications, the RWQCB focuses on ensuring that project do not adversely affect the "beneficial uses" associated with waters of the State. In most cases, the RWQCB seeks to protect these beneficial uses by requiring the integration of waste discharge requirements (WDRs) into projects that will require discharge into waters of the State. For most construction projects, the RWQCB requires the use of construction and post-construction Best Management Practices (BMPs).

9. McAteer-Petris Act

The McAteer-Petris Act and Suisun Marsh Preservation Act were adopted to protect San Francisco Bay and Suisun Marsh as great natural resources for the benefit of the public and to encourage development compatible with this protection. The San Francisco Bay Conservation and Development Commission (BCDC) was established to carry out this Act. The two primary goals of the BCDC are (1) to prevent the unnecessary filling of San Francisco Bay, and (2) to increase public access to and along the Bay shoreline. BCDC approval is required for all projects within 100 feet of the Bay shoreline beyond the Mean High Water (MHW) elevation, as well as projects that propose any filling or dredging within Bay waters.

10. Other Statutes, Codes, and Policies Affording Species Protection

The CDFW maintains an administrative list of Species of Special Concern (SSC), defined as a "species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- Is extirpated from the State, or, in the case of birds, in its primary seasonal or breeding role;
- Is listed as federally, but not State-, threatened or endangered;
- Meets the State definition of threatened or endangered but has not formally been listed;
- Is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status;
- Has naturally small populations exhibiting high susceptibility to risk from any factor(s) that, if realized, could lead to declines that would qualify it for State threatened or endangered status.

The CDFW's Nongame Wildlife Program is responsible for producing and updating SSC publications for mammals, birds, and reptiles and amphibians. The Fisheries Branch is responsible for updates to the Fish SSC document and list. Section 15380 of the *CEQA*

Guidelines clearly indicates that SSC should be included in an analysis of project impacts if they can be shown to meet the criteria of sensitivity outline therein. In contrast to species listed under the federal ESA or CESA, however, SSC have no formal legal status.

The California Native Plant Society (CNPS), a non-governmental conservation organization, has developed five lists of plant species of concern in California. Vascular plants included on these lists are defined as follows:

List 1A: Plants presumed extinct in California
List 1B: Plants rare, threatened, or endangered in California and elsewhere
List 2: Plants rare, threatened, or endangered in California, but more common elsewhere
List 3: Plants about which more information is needed – a review list
List 4: Plants of limited distribution – a watch list

Although the CNPS is not a regulatory agency and plants on these lists have no formal regulatory protection, plants appearing on Lists 1B and 2 may be considered to meet the definition of endangered, rare, or threatened species under Section 15380(d) of CEQA (see above), and impacts to these species may be considered "significant."

In addition, the CDFW recommends, and local governments may require, protection of species which are regionally significant, such as locally rare species, disjunct populations, essential nesting and roosting habitat for more common wildlife species, or plants on the CNPS Lists 3 and 4.

CONCLUSIONS

The site supports a diversity of plant and animal species, and its location along the shoreline of Carquinez Strait provides important habitat for both aquatic and terrestrial species. Future uses on the site must recognize the constraint that sensitive biological and wetland resources pose to some activities, as well as the opportunities to further enhance existing habitat values that have been compromised by past development activities, the spread and establishment of invasive species, and disturbance to natural habitat and native wildlife use caused by the activities of humans and their pets, particularly dogs on the site. The following provides a summary of the sensitive resources on the site and the planning considerations relevant to future uses and opportunities for habitat enhancement.

1. Special-Status Species

Past development has eliminated suitable habitat for special-status species in upland areas on the site. However, areas of intact coastal salt marsh and open water habitat support a number of special-status species, including known occurences of special-status bird species such as Suisun song sparrow and saltmarsh common yellowthroat, numerous special-status fish species that migrate and forage through the open waters of the Strait, and possibly other special-status species as well. Suitable habitat for a number of special-status plant species occurs in the marshland and exposed shoreline of the site, including Mason's lilaeopsis, Delta tule pea, and soft bird's-beak, and detailed surveys would be required to confirm presence or absence of these and other species where natural habitat remains. A number of special-status bird species are known to forage in the marshlands on the site, such as northern harrier, white-tailed kite and possibly California black rail and California clapper rail as they disperse along the shoreline of the Strait. Similarly, there is a remote possibility that salt marsh harvest mouse and Suisun shrew could disperse along the shoreline of the Strait and utilize the protective cover of

the marshlands on the site, although it is unlikely that sustainable populations would be present given the relatively small extent of suitable habitat and lack of protective upland refugia. Nevertheless, the marshland and open water habitats on the site are an important resource for special-status species and must be recognized as such in future planning and enhancement plans.

Modifications to areas of marshland and open water habitat would require consultation with resource agencies, and may require authorizations under the state and federal Endangered Species Acts. This would include disturbance to marshland and open water habitat associated with installation of new piers or elevated boardwalks, or placement of fills or other modifications within or at the edge of marshland habitat.

If disturbance is proposed in the remaining natural areas on the site as part of physical improvements or habitat enhancement, such as invasive species removal, preconstruction nesting surveys would be necessary to ensure that no nests in active use would be disturbed during the nesting season (typically February through August), in compliance with the federal Migratory Bird Treaty Act and CDFW Code.

2. Sensitive Natural Communities

Areas of coastal salt marsh and brackish water marsh are considered sensitive natural communities by the CDFW. Both of these sensitive natural community types are also most likely jurisdictional waters, providing additional regulatory protection. Any modifications to these features could be considered a significant impact under CEQA, requiring compensatory mitigation if they are to be filled or modified as part of future activities.

These natural community types and the habitat they provide to native plants and animals have been compromised by past development, invasive species, and human activity. Highly invasive perennial pepperweed, the scattered Canary Island palms, and possibly the stands of common reed compromise the existing habitat values of the marshlands, and future plans should include a program for invasive species removal and control. Trampling by humans can damage marsh vegetation, particularly clumps of the relatively brittle pickleweed, and access into the marsh by humans and dogs compromises the habitat value of these areas to wildlife. Access should be carefully controlled through the use of interpretive signage and other mechanisms.

3. Jurisdictional Waters

Any modifications to jurisdictional wetlands and other waters of the U.S. would require authorization from jurisdictional agencies. This would include modifications to areas of marshlands to improve habitat values, and possibly fill or modifications to areas considered to be potential seasonal wetlands if these features are confirmed to be jurisdictional wetlands. A formal wetland delineation must be prepared and verified by the Corps to confirm the extent of jurisdictional waters on the site, particularly the areas mapped as potential seasonal wetlands. Depending on the nature of the proposed modification, compensatory mitigation may be required.

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TABLE 1

SPECIAL-STATUS PLANT SPECIES KNOWN OR SUSPECTED TO OCCUR IN BENICIA VICINITY

Taxa Name	Status (Fed/State /CNPS)	Habitat Characteristics (Site Habitat Suitability)	Distribution (Presumed Extirpated)	Flowering Period
Aster *lentus* Suisun marsh aster	-/-/1B	Brackish water marshes and swamps (**Potential habitat present**)	Contra Costa, Napa, Sacramento, Solano	May-Oct.
Astragalus tener var. *tener* Alkali milk-vetch	-/-/1B	Valley grassland, vernal pools, and playas (**No suitable habitat**)	Merced, Solano, Yolo (Alameda, Contra Costa, Monterey, Napa, Santa Barbara, Santa Clara, San Francisco, San Joaquin, Stanislaus)	March-June
Atriplex joaquiniana San Joaquin saltbrush	-/-/1B	Alkaline grassland and scrub (**No suitable habitat**)	Alameda, Contra Costa, Colusa, Glenn, Merced, Napa, Sacramento, Santa Barbara, Yolo (Santa Clara, San Joaquin, Solano, Tulare)	April-Sept.
Blepharizonia plumosa Big tarplant	-/-/1B	Grassland (**No suitable habitat**)	Alameda, Contra Costa, San Joaquin, Solano, Stanislaus	July-Oct.
Centromadia parryi ssp. congdonii Congdon's tarplant	-/-/1B	Grassland **(No suitable habitat**)	Alameda, Contra Costa, Monterey, Santa Clara, Santa Cruz, San Luis Obispo, San Mateo, Solano	May-Nov.
Cordylanthus mollis ssp. *mollis* Soft bird's-beak	FE/SR/1B	Coastal salt marsh (**Potential habitat present**)	Contra Costa, Marin, Napa, Solano	July-Nov.
Fritillaria liliacea Fragrant fritillary	-/-/1B	Coastal scrub and grassland often (**No suitable habitat**)	Alameda, Contra Costa, Monterey, Napa, San Benito, Santa Clara, San Francisco, San Mateo, Solano, Sonoma	February-April
Isocoma arguta Carquinez goldenbush	-/-/1B	Grassland (**No suitable habitat**)	Contra Costa, San Luis Obispo, Solano	August-Dec.
Lasthenia conjugens Contra Costa goldfield	FE/-/1B	Low flats and borders of vernal pools (**No suitable habitat**)	Napa, Solano, (Alameda, Contra Costa, Mendocino, Santa Barbara, Santa Clara)	April-May
Lathyrus jepsonii ssp. *jepsonii* Delta tule pea	-/-/1B	Brackish water marshes and swamps (**Potential habitat present**)	Alameda, Contra Costa, Fresno, Napa, San Benito, Santa Clara, San Joaquin, Solano	May-June
Lilaeopsis masonii Mason's lilaeopsis	-/SR/1B	Brackish water marshes and swamps (**Potential habitat present**)	Contra Costa, Napa, Sacramento, San Joaquin, Solano	June-August
Polygonum marinense Marin knotweed	-/-/1B	Coastal salt marsh (**Potential habitat present**)	Marin, Napa, Sonoma	June-August
Senicio aphanactis Chaparral ragwort	-/-/2	Coastal scrub, chaparral, woodland (**No suitable habitat**)	Alameda, Contra Costa, Fresno, Los Angeles, Merced, Orange, Riverside, Santa Barbara, Santa Clara, elsewhere	Jan-April
Trifolium hydrophylum *Saline* clover	-/-/1B	Salt marsh, alkaline pools, grassland (**No suitable habitat**)	Central coast counties, and Solano and possibly Colusa	April-June

Federal Status:
FE = Listed as "endangered" under the Federal Endangered Species Act.
State Status:
SE = Listed as "endangered" under CESA.
SR = Listed as "rare" under CESA.

CNPS Status:
1A = Plants of highest priority; plants presumed extinct in CA.
1B = Plants of highest priority; plants rare and endangered in CA and elsewhere.
2 = Plants rare, threatened, or endangered in CA; more common elsewhere.

TABLE 2

SPECIAL-STATUS ANIMAL SPECIES KNOWN OR SUSPECTED TO OCCUR IN BENICIA VICINITY

Species	Status Federal/State	Preferred Habitat Type (Site Habitat Suitability)
Invertebrates:		
Bridges' coast range shoulderband	-/-	Grasslands and woodland margins with moist protective cover (**No suitable habitat**)
Callippe silverspot butterfly	FE/-	Open grasslands with golden violet host species (**No suitable habitat**)
Monarch butterfly	-/-	Overwinters in eucalyptus and cypress stands (**No suitable habitat**)
Amphibians/Reptiles/Fish:		
California tiger salamander	FT/ST, SSC	Vernal pools, ponds, streams and adjacent grassland (**No suitable habitat**)
California red-legged frog	FT/SSC	Ponds, streams, adjacent riparian and upland (**No suitable habitat**)
Delta smelt	FT/ST	Brackish zone of Delta (**Marginal habitat in marsh/open water**)
Foothill yellow-legged frog	-/SSC	Permanent streams with cobbles (**No suitable habitat**)
Northwestern pond turtle	-/SSC	Pond, rivers, and streams (**No suitable habitat**)
Longfin smelt	-/ST	Brackish zone of Delta (**Marginal habitat in marsh/open water**)
Sacramento splittail	-/SSC	Sloughs and other slow-moving waters of Delta (**Marginal habitat in marsh/open water**)
Steelhead	FT/SSC	Open water of Bay and Delta, tributary rivers and streams (**Marginal habitat in open water**)
Winter- run chinook salmon	FE/SE	Open water of Bay and Delta, tributary rivers and streams (**Marginal habitat in open water**)
Birds:		
Burrowing owl	-/SSC	Grassland (**Marginal foraging habitat in upper marsh**)
California black rail	-/ST, FP	Salt marsh (**Marginal foraging habitat in marsh**)
California clapper rail	FE/SE, FP	Salt marsh (**Marginal foraging habitat in marsh**)
Cooper's hawk	-/-	Riparian and grassland (**No suitable habitat**)
Double-crested cormorant	-/-	Bays, rivers, lakes - communal roosts protected (**Marginal foraging habitat in open water**)
Golden eagle	-/FP	Open grassland and savanna (**No suitable habitat**)
Loggerhead shrike	-/SSC	Grasslands and scrublands (**Marginal foraging habitat in upper marsh and grassland edge**)
Northern harrier	-/SSC	Grassland (**Suitable foraging habitat in marsh**)
Osprey	-/-	Open water and adjacent tree cover for nesting (**Suitable foraging habitat in open water**)
Peregrine falcon	Delisted/Delisted	Open water and grassland (**Suitable foraging habitat in marsh**)
Prairie falcon	-/-	Grassland (**Suitable foraging habitat in marsh**)
Saltmarsh common yellowthroat	-/SSC	Salt and brackish water marsh (**Suitable foraging and nesting habitat in marsh**)
San Pablo song sparrow	-/SSC	Brackish water marsh and adjacent upland (**Suitable foraging and nesting habitat in marsh**)
Suisun song sparrow	-/SSC	Brackish water marsh and adjacent upland (**Suitable foraging and nesting habitat in marsh**)
Tricolored blackbird	-/SSC	Freshwater marsh and fields (**Marginal foraging and nesting habitat in marsh**)
White-tailed kite	-/FP	Grassland (**Marginal foraging habitat in upper marsh**)
Mammals:		
Big free-tailed bat	-/SSC	Range of habitat types for foraging (**Marginal roosting habitat in structure**)
Salt marsh harvest mouse	FE/SE, FP	Salt marsh and adjacent grassland (**Marginal dispersal habitat in marsh**)
Suisun shrew	/SSC	Salt marsh (**Marginal dispersal habitat in marsh**)

Federal Status:
FE = Listed as "endangered" under the Federal Endangered Species Act (FESA).
FT = Listed as "threatened" under the FESA.
C = A candidate species under review for federal listing. Includes species for which the USFWS currently has sufficient biological information to support listing endangered or threatened.
State Status:
SE = Listed as "endangered" under California Endangered Species Act (CESA).
ST = Listed as "threatened" under CESA.
CP = California fully protected or protected species; individual may not be possessed or taken at any time.
SSC = California Special Concern species by the CDFW; species have no formal legal protection but nests and roosts are generally recognized as significant biotic features.
FP = California "fully protected" species may not be processed.

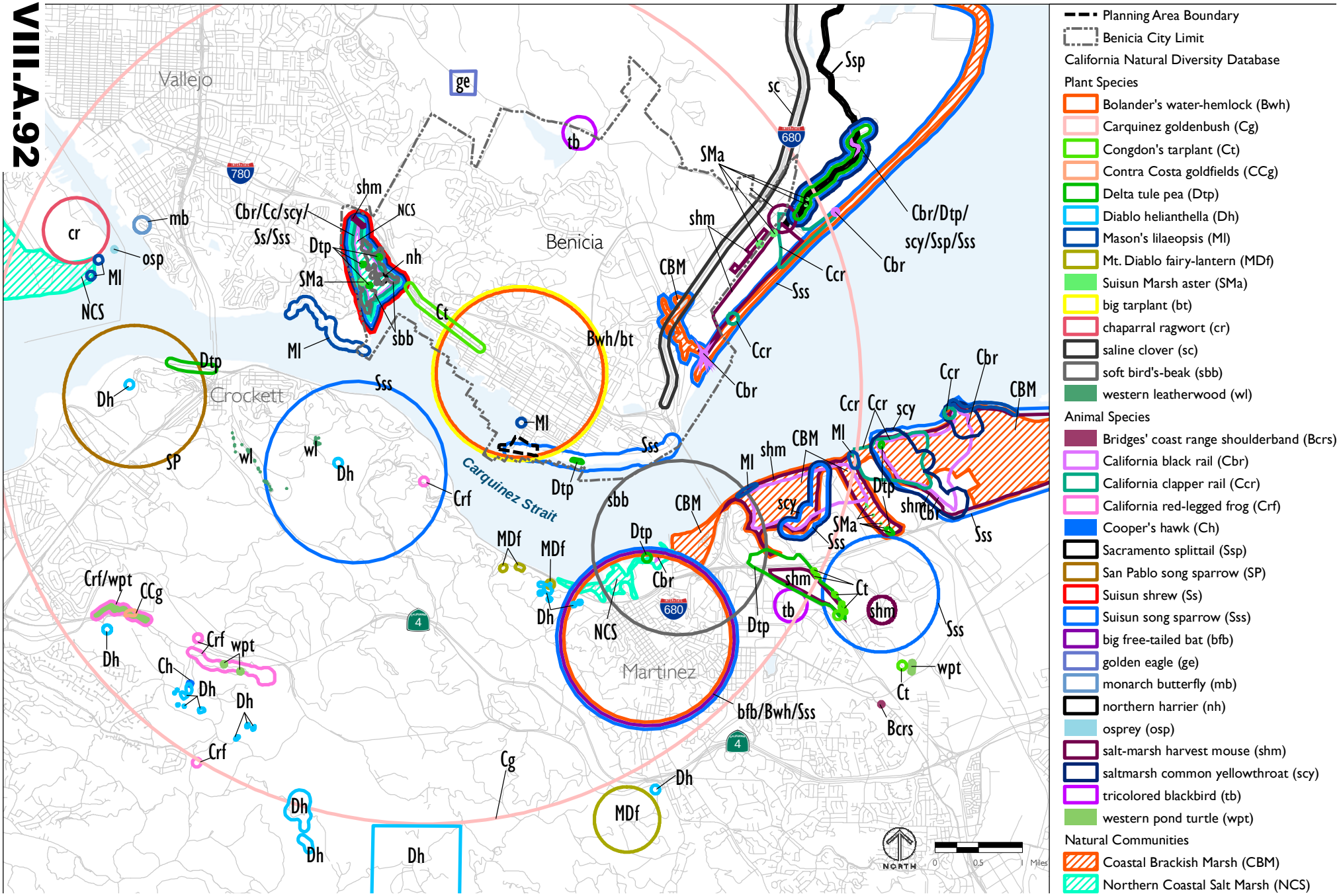

Figure 1 - CNDDB Occurrences of Special-Status Species and Sensitive Natural Communities

Mapping is preliminary based on limited vegetation data and assumed hydrologic criteria. A final determination on all boundaries of jurisdictional waters would wetland delineation and verification by the U.S. Army Corps of Engineers.

Figure 2 - Potential Jurisdictional Wetlands

Urban Waterfront Enhancement and Master Plan
for the City of Benicia

APPENDIX B

HYDROLOGIC SITE ASSESSMENT AND ENVIRONMENTAL BASELINE MEMO

APRIL 1, 2013

Memo

To: Isabelle Minn, The Planning Center/DC&E

From: Edward D. Ballman, P.E.

Date: April 1, 2013

Subject: Hydrologic Site Assessment and Environmental Baseline for the Urban Waterfront Enhancement and Master Plan, City of Benicia

Balance Hydrologics has completed its review of available information to frame the hydrologic setting of the Urban Waterfront Enhancement and Master Plan (UWEMP) in the City of Benicia. We understand that similar assessments have been completed (or are underway) covering other areas of interest with respect to the UWEMP. Therefore, this summary memo dispenses with universal background information and focuses exclusively on summarizing the hydrologic information pertinent to preparing the UWEMP.

Local Climate Characteristics

The project site has local climate characteristics similar to other locations along the Carquinez Strait, which separates San Pablo Bay to the west from the Sacramento-San Joaquin Delta ("the Delta") to the east. In general, the site is located in the Mediterranean climate zone typical of coastal central California. This climate zone is characterized by cool, wet winters and hot, dry summers tempered, in this case, by proximity to San Francisco Bay and by the occurrence of occasional coastal fog, especially in late spring and summer. A noteworthy characteristic of the site is the strong inland wind pattern that typically develops during the summer. Relatively stable high pressure is established over the eastern Pacific Ocean, while low pressure develops over the Central Valley, creating a pressure differential which typically drives winds from west to east through the topographic gap of the Strait.

Long-term daily meteorological data are available from the National Weather Service for the City of Martinez, located on the south shore of the Carquinez Strait across from Benicia. Analysis of digital records for this station from 1948 to the present show that the average daily high temperature is 72.3° F and the average daily low is 47.5° F. Average rainfall conditions in the area are the statistical mean of rainfall totals that show a wide range of values strongly influenced by global weather patterns such as the El Niño Southern Oscillation and prolonged periods of drought. The mean annual rainfall on a water year basis (October 1 to September 30) is 19.3 inches, with a maximum of 36.9 inches in WY1983 and a minimum of 7.4 inches during the severe drought of WY1976. The calculated mean annual rainfall agrees very well with isohyetal mapping prepared by the Solano County Water Agency.

Potential evaporation at the site far exceeds rainfall for even the wettest years. Pan evaporation data for the period 1956 to 1976 are available for Dutton's Landing, California, located approximately 14 miles northwest of the project site near the mouth of the Napa River. We believe these data are generally representative of pan evaporation at the Benicia site and show a long-term average of 62.9 inches per year, equivalent to about 47.2 inches per year of actual evaporation.[1]

Tidal Characteristics

Located along the north shore of the Carquinez Strait, the project site is subject to tidal action that is the chief factor controlling geomorphological and biological processes at the site. Tides in the Strait, similar to other locations in California, display a semi-diurnal pattern of two high and two low tides "daily". Figure 1 illustrates this pattern for the period from December 2012 through January 2013 based on data collected at the National Oceanic and Atmospheric Agency (NOAA) tide gage located at Port Chicago, California, corrected to the Benicia site.[2] The term "daily" is used in general terms since the time from one point in the tidal cycle to the next is approximately 25 hours.

NOAA has established tidal datum information for Benicia by monitoring water levels at the Benicia Wharf from January 1977 through December 1981. The respective information is published by NOAA as the tidal datum information sheet for Benicia, Carquinez Strait, CA (Station #9415111). Important datums are listed in Table 1.

Table 1. Tidal datums for the City of Benicia

Datum	Elevation (feet, NAVD)[3]
Mean Higher High Water	5.97
Mean High Water	5.44
Mean Tide Level	3.48
Mean Low Water	1.51
Mean Lower Low Water	0.64

[1] Recognizing that the Benicia waterfront may be slightly windier than Dutton's Landing, we estimate mean evaporation from a large water surface to be 75 to 80 percent of pan evaporation, rather than the more conventional 70 to 75 percent.
[2] The NOAA tide station at Port Chicago (#9415144) provides a particularly long period of record for water-level information in the vicinity of the project site. Located approximately 6.7 miles to the east of Benicia, the Port Chicago station was established in June 1976, with verified historical data available on-line back to 1996.
[3] Unless otherwise noted, all elevations herein are based on the North American Vertical Datum of 1988 (NAVD).

Figure 2 shows the mean higher high water elevation with respect to study area, although it is important to note that the highest tide on roughly half of all days will be higher. In fact, higher high tide elevations are frequently high enough that they inundate much of the fringe area of the site (up to an elevation of roughly 7.0 feet) and are very important in setting the extent of wetlands that occur at the site.

The typical tidal cycle at any location can be affected by variables such as storms and water temperature. At Benicia, the tidal cycle is particularly influenced by storm surges that propagate through the Golden Gate and from runoff through the Carquinez Strait, representing the combined drainage of the Sacramento and San Joaquin River systems (Bromirski and Flick, 2008). With respect to storm surges, Bromirski and Flick demonstrated that storm surge effects in the Carquinez Strait area can reach or exceed 20 inches above predicted tide levels. Additionally, outflow from the Sacramento-San Joaquin Delta is frequently large enough after significant rainfall events to further markedly alter the expected tidal patterns, with outflow effects generally lagging the associated storm surge by several days and often persisting for many days. The combined effect is particularly evident in Figure 3, which illustrates water surface elevations as measured at Port Chicago for the period around January 1, 1997, when northern and central California experienced several large storm events.

Flood Elevations

The portion of Benicia including the UWEMP area and vicinity is mapped on Flood Insurance Rate Map (FIRM) Number 0609C0641E issued by the Federal Emergency Management Agency (FEMA) as part of the National Flood Insurance Program. The upland areas immediately adjacent to the study area do not include any designated Special Flood Hazard Areas (SFHAs, commonly known as 100-year floodplains). However, the currently-effective FIRM does designate base flood elevations for Carquinez Strait and illustrates the SFHA associated with that flooding source with a base flood elevation of 9 feet NAVD (see Figure 4).[4] Interestingly, the SFHA boundary mapped by FEMA does not correspond to the 9-foot contour elevation on the topographic base compiled for the UWEMP, which is illustrated in Figure 5. The reason for this discrepancy is not identified herein, but is likely due to differences in the resolution of the base mapping used in the FEMA study and that used for the UWEMP. The boundary shown in Figure 5 can generally be considered a more accurate depiction of areas susceptible to flooding in a 100-year event on the Carquinez Strait, although it is not the "official" boundary for flood insurance purposes. It is important to note that the highest observed water surface elevation at the Port Chicago tide station was 9.02 feet on December 3, 1983, more or less equivalent to the predicted base flood elevation.

Figure 5 shows that the majority of the study area would be inundated by the 1-percent chance flood event (base flood). Flooding would be expected to cover the entire

[4] The base flood elevation (BFE) is commonly referred to as the 100-year flood elevation. FEMA now prefers to use the term "1-percent chance flood" in lieu of "100-year flood" as a more appropriate descriptor that better emphasizes the fact that the event has a 1-percent chance of occurring in any given year.

central and southeastern portions of the site, including most of the lawn area, several hundred feet of B Street, and the lowermost part of East 2nd Street.

Sea Level Rise

Located directly adjacent to the Carquinez Strait, the Benicia Urban Waterfront is susceptible to significant changes in sea level over broader periods of time. In fact, the issue of sea level rise has received much attention recently as it has become increasingly clear that historical rates of sea level rise are accelerating, likely due to a number of factors, most of which are related to global climate change.

The need to appropriately prepare for the implications of rising sea levels has led the State of California to set standards to frame planning activities in coastal areas. The most appropriate guidance in this regard that applies to the study area is that set forth by the San Francisco Bay Conservation and Development Commission in 2011. Based on previous work by the Coastal and Ocean Working Group of the California Climate Action Team (CO-CAT, 2010), the SFBCDC identified scenarios of sea level rise for various time horizons as summarized in Table 2.

For the 2070 and 2100 time horizons, three different scenarios were included to allow for risk and vulnerability considerations ranging from low to medium to high. The values in Table 2 for these time horizons are those for the high risk scenarios. Based on the overall projections of sea level rise, the SFBCDC policy analysis recommended using conservative values of 16 inches of sea level rise by 2050 and 55 inches by 2100.

Table 2. Projected sea level rise scenarios for the San Francisco Bay area

	Projected Sea Level Rise			
	(by year in inches compared to 2000)			
	2030	**2050**	**2070**	**2100**
SFBCDC (2011)				
Mean	7	14	27	55
High	8	17	32	69
Low	5	10	20	43
NAS (2012)				
Mean	6	11	not used	36
High	12	24	not used	66
Low	2	5	not used	17

The SFBCDC policy recognized that additional, updated analyses of sea level rise were underway at the time by the National Academy of Sciences. The results of those analyses were published in 2012, presenting a rigorous assessment of sea level rise trends and associated projections for the U.S. West Coast from California to Washington. Table 2 includes the summary values from that study that apply to the San Francisco Bay area. The mean values from the NAS study are lower than those cited by

SFBCDC, with the differences increasing for the later scenarios, a reflection of the uncertainty associated with longer-range projections. The NAS projected mean value of 36 inches at 2100 is considerably less than the 55-inch value recommended by SFBCDC. However, the NAS study cites a high-range estimate of 66 inches in 2100, indicative of the need to consider risk and vulnerability in any specific planning environment. Given the immediate proximity of residential and commercial development to the UWEMP area, the use of conservative projections is appropriate.

The impacts of sea level rise on flood elevations at the site were previously analyzed for the California State Coastal Conservancy by URS Corporation, with results summarized in a technical memo dated March 28, 2011. The analysis looked at sea level rise scenarios of 7 inches at 2030 and 16 inches at 2050 and presented mapping based on these increases added to the base flood elevation of 9 feet.

The attached Figure 5 illustrates potential future base flood scenarios using both the value of 16 inches for 2050 as well as the longer-term scenario of 55 inches of sea level rise at 2100, equivalent to a base flood elevation of 13.6 feet (e.g. 9 feet current BFE + 4.6 feet sea level rise). As Figure 5 shows, the more conservative higher base flood conditions would inundate progressively more area. With 16 inches of sea level rise (BFE = 10.3 feet), essentially the entire urban waterfront would be subject to flooding during a 1-percent chance event, the only exceptions being 1st Street upslope of the depot and the northwest portion of B Street. With 55 inches of sea level rise, all of B Street and all areas to the south would be susceptible to inundation.

Drainage Patterns and Local Stormwater Infrastructure

In general, the pervious portions of the study area (including the lawn and wetland areas) slope toward Carquinez Strait and drain by gravity through overland flow. Wetland areas predominate in the central and eastern portions of the site along the Strait. As mentioned previously, these areas are subject to inundation at higher tide stands and exhibit many characteristics of saltmarsh environments. However, the tidal prism is quite small, and the characteristic tidal channel network of larger saltmarsh environments has not developed to any significant extent. In addition to the wetlands directly adjacent to the shoreline, there is an isolated low-lying area immediately to the north and east of the old A Street alignment that is connected to the Strait by a corrugated metal pipe (in poor condition), allowing tidal exchange at high tide levels (see Figure 2).

The impervious portions of the study area are generally drained by engineered stormwater lines. Six stormwater outfalls discharge within the site as shown on Figure 2, although only four of these are shown on the mapping in the City's Stormwater Management Plan. Two of these systems are located on 1st Street and handle runoff from relatively small local drainage areas. Approximately midway along the south side of the site there is a drainage channel, largely filled with silt and vegetation that connects the outfall from the B Street storm drain system to the Strait. The B Street system handles runoff from approximately 10.5 acres of urban land encompassing the area from East 2nd Street in the east to 1st Street in the west and East D Street to the

north. There is also a small outfall for dry-season low flows that discharges near the end of the former East 2nd Street storm drain system. These low flows are pumped from the Marina area, where the East 2nd Street high flows are now discharged since completion of the Marina Area Storm Drain Project in 2007.

It is important to note that the B Street storm drain system is subject to frequent localized street flooding for most significant storm events that occur during high tide. The outfall was not physically inspected, but apparently does not include a tide gate, as upwelling of water from the Strait is a frequent occurrence for tide elevations above approximately 7 feet. Performance of this system can be expected to decline with any increases in sea level.

Water Quality

The most significant water quality parameter at the site from the perspective of the local wetlands environment is salinity. Given the very large watershed upstream from Benicia, the site typically experiences a wide range of salinity values over the course of a year. The most general seasonal trends include a marked drop in salinity with the start of runoff from the Central Valley, usually in late November or December. During periods of high discharge in the Sacramento – San Joaquin system, surface water at Benicia is essentially fresh. Salinity values typically increase at a steady rate once winter rains cease, building to a maximum again prior to the onset of the next winter rain season. This pattern can be interrupted by occasional dry periods in the winter season, when salinity can increase to levels generally associated with mid-summer. Late summer and early fall salinity values vary greatly from year to year, but generally average around 20 parts per thousand (roughly equivalent to a specific conductance of 25 millimhos/cm). Salinity levels are high enough and of sufficient duration that saltmarsh vegetation dominates the wetlands that make up much of the study area.

There is no stormwater quality infrastructure in place within the study area or on any of the storm drain lines that convey runoff to the site, with the notable exception of the low-flow line from the Marina system, which is equipped (upstream) with a vortex separator unit. Information on the quality of stormwater runoff from the various outfalls is not available, but it is reasonable to assume that it is characteristic of other systems serving roadways and mixed use development in the Bay Area.

Opportunities and Constraints

From a hydrologic perspective, the UWEMP area presents a number of opportunities and constraints, almost all of which are interrelated. These include the following:

- *Flood protection*. Though situated along the shores of the Carquinez Strait, which drains much of the land area of California, the site is not exposed to exceedingly high flood risk. Discharge through the Strait from the combined Sacramento-San Joaquin River system can be exceptionally high at times. However, the Strait is very wide at this

location (over 4,000 feet), greatly limiting flood elevations. Additionally, the site shows no obvious signs of excessive subsidence that is typical of many locations throughout the Bay Area and Delta.

- *Sea level rise adaptation*. The site will be potentially impacted by any significant increases in sea level as discussed previously. However, unlike many other sites so adjacent to tidal influence, there is substantial space to adapt to and mitigate for increases in sea level over the projected time frames of those impacts. Such measures may include protective features such as seawalls or levees and wetland modifications to name a few. A noted constraint in this regard would be the need to provide stormwater pumping capacity at some point in the future to assure effective drainage in the face of rising high tide levels, particularly for the B Street storm drain line.
- *Wetland enhancements*. The site includes extensive existing wetland areas that are characterized by relatively low diversity of hydroperiods that reflect the relatively uniform elevations within the wetlands. There are opportunities to enhance the diversity of these areas with tidal channels and other similar features, potentially as part of an adaptation strategy that accommodates future sea level rise.
- *Stormwater quality*. The lack of stormwater quality best management practices (BMPs) on the storm drain lines in the project area creates the opportunity to provide remedial water-quality benefits. These can take many forms and range from trash control devices to bioretention facilities (rain gardens) to other "green street" design enhancements.

References

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Coastal and Oceans Working Group of the California Climate Action Team (CO-CAT), 2010, "State of California sea-level rise interim guidance document", 18 pages including appendix.

San Francisco Bay Conservation and Development Commission, 2011, "Living with a rising Bay: vulnerability and adaptation in San Francisco Bay and on its shoreline", staff report approved October 6, 2011, 154 pages plus resolution.

URS Corporation, March 28, 2011, "City of Benicia waterfront planning services sea-level rise study", technical memorandum prepared for the California State Coastal Conservancy, 2 pages plus figures.

FIGURES

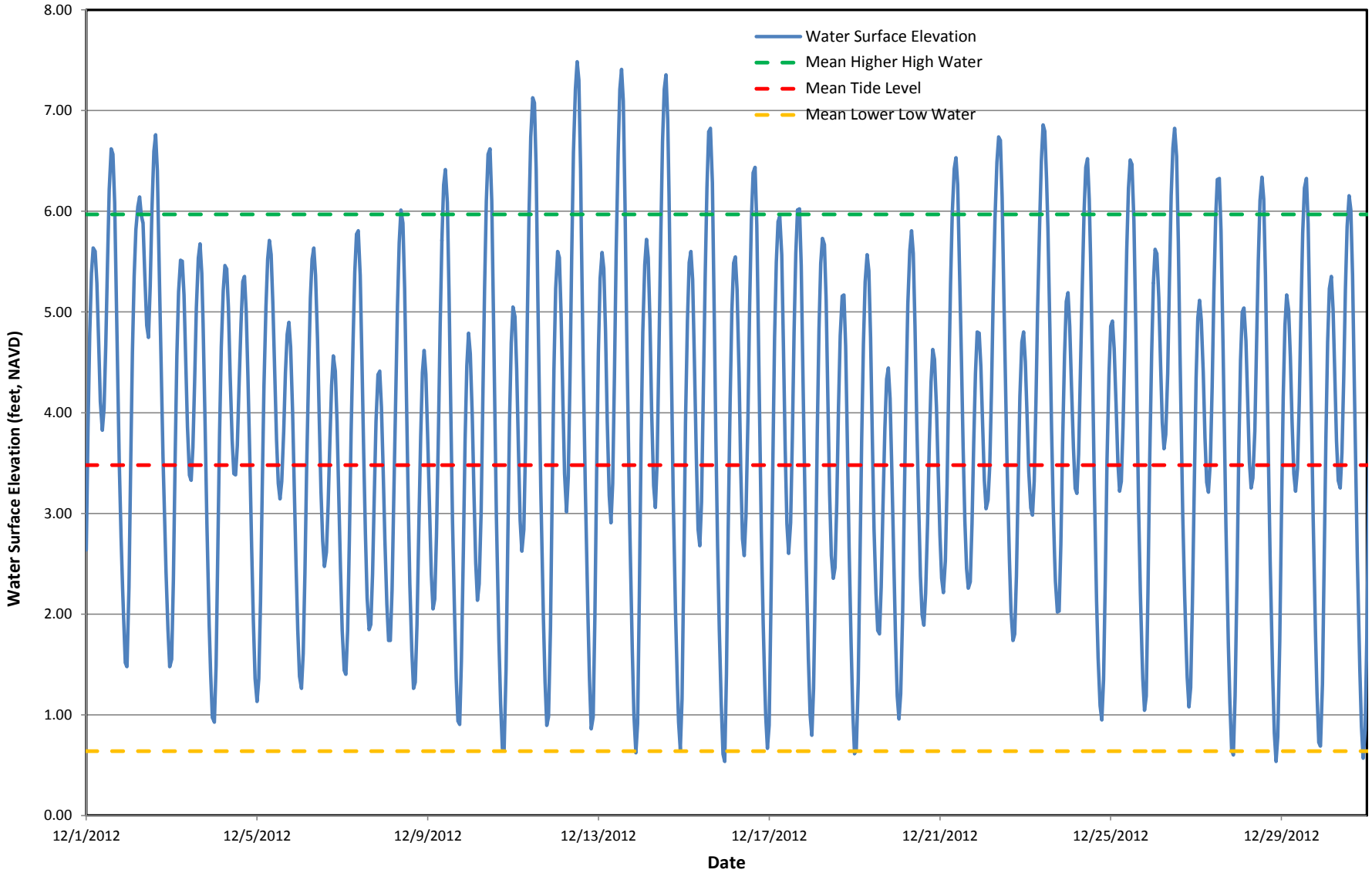

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Figure 1. Representative tidal water surface elevations for the Benicia waterfront, December 2012. Data from the NOAA Port Chicago tide station (#9415144) corrected to Benicia using published tidal benchmarks. Note the particularly high tide levels in mid-December, also knows as "King Tides".

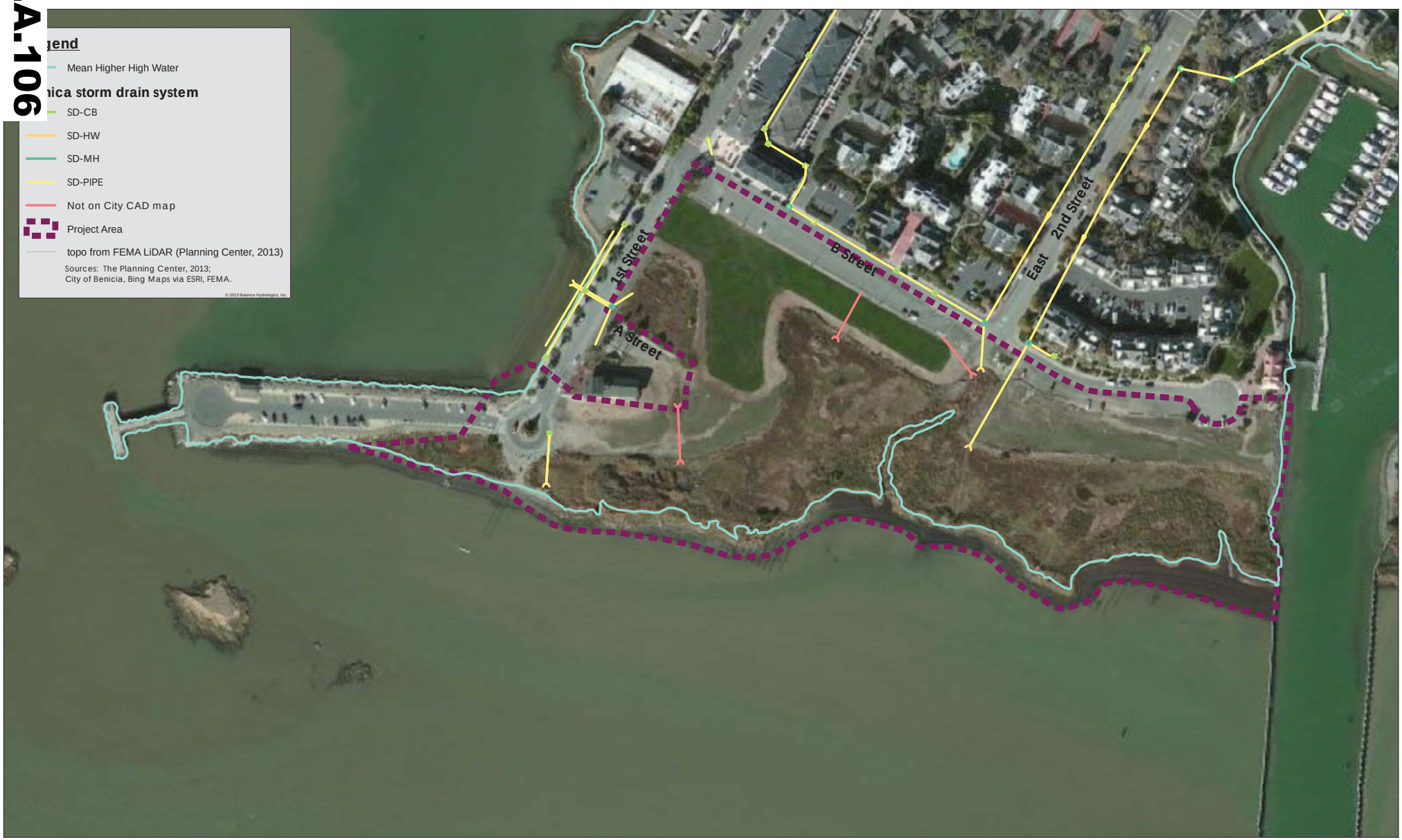

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Figure 2. Mean higher high water and existing local storm drain system, Benicia Urban Waterfront Enhancement and Master Plan, City of Benicia

NORTH 0 80 160 Feet

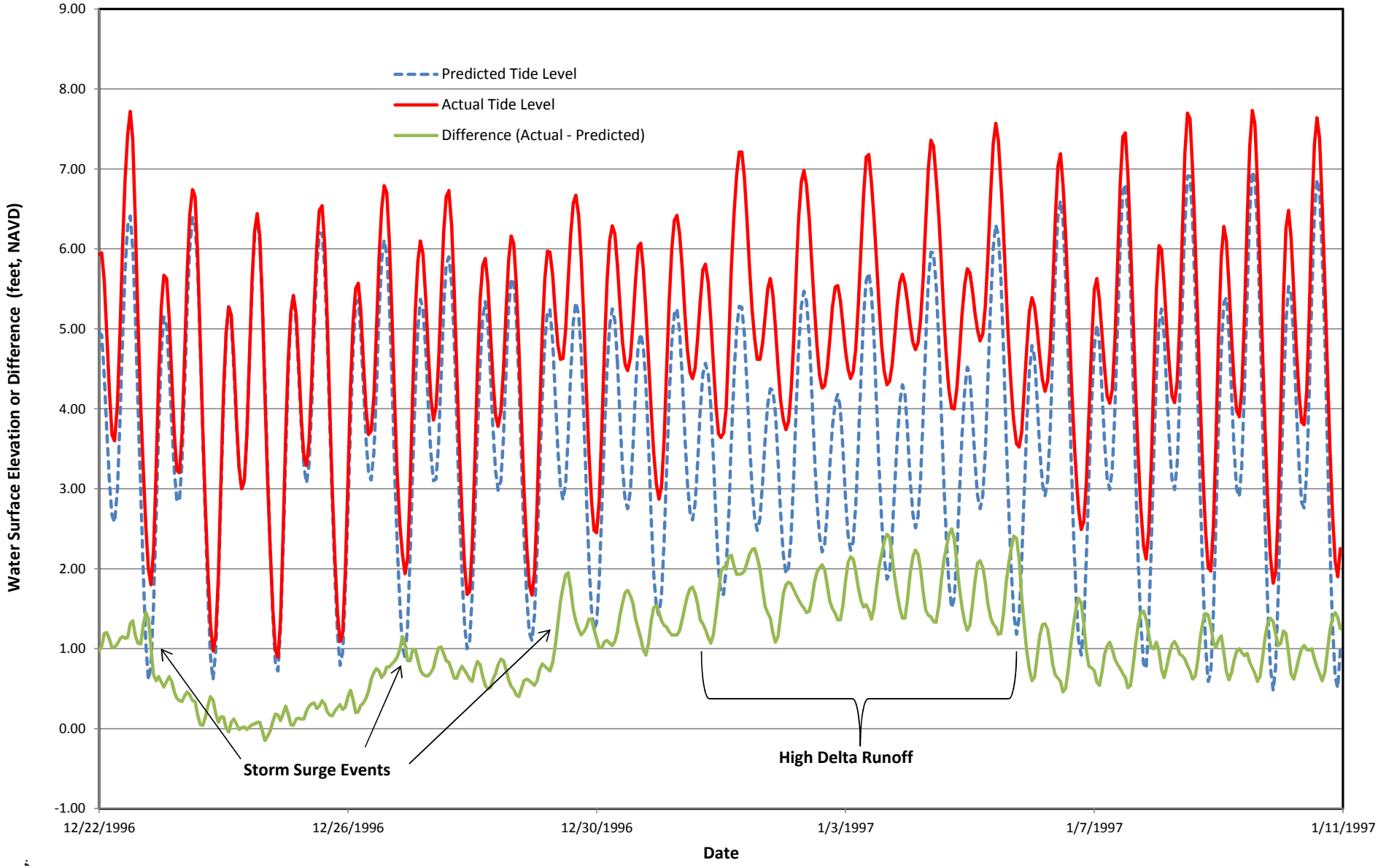

Figure 3. Storm surge and Delta runoff signatures from the December 1996 to January 1997 storm events. Data from the NOAA Port Chicago tide station (#9415144). Note the multiple storm surge events that culminated with a major atmospheric river storm event near New Year's, followed by a prolonged period of elevated water surface elevations due to high runoff from the Sacramento-San Joaquin Delta system. Water surface elevations were more than 1 foot above predicted tidal levels for over a week, at times reaching nearly 2.5 feet above predicted.

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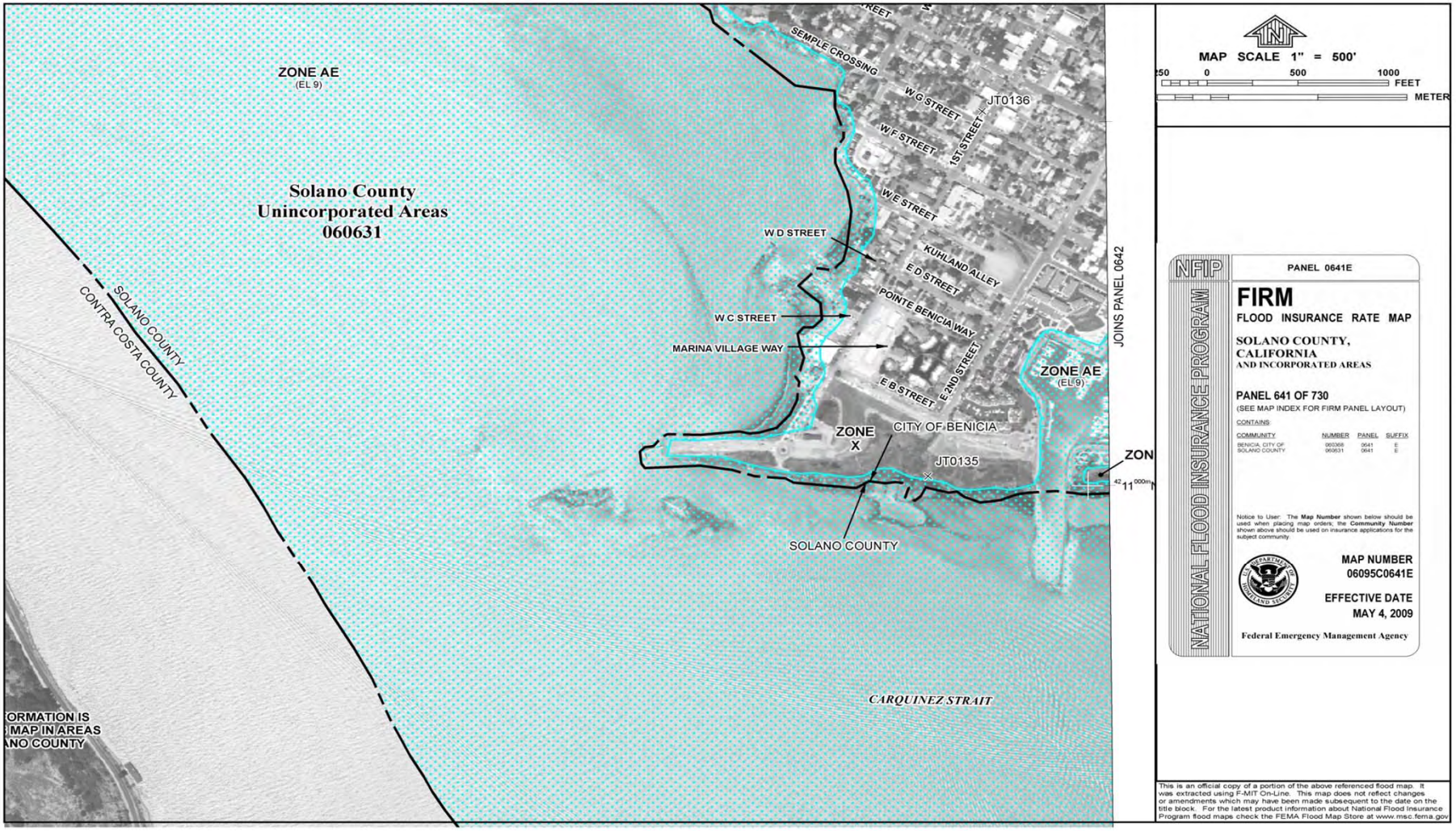

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Figure 4. FEMA Flood Hazard Rate Map for the vicinity of the Benicia Urban Waterfront Enhancement and Master Plan. Note that the only mapped flooding source is Carquinez Strait with a base flood elevation of 9 feet NAVD.

Figure 5. FEMA base flood elevation with and without projected sea level rise, Benicia Urban Waterfront Enhancement and Master Plan, City of Benicia

VIII.A.110

City of Benicia
July 2014

Benicia Urban Waterfront Enhancement and Master Plan
Initial Study/Mitigated Negative Declaration
Public Review Draft

PLACEWORKS

in association with
Environmental Collaborative
Balance Hydrologics

VIII.A.111

VIII.A.112

City of Benicia
Urban Waterfront Enhancement and Master Plan Initial Study

A. Project Description

This Initial Study has been prepared for the Benicia Waterfront Project ("the Project") for the City of Benicia in accordance with the California Environmental Quality Act (CEQA) Statutes and Guidelines. The proposed Project is located at the southeast corner of First Street and B Street, as shown in Figure 1.

1. Project Components

The design for the proposed Project is intended to improve and enhance the existing First Street Green, expand the current trail access and incorporate public amenities, such as observation platforms, seating areas, public art, and interpretive signage. The proposed Project includes restoring wetlands along the water's edge at the Project area's southern boundary. The City of Benicia has outlined the following goals for this planning project and the site.

- Improve public access to and along the shoreline.
- Improve amenities for visitors, including interpretive and educational displays.
- Increase passive recreation and non-motorized boat use of the area.
- Explore the potential for developing a non-motorized boat launch site for the San Francisco Bay Area Water Trail.
- Protect and restore existing tidal wetlands and other fish and wildlife habitat.
- Improve stormwater management and integrate it with other project objectives.
- Plan for adaptation of all project elements to rising sea level.
- Ensure that the Plan is cost-effective and affordable.
- Achieve other objectives that may be identified during consultation with stakeholders.

To achieve the goals, the proposed Project would include the following components, which are depicted on Figure 3, Site Plan:

- an entry plaza at the corner of First Street and B Street with seat walls and public art;
- an expanded, raised green;
- a secondary plaza at the eastern end of the site, also incorporating seating and public art;
- a perimeter trail around the green;
- a boardwalk, including a guardrail, following the historic railroad alignment, with designated viewing platforms overlooking the wetlands, salt marshes, and the Carquinez Strait; the boardwalk through the coastal salt marsh in the center of the site would be narrower than in other areas;
- improved beach access located on the southwestern edge of First Street, north of the Pier;
- Bay Trail alignment within the park, running parallel to B Street;

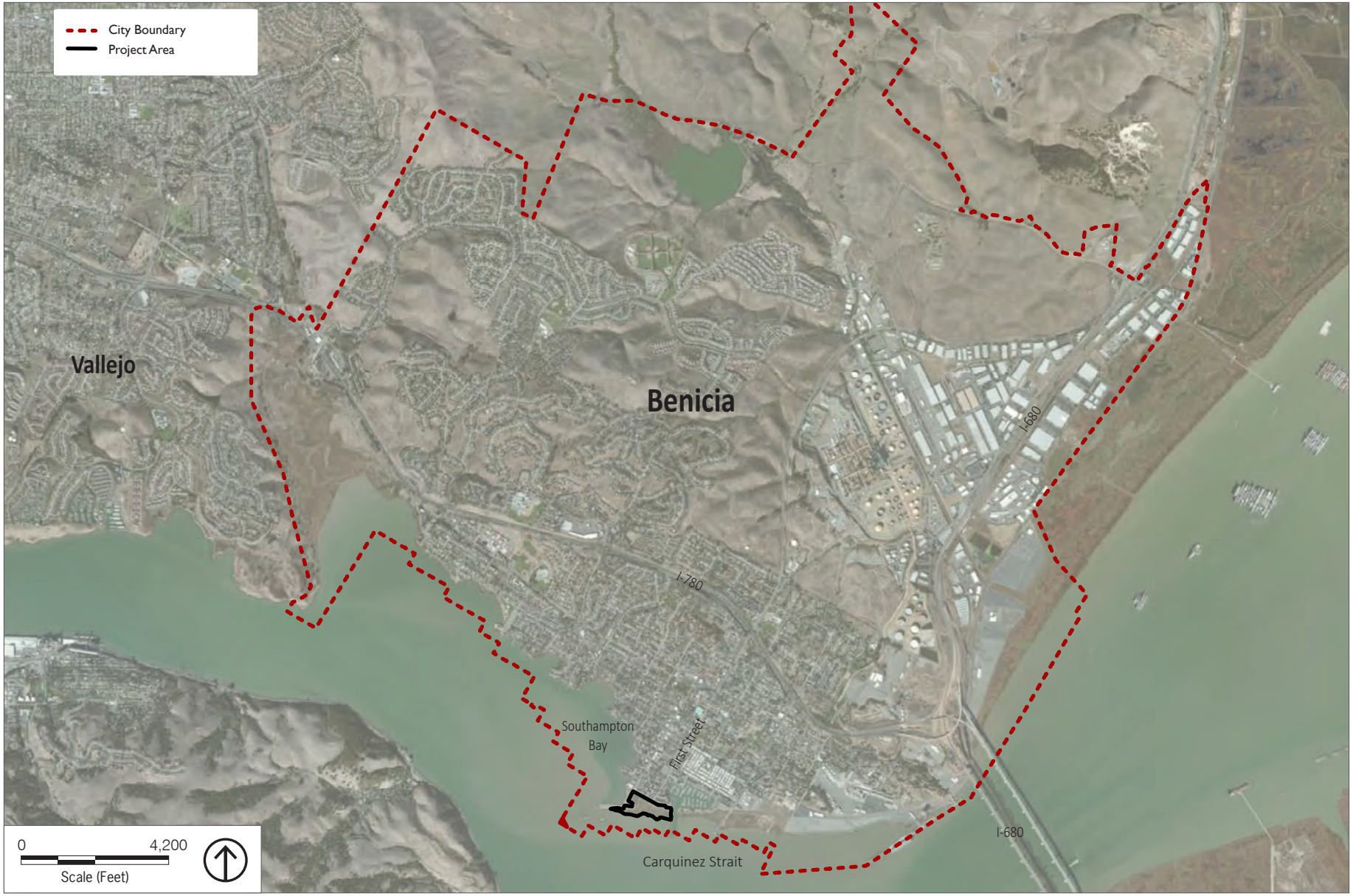


Figure 1
Project Location

- widened sidewalks and palm trees on the east side of First Street, to mirror the promenade on the west side of First Street;
- Removing pilings;
- diagonal or perpendicular parking along the park on the southern side of B Street, and improved parking along the east end of B Street;
- stormwater rain gardens between B Street and the Bay Trail;
- interpretive/restrictive signage along the boardwalk to prevent pedestrians from entering or disturbing marsh habitat; and
- a depot plaza, as included in the 2009 Depot Site Plan.

2. Site Preparation, Construction Operations, and Phasing

The conceptual site plan, as shown in Figure 2, Project Site Plan, depicts conceptual footprints for proposed enhancements to the First Street Green, and does not represent final construction details. All site preparation activities and construction operations subsequent to approval of the enhancements would be subject to separate City Engineering and Building Division approval. All grading and site preparation activities would be required to comply with the City Municipal Code at the time of application including, but not limited to: Title 12, Streets, Sidewalks and Public Places, which includes regulations applying to the repair and construction of sidewalks and alleys, street improvements by railways, and street trees; Title 15, Buildings and Construction; Title 17, Zoning; and all applicable local, State, and federal regulations in order to be granted a building permit. Site preparation and construction would take place over the following four phases over 17 years:

Phase 1 (Years 0-2)

- Design/Engineering

Phase II (Years 2-7)

- Improvements to Existing Beach Access
- New Beach Access
- Eastern Plaza
- Depot Plaza/Parking

Phase III (Years 7-12)

- Entry Plaza at First and B Street
- Bay Trail Segment
- B Street Parking and Rain Gardens
- Seasonal Wetland Enhancement
- Raised and Reconfigured Green
- Mitigation Coastal Salt Marsh Restoration
- Interior Pathway (along marsh edge)
- Marsh Overlook Platforms

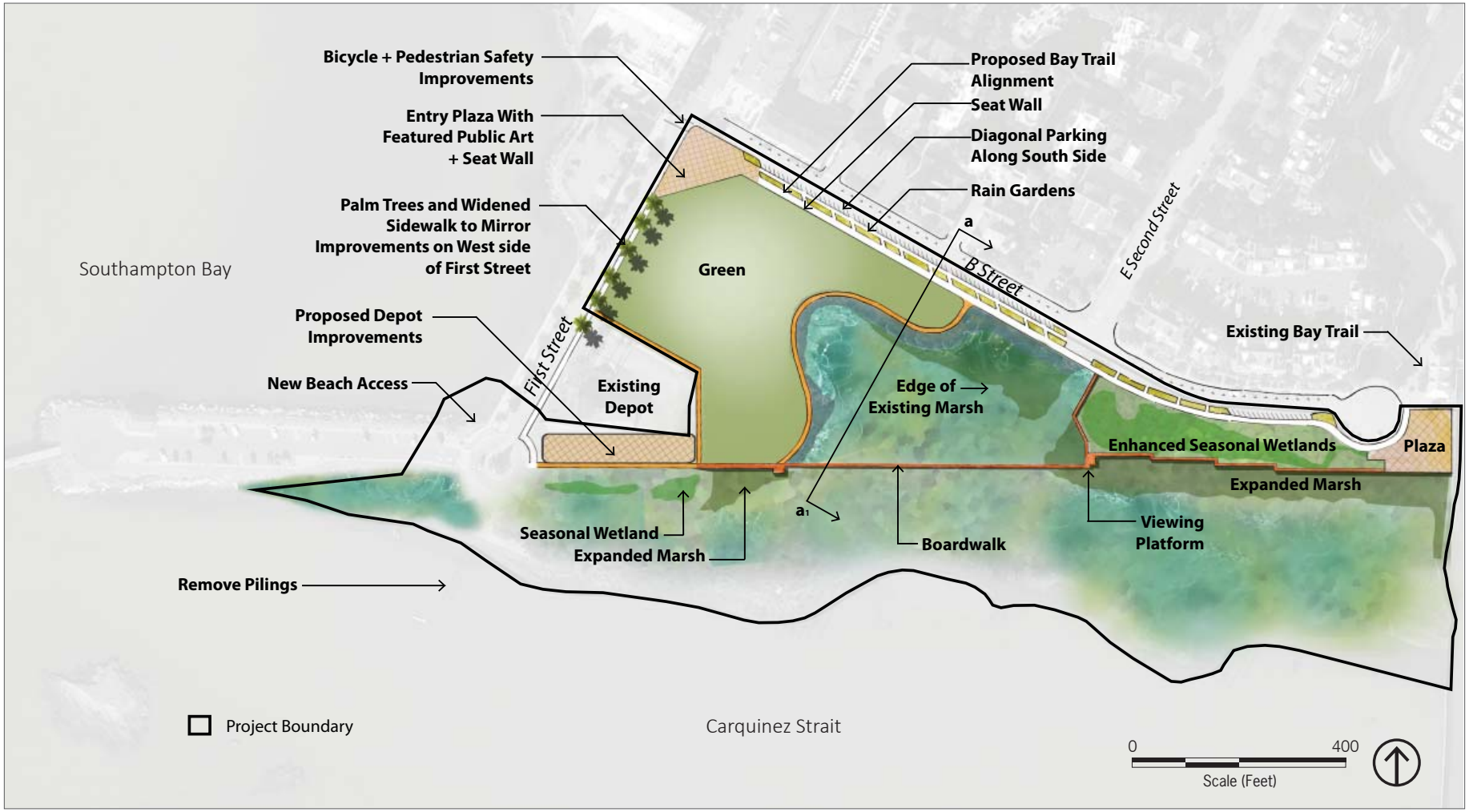


Figure 2
Project Site Plan

Phase IV (Years 12-17)

- Trainwalk Boardwalk

As a part of future buildout, backfilling and grading would occur in order to elevate the existing First Street Green to a grade sufficient to prevent it from flooding on a regular basis. Grading and backfilling construction activities would be subject to permits and compliance with Chapter 15.28, Grading and Erosion Control, of the City Municipal Code, which sets forth rules and regulations to control excavation, grading, and earthwork construction, including fills and embankments. Additionally, it is estimated that the proposed boardwalk would require approximately 150 to 175 piers, each pier having a footprint of approximately 12 inches by 12 inches.

B. Project Location

1. Regional Location

The Benicia Waterfront Project is located in the City of Benicia. As shown in Figure 1, the City of Benicia is located in Solano County, California, which is situated along the Carquinez Strait of San Francisco Bay, and located east of the City of Vallejo and across the water from the City of Martinez. Interstate 780 (I-780) runs roughly east-west through Benicia, while Interstate 80 (I-80) runs roughly north-south, west of Benicia, and Interstate 680 (I-680) runs north-south within the City of Benicia. Benicia is a residential community distinguished by its beloved community asset, the Benicia Waterfront.

2. Local Location

The Project site is situated on the waterfront at the southeast corner of First Street and B Street, as shown in Figure 1. The Project site is located near the end of First Street and spans the entire length of B Street between First Street and the Benicia Marina. The Project site is bounded by the marina channel on its eastern border, Carquinez Strait on its southern border, and B Street on its northern border. The western border is primarily the eastern edge of First Street.

C. Environmental Setting

The approximately 16-acre Project site is owned by the City of Benicia and includes wetlands, small sandy beaches, vacant uplands, and a community green.

The Project Area is primarily designated as Parks and Open Space in the General Plan, while areas surrounding the Project site are designated as Residential and Commercial. There's a mix of residential and commercial development along the northern border of the Project site, as well as partially along the western edge of the area, including on-street parking along First Street and the northern side of B Street, and an unpaved gravel parking area within the Project Area located on the southern edge of B Street. Turf grass covers a large portion of the Project site. Although the First Street Green is primarily used as a location for passive recreation, it's also the site of annual events, such as the Waterfront Festival and the Benicia Classic Car show.

According to the General Plan, the Project Area is identified as having important biotic resources, including Marshland, Northern Coastal Salt Marsh, and Coastal Brackish Marsh. As such, the Project site supports vegetation and wildlife, and may contain special-status species associated with those habitats. The coastal salt marsh and brackish water marsh on the site are considered sensitive, natural community types, and can be found along the southern

boundary of the Project site, as well as in a small island of salt marsh situated just north of the Historic Depot, along the western boundary of the Project Area.

Due to its close proximity to the San Francisco Bay, the Project Area is within the existing 100-year Federal Emergency Management Agency (FEMA) flood zone, as shown in Figure 3. It is important to note that FEMA is currently in the process of revising its flood zone and is expected to be effective in 2015.

D. Policy Setting

1. City of Benicia General Plan

The Project Area is primarily designated as Parks Open Space. The areas surrounding the Project Area are designated as Commercial and Residential. Within the City of Benicia General Plan, there are several policies and goals that influence the design of the Project Area, including policies regarding resource conservation, access, protection of biologically important resources, and involving the community. For example, the following policies and goal would influence the design:

- Policy 2.32.2: Continue to develop and enhance recreational benefits of the shoreline and seek public access along the Waterfront.
- Policy 2.12.4: Create a social, recreational, and economic anchor at the waterfront end of First Street by establishing a waterfront park which provides a site for community festivals, preserves open space, and allows commercial and civic uses at the Depot site.
- Goal 3.13: Improve urban design qualities of the waterfront and public access to the shoreline.

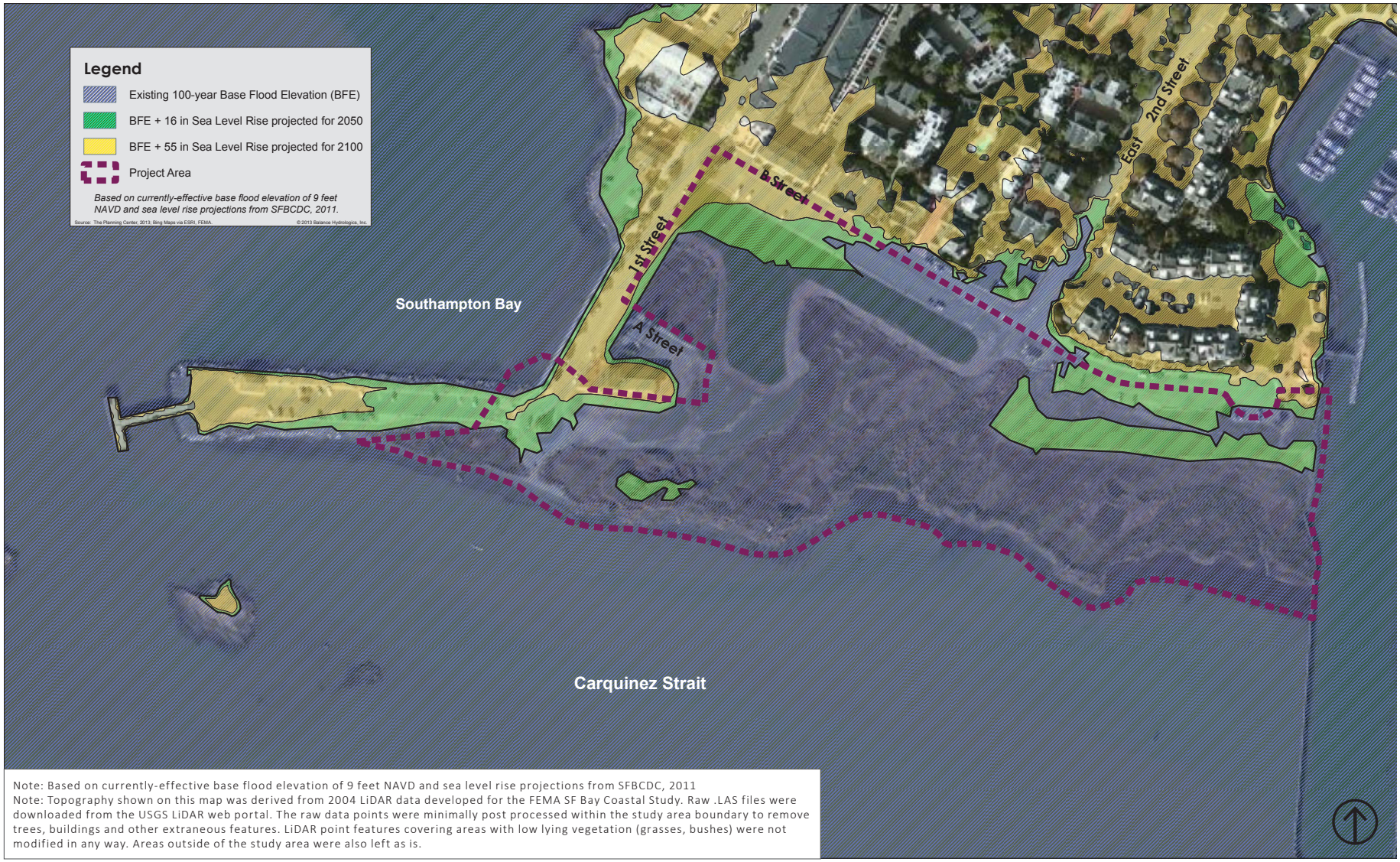
2. Zoning

The Project Area is zoned as Open Space and is adjacent to areas zoned as Town Core, as part of the Downtown Mixed Use Master Plan (DMUMP), which includes the historic Southern Pacific Depot. The areas within the DMUMP zoning designations are subject to the land use regulations and development standards of the DMUMP.

The condominiums at B Street, west of East Second Street, are zoned Medium Density Residential (8-14 Development Units per acre), and the Marina Condominiums, east of East Second Street, and the Harbormaster's office are zoned as Waterfront Commercial.

3. San Francisco Bay Conservation and Development Resolution No. 46 (Adopted May 19, 1977)

Resolution No. 46 was adopted by the San Francisco Bay Conservation and Development Commission (BCDC) to rectify inconsistencies between the adopted San Francisco Bay Plan of 1969, and the adopted Benicia Waterfront Plan of 1976 (Comprehensive Plan Amendment and amendment to the Open Space Plan). The City undertook a special area planning process with the BCDC, forming the Special Area Plan No. 3: Benicia Waterfront, for the waterfront from East Fifth Street through the First Street Peninsula Pier. The Project area consists of 16 acres of the 45 acre total Special Area Plan. Within this plan, the City proposed to improve and protect the wetland marsh as a wildlife preserve, while the 45-acre area located immediately behind the wetland was to be developed "as a public marina with some 309 berths and related commercial uses." When the Plan was adopted, it became part of both the comprehensive Plan of Development for Benicia and the Bay Plan. The City adopted the supplemental zoning measures and land use controls that the Plan recommended.



Note: Based on currently-effective base flood elevation of 9 feet NAVD and sea level rise projections from SFBCDC, 2011
Note: Topography shown on this map was derived from 2004 LiDAR data developed for the FEMA SF Bay Coastal Study. Raw .LAS files were downloaded from the USGS LiDAR web portal. The raw data points were minimally post processed within the study area boundary to remove trees, buildings and other extraneous features. LiDAR point features covering areas with low lying vegetation (grasses, bushes) were not modified in any way. Areas outside of the study area were also left as is.

Figure 3
FEMA Based Flood Elevation with and without Projected Sea Level Rise

4. BCDC Permit 5-77

Bay Conservation and Development Commission (BCDC) has jurisdiction in the Project Area which includes: 1) the open water, marshes, and mudflats of greater San Francisco Bay, including the Carquinez Strait, 2) the 100-foot shoreline, which includes the first 100 feet inland from the mean high-tide shoreline around San Francisco Bay, including the Carquinez Strait, and 3) The Benicia Waterfront Area Special Plan No. 3.

In June of 1977, the City received approval from the BCDC to proceed with a number of projects in the Special Area Plan No. 3 area, which includes the Project area, including construction of a marina, riprap, fishing pier, public boardwalks, tidal marsh, commercial and residential uses, public walkways and bikeways, parking areas, and overlooks. The permit has been amended 34 times since it was issued in 1977, and the majority of permitted projects have been completed. However, the current Project area remains unfinished.

Any proposed changes to the Waterfront Area that fall within the BCDC jurisdiction require either an amendment to the permit, or a new permit from the agency. Since the establishment of the first permit, the U.S. National Geodetic Survey has changed its base elevation measurement system from National Geodetic Vertical Datum (NGVD) of 1929 to North American Vertical Datum (NAVD) of 1988. These elevation measurement changes may affect the jurisdictional boundary of the BCDC and will need to be addressed with the agency in advance of any new permitting.

5. The 1997 Benicia Parks, Trails, and Open Space Master Plan

The Benicia Parks, Trails, and Open Space Master Plan is the City's guiding document for parks, open space, and trails. The Master Plan incorporates the 1991 Urban Waterfront Restoration Plan's proposals for the portion of Benicia's Waterfront located between the First Street Peninsula (Point Benicia Peninsula) and Turnbull Park. The recommended waterfront improvements included three marsh overlooks, a neighborhood park, improvements to First Street Peninsula, and an extension of the Benicia Waterfront Path. Phase One included marsh improvements and the creation of the Marsh Overlook Train Walk. Phase Two envisioned a pier marsh overlook, First Street Peninsula improvements, a Waterfront Trail, and the Turnbull Park marsh overlook.

In 2004, the City of Benicia implemented the First Street Peninsula improvements, which built upon the previously implemented First Street Promenade project. This project included paved parking areas, street lights, an ADA-accessible restroom, storm drain improvements, a turnaround, interpretive signage, curbs, and striping.

6. 1997 Mayor's Waterfront Task Force

The Mayor's Waterfront Task Force developed goals that represented guiding principles for the Benicia Waterfront, from the Benicia State Recreation Area to Suisun Bay. It reaffirmed the 1991 Waterfront Restoration Plan as the planning document for the First Street Green area. The report called for the development of a "Benicia Waterfront Trail" that runs adjacent to the water's edge, connecting the Benicia State Park with Lake Herman Road, and ultimately linking to other Bay trails. Within the current Project Area, the report called for the provision of a formal trail connection between Benicia Spit (First Street Peninsula) and the Marina public access area.

7. Benicia Waterfront Marsh Restoration Project

From 1998-2001, staff from The Department of Parks and Community Services worked with environmental planning consultants to develop the Benicia Waterfront Marsh Restoration Project, which was funded by the CALFED Bay-Delta Program (CALFED), which is a collaboration of 25 State and federal agencies to improve California's

water supply and quality of the San Francisco Bay/Sacramento-San Joaquin River Delta. The goal of the project was to improve the wetland and marsh habitat. The City applied for grant funding to implement the Plan. However, funding was not received and the project has not yet been implemented.

8. 2013 MS4 Phase II Permit

The City of Benicia intends to manage its stormwater in compliance with the provisions of its most recent MS4 Phase II Permit (currently 2013), regulated by the State Water Resources Control Board, San Francisco Bay Region 2.

9. 2004 Benicia Waterfront Park Initiative ("Measure C")

By citizen petition, the Benicia Waterfront Park Initiative was proposed to amend the City of Benicia General Plan for a section of Benicia's Waterfront. The City Council approved the measure in 2004. The purpose of the measure was to "establish a waterfront park on the City-owned land south of B Street, between First Street and the Harbormaster's Office, and extending the water's edge, but excluding the site upon which the 'Depot' sits." The Initiative prohibits permanent sports fields, courts, or equipment. It also prohibits permanent buildings, except for a public restroom or similar amenities. However, the Initiative does permit walkways, benches, drinking fountains, and trash receptacles. It also calls for the preservation of marshlands within the Waterfront park. The measure included provisions that the area only allows for park uses as a community gathering space for local festivals and other low impact recreational uses. The General Plan and Zoning had previously allowed for a variety of commercial uses. When the City Council adopted the measure with Resolution No. 04-178, the affected land was re-zoned from "Waterfront Commercial" or "Downtown Commercial" to "Open Space," requiring voter approval to further change the designation.

Following the passing of this measure, the 2008 Waterfront Park Plan was prepared. The purpose of this Plan was to implement the 2004 Benicia Waterfront Park Initiative, "to preserve and enhance the marsh and its transition into an urban Waterfront park," and to "envision a multi-purpose asset for all citizens that addresses sustainability, tourism, downtown revitalization, habitat restoration, Benicia history, the Arts, and public recreation." This Plan was developed by a Waterfront Park Committee of volunteers who worked to develop a vision for the 2004 initiative.

E. Required Permits and Approvals

The proposed Project requires the following approvals from the City of Benicia:

- Environmental Documentation required by CEQA (City of Benicia Municipal Code Section 17.100.060)

Future development of this property requires the following permits and approvals from the City of Benicia and other agencies:

- City of Benicia Grading Permit, City Public Works Department
- Section 404 of U.S. Clean Water Act permit, U.S. Army Corps of Engineers (US Fish and Wildlife Service and the National Oceanic Atmospheric Administration would be consulted as part of the 404 permit process.)
- RWQCB water quality certification under section 401 of the U.S. Clean Water Act
- California Department of Fish and Wildlife 2081 Permit (if one or more State-listed species could be affected)
- BCDC Permit 5-77
- City of Benicia Building Permit, Building Inspection Division

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INITIAL STUDY CHECKLIST

1.	**Project Title:**	Urban Waterfront Enhancement and Master Plan
2.	**Lead Agency Name and Address:**	City of Benicia Parks & Community Services Department 250 East L Street Benicia, CA 94510
3.	**Contact Person and Phone Number:**	Victor Randall (707) 746-4285 Parks & Community Services Department 250 East L Street Benicia, CA 94510
4.	**Project Location:**	First Street Green Benicia, CA 94510 (APN Numbers 008-0261-050, 008-0200-050, 008-0200-060, 008-0210-210)
5.	**Project Sponsor's Name and Address:**	City of Benicia 250 East L Street Benicia, CA 94510
6.	**General Plan Land Use Designations:**	Parks Open Space
7.	**Zoning:**	Open Space
8.	**Description of Project:**	Please see pages 1 through 10 of this Initial Study
9.	**Surrounding Land Uses and Setting:**	Please see page 1 of this Initial Study
10.	**Other Public Agencies Whose Approval is Required:**	SF Bay Conservation and Development Commission, U.S. Army Corps of Engineers

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a Potentially Significant Impact, as indicated by the checklist on the following pages.

❒ Aesthetics	❒ Agriculture & Forestry Resources	■ Air Quality
■ Biological Resources	■ Cultural Resources	❒ Geology & Soils
❒ Greenhouse Gas Emissions	❒ Hazards & Hazardous Materials	■ Hydrology & Water Quality
❒ Land Use	❒ Mineral Resources	■ Noise
❒ Population & Housing	❒ Public Services	❒ Recreation
❒ Transportation/Traffic	❒ Utilities & Service Systems	■ Mandatory Findings of Significance

Determination:
On the basis of this initial evaluation:

❒ I find that the proposed project COULD NOT have a significant effect on the environment and a NEGATIVE DECLARATION will be prepared.

■ I find that, although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

❒ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

❒ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

❒ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

_____ _____
Signature Date

ENVIRONMENTAL CHECKLIST

I. AESTHETICS

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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 that would adversely affect day or nighttime views in the area?	❒	❒	■	❒

DISCUSSION:
The Project site is located at the corner of First Street and B Street at the Benicia Waterfront. Due to the topography of Benicia, which includes residential and commercial development on several hillsides of varying elevations, the 1999 General Plan identifies several scenic views and vistas.[1] Identified vistas and views closest to the site include views to the west from First Street, which would be looking away from the Project site, and a major view point along Interstate 780 (I-780) looking south, west, and east, which is at an elevation looking well beyond and above the Project site. Much of Benicia's historical character is centered on the waterfront and the Downtown area spanning from the waterfront at the end of First Street to Military Road. As such, the General Plan seeks to protect scenic and aesthetic resources related to the historical character of Benicia. The Downtown Historic Conservation Plan also identifies a vista point near the intersection of B Street and Second Street looking over the Project site.[2]

The general landscape includes a variety of views ranging from vegetated rolling hillsides across the Carquinez Strait to views of the San Francisco Bay, the marshlands along the Project site's southern boundary, and a mixture of architecture; including late 1800s commercial buildings and contemporary mixed-use commercial/residential, at the northern boundaries of the site. The Shell Oil Products Company refinery, located on the southern edge of the Carquinez Strait in Martinez, is visible from the Project site. Views of the facility include industrial pipelines, storage tanks, the ship docks, and safety lights that are visible at night.

a) – b) The proposed Project seeks to enhance the First Street Green by providing increased public access through the addition of a Bay Trail segment, a boardwalk with guardrails, several observation decks, public art, and seating areas. There are no permanent buildings proposed under the Project; therefore, enhancements would primarily include landscape and hardscape, with the exception of a boardwalk with observation

[1] City of Benicia, Benicia General Plan, June 15, 1999, Figure 3-2, Vistas and Views.
[2] City of Benicia, Downtown Historic Conservation Plan, Figure 3, Open Spaces.

decks, which would be constructed below any vista or viewpoint identified in the Benicia General Plan or the Downtown Historic Conservation Plan.

As mentioned above, there are several vistas and viewpoints identified in the 1999 General Plan; however, the topography of Benicia with lower elevations at the water's edge sloping to higher elevations inland result in the Project site being situated below any of the identified vistas and views.

The Project site is located approximately 1.4 miles southwest of I-780. According to the Caltrans State scenic highway mapping system, there are no State scenic highways within Solano County;[3] however, the 1999 General Plan identifies the I-780 corridor as a scenic vista and view. Views from I-780 are from higher elevations than the Project site and would not be impacted by the proposed Project as a result.

The proposed Project would primarily consist of landscape and hardscape enhancements; therefore, the Project would not include permanent building type structures that could substantially damage scenic historical resources.

The proposed Project would not result in a substantial adverse effect on a scenic vista, nor would it substantially damage scenic resources. Therefore, a *less-than-significant* impact would occur.

No mitigation is required or necessary.

c) The Project site currently serves as a community park that includes a large area of turf grass, bounded by the Carquinez Strait along its southern, western, and eastern borders, and multi-story residential condominiums and townhomes to the north. Additionally, there are commercial structures adjacent to the Project site to the northwest. Further, the Project site includes largely undisturbed Marshland, Northern Coastal Salt Marsh, and Coastal Brackish Marsh.

The proposed Project would include enhancements, such as increased trails, public art, sidewalks, a boardwalk with guardrails, and the addition of trees along First Street; however, the enhancements are intended to mirror the design and character of the adjacent promenade situated along the western side of First Street. Additionally, there are no permanent structures, such as restrooms or other passive recreation supporting facilities that are proposed as part of the Project, with the exception of public art and seating areas.

Considering that the Project would enhance the character of the waterfront, impacts to the visual character and quality of the site and surroundings would be considered *less than significant*.

No mitigation is required or necessary.

d) Existing sources of light and glare in the Project Area include those typical of a downtown that includes residential and commercial development. As such, typical light sources range from street lights along First Street and B Street to lights attached to the façade of neighboring commercial, and commercial/residential mixed-use structures, and light sources emitted through the windows condominiums and townhomes adjacent to the Project site along B Street. Given that the park closes 30 minutes before sunset, vehicle headlights from visitors would not be considered a source of light during nighttime hours as a result of the pro-

[3] CalTrans, California Scenic highway mapping system, http://www.dot.ca.gov/hq/LandArch/scenic_highways/index.htm, accessed on December 11, 2013.

posed Project. Across the Carquinez Strait, dense lighting associated with the Shell Oil Products Company refinery is visible. Sources of glare include the reflection of sunlight from the water throughout the day, glare from the windows of nearby businesses and residential homes, and from vehicles parked along First Street and B Street.

Implementation of the proposed Project would include enhancements and relocation of existing street lights along B Street and the east side of First Street for consistency with street lighting along the west side of First Street; however, buildout of the Project would require approval of new light sources to ensure compliance with local laws and regulations with respect to lighting. Sources of glare associated with the reflection of sunlight from vehicle windshields could result from a slight increase in vehicles to the Project site; however, a potential increase in visitors is not expected to result in a substantial increase above existing conditions. Nighttime views are not expected to be impacted given the existing amount of ambient light during nighttime hours from neighboring businesses, residences, and vehicular traffic, along with views of the Shell Oil Products Company refinery. Therefore, the impact would be *less than significant,* with respect to the creating a new source of light and glare.

No mitigation is required or necessary.

II. AGRICULTURE AND FORESTRY RESOURCES

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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), 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 of conversion of forest land to non-forest use?	❒	❒	❒	■

DISCUSSION:

a) - e) A project would have a significant environmental impact if it would convert prime agricultural land to non-agricultural use or impair productivity of prime agricultural or forestry land. According to the maps pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, land in and around the downtown Benicia area, including the Project site, is categorized as Urban and Built-Up Land.[4] Therefore, there would be *no impact* with respect to conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.

As discussed above, there is no agricultural land within the vicinity of the Project Area; therefore, the proposed Project would not conflict with existing zoning for agricultural use, or a Williamson Act contract. Therefore, *no impact* would occur.

The Project site is within an urban area and would enhance the existing hardscape and landscape of an already existing park. Accordingly, the Project site is zoned as Open Space; therefore, the proposed Project is not within an area zoned as forestland and, as a result, there would be *no impact* with respect to the loss of forest land or conversion of forest land to non-forest use.

No mitigation is required or necessary.

III. AIR QUALITY

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
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 area is in non-attainment under applicable federal or State ambient air quality standards (including releasing emissions which exceed quantitative Standards for ozone precursors or other pollutants)?	❒	❒	■	❒
d) Expose sensitive receptors to substantial pollutant concentrations?	❒	❒	■	❒
e) Create objectionable odors affecting a substantial number of people?	❒	❒	■	❒

[4] California Resources Agency, Farmland Mapping and Monitoring Program, Solano County Important Farmland 2010, ftp://ftp.consrv.ca.gov/pub/dlrp/FMMP/pdf/2010/sol10.pdf, accessed on December 12, 2013.

DISCUSSION:

Air Pollutants of Concern

Criteria Air Pollutants
The pollutants emitted into the ambient air by stationary and mobile sources are regulated by federal and State law under the National and California Clean Air Act, respectively. Air pollutants are categorized as primary and/or secondary pollutants. Primary air pollutants are those that are emitted directly from sources. Carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NOx), sulfur dioxide (SO_2), coarse inhalable particulate matter (PM_{10}), fine inhalable particulate matter ($PM_{2.5}$), and lead (Pb) are primary air pollutants. Of these, all of them except for ROGs are "criteria air pollutants," which means that ambient air quality standards (AAQS) have been established for them. The National and California AAQS are the levels of air quality considered to provide a margin of safety in the protection of the public health and welfare. They are designed to protect those "sensitive receptors" most susceptible to further 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. Healthy adults can tolerate occasional exposure to air pollutant concentrations considerably above these minimum standards before adverse effects are observed.

Toxic Air Contaminants
In addition to criteria air pollutants, both the State and federal government regulate the release of Toxic Air Contaminants (TACs). The California Health and Safety Code define a TAC as "an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health." A substance that is listed as a hazardous air pollutant pursuant to Section 112(b) of the federal Clean Air Act (42 United States Code Section 7412[b]) is a TAC. Under State law, the California Environmental Protection Agency (Cal/EPA), acting through the California Air Resources Board (CARB), is authorized to identify a substance as a TAC if it determines that the substance is an air pollutant that may cause or contribute to an increase in mortality or serious illness, or may pose a present or potential hazard to human health.

a) On September 15, 2010, the Bay Area Air Quality Management District (BAAQMD) adopted the 2010 Bay Area Clean Air Plan (CAP). The design for the proposed Project would be intended to improve and enhance the existing First Street Green; expand the current trail access; incorporate public amenities, such as public art, observation platforms, seating areas, and interpretive signage; and restore the wetlands. The proposed Project would be consistent with existing land use and zoning designations. Due to the scale and type, the proposed Project does not have the potential to substantially affect housing, employment, and population projections within the Solano County region. The proposed Project would not conflict or obstruct implementation of the 2010 Bay Area CAP and would result in a *less-than-significant* impact.

No mitigation is required or necessary.

b) The following describes Project-related impacts from potential short-term construction activities and long-term operation that could occur under implementation of the proposed Project.

Construction Period
Criteria air pollutants generated during construction activities would commence over four phases and 17 years, as indicated in the Project Description, and would include the following sources:
a) Exhaust emissions from powered construction equipment;
b) Fugitive dust generated by earthmoving, excavation, and other construction activities; and

c) Motor vehicle emissions associated with vehicle trips.

Air pollutant emissions from construction activities associated with the implementation of the proposed Project on-site would vary daily as construction activity levels change during different construction phases of the proposed Project. BAAQMD's screening criteria establishes the sizes of different types of projects that would be required to produce a detailed air quality assessment, and identifies screening criteria for city parks, which states that city park projects 67 acres or less are not likely to produce more than 1,100 MT of CO_2 each year. Because construction of the proposed Project would fall under BAAQMD's screening criteria for public parks, a detailed air quality assessment of the proposed Project's air pollutant emissions is not required. However, the amount of dust generated during construction would be highly variable and is dependent on the size of the area disturbed at one time along with the amount of activity, the equipment being operated, soil conditions, and meteorological conditions. If uncontrolled, PM_{10} and $PM_{2.5}$ levels downwind of actively disturbed areas could possibly exceed State standards. Consequently, construction-related criteria pollutant emissions would result in a potentially significant impact. However, the direction of prevailing winds are such that emissions would be downwind of nearby sensitive receptors. Further, implementation of Mitigation Measure AIR-1 would reduce the impact to a *less-than-significant* level.

Operational Period

Implementation of the proposed Project would involve the future enhancement of a public park over four phases and 17 years, as indicated above. The operation would include additional vehicles as a result of additional amenities, such as a waterfront boardwalk and improved pedestrian areas. The construction, as a result of implementation of the proposed Project, would fall under BAAQMD's screening criteria, which states that city parks 67 acres or less would not exceed 1,100 MT of CO_2 per year and would not be required to produce a detailed air quality assessment; therefore, operation-related criteria pollutant emissions would be considered *less than significant.*

Mitigation Measure AIR-1: Fugitive dust emissions (PM_{10} and $PM_{2.5}$) may be considered to be significant unless the BAAQMD's Basic Control Measures for fugitive dust control are implemented during construction. The Project contractor shall prepare a dust control plan prior to commencement of construction activities. Specification of the approved dust control measures shall be included in all construction documents and implemented during construction activities. The dust control plan shall include the following BAAQMD Basic Control Measures listed below:

- Water all active construction areas at least twice daily, or as often as needed to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour (mph). Reclaimed water should be used whenever possible.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard (i.e. the minimum required space between the top of the load and the top of the trailer).
- Apply water twice daily or as often as necessary to control dust, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Sweep daily (with water sweepers using reclaimed water, if possible), or as often as needed, all paved access roads, parking areas and staging areas at the construction site to control dust.
- Sweep public streets daily (with water sweepers using reclaimed water if possible) in the vicinity of the Project site, or as often as needed, to keep streets free of visible soil material.

- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Limit vehicle traffic speeds on unpaved roads to 15 mph.
- Vehicle idling times shall be minimized either by shutting equipment off when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]).
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff from public roadways.

Significance after Mitigation: Less than significant.

c) According to CARB's Area Designations, the San Francisco Air Basin (SFBAAB) is currently designated as a non-attainment area for California and National O_3, California and National $PM_{2.5}$, and California PM_{10} AAQS.[5] Any project that does not exceed established standards, or can implement measures to mitigate emissions to levels below BAAQMD's significance thresholds, does not add significantly to a cumulative impact. As described above, implementation of the proposed Project would result in enhancements of a public park, the construction or operation of which would not result in a substantial net increase in pollutants. Therefore, impacts to air quality would be considered *less than significant.*

No mitigation is required or necessary.

d) The proposed Project would expose sensitive receptors to elevated pollutant concentrations if it causes or contributes significantly to elevated pollutant concentration levels. Localized concentrations refer to the amount of pollutant in a volume of air (ppm or $\mu g/m^3$) and can be correlated to potential health effects to sensitive populations.

Construction Risk and Hazards

Implementation of the proposed Project would minimally elevate concentration of TACs and diesel-$PM_{2.5}$ in the vicinity of sensitive land uses during construction activities. Sensitive land uses in the vicinity of the proposed Project include single- and multiple-family residential land uses near the Project site, on East B Street and along First Street. As previously mentioned, the direction of prevailing winds are such that emissions would be downwind of nearby sensitive receptors. Further, with the implementation of Mitigation Measure AIR-1, construction impacts would be reduced to a *less-than-significant* level.

[5] California Air Resources Board (CARB), 2013. *Area Designations: Activities and Maps*, http://www.arb.ca.gov/desig/adm/adm.htm.

Operational Risk and Hazards
Implementation of the proposed Project could result in improvements to a public passive use park, which is not the type of sensitive land use that would necessitate an evaluation of impacts relative to BAAQMD's community risk thresholds for operation. As a result, a *less-than-significant* impact would occur.

CO Hotspots
Areas of vehicle congestion have the potential to create pockets of concentrated CO emissions (called hotspots). These pockets have the potential to exceed the State 1-hour standard of 20 ppm or the eight-hour standard of 9 ppm. According to BAAQMD CEQA Guidelines, under existing and future vehicle emission rates, a project would have to increase traffic volumes at a single intersection by more than 44,000 vehicles per hour or 24,000 vehicles per hour where vertical and/or horizontal air does not mix, in order to generate a significant CO impact.[6] The proposed Project would generate a nominal amount of vehicle trips associated with the planned improvements. Therefore, impacts would be *less than significant*.

No mitigation is required or necessary.

e) Public parks are not considered a type of land use with the potential to create objectionable odors. The type of facilities that are considered to have objectionable odors include wastewater treatment plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g. auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities. Future development of the proposed Project would not generate objectionable odors that would lead to a public nuisance; therefore, operational impacts would be *less than significant.*

During any future construction activities, construction equipment exhaust would temporarily generate odors. Any construction-related odor emissions would be temporary, intermittent in nature, and would dissipate rapidly from the source with an increase in distance. Given the direction of the prevailing winds, odors would not likely be objectionable and constitute a public nuisance. Impacts associated with construction-generated odors would be *less than significant.*

No mitigation is required or necessary.

[6] Bay Area Air Quality District (BAAQMD), 2012. *California Environmental Quality Act Guidelines.*

IV. BIOLOGICAL RESOURCES

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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 Game 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 Game or US 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 local policies or ordinances 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?	❒	■	❒	❒

DISCUSSION:

Background and Methods

Biological resources associated with the Project site were identified through a review of available background information, field survey, and detailed mapping. Available documentation was reviewed to provide information on general resources in the Benicia area, presence of sensitive natural communities, and the distribution and habitat requirements of special-status species which have been recorded from or are suspected to occur in the project vicinity. A field reconnaissance survey was originally conducted on March 1, 2013, to determine vegetation and wildlife habitat, provide a preliminary assessment of the extent of potential jurisdictional waters, and conduct a habitat assessment for special-status species. The results of this initial evaluation were summarized in a Biological Assessment and Environmental Baseline Memo (Baseline Memo) prepared by Environmental Collaborative (dated April 12, 2013), and contained in the Appendix. The Baseline Memo contains detailed information on existing conditions,

the regulatory framework pertaining to the protection of biological and wetland resources, and recommendations for further surveys and mapping which have since been performed or are currently under way, including a wetland delineation and surveys for special-status plants suspected to possibly occur in the remaining natural areas on the site. A preliminary wetland delineation was conducted by Environmental Collaborative, the results of which were incorporated into a letter report (dated October 18, 2013), which was verified by the U.S. Army Corps of Engineers during a field reconnaissance on December 20, 2013. Systematic surveys for special-status plants were conducted on April 30, 2014 and June 18, 2014, and a supplemental survey will be conducted in summer of 2014 to confirm absence of any late-flowering species.

A summary of the conditions described in the Baseline Memo and other site surveys and mapping is provided below, followed by a review of each of the checklist questions and recommendations for mitigation to address any potentially significant impacts, where warranted.

Vegetation

The location of the Project site along the shoreline of the Carquinez Strait and edge of the developed Downtown area of Benicia are major influences on the existing vegetation and wildlife resources. Coastal salt marsh, brackish water marshlands, and open water habitat of the Strait occupy the southern, lower elevations of the Project site. As part of past development in the area over the past 150 years, fills were placed to improve human access and reduce the potential for flooding in parts of the northern portion of the site, reducing the original extent of marshland habitat. The southern portion of the Project Area was restored to wetlands by the City in the 1970s. Upland areas are now covered with impervious and gravel surfaces, or support irrigated turf and areas of ruderal (weedy) grassland.

The disturbed uplands on the site support a limited number of primarily non-native species. These consist of several species of palms, irrigated turf, and other ornamental plantings. Individual Canary Island date palms (*Phoenix canariensis*) are scattered through the margins and upper terraces of the marshlands, and are displacing native cover due to shading from the dense thicket of fronds. Invasive species such as sweet fennel (*Foeniculum vulgare*), yellow-star thistle (*Centaurea solstitialis*), and wild radish (*Raphanus sativus*) occur at the margins of developed areas where routine mowing and maintenance are not performed.

Ruderal grasslands continue to dominate the southeastern upland area of the site, and along the margins of upland areas. These areas are dominated by non-native species common in the Benicia area, such as slender wild oat (*Avena barbata*), ripgut grass (*Bromus diandrus*), lotus (*Lotus scoparius*), common vetch (*Vicia sativa*), and English plantain (*Plantago lanceolata*). Where surface water ponds for prolonged periods, seasonal wetland indicator species are present in areas that have been filled in the past. Depending on the depth and duration of inundation, some of the depressional areas are devoid of vegetation, with the margins supporting seasonal wetland indicator species such as brass buttons (*Cortula coronopifolia*), brome fescue (*Vulpia bromoides*), perennial ryegrass (*Lolium multiflorum*), Bermuda grass (*Cynodon dactylon*), salt grass (*Distichlis spicata*), and hyssop loosestrife (*Lythrum hyssopifolia*).

Coastal salt marsh and brackish water marsh occurs along the lower elevations of the site, generally below about 7.4 NAVD.[7] Tidal marsh habitats have a typical vertical structure, with mud flat and open water at the lowest elevations, marshlands at mid-elevations and non-native grasslands at the upper elevations. The lowest elevation vegetation zone support open stands of cordgrass (*Spartina* spp.), with pickleweed (*Salicornia virginica*) co-dominated in places by saltgrass in the mid-marsh zone. Pickleweed and saltgrass are still dominant components in some areas in the upper marsh zone, together with patches of alkali heath (*Frankenia salina*) and gumplant (*Grindelia stricta* ssp.

[7] NAVD refers to North American Vertical Datum of 1988.

angustifolia). Dense stands of bullrush (*Scirpus maritimus*) and cattail (*Typha latifolia*) occur along the upper end of the brackish-water marsh along the drainage that discharges onto the site from the culvert under East 2nd Street. The upper margins of the marshlands transition into areas of ruderal grassland cover, dominated by non-native grasses and ruderal herbaceous species such as mustard (*Brassica* sp.), iceplant (*Mesembryanthemum* sp.), ripgut grass, English plantain, and sweet fennel.

Highly invasive perennial pepperweed (*Lepidium latifolium*) has spread throughout the isolated stand of coastal salt marsh habitat north of the historic A Street stub, north of the railroad station building and east of First Street, and is spreading through the other areas of coastal salt marsh on the site. This non-native species forms a dense cover over native marsh species and disrupts foraging and other activities of wildlife.

Wildlife Habitat

The Project site supports a wide diversity of wildlife, given the interface of upland and aquatic habitat along the shoreline of Carquinez Strait. Upland areas of turf and landscaping have only limited habitat value, but the irrigated turf and seasonal wetland areas are frequently grazed by Canada goose and provide occasional foraging opportunities for birds found in urban habitat such as American robin, scrub jay, house finch and northern mockingbird. Ruderal grasslands in the eastern portion of the site and margins of the marshlands continue to provide important cover for grassland-dependent species such as California vole, pocket gopher, gopher snake, sparrows, finches, and other passerine birds. Several species of raptors utilize the grasslands and marshlands for foraging, but suitable nesting habitat is absent given the lack of nesting trees and intensity of human activity in upland areas.

The shoreline and open water of Carquinez Strait provides foraging opportunities for numbers species of birds, and aquatic habitat for fish, mollusks, and invertebrates. The mudflats support a diverse assemblage of benthic macro-invertebrates which in turn attracts large numbers of migrating and wintering shorebirds such as willet, long-billed curlew, marbled godwit, dowitchers, and sandpipers. Shorebirds and wading birds most likely use the stands of marsh, shallow mudflats, and exposed shoreline for foraging. These species forage on mudflats as they are exposed by receding tides, often concentrating at the water's edge where worms, crustaceans, and bivalves are closer to the mud's surface. Wading birds such as snowy egret, great egret, and great blue heron forage along the margins of tidal channels and marsh edges. Dabbling (i.e. surface-feeding) ducks, such as mallard, forage over inundated mudflats and tidal channels. When inundated by high tides, tidal channels and mudflats provide important foraging habitat for a variety of estuarine species, including bat ray, leopard shark, and various fish species.

Special-Status Species

Special-status species are plants and animals that are legally protected under the State and/or federal Endangered Species Acts or other regulations, as well as other species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or denning locations, communal roosts and other essential habitat (see attached Baseline Memo for a full description and regulatory framework). Special-status species receive varying degrees of legal protection under both the federal and California Endangered Species Acts, and the California Environmental Quality Act. The U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NOAA Fisheries), and the California Department of Fish and Wildlife (CDFW) share responsibility for protection and management of natural resources (see detailed description in Regulatory Context of Baseline Memo in the Appendix). Special-status species with legal protection often represent a major constraint to development, particularly when these species are wide ranging or highly sensitive to human disturbance. If a listed species may be affected by proposed development, the lead agency must initiate a consultation with the USFWS, NOAA Fisheries, and/or CDFW, as required by state or federal law. Without adequate mitigation, habitat modification could result in a "take" of a listed species.

Based on recorded geographic range and preferred habitat, a number of special-status species have been reported from or are suspected to occur along the Carquinez Strait and Benicia vicinity. Figure 4 shows the distribution of special-status plant and animal species monitored by the California Natural Diversity Data Base (CNDDB) within approximately five miles of the site. As indicated in Figure 4, an occurrence of Suisun song sparrow (*Melospiza melodia maxillaris*) has been reported from marshland habitat along the shoreline of the Strait encompassing the site eastward to the Benicia Bridge. And specific occurrences of Mason's liliaeopsis which was observed on pilings along the shoreline and Delta tule pea (*Laythrus jepsonii* var. *jepsonii*) which was observed in marshland habitat east of the Benicia Marina have been reported from within half a mile of the site. General occurrences of Bolander's water-hemlock (*Cicuta maculata* var. *bolanderi*) and big tarplant (*Blepharizonia plumosa*) have been reported by the CNDDB as historic records that extend over most of the Benicia vicinity, as does an historic record of Carquinez goldenbush (*Isocoma arguta*). The following provides a summary of special-status plant and animal species suspected to possibly occur in the site vicinity.

Special-Status Plants. Table 1 provides information on the status and typical habitat characteristics of those special-status plant species considered to have the greatest likelihood for occurrence in the site vicinity, together with their likelihood of occurrence on the site. A number of these have been reported from grassland, freshwater marshes, and woodland habitat, such as big tarplant, fragrant fritillary (*Fritillaria liliacea*), Congdon's tarplant (*Hemizonia parrayi* ssp. *congdonii*), and chaparral ragwort *(Senicio aphanactis)*. Suitable habitat for these species is absent in the vicinity of the Project site due to the extent of past development in upland areas, and these species are not suspected to occur on the site. The remaining natural marshlands could support a number of marsh-dependent special-status plant species, and the scattered pilings on the site could support one more occurrences of Mason's lilaeopsis. Marshland-dependent special-status plant species considered to have some potential to occur in the remaining marshlands on the site include: Bolander's water hemlock, soft bird's beak, Delta tule pea, Marin knotweed (*Polygonum marinense*), among others. However, no special-status plant species were encountered during the initial systematic survey for special-status plants conducted in April and June 2014. This included absence of any Mason's lilaeopsis on the scattered pilings along the shoreline, and other marsh-dependent species in the marshland habitat on the site. A final supplemental survey will be conducted this summer to confirm absence of any late flowering special-status plant species on the Project site.

Special-Status Animals. As indicated in Figure 4, Suisun song sparrow is the only special-status animal species to actually have been reported from the site by the CNDDB of the CDFW, but saltmarsh common yellowthroat were heard vocalizing in dense marsh vegetation during the field reconnaissance in March 2013. Occurrences of coastal salt marsh-dependent species, such as California black rail (*Laterallus jamaicensis coturniculus*), California clapper rail (*Rallus longirostris obsoletus*), salt marsh harvest mouse (*Reithrodontomys raviventris*), Suisun shrew (*Sorex ornatus sinuosus*), and Suisun song sparrow have been reported from Southampton Bay approximately two miles west of the Project site, and from Suisun Marsh about 3 miles east of the Project site. It is highly likely that these and other special-status bird species occasionally forage along the shoreline of the Strait between larger areas of high quality habitat, and may frequent or occasionally forage in the marshland habitat on the site. Although the stands of pickleweed on the Project site is most likely not large enough to sustain occurrences of special-status mammals know from coastal salt marsh, particularly given the absence of essential upland refugia during flood events, there remains a possibility that salt marsh harvest mouse and/or Suisun shrew could occasionally disperse along the shoreline of the Strait during flood events and could seek refuge in the marshland habitat on the Project site.

Table 2 provides information on the status and typical habitat characteristics of those special-status animal species considered to have the greatest likelihood for occurrence in the site vicinity, together with their likelihood of

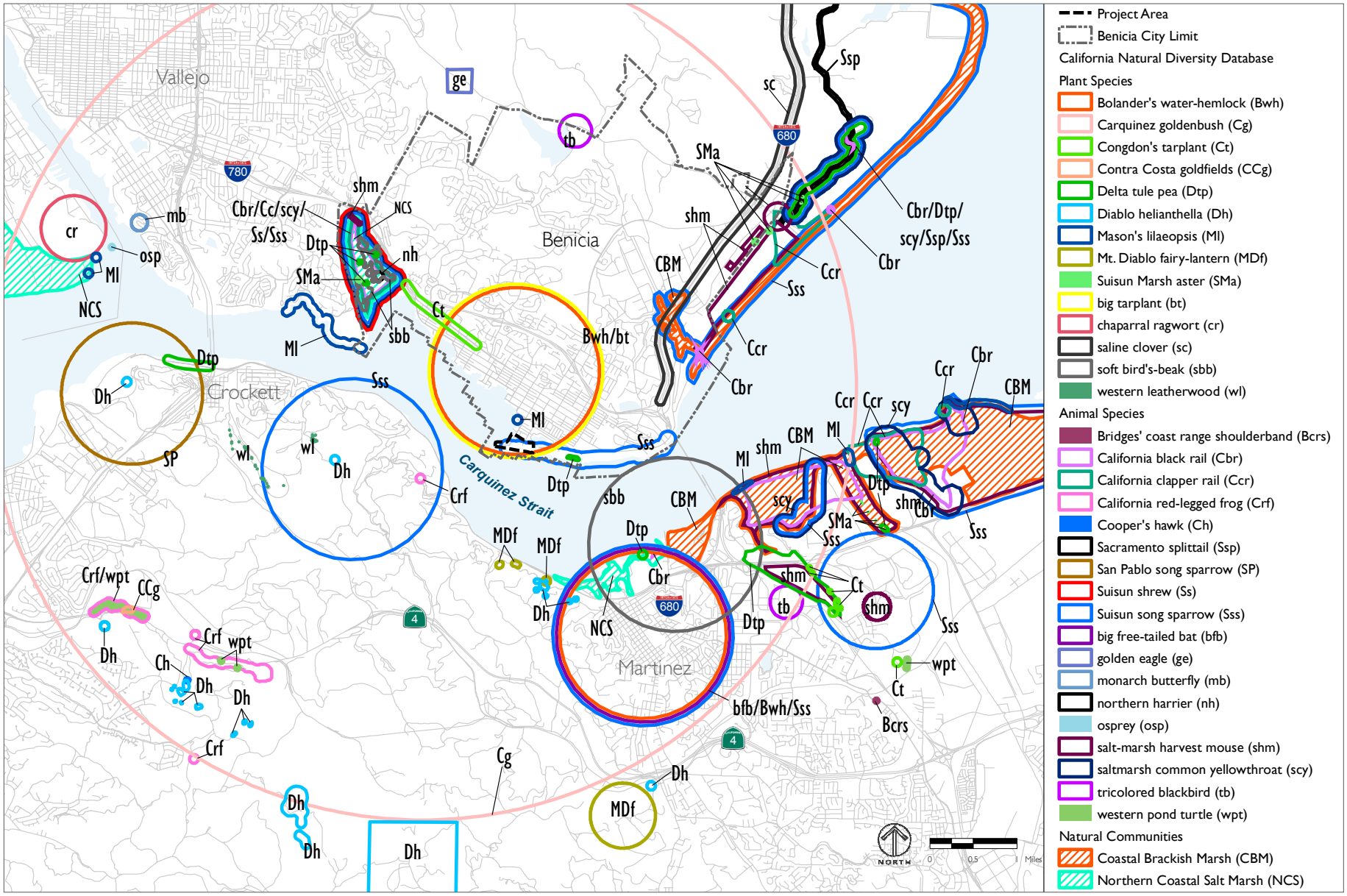


Figure 4

CNDDB Occurence of Special-Status Species and Sensitive Natural Communities

TABLE 1 SPECIAL-STATUS PLANT SPECIES KNOWN OR SUSPECTED TO OCCUR IN BENICIA VICINITY

Taxa Name	Status (Fed/State/ CNPS)	Habitat Characteristics (Site Habitat Suitability)	Distribution (Presumed Extirpated)	Flowering Period
Aster lentus Suisun marsh aster	-/-/1B	Brackish water marshes and swamps (**Potential habitat present**)	Contra Costa, Napa, Sacramento, Solano	May-Oct.
Astragalus tener var. tener Alkali milk-vetch	-/-/1B	Valley grassland, vernal pools, and playas (**No suitable habitat**)	Merced, Solano, Yolo (Alameda, Contra Costa, Monterey, Napa, Santa Barbara, Santa Clara, San Francisco, San Joaquin, Stanislaus)	March-June
Atriplex joaquiniana San Joaquin saltbrush	-/-/1B	Alkaline grassland and scrub (**No suitable habitat**)	Alameda, Contra Costa, Colusa, Glenn, Merced, Napa, Sacramento, Santa Barbara, Yolo (Santa Clara, San Joaquin, Solano, Tulare)	April-Sept.
Blepharizonia plumosa Big tarplant	-/-/1B	Grassland (**No suitable habitat**)	Alameda, Contra Costa, San Joaquin, Solano, Stanislaus	July-Oct.
Centromadia parryi ssp. Congdonii Congdon's tarplant	-/-/1B	Grassland **(No suitable habitat**)	Alameda, Contra Costa, Monterey, Santa Clara, Santa Cruz, San Luis Obispo, San Mateo, Solano	May-Nov.
Cordylanthus mollis ssp. Mollis Soft bird's-beak	FE/SR/1B	Coastal salt marsh (**Potential habitat presaent)**	Contra Costa, Marin, Napa, Solano	July-Nov.
Fritillaria liliacea Fragrant fritillary	-/-/1B	Coastal scrub and grassland often (**No suitable habitat**	Alameda, Contra Costa, Monterey, Napa, San Benito, Santa Clara, San Francisco, San Mateo, Solano, Sonoma	February-April
Isocoma arguta Carquinez goldenbush	-/-/1B	Grassland (**No suitable habitat**)	Contra Costa, San Luis Obispo, Solano	August-Dec.
Lasthenia conjugens Contra Costa goldfield	FE/-/1B	Low flats and borders of vernal pools (**No suitable habitat**)	Napa, Solano, (Alameda, Contra Costa, Mendocino, Santa Barbara, Santa Clara)	April-May
Lathyrus jepsonii ssp. Jepsonii Delta tule pea	-/-/1B	Brackish water marshes and swamps (**Potential habitat present**)	Alameda, Contra Costa, Fresno, Napa, San Benito, Santa Clara, San Joaquin, Solano	May-June
Lilaeopsis masonii Mason's lilaeopsis	-/SR/1B	Brackish water marshes and swamps (**Potential habitat present**)	Contra Costa, Napa, Sacramento, San Joaquin, Solano	June-August
Polygonum marinense Marin knotweed	-/-/1B	Coastal salt marsh (**Potential habitat present**)	Marin, Napa, Sonoma	June-August
Senicio aphanactis Chaparral ragwort	-/-/2	Coastal scrub, chaparral, woodland (**No suitable habitat**)	Alameda, Contra Costa, Fresno, Los Angeles, Merced, Orange, Riverside, Santa Barbara, Santa Clara, elsewhere	Jan-April
Trifolium hydrophylum Saline clover	-/-/1B	Salt marsh, alkaline pools, grassland **(No suitable habitat)**	Central coast counties, and Solano and possibly Colusa	April-June

Federal Status:

FE = Listed as "endangered" under the Federal Endangered Species Act.

State Status:

SE = Listed as "endangered" under CESA. SR = Listed as "rare" under CESA.

CNPS Status:

1A = Plants of highest priority; plants presumed extinct in CA.

1B = Plants of highest priority; plants rare and endangered in CA and elsewhere.

2 = Plants rare, threatened, or endangered in CA; more common elsewhere.

TABLE 2 SPECIAL-STATUS ANIMAL SPECIES KNOWN OR SUSPECTED TO OCCUR IN BENICIA VICINITY

Species	Status Federal/State	Preferred Habitat Type (Site Habitat Suitability)
Invertebrates		
Bridges' coast range shoulderband	-/-	Grasslands and woodland margins with moist protective cover (**No suitable habitat**)
Callippe silverspot butterfly	FE/-	Open grasslands with golden violet host species (**No suitable habitat**)
Monarch butterfly	-/-	Overwinters in eucalyptus and cypress stands (**No suitable habitat**)
Amphibians/Reptiles/Fish		
California tiger salamander	FT/ST, SSC	Vernal pools, ponds, streams and adjacent grassland (**No suitable habitat**)
California red-legged frog	FT/SSC	Ponds, streams, adjacent riparian and upland (**No suitable habitat**)
Delta smelt	FT/ST	Brackish zone of Delta (**Marginal habitat in marsh/open water**)
Foothill yellow-legged frog	-/SSC	Permanent streams with cobbles (**No suitable habitat**)\
Northwestern pond turtle	-/SSC	Pond, rivers, and streams (**No suitable habitat**)
Longfin smelt	-/ST	Brackish zone of Delta (**Marginal habitat in marsh/open water**)
Sacramento splittail	-/SSC	Sloughs and other slow-moving waters of Delta (**Marginal habitat in marsh/open water**)
Steelhead	FT/SSC	Open water of Bay and Delta, tributary rivers and streams (**Marginal habitat in open water**)
Winter- run chinook salmon	FE/SE	Open water of Bay and Delta, tributary rivers and streams (**Marginal habitat in open water**)
Birds		
Burrowing owl	-/SSC	Grassland (**Marginal foraging habitat in upper marsh**)
California black rail	-/ST, FP	Salt marsh (**Marginal foraging habitat in marsh**)
California clapper rail	FE/SE, FP	Salt marsh (**Marginal foraging habitat in marsh**)
Cooper's hawk	-/-	Riparian and grassland (**No suitable habitat**)
Double-crested cormorant	-/-	Bays, rivers, lakes - communal roosts protected (**Marginal foraging habitat in open water**)
Golden eagle	-/FP	Open grassland and savanna (**No suitable habitat**)
Loggerhead shrike	-/SSC	Grasslands and scrublands (**Marginal foraging habitat in upper marsh and grassland edge**)
Northern harrier	-/SSC	Grassland (**Suitable foraging habitat in marsh**)
Osprey	-/-	Open water and adjacent tree cover for nesting (**Suitable foraging habitat in open water**)
Peregrine falcon	Delisted/Delisted	Open water and grassland (**Suitable foraging habitat in marsh**)
Prairie falcon	-/-	Grassland (**Suitable foraging habitat in marsh**)
Saltmarsh common yellowthroat	-/SSC	Salt and brackish water marsh (**Suitable foraging and nesting habitat in marsh**)

TABLE 2 SPECIAL-STATUS ANIMAL SPECIES KNOWN OR SUSPECTED TO OCCUR IN BENICIA VICINITY

Species	Status Federal/State	Preferred Habitat Type (Site Habitat Suitability)
San Pablo song sparrow	-/SSC	Brackish water marsh and adjacent upland (**Suitable foraging and nesting habitat in marsh**)
Suisun song sparrow	-/SSC	Brackish water marsh and adjacent upland (**Suitable foraging and nesting habitat in marsh**
Tricolored blackbird	-/SSC	Freshwater marsh and fields (**Marginal foraging and nesting habitat in marsh**)
White-tailed kite	-/FP	Grassland (**Marginal foraging habitat in upper marsh**)
Mammals		
Big free-tailed bat	-/SSC	Range of habitat types for foraging (**Marginal roosting habitat in structure**)
Salt marsh harvest mouse	FE/SE, FP	Salt marsh and adjacent grassland (**Marginal dispersal habitat in marsh**)
Suisun shrew	/SSC	Salt marsh (**Marginal dispersal habitat in marsh**)

Federal Status:
FE = Listed as "endangered" under the Federal Endangered Species Act (FESA).
FT = Listed as "threatened" under the FESA.
C = A candidate species under review for federal listing. Includes species for which the USFWS currently has sufficient biological information to support listing endangered or threatened.
State Status:
SE = Listed as "endangered" under California Endangered Species Act (CESA).
ST = Listed as "threatened" under CESA.
CP = California fully protected or protected species; individual may not be possessed or taken at any time.
SSC = California Special Concern species by the CDFW; species have no formal legal protection but nests and roosts are generally recognized as significant biotic features.
FP = California "fully protected" species may not be processed.

occurrence on the site. Most of these species are associated with open water and tidal marshland habitat or utilize open grasslands as foraging habitat. Delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinichus thaleichthys*), Sacramento splittail (*Pogonichthys macrolepidotus*), and winter-run chinook salmon (*Oncorhychus tshawytscha*) all occur in the open water habitat of Carquinez Strait and Suisun Bay to the east. Salt marsh harvest mouse, Suisun shrew, California black rail, California clapper rail, and Suisun song sparrow have all been sighted in the marshland habitat of Southampton Bay to the west and Suisun Marsh to the east, and as noted above may occasionally forage or disperse across the marshland habitat on the shoreline of the Project site.

Other species of concern are generally associated with grassland and woodland habitats, and most of these have been reported from the extensive undeveloped open space in the Sky Valley area several miles to the northeast. These include: callippe silverspot butterfly (*Speyeria callippe callippe*), Cooper's hawk (*Accipter cooperi*), golden eagle (*Aquila chrysaetos*), burrowing owl (*Athene cunicularia*), northern harrier (*Circus cyaneus*), white-tailed kite (*Elanus leucurus*), prairie falcon (*Falco mexicanus*), Peregrine falcon (*Falco peregrinus anatum*), loggerhead shrike (*Lanius ludovicianus*), California tiger salamander (*Ambystoma tigrinum californiense*), western pond turtle (*Eyms marmorata*), California red-legged frog (*Rana draytonii*), and foothill yellow-legged frog (*Rana boylii*). Suitable habitat for most of these species is absent from the site, although special-status bird species may occasionally forage in the remaining natural areas on the site, such as loggerhead shrike, white-tailed kite, prairie falcon, and peregrine

falcon. Northern harrier is a frequent visitor to the site, foraging in the open marshlands. But suitable nesting habitat is absent for this ground nesting species because of the on-going disturbance by humans and dogs in the upper marsh zone. A number of special-status bat species are known from Solano County, including big free-tailed bat (*Nyctinomops macrotis*), but suitable roosting habitat is absent from the Project site.

Sensitive Natural Communities

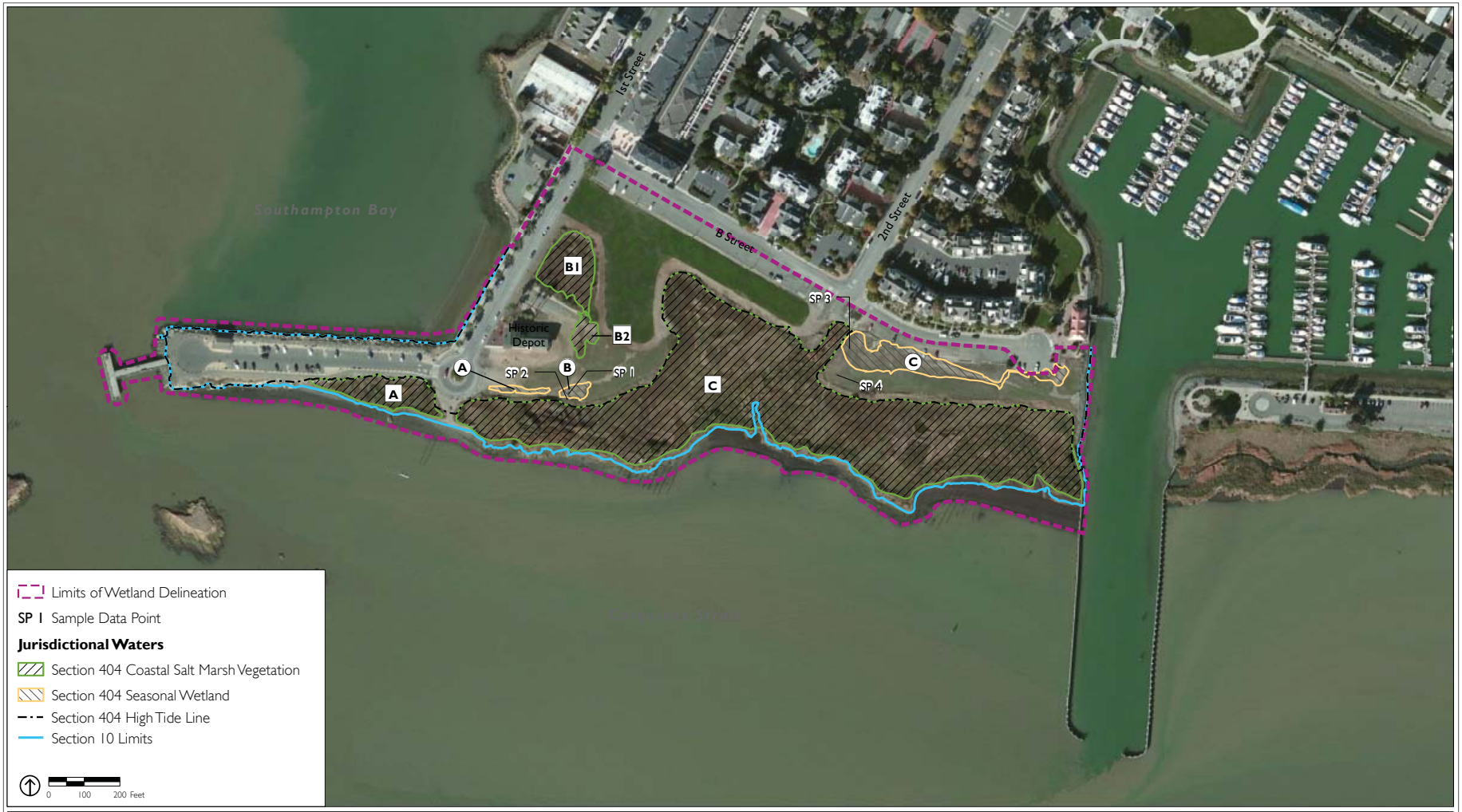
In addition to species-oriented management, protecting habitat on an ecosystem-level is increasingly recognized as vital to the protection of natural diversity in the state. The CNDDB also monitors the locations of natural communities that are considered rare or threatened, known as sensitive natural communities. The CNDDB has compiled a list of sensitive natural communities that are given a high inventory priority for mapping and protection. Although these natural communities have no legal protective status under the State or federal Endangered Species Acts, they are provided some level of protection under the CEQA Guidelines. A project would normally be considered to have a significant effect on the environment if it would substantially affect a sensitive natural community such as a riparian woodland, native grassland, or coastal salt marsh. Further loss of a sensitive natural community could also be interpreted as substantially diminishing habitat, depending on the relative abundance, quality and degree of past disturbance, and the anticipated impacts.

The coastal salt marsh and brackish water marsh on the Project site are considered sensitive natural community types. Areas of seasonal wetlands and upland areas of turf and ruderal grasslands are dominated by non-native species and are not considered a sensitive natural community type. However, the areas of seasonal wetland qualify as jurisdictional waters and any modifications to these features would be subject to agency authorization as discussed below.

Wetlands

Although definitions vary to some degree, wetlands are generally considered to be areas that are periodically or permanently inundated by surface or ground water, and support vegetation adapted to life in saturated soil. Wetlands are recognized as important features on a regional and national level due to their high inherent value to fish and wildlife, use as storage areas for storm and flood waters, and water recharge, filtration, and purification functions. State and federal laws regulate activities that could affect jurisdictional waters (see detailed description in Regulatory Context of Baseline Memo in the Appendix). Jurisdiction of the U.S. Army Corps of Engineers (Corps) is established through the provisions of Section 404 of the Clean Water Act, which prohibits the discharge of dredged or fill material into "waters" of the United States without a permit, including wetlands and unvegetated "other waters". The Corps is also responsible for administration of Section 10 of the Rivers and Harbor Act, which serves to regulate access over navigable waters. The Regional Water Quality Control Board (RWQCB) regulates federal waters under Section 401 of the Clean Water Act, and State waters under the Porter-Cologne Act. Jurisdictional authority of the CDFW over wetland areas is established under Section 1601-1606 of the Fish and Wildlife Code, which pertains to activities that would disrupt the natural flow or alter the channel, bed, or bank of any lake, river, or stream.

Based on the results of the preliminary wetland assessment, jurisdictional waters on the site consist of areas of coastal salt marsh and scattered areas of seasonal wetlands in filled uplands, as well as navigable waters along the Carquinez Strait. Figure 5 shows the extent of jurisdictional waters on the site, which have been preliminarily confirmed by representatives of the Corps conducted on December 20, 2013. These consist of an estimated 6.45 acres of coastal salt marsh, and 0.46 acre of scattered seasonal wetlands regulated under Section 404 of the Clean Water Act. Most of the coastal salt marsh occurs along the fringe of the open waters of Carquinez Strait, but an area of approximately 0.41 acre to the north of the Historic Depot is physically isolated by upland fills, and appears to have



Field Surveys conducted on March 1, June 27, and August 15, 2013 by Dianne Lake and James Martin, Environmental Collaborative.
Field verification conducted by Katerina Galacatos of the U.S. Army Corps of Engineers on December 20, 2013 with Jim Martin of Environmental Collaborative and Rick Knight of the City of Benicia.

NOTE: The Historic Depot site is included in the preliminary wetland study, but is not part of the Plan Area. The limits of the wetland delineation limits encompass areas outside of the actual Plan Area.

Preliminary Delineation of Section 404 and Section 10 Jurisdictional Waters
Benicia Waterfront Park

Note: Mapping is preliminary based on limited vegetation data and assumed hydrologic and soils criteria. A final determination on all boundaries of jurisdictional waters would require a wetland delineation and verification by the U.S. Army Corps of Engineers.

Figure 5
Potential Jurisdictional Wetlands

only a partial hydrologic connection to extreme high tides through a partially functioning culvert. Figure 5 also shows the Mean High Water elevation, which is typically used by the Corps in determining the limits of their jurisdiction under Section 10 of the Rivers and Harbors Act. On the site, the Mean High Water Elevation generally occurs at the edge of the marshlands and remaining shoreline areas.

a) **Special-Status Plant Species**

Improvements under implementation of the proposed Project are not expected to affect any populations of special-status plant species. No special-status plant species have been reported from the site or were encountered during the initial systematic survey. Past and on-going disturbance limits the potential for occurrence of special-status plant species, and additional systematic surveys will be conducted in 2014 to confirm from the Project site.

However, there is a remote possibility that one or more occurrences may have been undetected during the initial systematic survey, or that new occurrences could become established in the future through natural dispersal in the marshland. This could include loss of occurrences of Mason's lilaeopsis, Delta tule pea, Marin knotweed, soft bird's-beak, and other marsh and aquatic dependent species that have some potential for occurrence in the marshland. Activities contemplated under the Master Plan, including invasive species removal, proposed fills and creation of wetland habitat, and construction of the proposed boardwalk could adversely affect occurrences of special-status plant species if present in the marshland habitat on the site. However, with implementation of Mitigation Measure BIO-1, this potential impact on special-status plant species would be reduced to a *less-than-significant* level.

> **Mitigation Measure BIO-1: Protect Occurrences of Special-Status Plant Species.** Supplemental surveys shall be conducted to confirm that no special-status plant species occur in areas of marshland and aquatic habitat where fills or vegetation management activities are proposed to occur in the future. The surveys shall be conducted by a qualified botanist consistent with the latest survey guidelines by the California Department of Fish and Wildlife (CDFW), and shall extend through the flowering period of special-status plant species suspected to possibly occur in the vicinity. The surveys shall continue to be valid for a period of three years from the date they were completed, but supplemental confirmation surveys may be required if more than this period of time passes before improvements are constructed in natural marshland habitat. In the event that confirmation surveys identify any federally- or State-listed plant species that have become established on the site, all necessary permits and/or authorizations from the CDFW and U.S. Fish and Wildlife Service (USFWS) as required by federal and State law to for incidental take of those species shall be obtained. If any plant species that are not federally- or State-listed but maintained on the California Native Plant Society's Lists 1B or 2 are found in the vicinity of proposed disturbance and cannot be avoided, a salvage/relocation plan shall be developed by a qualified biologist and approved by CDFW prior to initiation of construction and other improvements in marshland habitat.

Special-Status Small Mammal Species

Although the Project site does not contain habitat conditions ideal for salt marsh harvest mouse or Suisun shrew, there is a possibility that individuals of these species could occasionally disperse onto the site from preferred habitat along the Carquinez Strait. In the remote instance that these individuals are present, activities under implementation of the proposed Project could result in harassment or loss of individuals, particularly during grading, placement of fills, and construction of the proposed boardwalk. Salt marsh harvest mouse is federally- and State-listed endangered and also recognized as a "Fully Protected" species by the CDFW, which means loss or take is not allowed except under approved scientific collection purposes. Ap-

propriate controls must be followed as part of any activities within areas of coastal salt marsh habitat and adjacent uplands to prevent inadvertent take of these special-status small mammals, as defined in the proposed Project. This includes the proposed fills of an estimated 0.41 acre of coastal salt marsh habitat dominated by native pickleweed and invasive perennial pepperweed northeast of the Historic Depot, grading along the fringe of the large stand of existing marshland on the site to create new coastal salt marsh habitat, and construction of the proposed boardwalk that would bisect the largest stand of coastal salt marsh on the site. The proposed Project includes management and maintenance provisions that would serve to provide additional controls on human encroachment into existing marshland habitat, and would eventually serve to improve habitat conditions for these two species if effectively implemented. These include installation of restrictive fencing and interpretive signage to exclude unauthorized access by humans and dogs into the stands of coastal salt marsh on the site. Implementation of Mitigation Measure BIO-2 would reduce potential impacts on special-status small mammals to a *less-than-significant* level.

Mitigation Measure BIO-2: Protect Special-Status Small Mammals. All construction and maintenance activities conducted in coastal salt marsh and adjacent uplands shall be performed in a manner to ensure avoidance of any salt marsh harvest mouse or Susuin shrew, in the remote instance that they are present. This shall include the following procedures to be followed:

- All City staff, contractors and volunteers involved in construction and maintenance activities performed in areas of coastal salt marsh and adjacent uplands within 50 feet of marsh habitat shall be trained over the possible presence of salt marsh harvest mouse and Suisun shrew, and instructed on the avoidance procedures to follow if any small mammals are encountered. This shall include training for staff and volunteers involved in routine maintenance such as mowing, weed whacking, invasive species removal and native revegetation, as well as contractors involved in placement of proposed wetland fills, wetland habitat creation, and construction of the proposed boardwalk, pathways, and landscaping within 50 feet of marsh habitat.
- Prior to proposed fills, grading, or construction in the areas of coastal salt marsh, a preconstruction survey shall be performed by a qualified biologist within 48-hours of initiating grubbing or grading to confirm presence or absence of any small mammals. Where appropriate, the construction area shall be excluded from access by special-status small mammals through hand removal of existing vegetation, followed by installation of barrier fencing to keep small mammals out of the construction zone. Any hand removal of existing vegetation shall be monitored by the qualified biologist, and slash shall be disposed of in a developed area where it would not provide protective cover for small mammals of concern.
- In the instance that a small mammal is encountered within a construction zone, the qualified biologist shall be called out to determine species and whether CDFW and USFWS need to be notified. Salt marsh harvest mouse is a State and federally-endangered, Fully Protected species and as such may not be taken at any time unless permitted for scientific purposes.

Protected Bird Species

There is a remote possibility that one or more species of birds protected under the federal Migratory Bird Treaty Act and State Fish and Game Code, could possibly nest in marshland habitat where future wetland creation, invasive species removal and the proposed pedestrian boardwalk are to be constructed. These areas do not contain suitable habitat for any State or federally-listed bird species, and the extent of activity by humans and dogs limits the likelihood that California clapper rail or black rail would nest anywhere on the site. However, there is a potential for several bird species recognized by the CDFW as California Species of Special Concern (SSC), such as saltmarsh common yellowthroat, San Pablo song sparrow, and Suisun song

sparrow, to nest in areas of dense marsh vegetation. Construction in or near these sensitive habitat areas could result in the inadvertent destruction or abandonment of nests in active use, which would be a violation of the Migratory Bird Treaty Act and CDFW Code. Conduct of preconstruction surveys and restrictions on timing of any disturbance in sensitive habitat areas would serve to address the potential for construction-related disturbance, as recommended in Mitigation Measure BIO-3, and would reduce this potential impact on protected bird species to a *less-than-significant* level.

> **Mitigation Measure BIO-3: Protect Nesting Birds**. To avoid the potential for disturbance of nesting birds associated with marsh habitat on or near the site, schedule any fills or other construction activities that encroach within 100 feet of coastal salt marsh habitat for the period of August 1 through February 28, as possible. If construction work cannot be scheduled during this period, a qualified biologist shall conduct pre-construction surveys for nesting birds in the marshland habitats within 100 feet of proposed construction. The surveys shall be conducted no later than 30 days prior to the start of work and shall focus on determining whether San Pablo song sparrow, saltmarsh common yellowthroat and/or tricolored blackbird are nesting in these areas. If these or other birds protected under the Migratory Bird Treaty Act are found nesting, then appropriate construction buffers shall be established to avoid disturbance of the nests until such time that the young have fledged. The size of the nest buffer shall be determined by the qualified biologist in consultation with CDFW, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of disturbance. Typically, these buffers range from 75 to 300 feet from the nest location. Nesting activities shall be monitored periodically by a qualified biologist to determine when construction activities in the buffer zone can be initiated.

b) Improvements under implementation of the proposed Project would affect areas of coastal salt marsh habitat, considered a sensitive natural community type. An estimated 0.41 acre of coastal salt marsh habitat would be filled to the northeast of the Historic Depot as part of the proposed expansion of the upland Green (see Figure 2). And additional areas of coastal salt marsh would be affected by construction and shading associated with the proposed boardwalk, which would bisect the largest stand of coastal salt marsh on the site. The proposed Project contains provisions to replace the areas of coastal salt marsh habitat filled or disturbed by proposed improvements, including creation of replacement wetlands, habitat enhancement through restrictions on human access, and invasive species removal. Additional detailed discussion of the potential impacts on coastal salt marsh habitat and associated sensitive species and importance as wildlife habitat are provided under Criteria a, c, and d. Implementation of Mitigation Measure BIO-4, in addition to mitigation measures recommended to address potential impacts on special-status species, jurisdictional wetlands and sensitive wildlife habitat, would serve to address the potential impacts on the coastal salt marsh sensitive natural community type and reduce these impacts to a less-than-significant level.

> **Mitigation Measure BIO-4: Coastal Salt Marsh Sensitive Natural Community**. Mitigation Measures BIO-1-3 and BIO 5-6 recommended to address potential impacts on special-status species, jurisdictional wetlands, and sensitive wildlife habitat would also collectively address potential impacts on the coastal salt marsh sensitive natural community type.

c) Implementation of the proposed Project would result in direct and indirect effects on jurisdictional wetlands and other waters. This includes proposed fills to existing wetlands, creation of new wetlands, impacts of construction and shading from the proposed boardwalk, and disturbance associated with invasive species removal, debris removal, and other management activities performed as part of the Master Plan. An estimated 0.41-acre of relatively isolated coastal salt marsh, dominated by native pickleweed and invasive perennial pepperweed, would be filled to the northeast of the Historic Depot to provide for an expanded up-

land Green on the site. Additional jurisdictional wetlands would be affected by construction and installation of the proposed boardwalk, which would extend approximately 500 feet over existing coastal salt marsh. The proposed boardwalk would be an estimated five feet wide, and elevated above the existing vegetation, but installation of support piers and some degree of shading could affect the extent of coastal salt marsh in this area, estimated at approximately 0.06 acre under a worst-case loss if all vegetation directly under the structure is completely shaded out, which is not anticipated to be the case. And an estimated 0.05 acre of seasonal wetlands would be lost as a result of access and plaza improvements at the eastern edge of the Project site.

As mitigation for the loss of existing coastal salt marsh and seasonal wetland habitat, the proposed Master Plan includes provisions to create replacement wetlands adjacent to the larger stand of coastal salt marsh and seasonal wetlands on the site (see Figure 2). An additional upland buffer area is also provided to account for future sea level rise and the displacement of existing wetlands to higher elevations. The 0.41 acre of existing coastal salt marsh habitat to be filled does have important functions and values, but is physically and hydrologically isolated from the larger stand of marshland along the edge of Carquinez Strait. The smaller areas of seasonal wetlands are highly disturbed by vehicle parking and other human activities, and replacement proposed under the Project would serve to enhance the remaining seasonal wetland areas through plantings of native species, seasonal restrictions on access, and improved management practices to provide more cover for wildlife. Best management practices would be utilized to prevent any construction-generated sediments or pollutants from entering the surrounding wetlands habitat.

The affected wetlands are jurisdictional waters, and any modifications to these features would require appropriate authorizations from State and federal regulatory agencies, including the Corps and RWQCB under Section 404 and 401 of the Clean Water Act, respectively. As currently proposed and under existing regulations, it appears that the proposed fills would qualify for authorization under the Nationwide Permitting Program of the Corps, which currently allows for relatively minor fill activities under 0.5 acre assuming all specific conditions can be met. Further review would be provided by these regulatory agencies when a permit application was formally submitted by the City. A program to monitor and maintain any created habitat provided as mitigation would be a requirement of the regulatory agency authorizations, ensuring adequate compensatory mitigation and successful establishment of any replacement marshland and adjunct upland vegetation. The proposed Project includes details on appropriate native species to be installed as part of the wetland creation and enhancement program, and a framework to ensure successful implementation. With implementation of Mitigation Measure BIO-5, potential impacts on jurisdictional waters would be reduced to a less-than-significant level.

Mitigation Measure BIO-5: Provide Compensatory Mitigation for Wetland Modifications. As called for in the Master Plan, a compensatory mitigation program shall be developed and implemented to provide adequate mitigation for jurisdictional waters affected by proposed improvements. A Wetland Protection and Replacement Program (WPRP) shall be prepared by a qualified wetland specialist and implemented to provide compensatory mitigation at a minimum 2:1 ratio, and shall be reviewed and approved by regulatory agencies. The WPRP shall include appropriate implementation measures to prevent inadvertent loss and degradation of jurisdictional waters to be protected, and replacement for those features eliminated or modified as a result of development. The WPRP shall contain the following components:

- Where verified waters of the United States are present and cannot be avoided, authorization for modifications to these features shall be obtained from the Corps through the Section 404 permitting process. Similarly, a Section 401 Certification shall be obtained from the RWQCB where wa-

ters of the United States are directly affected by the project. All conditions required as part of the authorizations by the Corps and RWQCB shall be implemented as part of the project.

- Consultation or incidental take permitting may be required under the California and federal Endangered Species Acts. The City shall obtain all legally required permits or other authorizations from the USFWS, NOAA Fisheries, and CDFW for the potential "take" of protected species under the Endangered Species Acts.
- Install orange construction fencing around the boundary of all wetland areas to be preserved at the interface with proposed fills and grading so that they are not disturbed during construction. The fencing shall be placed a minimum of 25 feet out from the boundary of the wetland but may need to be adjusted if restoration activities are to be conducted within this area. Grading, trail construction and restoration work within the wetland buffer zones shall be conducted in a way that avoids or minimizes disturbance of existing wetlands.
- A qualified biologist/restoration specialist shall be available during construction to provide situation-specific wetland avoidance measures or planting recommendation, as needed.

d) The proposed Project would result in modifications to existing wildlife habitat and could interfere with existing movement opportunities and use of native wildlife nursery sites. Of particular concern is the proposed filling of the existing 0.41 acre of coastal salt marsh habitat northeast of the Historic Depot, and the proposed boardwalk that would bisect the large stand of coastal salt marsh habitat on the site. The 0.41 acre of coastal salt marsh habitat to be filled is relatively isolated from the larger stand of marshland and aquatic habitat of Carquinez Strait, and is now dominated by an overstory of invasive perennial pepperweed and bordered by sweet fennel and other invasive species. It continues to provide important functions and values for some wildlife, but does not appear to be an important location for nesting or breeding. By creating new replacement habitat along the fringe of the larger marshlands, directly connected to natural tidal influence, there is a potential to greatly increase the overall habitat values of coastal salt marsh on the site as part of the proposed Project. This would be complemented by important controls on existing access into the marsh by humans and dogs, which have created informal trails and result in disturbance to native wildlife. New fencing and interpretive signage restricting uncontrolled access into marshland habitat would greatly improve the compromised habitat values. Infrequent access into the marshlands would still be required for invasive species removal and future management activities, but these could be carefully controlled and timed to avoid important nesting periods or high tide events when birds and small mammals could otherwise be exposed to predation and loss.

The proposed Project also includes provisions for a future band of salt marsh at higher elevations to account for future sea level rise. These are accommodated in buffer zones along the fringe of the existing marshlands (see cross-section in Figure 4-2 of the Master Plan). As sea levels rise, the existing marsh zone will eventually be inundated and transformed into open water and mudflat habitat. And unless upland areas are set aside at higher elevations, the mid and upper marsh zones would be constricted and possibly disappear from the site, resulting in an eventual reduction in overall habitat values. Access into these important buffer zones would be carefully controlled as part of the proposed Project. These areas currently have unrestricted access by humans and dogs, and additional fencing and interpretive signage would serve to control the existing intrusion into the sensitive marshland habitat.

The proposed elevated boardwalk would bisect an intact area of coastal salt marsh for a distance of approximately 500 linear feet, separating the inboard marshland area from the portion along Carquinez Strait. The boardwalk would have direct and indirect effects on the existing habitat values of these sensitive marsh-

lands, disturbing vegetation during construction, resulting in shading of vegetation under the structure, and inviting human activity directly into the sensitive marshlands and disrupting foraging, resting, and other behaviors of resident and migratory species. However, with other controls such as restrictive fencing and interpretive signage, the boardwalk could actually serve as a means to control human access into the marsh zone if effectively managed. Informal trails currently bisect the marsh in a number of locations, including the vicinity of either end of the proposed boardwalk. If effectively controlled with signage and fencing, trampling and other direct and indirect effects on marshland habitat could actually be reduced as part of implementing the proposed Project. However, the effectiveness of these controls depends on enforcement by the City and maintenance of restrictive fencing and interpretive signage. With implementation of Mitigation Measure BIO-6, the potential impacts on wildlife movement opportunities and nesting habitat would be reduced to a less-than-significant level.

> **Mitigation Measure BIO-6: Protect and Enhance Existing Wildlife Habitat**. Adequate controls shall be implemented to protect and enhance the habitat values of the existing and created marshlands on the site as part of the proposed Project. As detailed in the Master Plan, this shall include strategically placed restrictive fencing and interpretive signage along the edge of the entire frontage between the developed uplands and areas to remain as natural habitat. And signage at either end of the shoreline beach access at the terminus of First Street. Signage should indicate that the marshlands are a sensitive habitat area, that native wildlife are easily disturbed by human presence and foot-traffic tramples native vegetation, and that access by humans, dogs, and cats is prohibited.

e) In general, the proposed Project would not conflict with any relevant goals and policies in the City of Benicia General Plan related to protection of biological and wetland resources. Potential impacts on special-status species, sensitive natural communities, wetlands or important wildlife resources would be addressed through implementation of recommended mitigation measures, and through habitat enhancement efforts undertaken as part of implementing the proposed Project. No trees or other resources regulated by local ordinances would be affected by the proposed Project. As a result, *no impact* would occur.

No mitigation is required or necessary.

f) The proposed Project would not conflict with any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved conservation plan. No such plans have been adopted encompassing the project vicinity, and no impacts are anticipated.

No mitigation is required or necessary.

V. CULTURAL RESOURCES

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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 § 15064.5?	❒	❒	■	❒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 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?	❒	❒	■	❒

DISCUSSION:

a) Chapter 3, Community Identity, of the Benicia General Plan addresses historic and cultural resources within the city, and establishes goals and policies for protecting such resources. As mentioned previously, the Benicia General Plan identifies several historic sites in the Downtown area. The closest historic site to the Project site is the Transcontinental Railroad Depot located directly adjacent to the First Street Green; however, not within the Plan Area. As previously noted, construction activities would consist of improvements to the existing First Street Green, including improved access to and along the shoreline, an expanded and raised green, a boardwalk along the waterfront, and sidewalk and parking lot improvements. Although construction activities would occur within the vicinity of the Railroad Depot, it is not expected that construction activities would disturb the historic site given that the Depot is outside of the Plan boundary. Additionally, the proposed Project does not propose any structures, with the exception of a waterfront boardwalk, nor would the proposed Project introduce or alter existing uses of the First Street Green; therefore, would not result in a substantial adverse change in the significance of a historic site. Given that the proposed Project would enhance an existing park, impacts would be *less than significant.*

No mitigation is required or necessary.

b) The proposed Project would include grading and filling construction activities as part of the enhancement of the First Street Green to bring it to grade. As such, there is a possibility that buried archaeological deposits could be present and accidental discovery could occur. Although the Railroad Depot is located directly adjacent to the First Street Green, it is not within the boundary of the Project Area; therefore, ground-disturbance would not commence in the immediate area surrounding the Railroad Depot. Additionally, there are six archaeological sites that could exist in the vicinity of Lake Herman Road, as well as in the Arsenal and Downtown area of Benicia.[8] Compliance with Goal 3.2 and Policy of 3.2.1 of the Benicia General Plan, which serve to protect known and not yet identified archaeological resources, along with Mitigation Measure CULT-1a and CULT-1b, would reduce potential impacts related to a substantial change in the significance of an archaeological resource to a *less-than-significant* level.

[8] City of Benicia, General Plan, Chapter 3, Community Identity, page 100.

Mitigation Measure CULT-1a: Upon approval of the grading permit, and prior to grading activities or other ground-disturbing construction activities, a survey using invasive and non-invasive techniques shall occur within the Project site to identify potential archaeological resources.

Mitigation Measure CULT-1b: In the event that archaeological resources, paleontological resources, or unique geologic features are encountered during ground disturbance, such activity shall be immediately halted, and a qualified archaeologist/paleontologist shall inspect the site. The qualified expert shall arrange for removal of any resources and provide documentation of any recovered resources to the regional information center of the California Archaeological Inventory and to the local historical society.

c) No unique geological features have been identified on the Project site in the City's General Plan. Therefore, it is not expected that grading and/or ground-disturbing activities, as a result of implementation of the proposed Project, would adversely affect geological resources. However, it is possible that unknown subsurface paleontological resources could be encountered during constructions activities. The following Mitigation Measure would reduce potential impacts to a *less-than-significant* level.

Mitigation Measure CULT-2: If paleontological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the findings and determine the significance of the resources. Construction activities should not recommence until the expert has issued an opinion about the resource and appropriate mitigation has been determined.

d) For the reasons discussed above in response to criteria a) and c), it is not expected that construction on the Project site would result in an encounter and possibly adverse effects on human remains. However, in the event of such an encounter, compliance with the following State laws would mitigate impacts to Native American burial sites:

Health and Safety Code, Section 7052 and 7050.5
Section 7052 of the Health and Safety Code states that the disturbance of Native American cemeteries is a felony. Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If determined to be Native American, the coroner must contact the California Native Heritage Commission (NAHC).

California Native American Historical, Cultural and Sacred Sites Act
The California Native American Historical, Cultural and Sacred Sites Act applies to both State and private lands. The Act requires that upon discovery of human remains, construction or excavation activity cease and that the county coroner be notified. If the remains are of a Native American, the coroner must notify the California Native American Heritage Commission (NAHC).

The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent will make recommendations regarding the treatment of the remains with appropriate dignity.

Through adherence to the Health and Safety Code policy and State Law, construction of the proposed project would result in a *less-than-significant* impact on human remains.

No mitigation is required or necessary.

VI. GEOLOGY AND SOILS

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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? ii) Strong seismic ground shaking? iii) Seismic-related ground failure, including liquefaction? iv) Landslides, mudslides or other similar hazards?	❒	❒	■	❒
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 wastewater?	❒	❒	❒	■

DISCUSSION:

According to the Benicia General Plan, the most significant geologic hazards are those associated with landslides, debris flows, and ground shaking during earthquakes.[9] Further, the General Plan cites other geologic hazards, such as the potential for settlement of structures constructed on filled bay land, expansive soils, cut and fill slopes, and flooding.

Benicia lies within a seismically active region. As shown in Figure 4-2 of the Benicia General Plan, the Green Valley Fault runs in a generally north-south direction, approximately 5 miles northeast of the Project site. The Hazards to the Community chapter of the Benicia General Plan states that areas most susceptible to significant amplification of ground shaking are underlain by soft sediments such as Bay Mud. The Benicia Waterfront is an example of areas

[9] City of Benicia, General Plan, Hazards to the Community, page 145.

where structures have been developed over Bay Mud.[10] Figure 4-1 of the Benicia General Plan identifies the Project site as being located in areas of either High or Extremely High shaking amplification.

a) - d) As described above, the Project site is within an area considered High or Extremely High risk for amplification due to the Bay Mud soils; however, other than a boardwalk along the water's edge, no other structures would be constructed. The proposed boardwalk would comply with all applicable building codes. As stated above, the nearest earthquake fault lies approximately 5 miles to the northeast of the Project site; therefore, it is not expected to expose people or structures to substantial adverse effects, including risk of loss of life or injury. As depicted in Figure 4-2 of the Benicia General Plan, liquefaction could occur at the Project site; however, the lack of buildings and the fact that the proposed Project would result in uses similar to existing conditions, it is not likely to expose any greater risk above that of existing conditions. Additionally, because no permanent structures are proposed under the Project, with the exception of the boardwalk, overall layout of the park would remain similar to existing conditions. Therefore, potential impacts related to exposing people to substantial risk or injury above and beyond existing conditions is unlikely and would be *less than significant.*

No mitigation is required or necessary.

e) The Project does not contain plans to install septic or alternative waste water disposal systems; therefore, there would be *no impact.*

No mitigation is required or necessary.

VII. GREENHOUSE GAS EMISSIONS

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				
a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?	❒	❒	■	❒
b) Conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs?	❒	❒	■	❒

DISCUSSION:

a) This section analyzes the proposed Project's contribution to global climate change impacts in California through an analysis of Project-related GHG emissions.

Greenhouse Gas Emissions and Global Climate Change

[10] City of Benicia, General Plan, Hazards to the Community, page 145.

Scientists have concluded that human activities are contributing to global climate change by adding large amounts of heat-trapping gases, known as GHGs, into the atmosphere. The primary source of these GHGs is fossil fuel use. The Intergovernmental Panel on Climate Change (IPCC) has identified four major GHGs; water vapor, carbon dioxide (CO_2), methane (CH_4), and ozone (O_3) – which are the likely cause of an increase in global average temperatures observed within the 20th and 21st centuries. Other GHGs identified by the IPCC that contribute to global warming to a lesser extent include; nitrous oxide (N_2O), sulfur hexafluoride (SF_6), hydrofluorocarbons, perfluorocarbons, and chlorofluorocarbons.

The proposed Project does not generate GHG emissions on its own to influence global climate change; therefore, this impact analysis measured the proposed Project's contribution to the cumulative impact. GHG emissions would be generated from construction activities and operation of the proposed Project.

Construction Period

Construction emissions are short-term and GHG emissions from future construction activities, commencing over four phases and 17 years, as described in the Project Description, would nominally contribute to GHG emissions impacts. For this reason, BAAQMD does not identify a significance threshold for project-related construction emissions. However, because operational impacts would be less than significant, construction emissions, which would take place over a relatively short duration compared to operational emissions, would also be considered *less than significant*.

Operation Period

Operation of the proposed Project would nominally contribute to global climate change through direct emissions of GHG from transportation sources, associated with future addition of visitors to the park. A review of the BAAQMD screening criteria indicates that a 16-acre Project site is well below the 600-acre screening level for parks.[11] Therefore, the operational period GHG emissions are expected to be below the BAAQMD threshold of significance and result in a *less-than-significant* impact.

The City of Benicia adopted a Climate Action Plan (CAP) on September 15, 2009 with the goal to reduce GHG emissions to 2005 levels by 2010, and 10 percent below 2000 levels by 2020.[12] The CAP includes a chapter addressing parks and open space, recognizing that emissions associated with regular maintenance and irrigation of parks, and open space, can occur. As described above, the proposed Project would include enhancement of the First Street Green for passive recreation activities, as well as other landscaping components, but due the small size of the project site, an increase in GHG emissions is not considered significant. As such, a *less-than-significant* impact would occur.

No mitigation is required or necessary.

b) As discussed above in response to criteria VII.a), the proposed Project would result in a *less-than-significant* impact to applicable plans, policies, or regulations of an agency adopted for the purpose of reducing the emissions of GHGs.

No mitigation is required or necessary.

[11] Bay Area Air Quality Management District, 2011, CEQA Guidelines Updated May 2011, Table 3-1 Criteria Air pollutants and Precursors and GHG Screening Level Sizes.

[12] City of Benicia, Climate Action Plan, Introduction, page I.

VIII. HAZARDS AND HAZARDOUS MATERIALS

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				
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 material sites compiled pursuant to Government Code Section 65962.5 and, as a result, 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?	❒	❒	❒	■

DISCUSSION:

a) –d) The Project would not include industrial operations or the demolition of existing structures. There would be no storage of flammable or toxic materials, such as fuel, oil, paint, or solvents on-site. The potential hazardous materials from the future construction of the Project are cement, concrete, or washing thereof, and accidental leaks or spills from stationary equipment, such as motors and pumps. However, these materials and equipment would be handled and stored in accordance with applicable local and State laws so as to prevent them from contaminating the soil or entering into the stream. There are no government-listed

hazardous material sites in the vicinity of the Project site and the closest school to the Project site is St Dominic Elementary School, located approximately 1 mile to the northeast. Additionally, the Project is not on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5; therefore, the risk of hazardous materials would be considered a *less-than-significant* impact.

No mitigation is required or necessary.

e) The closest public use airport to Benicia is the Buchanan Field Airport in Concord, California, located approximately 9 miles south of Benicia. As a result, the Project site is not within the vicinity of the airport and *no impact* would occur.

No mitigation is required or necessary.

f) There are no private airstrips within or in immediate proximity to the City. Therefore, there would be *no impact.*

No mitigation is required or necessary.

g) The 2007 City of Benicia Emergency Operations Plan (EOP) provides guidance and procedures for situations, such as natural disasters, technological incidents, terrorism, and weapons of mass destruction defense. Although the EOP is intended for more severe emergency situations, it primarily spells out general procedures and checklists for local enforcement and emergency crews on how to properly evacuate and handle emergencies of greater magnitude than typical day-to-day emergencies. As such, it is unlikely the proposed Project would interfere with the implementation of the EOP in an emergency situation. Therefore, *no impact* is expected.

No mitigation is required or necessary.

h) According to the Benicia General Plan, the City's jurisdiction includes extensive grassland open space, posing a fire safety risk to the residents of Benicia. As shown in Figure 4-4 of the Benicia General Plan, much of the northwestern areas of Benicia are brush and grasslands; however, the Project site is located at the water's edge where there is no immediate threat of exposing people to wildfire hazards. Therefore, *no impact* would occur.

No mitigation is required or necessary.

IX. HYDROLOGY AND WATER QUALITY

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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 significant lowering of the local groundwater table level?	❒	❒	❒	■
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?	❒	❒	■	❒
f) Otherwise substantially degrade water quality?	❒	❒	■	❒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood 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?	❒	❒	❒	■

DISCUSSION:

a) Implementation of the proposed Project would result in short-term impacts to water quality due to soil disturbance during construction activities. However, the proposed Project would have a detailed Storm Water Pollution Prevention Plan (SWPPP) developed and approved prior to commencement of any construction activities. The SWPPP would detail the required procedures to be followed in order to preserve and protect existing resources, such as wetlands located adjacent to the Project site, and Best Management Practices (BMPs) to minimize potential impacts of the proposed Project during construction activities. The SWPPP is an extensive document that: identifies potential sources of stormwater pollution, describes BMPs to re-

duce pollutants and the volume of stormwater discharges, identifies the BMPs to be implemented, evaluates the effectiveness of BMPs, describes each major phase of construction, outlines the roles and responsibilities of contractors and subcontractors, and documents site inspections and other monitoring activities necessary to effectively implement the proposed Project.

The project will comply with post-construction requirements of the Phase II Small Municipal Separate Storm Sewer System (MS4) Permit. The proposed Project includes enhancements that are intended to improve the quality of water entering the adjacent wetlands and Carquinez Strait by providing additional flood storage and specific permanent BMPs designed to remove pollutants from stormwater runoff. Overall, the proposed Project would result in a number of potential water quality benefits by creating stormwater rain gardens between the proposed seat wall and the on-street parking along B Street. Rain gardens are shallow depression planted with deep-rooted native plants and grasses. The design facilitates the collection and retention of stormwater. Physical and chemical filtration processes help remove pollutants from the stormwater, improving water quality. Parking areas associated with the Project will conform to the City of Benicia's design standards (Section 20.330.010 Parking Area Design and Development Standards). All sites shall be properly drained, consistent with the California RWQCB San Francisco Bay Region Municipal Regional Stormwater NPDES Permit, the City of South San Francisco Source Control Measures, and the City of South San Francisco Site Design Standards Checklist, and subject to the approval of the City Engineer. Additionally, all parking areas must be designed to slow stormwater runoff and use permeable pavers in any overflow parking areas. The proposed Project would also expand the existing salt water marshes by the Depot and B Street Plaza, and enhance the existing seasonal wetland along B Street. Wetlands provide an array of ecological and economic benefits, including water purification, flood protection, habitat for special-status species, and shoreline stabilization. Conformation to City design standards, coupled with the use of rain gardens, expansion and enhancement of on-site wetlands, and the implementation of the Project SWPPP are anticipated to result in a *less-than-significant* impact to water quality.

No mitigation is required or necessary.

b) The hydrology of the Project site does not currently contribute appreciable amounts of water to groundwater recharge. The site's proximity to Carquinez Strait results in a relatively high water table. Any contributions to groundwater levels from the Project site would be severely dampened, if not completely negligible, due to the overwhelming tidal influences of Carquinez Strait, which acts as the local control on groundwater levels. Additionally, no groundwater from within the Project Area is utilized for industrial, public, or domestic supply. Therefore, *no impacts* to groundwater supplies, recharge, or aquifer volume are anticipated.

No mitigation is required or necessary.

c) – d) Construction activities under implementation of the proposed Project are not anticipated to significantly impact the existing drainages, causing erosion and/or siltation of the drainages on- or off-site. The proposed Project would expand the First Street Green in the northwest portion of the site, in addition to construction of a perimeter trail around the green; installation of a seat wall, street curbs and paving along B Street; construction of a plaza at the corner of First and B Streets; construction of a plaza area with seating at the east end of B Street; construction of a boardwalk through the Project site; improved beach access on the southwestern edge of First Street; construction of the Depot Plaza; and the installation of rain gardens between the on-street parking and the seat wall along B Street.

The Depot plaza would be built to south of the existing Depot. The area is currently utilized as parking and is comprised of highly compacted gravels. The Depot plaza will be constructed with pervious materials as underlying soil conditions allow and will not significantly alter existing drainage patterns.

A perimeter trail around the green and improvements along B Street include a seat wall that would extend to the Plaza. Rain gardens along the seat wall would improve the existing compacted gravel parking area, enhance site drainage, and improve surface water retention and water quality.

While construction of the proposed Project would result in the removal of an old storm drain, the Project is not anticipated to significantly impact the existing drainage patterns or increase the rate of surface runoff that would cause flooding on- or off-site. Therefore, impacts would be *less than significant.*

No mitigation is required or necessary.

e) The Project site is currently utilized as outlets for six of the City's storm drains.[13] The proposed Project would remove one old (crushed) storm drain, install rain gardens along B Street, and expand the salt marsh and seasonal wetlands on the site. These activities are not anticipated to increase runoff from the site and are expected to reduce sources of polluted runoff from the site. Therefore, a *less-than-significant* would occur.

No mitigation is required or necessary.

f) Implementation of the proposed Project would result in temporary increases in erosion associated with construction and grading activities. These temporary activities are not anticipated to substantially degrade water quality and would be reduced to less-than-significant levels through adherence to standard BMPs described in the Project-specific SWPPP and the City of Benicia's Stormwater Management Plan. Therefore, *less-than-significant* impacts to water quality would occur.

g) No new housing is planned for the site as part of the proposed Project. Therefore, there would be *no impact.*

No mitigation is required or necessary.

h) The proposed Project proposes minimal alterations within the 100-year flood area. These alterations include enhancements to the First Street Green with minimal fill, construction of a seat wall, and the construction of a boardwalk with viewing platforms along the water's edge. Improvements to the First Street Green would not alter the current drainage of the Project site, nor generate increased runoff. A portion of the First Street Green would be utilized to expand the existing marsh. The expanded marsh would provide additional flood storage and help reduce flooding. The boardwalk would be a raised structure on 150 to 175 piers/pilings. The piers/pilings would not cause measurable changes in flood levels. As shown on Figure 2, the majority of the Project site would be inundated in a 100-year flood. Improvements to the First Street Green, construction of the seat wall, and installation of the boardwalk with piers/pilings would not significantly alter the water level of the 100-year flood; therefore, the Project would result in *no impact* to the 100-year flood flows.

No mitigation is required or necessary.

[13] Urban Waterfront Enhancement and Master Plan, Existing Conditions Analysis, Figure 2.

i) The proposed seat wall is the only structure that could potentially fail and cause flooding. However, the seat wall only provides protection to a limited area of B Street and East Second Street. The portions of B Street and East Second Street that would be protected by the seat wall are currently within the 100-year flood event. Failure of the seat wall would not exacerbate conditions over current levels; therefore, the proposed Project would have a *less-than-significant* impact.

No mitigation is required or necessary.

j) The Project site is located along the Carquinez Strait, which flows into San Pablo Bay north of San Francisco Bay (Bay). Tsunami waves generated by seismic events outside the Bay tend to be greatly attenuated as they pass through the narrow Golden Gate channel and by the Bay's shallow bathymetry (depth below water surface). Only 5 of the 51 historic tsunamis are believed to have produced runups of more than 1.6 feet within San Francisco Bay.[14] The maximum runup recorded in the Carquinez Strait is 0.09 feet recorded in 1960, which was generated from a large earthquake in southern Chile. The City does not have a special emergency evacuation plan or early warning system specifically for tsunamis; however, the City does have a Community Alert and Notification (CAN) System which includes sirens located throughout the city.

Seiches are similar to tsunamis, but generated by local seismic activity, severe storm fronts, or other abrupt displacement events in closed water bodies. The greatest impacts from a seiche would occur when the local water level is at its peak high level. However, the probability of a seiche occurring during a tidal extreme is negligible. The maximum wave height at Carquinez Strait from a large, local earthquake is estimated to be 0.36 feet.[15]

A mudflow occurs when mud travels down a slope at a relatively high speed. Mudflows happen in high relief, mountainous regions when lots of water mixes with soil and rock. The water makes the slippery mass of mud flow quickly down slope. Mudflows generally happen most in mountainous places where a long, dry season is followed by heavy rains. The City of Benicia is situated along the coastal front in the Sacramento San Joaquin Delta. Since topographic relief in the immediate watershed is minimal and slopes are quite low, mudflows are not anticipated to occur to a degree that would impact the Project site.

Since the proposed Project would not alter current tide levels, and may actually provide protection via the expanded Coastal Salt Marsh and seat wall, and because topographic relief in the immediate watershed is minimal with relatively low slopes, mudflows, tsunamis and seiches are not anticipated to be a problem. Therefore, there would be *no impact* due to the Project.

No mitigation is required or necessary.

[14] Borrero, Jose, Dengler, L., Uslu, B., and Synolakis, C., 2006. Numerical Modeling of Tsunami Effects at Marine Oil Terminals in San Francisco Bay. Report prepared for: Marine Facilities Division of The California State Lands Commission, June 8, 2006.

[15] Borrero, Jose, Dengler, L., Uslu, B., and Synolakis, C., 2006. Numerical Modeling of Tsunami Effects at Marine Oil Terminals in San Francisco Bay. Report prepared for: Marine Facilities Division of The California State Lands Commission, June 8, 2006.

X. LAND USE AND PLANNING

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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?	❒	❒	❒	■

DISCUSSION:

This section discusses the potential impacts related to land use and planning. The proposed Project seeks to enhance the existing First Street Green by improving public access and opportunities for passive recreation through modifications and additions to the landscape and hardscape. As such, enhancements would include a boardwalk, additional trails connecting to the existing Bay Trail, public art, seating areas, and a paved parking area along B Street. There are no permanent buildings proposed under the Project, nor would the general layout of the existing park be altered.

a) The Project site is located at the corner of First Street and B Street at the southern end of First Street in Downtown Benicia. There is housing adjacent to the Project site at its northern border along B Street; however, enhancements under the proposed Project would be within the Project Area; therefore, would not physically divide an established community. Further, enhancements under the proposed Project would strengthen the parks connection to adjacent land uses through the establishment of a Bay Trail segment, and entry plaza; therefore, *no impact* would occur.

No mitigation is required or necessary.

b) As discussed in the Project Description of this Initial Study, there are several plans that include or are the subject of the general area where the Project site is located. Although there are a number of plans that include the Project site, the overall goals of each are similar. In general, the vision for the Project site and surrounding areas include enhancing the open space as a community centric park to be used for passive recreation, such as walking, observing surrounding views, and picnicking. Further, a recurring vision within the plans is centered on marshland and habitat conservation and protection. Because of the location at the water's edge, the Project site is home to Marshland/Northern Coastal Marsh and Coastal Brackish Marsh making it suitable habitat for plant and animal species. As such, several of the plans seek to strike a balance between habitat conservation and the restoration and utilization of the Project site as a prime community gathering park.

As described in the Project Description of this Initial Study, enhancements under the proposed Project seek to provide additional public access, a boardwalk with observation decks near the water's edge, trail connec-

tions to the existing Bay Trail, and an enhanced parking area along B Street that would be striped to include defined parking spaces. Further, improvements would include providing expanded marsh areas along the water's edge, which would result in a net gain in total marshland. The Project would be consistent with the City's OS Open Space District which permits park and recreation facilities.[16]

Buildout of the proposed Project would be subject to compliance with all applicable local laws and regulations, as well as subsequent design review, which would ensure compliance with all applicable plans. The proposed Project would result in a net increase to marshland, and enhance public access and provide additional opportunities for passive recreation. Additionally, the proposed Project would not result in any zoning changes or introduce new land uses; therefore, the proposed Project would not conflict with any applicable land use plan or policy, and the impact would be *less than significant.*

No mitigation is required or necessary.

c) While the 1999 Benicia General Plan does not identify a formally adopted Habitat Conservation Plan (HCP) for the Project Area, it does, however, state the regional importance of tidal and marshland habitat for plant and animal species. As such, because the proposed Project is not within the boundaries of an HCP, *no impact* would occur.

No mitigation is required or necessary.

XI. MINERAL RESOURCES

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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?	❒	❒	❒	■

DISCUSSION:

a) - b) According to the 1999 Benicia General Plan, the only mineral resource area is surrounding the Lake Herman Quarry at 885 Lake Herman Road, Vallejo, California, located approximately 5.7 miles away from the Project site. There are no mineral resources identified in the General Plan in or surrounding the Project site itself; therefore, *no impact* would occur with respect to mineral resources.

No mitigation is required or necessary.

[16] City of Benicia Municipal Code, Section 17.36.030, OS Open Space District.

XII. NOISE

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	❒	■	❒	❒
b) Exposure of persons to or generation of excessive groundborne vibration or ground borne 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?	❒	❒	■	❒
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?	❒	❒	❒	■

DISCUSSION:

According to the Benicia General Plan, three qualities characterize the subjective effect of noise on the listener: 1) the frequency of the noise; 2) the intensity of the noise; and 3) the time-varying character of the noise.[17]

a) The City of Benicia General Plan addresses noise in Section D, Noise, of Chapter 4, Community Health and Safety. Section D includes policies to protect against and minimize excessive noise to existing land uses and properties, as well as establishes performance standards for noise sensitive uses, including exposure from transportation noise sources and stationary noise sources. For purposes of the proposed Project, the Benicia General Plan establishes a performance measure that requires an analysis of noise impacts and recommended mitigation measures in the event that playgrounds or neighborhood parks are exposed to noise levels exceeding 65 dBA from transportation related noise.[18] According to the Benicia General Plan, decibel levels resulting from light traffic are 50 dBA.[19] Therefore, the First Street Green would not be ex-

[17] City of Benicia General Plan, Chapter 4, Section D, Noise, page 169.
[18] City of Benicia General Plan, Chapter 4, Section D, Noise, Table 4-3, page 176.
[19] City of Benicia General Plan, Chapter 4, Section D, Noise, Table 4-1, page 170.

posed to excessive transportation related noise given that it is located in an area that experiences light traffic.

Chapter 8.20, Noise Regulations, of the Benicia Municipal Code establishes regulations regarding acceptable noise levels within the city. The Municipal Code states that it is unlawful for any person to operate machinery or equipment in a manner so as to create any noise level at the property line of any property to exceed ambient noise level by more than five decibels.[20] Further, during construction activities, the Municipal Code states that it is unlawful for any person within a residential zone, or radius of 500 feet therefrom, to operate equipment or perform outside construction or repair work, or operate any pile driver, power shovel, pneumatic hammer, or any other construction type device between the hours of 10:00 p.m. and 7:00 a.m.[21]

As described above, the proposed Project seeks to enhance an existing public park for passive recreation. However, implementation of the proposed Project could have the following noise-related effects: 1) residents adjacent to the Project site could be exposed to short-term construction-related noise; 2) park users could be exposed to traffic noise from First Street and East B Street; and 3) residents adjacent to the Project site could be exposed to an increase in ambient noise levels due to park use.

Construction Noise Impacts

Construction of the proposed Project would involve earthwork and grading, and could involve the use of tractors, dump trucks, and graders. In addition, chainsaws could be used to remove vegetation, where necessary. Construction-related short-term noise levels would be higher than existing ambient noise levels in the vicinity of the Project site but would end once construction is completed. Site preparation, which includes excavation and grading of the site, tends to generate the highest noise levels, because the noisiest construction equipment is earthmoving equipment. Typical operating cycles for these types of construction equipment may involve one or two minutes of full-power operation followed by three or four minutes at lower power settings.

The closest sensitive noise receptors would be the residences approximately 30 feet adjacent to the Project site along East B Street, which are located directly across the street, east of the Project boundary.

While impacts from construction noise may occur, construction activities would be temporary in nature. Further, compliance with Benicia Municipal Code Section 8.20.150 would limit construction activities within a residential zone or within a radius of 500 feet therefrom between the hours of 7:00 a.m. and 10:00 p.m. Further, compliance with Mitigation Measure NOI-1 would reduce potential noise impacts to a level considered to be *less than significant*.

Mitigation Measure NOI-1: The following will be required during construction period:

- Construction equipment must have state-of-the-art muffler systems required by current law. Muffler systems shall be properly maintained.
- Noisy stationary construction equipment, such as compressors, shall be placed away from developed areas off-site and/or provided with acoustical shielding.
- Grading and construction equipment shall be shut down when not in use.

[20] City of Benicia Municipal Code, Section 8.20.140, Machinery, Equipment, Fans, and Air Conditioning.

[21] City of Benicia Municipal Code, Section 8.20.150, Construction of Buildings and Projects.

- The contractor shall prepare a construction plan identifying the schedule for major noise-generating construction activities. The contractor shall identify a procedure for coordination with the adjacent sensitive land uses so that construction activities can be scheduled to minimize noise disturbance.

Operation Noise Impacts

The proposed Project is expected to nominally increase park usage; however, park usage is not expected to generate substantial and on-going noise because the site would be used as a passive park with low-intensity uses. In addition, noise impacts on park users would be minimal due to low traffic volumes on First Street. Landscape maintenance equipment would be required to comply with Chapter 8.20, Noise Regulations, of the Benicia Municipal Code, which states that machinery or equipment may not exceed ambient noise levels by more than 5 decibels.[22] Further, because the Benicia General Plan identifies light traffic noise levels at 50 dB, and the acceptable noise level exposure threshold from transportation sources at neighborhood parks and open space is 65 dB, it is not expected that traffic on First Street or East B Street would exceed that threshold.

b) Construction activities can generate varying degrees of ground vibration, depending on the construction procedures, equipment used, and proximity to vibration-sensitive uses. The nearest vibration-sensitive structures are residential buildings located directly across the street along East B Street from the portions of the site where construction activities would occur. Vibration impacts can be in the form of damage to structures or can involve annoyance to nearby sensitive land uses. For the former, building damage is not a factor for normal projects, with the occasional exception of blasting and pile-driving during construction.

Construction of the proposed Project would include pile-driving during construction of the boardwalk and installation of piers; however, pile-driving activities would occur at the western-most boundary and therefore is not likely to damage residential structures along East B Street as a result of attenuation of vibration and the location of the adjacent residential properties, which are approximately 625 feet from where pile-driving would generally occur.

Additional equipment during construction activities could involve the use of bulldozers for grading and filling of the Project site to bring it to street level grade. Regarding vibration annoyance, the Federal Transit Administration (FTA) criterion for perceptible levels of vibration during the daytime is 78 vibration velocity decibels (VdB).[23] Although vibration from pile-driving activities varies based on equipment and materials used, it is unlikely that vibration would result in significant impacts with regard to vibration, given that the nearest residences are located approximately 625 feet from where pile-driving activities would occur, and attenuation would likely reduce vibration impacts from pile-driving. Additionally, pile-driving activity would be temporary in nature. Given that future Project construction activities would be limited by equipment type and occur for short durations, no significant vibration impact from exposure of persons to excessive noise levels of vibration would occur. In addition, compliance with Mitigation Measure NOI-1 would serve to reduce potential impacts resulting from construction. Compliance with the Benicia Municipal Code Section 8.20.150 would also help to restrict construction activities between 7:00 a.m. and 10:00 p.m. As a result, impacts from groundborne vibrations and groundborne noise would be *less than significant.*

[22] City of Benicia Municipal Code, Chapter 8.20, Noise Regulations.

[23] Federal Transit Administration (FTA), 2006. *Transit Noise and Vibration Impact Assessment*. U.S. Department of Transportation. FTA-VA-90-1003-06.

No mitigation is required or necessary.

c) Noise impacts during the operational phase of the park would not cause substantial noise increases to nearby receptors from visitors, sporadic maintenance functions, or Project-related traffic flows. The Project site currently operates as a park and the proposed Project does not propose to change or introduce existing uses. As a result, noise impacts would be *less than significant.*

No mitigation is required or necessary.

d) Based on the limited duration of construction activities, scope of future construction activities, and the time-of-day constraints in the Benicia Municipal Code Section 8.20.150, impacts regarding substantial temporary or periodic increase in ambient noise levels in the Project vicinity would be *less than significant.*

No mitigation is required or necessary.

e) There are no public or private airports that are near the City of Benicia. Buchanan Field Airport in Concord is located approximately 10 miles south of Benicia. While aircraft associated with this facility may fly over Benicia and be of concern to residents, the Project site is located well outside of the CNEL noise contours for this facility;[24] therefore, there would be *no impact.*

No mitigation is required or necessary.

f) See response e) above. The Project site is not located with the vicinity of a private airstrip; therefore, *no impact* would occur.

No mitigation is required or necessary.

XIII. POPULATION AND HOUSING

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS 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?	❒	❒	❒	■

[24] Contra Costa County, Final Master Plan, Buchanan Field Airport, October 2008, Chapter G, Land Use Plan, Figure G20.

DISCUSSION:

a) – c) The proposed Project would result in a significant impact related to population and housing if, at buildout, would: induce substantial growth in the area, either directly or indirectly; displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere; and/or displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.

The existing approximately 16-acre site is designated as Parks Open Space and zoned Open Space. The proposed Project seeks to enhance the First Street Green to expand the current trail access, incorporate public amenities, such as public art, observation platforms, seating areas, and interpretive kiosks, and restore the wetlands. As such, there is no existing housing on the Project site, nor does the proposed Project include any type of residential development. Further, there are no infrastructure plans, such as the extension of roadways or other infrastructure that would directly or indirectly support population growth. Therefore, *no impact* would occur.

No mitigation is required or necessary.

XIV. PUBLIC SERVICES

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				
a) 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:				
Fire protection?	❒	❒	■	❒
Police protection?	❒	❒	■	❒
Schools?	❒	❒	❒	■
Parks?	❒	❒	❒	■
Other public facilities?	❒	❒	❒	■

DISCUSSION:

The primary purpose of a public services impact analysis is to examine the impacts with physical improvements to public service facilities. Public service facilities need improvements (i.e. construction of new, renovation or expansion of existing) as demand for service increases. Increased demand is typically driven by increases in population.

As discussed section XIII, Population and Housing, the proposed Project would not result in a population growth. As such, potential impacts to public service facilities could occur as a result of a potential increase to visitors to the Project site.

a) **Fire Protection**

The proposed Project would include enhancements to the existing First Street Green, such as increased trails and connectivity to the Bay Trail, the addition of a boardwalk along the water's edge, and improved public access to beach at the southwestern edge of First Street, improved parking areas along B Street, and improvements to the sidewalks along First Street and B Street to mirror the existing promenade adjacent to the Project site on First Street. With the exception of the proposed boardwalk, no permanent structures would be constructed as part of the enhancements. Any potential impacts related to fire and emergency services would be associated with a potential increase to visitors engaging in passive recreation. However, the First Street Green is primarily viewed as a community serving park; therefore, it is unlikely to draw a significant amount of visitors above and beyond existing use to the extent of requiring the need for new or physically altered fire protection facilities. Therefore, a *less-than-significant* impact would occur with respect to fire and emergency services.

No mitigation is required or necessary.

Police Protection

As indicated above, enhancements to the Project site could result in an increase to visitors to the park engaging in passive recreation. As such, a potential increase in visitors could result in more frequent calls requiring police protection associated with park use types, such as minor disturbances and/or altercations, medical emergencies, and/or vehicle break-ins as a result of on-site parking areas. Although a potential increase in visitors could occur, the increase is not expected to result in any substantial changes that would trigger the need for new or expanded police protection facilities. Further, the existing uses of the park would not substantially change as a result of Project buildout, and given it is primarily considered a community park, increases to visitors resulting from Project buildout would not likely require additional police protection services above and beyond existing conditions and uses of the park. Therefore, a *less-than-significant* would occur.

No mitigation is required or necessary.

Schools

As discussed in Section XIII., Population and Housing, the proposed Project would not result in a direct or indirect increase in population; therefore, there would be *no impact* with respect to schools.

No mitigation is required or necessary.

Parks

Because the proposed Project is a park enhancement project itself, *no impact* would occur with respect to parks or other public facilities.

No mitigation is required or necessary.

Other Public Facilities
For the reasons described above in this section, and given the proposed Project would not result in a significant population increase, nor does it propose the construction of public facilities, such as libraries, there would be *no impact* to other public facilities as a result of the proposed Project.

No mitigation is required or necessary.

XV. RECREATION

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				
a) Would the project 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) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	❒	❒	❒	■

DISCUSSION:

a) – b) Because the proposed Project would not affect population growth, it would not increase the use of existing parks or facilities. Further, the proposed Project, by enhancing the Project site as a community park, may attract some users from existing parks and facilities, and thus could alleviate the physical deterioration of existing parks and facilities. Additionally, the proposed Project, as a park enhancement project itself, would not require the construction or expansion of recreational facilities which might have an adverse physical effect on the environmental. For these reasons, the proposed Project would have *no impact* on recreation.

No mitigation is required or necessary.

XVI. TRANSPORTATION/TRAFFIC

	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				

	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
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?	❒	❒	❒	■

DISCUSSION:

a) The proposed Project would result in the enhancement to an existing community park. As such, the potential increase to visitors is not expected to generate a significant amount of new project-related vehicle trips above and beyond existing vehicle trips. Additionally, there are other community and visitor serving recreational facilities, such as the nearby Benicia Marina and the pier; therefore, project-related trips would largely be redistributed from other nearby recreational facilities and open space areas. Further, enhancements to the existing gravel parking areas along the south side of B Street would be paved and striped to provide designated parking spaces, including ADA-compliant parking, both of which would enhance the performance of the on-site pedestrian circulation system. For these reasons, the proposed Project would not conflict with the Benicia General Plan Circulation Element or the City's Municipal Code for street and parking standards; therefore, a *less-than-significant* impact would occur.

No mitigation is required or necessary.

b) Enhancements as a result of the proposed Project would not result in new or different types of uses that would generate a substantial increase in vehicle trips, as may be the case with the construction of a residential development or employment center. Rather, most trips to and from the Project site would be a redistribution of trips already made to park, recreation, and open space areas within Benicia, given the First Street

Green is generally viewed as a community park. Furthermore, because of the Project site's close proximity to the Benicia Marina, Downtown, and the Benicia Pier, and adjacent residences, the increase in vehicle trips is expected to be minimal. This would result in a *less-than-significant* impact.

No mitigation is required or necessary.

c) The proposed Project would not result in a change to air traffic patterns for either commercial or private aircraft, thus it would have *no impact* on air traffic.

No mitigation is required or necessary.

d) The proposed Project would not introduce any features along roadways or at intersections adjacent to the site that would constitute a design hazard or introduce incompatible uses. Although the Project proposes to enhance the existing gravel parking areas along B Street by paving and striping to designate individual parking spaces, such enhancements are expected to improve vehicle circulation and pedestrian safety. Therefore, there would be a *less-than-significant* impact related to design features or incompatible uses.

No mitigation is required or necessary.

e) The project site currently has two access points along First Street and two access points along B Street. The proposed Project would not alter existing access to the project site; therefore, *no impact* would occur with respect to adequate emergency access.

No mitigation is required or necessary.

f) The proposed Project would include enhancements to increase connectivity and add to the existing Bay Trail, which is used as a walking, jogging, and bicycling trail, adding to the overall network of trails in the area. The proposed Project would not result in a conflict with policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, such as the Benicia General Plan, Solano Countywide Bicycle Plan, and Solano Countywide Pedestrian Plan; therefore, *no impact* would occur.

No mitigation is required or necessary.

XVII. UTILITIES AND SERVICE SYSTEMS

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	❒	❒	❒	■

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
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?	❒	❒	■	❒

DISCUSSION:

a) – b) The proposed Project would not include the construction of facilities that would require connection to the City's sanitary sewer; therefore, *no impact* would occur.

No mitigation is required or necessary.

c) The proposed Project includes improvements to existing drainage facilities, as well as new facilities. Future enhancements include grading and filling in order to raise the elevation of the park. It is expected that the parking area long B Street would be constructed of pervious pavers or another type of pervious surface to allow for stormwater infiltration. In the event that the parking area along B Street would be paved the Project would result increased stormwater runoff; however, the enhancements would include a bioswale along B Street to channel surface water and provide filtration and intake of in surface runoff. Therefore, potential runoff generated as a result of the proposed Project would, therefore, be *less than significant.*

No mitigation is required or necessary.

d) The proposed Project would not include the construction of facilities that would require connection to the City's water supply; therefore, *no impact* would occur.

No mitigation is required or necessary.

e) As mentioned previously, the proposed Project would not require the expansion of existing wastewater treatment facilities; thus, there would be a *less-than-significant* impact.

No mitigation is required or necessary.

f) – g) Solid waste would be generated through a potential increase in visitors and thorough construction activities associated with buildout of the Project. As mentioned previously, the overall use types would remain similar to existing uses, and no new uses are proposed under the Project. As such, solid waste generation is not likely to increase significantly above and beyond that of existing conditions. Periodically, special events are held at the First Street Green, such as the annual Benicia Classic Car Show, which could result in temporary spikes in solid waste generation; however, the City has planned for such annual events and considered part of the existing conditions with respect to solid waste generation. Overall, a *less-than-significant* would occur with regards to solid waste generation and disposal.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

ISSUES (AND SUPPORTING INFORMATION SOURCES)	POTENTIALLY SIGNIFICANT IMPACT	POTENTIALLY SIGNIFICANT IMPACT UNLESS MITIGATION INCORPORATED	LESS THAN SIGNIFICANT IMPACT	NO IMPACT
Would the project:				
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, 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 considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	❒	❒	■	❒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	❒	❒	■	❒

DISCUSSION:

a) The proposed Project's enhancements to an existing community park would result in low intensity use and passive recreation of the area with minimal environmental impacts. Although a boardwalk would be constructed at the water's edge, which could interfere with wetlands and habitat, mitigation measures identified in Section IV, Biological Resources, of this Initial Study, would reduce potential impacts to wetlands and

habitat to less-than-significant levels. Overall, the proposed Project would enhance an already existing community park and would not change the existing use of the park. Therefore, a *less-than-significant* impact would occur.

No mitigation is required or necessary.

b) Increases in air quality and noise impacts may occur as a result of construction activities, but would be temporary in nature and could be mitigated to a less-than-significant level. In addition, mitigation measures have been included to mitigate for impacts to air quality, as well as cultural resources. None of these impacts would be cumulatively considerable because they are either temporary in nature or such that they only have the potential to affect the direct environment. Therefore, the proposed Project would result in a *less-than-significant* cumulative impact.

No mitigation is required or necessary.

c) As previously discussed, the proposed Project would not result in a significant impact that could not be mitigated to a less-than-significant level, thus the proposed Project's environmental effects would be *less than significant*.

No mitigation is required or necessary.

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APPENDIX

BIOLOGICAL ASSESSMENT AND ENVIRONMENTAL BASELINE MEMO

APRIL 12, 2013

ENVIRONMENTAL COLLABORATIVE

Consultation • Documentation • Restoration
1268 64th Street • Emeryville, CA 94608
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MEMORANDUM

TO: Isabelle Minn
The Planning Center/DCE
1625 Shattuck Avenue Suite 300
Berkeley, CA 94709

DATE: 12 April 2013

FROM: Jim Martin
ENVIRONMENTAL COLLABORATIVE

SUBJECT: Biological Assessment and Environmental Baseline for
The Urban Waterfront Enhancement and Master Plan, City of Benicia

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As requested, this memo serves as the Biological Assessment and Environmental Baseline Report (BAEB) for the Urban Waterfront Enhancement and Master Plan site in Benicia, California. The BAEB provides a description of biological and wetland resources known or suspected from the site, a summary of relevant State and federal regulations related to the protection of biological and wetland resources, and factors to consider in evaluating options for future uses and enhancement of the site. The site is owned by the City of Benicia and is located along the north shoreline of Carquinez Strait at the south end of 1st Street, with commercial development to the northwest along 1st Street, residential development directly to the north along the north side of B Street, and the Benicia Marina to the northeast.

This BAEB was prepared based on a review of available background information and a field reconnaissance of the site. Prior to conducting the field survey, available literature and mapping of biological and wetland resources were reviewed. This included review of records maintained by the California Natural Diversity Data Base (CNDDB) of the California Department of Fish and Wildlife (CDFW) on special-status species and sensitive natural communities in the Benicia vicinity, mapping prepared by the U.S. Fish and Wildlife Service as part of the National Wetland Inventory, and other available background information.

A field reconnaissance of the site was conducted on 1 March 2013 to determine vegetation and wildlife habitats, provide a preliminary assessment of the extent of potential jurisdictional waters, and conduct a habitat assessment for special-status species. A preliminary wetland assessment was conducted as part of the field reconnaissance, evaluating indicators of vegetation, hydrology and soils to determine an estimated boundary between potential jurisdictional waters and uplands. Given the timing of the field work in the early spring, it was difficult to accurately identify some plant species and determine their wetland indicator status. But the preliminary wetland assessment does provide an initial indication of the possible extent of jurisdictional waters on the site. A thorough wetland delineation would still be necessary to provide additional information on potential wetlands, which would then have to be confirmed by

the U.S. Army Corps of Engineers (Corps) to officially determine the extent of jurisdictional waters on the site. No protocol surveys for special-status species were performed as part of the field reconnaissance, although habitat conditions were evaluated to determine the likelihood of occurrence on the site.

SITE BIOLOGICAL AND WETLAND RESOURCES

The following provides a description of the vegetation and wildlife resources on the site, potential for occurrence of special-status species and sensitive natural communities, and presence of jurisdictional waters.

1. Vegetation

The location of the site along the shoreline of Carquinez Strait and edge of the developed downtown area of Benicia are major influences on the existing vegetation and wildlife resources. Natural coastal salt marsh, brackish water marshlands, and open water habitat of the Strait occupy the southern, lower elevations of the site. As part of past development in the area over the past 150 years, fills were placed to improve human access and reduce the potential for flooding in parts of the northern portion of the site, reducing the original extent of marshland habitat. Upland areas are now covered with impervious and gravel surfaces, or support irrigated turf and areas of ruderal (weedy) grassland.

The developed uplands on the site support a limited number of primarily non-native species. These consist of several species of palms, irrigated turf, and other ornamental plantings. Individual Canary Island date palms (*Phoenix canariensis*) are scattered through the margins and upper terraces of the marshlands, and are displacing native cover due to shading from the dense thicket of fronds. Invasive species such as sweet fennel (*Foeniculum vulgare*), yellow-star thistle (*Centaurea solstitialis*), and wild radish (*Raphanus sativus*) occur at the margins of developed areas where routine mowing and maintenance are not performed.

Ruderal grasslands continue to dominate the southeastern upland area of the site, and along the margins of upland areas. These areas are dominated by non-native species common in the Benicia area, such as slender wild oat (*Avena barbata*), ripgut grass (*Bromus diandrus*), lotus (*Lotus scoparius*), common vetch (*Vicia sativa*), and English plantain (*Plantago lanceolata*). Where surface water appears to pond for prolonged periods, seasonal wetland indicator species are present in areas that have been filled in the past. Depending on the depth and duration of inundation, some of the depressional areas are devoid of vegetation, with the margins supporting seasonal wetland indicator species such as brass buttons (*Cortula coronopifolia*), brome fescue (*Vulpia bromoides*), perennial ryegrass (*Lolium multiflorum*), Bermuda grass (*Cynodon dactylon*), salt grass (*Distichlis spicata*), and hyssop loosestrife (*Lythrum hyssopifolia*).

Coastal salt marsh and brackish water marsh occurs along the lower elevations of the site, generally below about 7.4 NAVD.[1] Tidal marsh habitats are similar in vertical structure, starting at the low elevation mud flat to the upland vegetation. The lowest elevation vegetation zone support open stands of cordgrass (*Spartina* spp.), with pickleweed (*Salicornia virginica*) co-dominated in places by saltgrass in the mid-marsh zone. Pickleweed and saltgrass are still dominant components in some areas in the upper marsh zone, together with patches of alkali heath (*Frankenia salina*), gumplant (*Grindelia stricta* ssp. *angustifolia*). Dense stands of bullrush (*Scirpus maritimus*) and cattail (*Typha latifolia*) occur along the upper end of the

[1] NAVD refers to North American Vertical Datum of 1988.

brackish-water marsh along the drainage that discharges onto the site from the culver under East 2nd Street. The upper margins of the marshlands transition into areas of ruderal grassland cover, dominated by non-native grasses and ruderal herbaceous species such as mustard (*Brassica* sp.), iceplant (*Mesembryanthemum* sp.), ripgut grass, English plantain, and sweet fennel.

Highly invasive perennial pepperweed (*Lepidium latifolium*) has spread throughout the isolated stand of coastal salt marsh habitat north of the historic A Street stub, north of the railroad station building and east of 1st Street, and is spreading through the other areas of coastal salt marsh on the site. This non-native species forms a dense cover over native marsh species and disrupts foraging and other activities of wildlife.

Several stands of common reed (*Phragmites australis*) occur along the upper marsh zone as well. It is uncertain whether this species is native or an introduced hybrid, but it appears to be spreading through the marsh zone, forming dense thickets that shade out all other plant species. Genetic testing is typically required to accurately distinguish whether it is the native species, or an introduced hybrid with more aggressive tendencies for spreading.

2. Wildlife

The site supports a wide diversity of wildlife, given the interface of upland and aquatic habitat along the shoreline of Carquinez Strait. Upland areas of turf and landscaping have only limited habitat value, but the irrigated turf areas are frequently grazed by Canada goose and provide occasional foraging opportunities for birds found in urban habitat such as American robin, scrub jay, house finch and northern mockingbird. Ruderal grasslands in the eastern portion of the site and margins of the marshlands continue to provide important cover for grassland-dependent species such as California vole, pocket gopher, gopher snake, sparrows, finches, and other passerine birds. Several species of raptors utilize the grasslands and marshlands for foraging, but suitable nesting habitat is absent given the lack of nesting trees and intensity of human activity in upland areas.

The shoreline and open water of Carquinez Strait provides foraging opportunities for a large number of bird species, and aquatic habitat for fish, mollusks, and invertebrates. The mudflats support a diverse assemblage of benthic macro-invertebrates which in turn attracts large numbers of migrating and wintering shorebirds such as willet, long-billed curlew, marbled godwit, dowitchers, and sandpipers. Shorebirds and wading birds most likely use the stands of marsh, shallow mudflats, and exposed shoreline for foraging. These species forage on mudflats as they are exposed by receding tides, often concentrating at the water's edge where worms, crustaceans, and bivalves are closer to the mud's surface. Wading birds such as snowy egret, great egret, and great blue heron forage along the margins of tidal channels and marsh edges. Dabbling (i.e., surface-feeding) ducks, such as mallard, forage over inundated mudflats and tidal channels. When inundated by high tides, tidal channels and mudflats provide important foraging habitat for a variety of estuarine species, including bat ray, leopard shark, and various fish species.

3. Special-Status Species

Special-status species receive varying degrees of legal protection under both the federal and California Endangered Species Acts, and the California Environmental Quality Act. The U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NOAA Fisheries), and the CDFW share responsibility for protection and management of natural resources (see detailed descriptions below under Regulatory Context). Special-status species with legal protection often represent a major constraint to development, particularly when these species

are wide ranging or highly sensitive to human disturbance. If a listed species may be affected by proposed development, the lead agency must initiate a consultation with the USFWS, NOAA Fisheries, and/or CDFW, as required by state or federal law. Without adequate mitigation, habitat modification could result in a "take" of a listed species.

Information on the occurrence of special-status species known or suspected to occur in the site vicinity was collected from several sources. These included: the CNDDB records, the California Wildlife Habitat Relationships species notes of the CDFW (1988 and 1990), the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants of California (2013), and miscellaneous information available through the USFWS, CDFW, and technical publications.

Based on recorded geographic range and preferred habitat, a number of special-status species have been reported from or are suspected to occur along the Carquinez Strait and Benicia vicinity. **Figure 1** shows the distribution of special-status plant and animal species monitored by the CNDDB within approximately five miles of the site. As indicated in **Figure 1**, an occurrence of Suisun song sparrow (*Melospiza melodia maxillaris*) has been reported from marshland habitat along the shoreline of the Strait encompassing the site eastward to the Benicia Bridge. And specific occurrences of Mason's liliaeopsis which was observed on pilings along the shoreline and Delta tule pea (*Laythrus jepsonii* var. *jepsonii*) which was observed in marshland habitat east of the Benicia Marina have been reported from within half a mile of the site. General occurrences of Bolander's water-hemlock (*Cicuta maculata* var. *bolanderi*) and big tarplant (*Blepharizonia plumosa*) have been reported by the CNDDB as historic records that extend over most of the Benicia vicinity, as does an historic record of Carquinez goldenbush (*Isocoma arguta*). The following provides a summary of special-status plant and animal species suspected to possibly occur on the site.

Special-Status Plants. **Table 1** provides information on the status and typical habitat characteristics of those special-status plant species considered to have the greatest likelihood for occurrence in the site vicinity, together with their likelihood of occurrence on the site. A number of these have been reported from grassland, freshwater marshes, and woodland habitat, such as big tarplant, fragrant fritillary (*Fritillaria liliacea*), Congdon's tarplant (*Hemizonia parrayi* ssp. *congdonii*), and Chaparral ragwort *(Senicio aphanactis)*. Suitable habitat for these species is absent in the site vicinity due to the extent of past development in upland areas, and these species are not suspected to occur on the site. However, the remaining natural marshlands could support a number of marsh-dependent special-status plant species, and the scattered piers on the site could support one or more occurrences of Mason's lilaeopsis. Marshland-dependent special-status plant species that could occur on the site include: Bolander's water hemlock, soft bird's-beak, Delta tule pea, and Marin knotweed (*Polygonum marinense*), among others. Systematic surveys would have to be conducted during the appropriate time of the year to confirm the presence or absence of any populations of special-status plant species from the site, and there is a possibility that new occurrences could become established in the future through seed dispersal along the Strait.

Special-Status Animals. As indicated in **Figure 1**, Suisun song sparrow is the only special-status animal species to actually have been reported from the site by the CNDDB, but saltmarsh common yellowthroat were heard vocalizing in dense marsh vegetation during the field reconnaissance in March 2013. Occurrences of coastal salt marsh-dependent species, such as California black rail (*Laterallus jamaicensis coturniculus*), California clapper rail (*Rallus longirostris obsoletus*), Salt marsh harvest mouse (*Reithrodontomys raviventris*), Suisun shrew

(*Sorex ornatus sinuosus*), and Suisun song sparrow have been reported from Southampton Bay about two miles to the west of the site, and from Suisun Marsh about three miles to the east of the site. It is highly likely that these and other special-status bird species occasionally forage along the shoreline of the Strait between larger areas of high quality habitat, and may frequent or occassionally forage in the marshland habitat on the site. Although the stands of pickleweed on the site are most likely not large enough to sustain occurrences of special-status mammals know from coastal salt marsh, particularly given the absence of essential upland refugia during flood events, there remains a possibility that salt marsh harvest mouse and/or Suisun shrew could occassionally disperse along the shoreline of the Strait during flood events and could seek refuge in the marshland habitat on the site.

Table 2 provides information on the status and typical habitat characteristics of those special-status animal species considered to have the greatest likelihood for occurrence in the site vicinity, together with their likelihood of occurrence on the site. Most of these species are associated with open water and tidal marshland habitat or utilize open grasslands as foraging habitat. Delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinichus thaleichthys*), Sacramento splittail (*Pogonichthys macrolepidotus*), and winter-run chinook salmon (*Oncorhychus tshawytscha*) all occur in the open water habitat of Carquinez Strait and Suisun Bay to the east. Salt marsh harvest mouse, Suisun shrew, California black rail, California clapper rail, and Suisun song sparrow have all been sighted in the marshland habitat of Southampton Bay to the west and Suisun Marsh to the east, and as noted above may occasionally forage or disperse across the marshland habitat on the shoreline of the site.

Other species of concern are generally associated with grassland and woodland habitats, and most of these have been reported from the extensive undeveloped open space in the Sky Valley area several miles to the northeast. These include: callippe silverspot butterfly (*Speyeria callippe callippe*), Cooper's hawk (*Accipter cooperi*), golden eagle (*Aquila chrysaetos*), burrowing owl (*Athene cunicularia*), northern harrier (*Circus cyaneus*), white-tailed kite (*Elanus leucurus*), prairie falcon (*Falco mexicanus*), Peregrine falcon (*Falco peregrinus anatum*), loggerhead shrike (*Lanius ludovicianus*), California tiger salamander (*Ambystoma tigrinum californiense*), western pond turtle (*Eyms marmorata*), California red-legged frog (*Rana draytonii*), and foothill yellow-legged frog (*Rana boylii*). Suitable habitat for most of these species is absent from the site, although special-status bird species may occasionally forage in the remaining natural areas on the site, such as loggerhead shrike, white-tailed kite, prairie falcon, and peregrine falcon. Northern harrier is a frequent visitor to the site, foraging in the open marshlands. But suitable nesting habitat is absent for this ground nesting species because of the on-going disturbance by humans and dogs in the upper marsh zone. A number of special-status bat species are known from Solano County, including big free-tailed bat (*Nyctinomops macrotis*), but suitable roosting habitat is absent from the site, with the possible exception of the attic area in the restored train station on the site. Further assessment of the interior of the structure, especially the attic, may be appropriate to ensure absence of bats before any further modifications.

4. Sensitive Natural Communities

In addition to species-oriented management, protecting habitat on an ecosystem-level is increasingly recognized as vital to the protection of natural diversity in the state. The CNDDB also monitors the locations of natural communities that are considered rare or threatened, known as sensitive natural communities. The CNDDB has compiled a list of sensitive natural communities that are given a high inventory priority for mapping and protection (CDFG, 2010). Although these natural communities have no legal protective status under the State or federal Endangered Species Acts, they are provided some level of protection under the CEQA

Guidelines. A project would normally be considered to have a significant effect on the environment if it would substantially affect a sensitive natural community such as a riparian woodland, native grassland, or coastal salt marsh. Further loss of a sensitive natural community could also be interpreted as substantially diminishing habitat, depending on the relative abundance, quality and degree of past disturbance, and the anticipated impacts.

The coastal salt marsh and brackish water marsh on the site are considered sensitive natural community types. Areas of potential seasonal wetlands and upland areas of turf and ruderal grasslands are dominated by non-native species and are not considered a sensitive natural community type. However, the areas of potential seasonal wetland may qualify as jurisdictional waters and if determined to be regulated features, would be regulated and any modifications subject to agency authorization as discussed below.

5. Jurisdictional Waters

Although definitions vary to some degree, wetlands are generally considered to be areas that are periodically or permanently inundated by surface or ground water, and support vegetation adapted to life in saturated soil. Wetlands are recognized as important features on a regional and national level due to their high inherent value to fish and wildlife, use as storage areas for storm and flood waters, and water recharge, filtration, and purification functions. Technical standards for delineating wetlands have been developed by the Corps and the USFWS, which generally define wetlands through consideration of three criteria: hydrology, soils, and vegetation.

The CDFW, Corps, and Regional Water Quality Control Board (RWQCB) have jurisdiction over modifications to shorelines, open water, stream channels, river banks, and other waterbodies (see detailed descriptions below under Regulatory Context). Jurisdiction of the Corps is established through the provisions of Section 404 of the Clean Water Act, which prohibits the discharge of dredged or fill material into "waters" of the United States without a permit, including wetlands and unvegetated "other waters". All three of the identified technical criteria must be met for an area to be identified as a wetland under Corps jurisdiction, unless the area has been modified by human activity. The Corps is also responsible for administration of Section 10 of the Rivers and Harbor Act, which serves to regulate access over navigable waters. Jurisdictional authority of the CDFW over wetland areas is established under Section 1601-1606 of the Fish and Wildlife Code, which pertains to activities that would disrupt the natural flow or alter the channel, bed, or bank of any lake, river, or stream. The Fish and Wildlife Code stipulates that it is unlawful to substantially divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake without notifying the Department, incorporating necessary mitigation, and obtaining a Streambed Alteration agreement.

Based on the results of the preliminary wetland assessment, jurisdictional waters on the site consist of areas of coastal salt marsh and possible areas of seasonal wetlands and scalds.[2] **Figure 2** shows the extent of assumed potential jurisdictional waters on the site. Areas of coastal salt marsh have strong wetland indicators and would be regulated waters. Wetland indicators associated with the potential seasonal wetland were less conspicuous, and in some locations these features could be considered hydrologically isolated or the vegetation criteria may not meet the Dominance Test or prevalence index for wetlands under the Wetland Delineation Manual for the Arid West Region used by the Corps, and therefore not qualify as

[2] Scalds are areas that pond mineralized water for long enough periods that very little vegetation can become established and crusts form once the water dries out during the late spring and summer months, in this case salts from the brackish waters of Carquinez Strait.

jurisdictional under Section 404 of the Clean Water Act. Field indicators were difficult to determine during the field reconnaissance due to the timing of the site visit in early spring when many of the dominant grasses could not be identified to species in the potential seasonal wetland areas. However, the features mapped in **Figure 2** do contain one or more characteristics of seasonal wetlands and should be considered as such as part of site planning exercises until a formal wetland delineation is prepared and verified by the Corps.

Figure 2 also shows the Mean High Water elevation, which is typically used by the Corps in determining the limits of their jurisdiction under Section 10 of the Rivers and Harbors Act. On the site, the Mean High Water Elevation generally occurs at the edge of the marshlands and remaining shoreline areas.

REGULATORY CONTEXT

The following provides a summary of federal and state regulatory jurisdiction over biological and wetland resources that could influence future planning and feasibility of future modifications to the site where sensitive resources could be affected.

1. Endangered Species Act

The USFWS has jurisdiction over federally listed threatened and endangered plant and animal species. The federal Endangered Species Act (ESA) and its implementing regulations prohibit the take of any fish or wildlife species that is federally listed as threatened or endangered without prior approval pursuant to either Section7 or Section 10 of the ESA. ESA defines "take" as "*harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct*." Federal regulation 50CFR17.3 defines the term "harass" as an intentional or negligent act that creates the likelihood of injuring wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns such as breeding, feeding, or sheltering (50CFR17.3). Furthermore, federal regulation 50CFR17.3 defines "harm" as an act that either kills or injures a listed species. By definition, "harm" includes habitat modification or degradation that actually kills or injures a listed species by significantly impairing essential behavior patterns such as breeding, spawning, rearing, migrating, feeding, or sheltering (50CFR217.12).

Section10(a) of the ESA establishes a process for obtaining an incidental take permit that authorizes nonfederal entities to incidentally take federally listed wildlife or fish. Incidental take is defined by ESA as take that is *"incidental to, and not the purpose of, the carrying out of another wise lawful activity*." Preparation of a habitat conservation plan, generally referred to as an HCP, is required for all Section 10(a) permit applications. The USFWS and National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA Fisheries Service) have joint authority under the ESA for administering the incidental take program. NOAA Fisheries Service has jurisdiction over anadromous fish species and USFWS has jurisdiction over all other fish and wildlife species.

Section 7 of the ESA requires all federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any species listed under the ESA, or result in the destruction or adverse modification of its habitat. Federal agencies are also required to minimize impacts to all listed species resulting from their actions, including issuance or permits or funding. Section 7 requires consideration of the indirect effects of a project, effects on federally listed plants, and effects on critical habitat (ESA requires that the USFWS identify critical habitat to the maximum extent that it is prudent and determinable when a species is listed as threatened or endangered). This consultation results in a Biological Opinion prepared by the

USFWS stating whether implementation of the HCP will result in jeopardy to any HCP Covered Species or will adversely modify critical habitat and the measures necessary to avoid or minimize effects to listed species.

Although federally listed animals are legally protected from harm no matter where they occur, the Section 9 of the ESA provides protection for endangered plants by prohibiting the malicious destruction on federal land and other "take" that violates State law. Protection for plants not living on federal lands is provided by the California Endangered Species Act.

2. Clean Water Act

The Corps is responsible under Section 404 of the Clean Water Act to regulate the discharge of fill material into waters of the U.S. These waters, and their lateral limit, are defined in 33 CFR Part 328.3(a) and include streams that are tributaries to navigable waters and their adjacent wetlands. The lateral limits of jurisdiction for a non-tidal stream are measured at the line of the Ordinary High Water Mark (33 CFR Part 328.3[e]) or the limit of adjacent wetlands (33 CFR Part 328.3[b]). Any permanent extension of the limits of an existing water of the U.S., whether natural or man-made, results in a similar extension of Corps jurisdiction (33 CFR Part 328.5).

Waters of the U.S. fall into two broad categories: wetlands and other waters. Other waters include waterbodies and watercourses generally lacking plant cover such as rivers, streams, lakes, springs, ponds, coastal waters, and estuaries. Wetlands are aquatic habitats that support hydrophytic wetland plants and include marshes, wet meadows, seeps, floodplains, basins, and other areas experiencing extended seasonal soil saturation. Seasonally or intermittently inundated features, such as seasonal ponds, ephemeral streams, and tidal marshes, are categorized as wetlands if they have hydric soils and support wetland plant communities. Seasonally inundated waterbodies or watercourses that do not exhibit wetland characteristics are classified as other waters of the U.S.

Waters and wetlands that cannot trace a continuous hydrologic connection to a navigable water of the U.S. are not tributary to waters of the U.S. These are termed "isolated wetlands." Isolated wetlands are jurisdictional when their destruction or degradation can affect interstate or foreign commerce (33 CFR Part 328.3[a]). The Corps may or may not take jurisdiction over isolated wetlands depending on the specific circumstances.

In general, a project proponent must obtain a Section 404 permit from the Corps before placing fill or grading in wetlands or other waters of the U.S. Prior to issuing the permit, the Corps is required to consult with the USFWS under Section 7 of the ESA if the project may affect federally listed species.

All Corps permits require water quality certification under Section 401 of the Clean Water Act. In the San Francisco Bay Area, this regulatory program is administered by the San Francisco Bay RWQCB. Project proponents who propose to fill wetlands or other waters of the U.S. must apply for water quality certification from the RWQCB. The RWQCB has adopted a policy requiring mitigation for any loss of wetland, streambed, or other jurisdictional area.

3. Rivers and Harbors Act

The Rivers and Harbors Act was enacted in 1899 and addresses projects and activities in navigable waters and harbor and river improvements. Section 10 of the Rivers and Harbors Act(33 USC 403) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. Section 10 of the Act provides that the construction of any structure in or over

any navigable water of the United States, or the accomplishment of any other work affecting the course, location, condition, or physical capacity of such waters is unlawful unless the work has been authorized by the Corps. Regulated activities include the placement/removal of structures, work involving dredging, disposal of dredged material, filling, excavation, or any other disturbance of soils/sediments or modification of a navigable waterway. Navigable waters of the United States are those waters of the U.S. that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past or may be susceptible to use to transport interstate or foreign commerce.

4. Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) prohibits the taking, hunting, killing, selling, purchasing, etc. of migratory birds, parts of migratory birds, or their eggs and nests. As used in the MBTA, the term "take" is defined as "to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires." Most bird species native to North America are covered by this act.

5. California Endangered Species Act

The CDFW has jurisdiction over State-listed endangered, threatened, and rare plant and animal species under the California Endangered Species Act (CESA). CESA is similar to the federal ESA both in process and substance; it is intended to provide additional protection to threatened and endangered species in California. Species may be listed as threatened or endangered under both acts (in which case the provisions of both State and federal laws apply) or under only one act. A candidate species is one that the Fish and Wildlife Commission has formally noticed as being under review by CDFW for addition to the State list. Candidate species are protected by the provisions of CESA.

6. California Environmental Quality Act

The California Environmental Quality Act (CEQA) applies to "projects" proposed to be undertaken or requiring approval by State and local government agencies. Projects are defined as having the potential to have physical impact on the environment. Under Section 15380 of CEQA, a species not included on any formal list "shall nevertheless be considered rare or endangered if the species can be shown by a local agency to meet the criteria" for listing. With sufficient documentation, a species could be shown to meet the definition of rare or endangered under CEQA and be considered a "de facto" rare or endangered species.

7. California Fish and Wildlife Code

The CDFW is also responsible for enforcing the California Fish and Wildlife Code, which contains several provisions potentially relevant to construction projects. For example, Section 1602 of the Fish and Wildlife Code governs the issuance of Lake and Streambed Alteration Agreements by the CDFW. Lake or Streambed Alteration Agreements are required whenever project activities substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated as such by the CDFW.

The Fish and Wildlife Code also lists animal species designated as Fully Protected or Protected, which may not be taken or possessed at any time. The CDFW does not issue licenses or permits for take of these species except for necessary scientific research, habitat restoration/species recovery actions, or live capture and relocation pursuant to a permit for the protection of livestock. Fully Protected species are listed in Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the Fish and Wildlife Code, while Protected amphibians and reptiles are listed in Chapter 5, Sections 41 and 42.

Section 3503 of the Fish and Wildlife Code prohibits the take, possession, or needless destruction of the nest or eggs of any bird. Subsection 3503.5 specifically prohibits the take, possession, or destruction of any birds in the orders Falconiformes (hawks and eagles) or Strigiformes (owls) and their nests. These provisions, along with the federal MBTA, essentially serve to protect nesting native birds.

Non-native species, including European starling, house sparrow, and rock pigeon, are not afforded any protection under the MBTA or California Fish and Wildlife Code.

8. Porter-Cologne Water Quality Control Act

Under this Act (California Water Code Sections 13000–14920), the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the State's waters. The RWQCB asserts jurisdiction over isolated waters and wetlands, as well as waters and wetlands that are regulated by the Corps. Therefore, even if a project does not require a federal permit, it still requires review and approval by the RWQCB. When reviewing applications, the RWQCB focuses on ensuring that project do not adversely affect the "beneficial uses" associated with waters of the State. In most cases, the RWQCB seeks to protect these beneficial uses by requiring the integration of waste discharge requirements (WDRs) into projects that will require discharge into waters of the State. For most construction projects, the RWQCB requires the use of construction and post-construction Best Management Practices (BMPs).

9. McAteer-Petris Act

The McAteer-Petris Act and Suisun Marsh Preservation Act were adopted to protect San Francisco Bay and Suisun Marsh as great natural resources for the benefit of the public and to encourage development compatible with this protection. The San Francisco Bay Conservation and Development Commission (BCDC) was established to carry out this Act. The two primary goals of the BCDC are (1) to prevent the unnecessary filling of San Francisco Bay, and (2) to increase public access to and along the Bay shoreline. BCDC approval is required for all projects within 100 feet of the Bay shoreline beyond the Mean High Water (MHW) elevation, as well as projects that propose any filling or dredging within Bay waters.

10. Other Statutes, Codes, and Policies Affording Species Protection

The CDFW maintains an administrative list of Species of Special Concern (SSC), defined as a "species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- Is extirpated from the State, or, in the case of birds, in its primary seasonal or breeding role;
- Is listed as federally, but not State-, threatened or endangered;
- Meets the State definition of threatened or endangered but has not formally been listed;
- Is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status;
- Has naturally small populations exhibiting high susceptibility to risk from any factor(s) that, if realized, could lead to declines that would qualify it for State threatened or endangered status.

The CDFW's Nongame Wildlife Program is responsible for producing and updating SSC publications for mammals, birds, and reptiles and amphibians. The Fisheries Branch is responsible for updates to the Fish SSC document and list. Section 15380 of the *CEQA*

Guidelines clearly indicates that SSC should be included in an analysis of project impacts if they can be shown to meet the criteria of sensitivity outline therein. In contrast to species listed under the federal ESA or CESA, however, SSC have no formal legal status.

The California Native Plant Society (CNPS), a non-governmental conservation organization, has developed five lists of plant species of concern in California. Vascular plants included on these lists are defined as follows:

List 1A: Plants presumed extinct in California
List 1B: Plants rare, threatened, or endangered in California and elsewhere
List 2: Plants rare, threatened, or endangered in California, but more common elsewhere
List 3: Plants about which more information is needed – a review list
List 4: Plants of limited distribution – a watch list

Although the CNPS is not a regulatory agency and plants on these lists have no formal regulatory protection, plants appearing on Lists 1B and 2 may be considered to meet the definition of endangered, rare, or threatened species under Section 15380(d) of CEQA (see above), and impacts to these species may be considered "significant."

In addition, the CDFW recommends, and local governments may require, protection of species which are regionally significant, such as locally rare species, disjunct populations, essential nesting and roosting habitat for more common wildlife species, or plants on the CNPS Lists 3 and 4.

CONCLUSIONS

The site supports a diversity of plant and animal species, and its location along the shoreline of Carquinez Strait provides important habitat for both aquatic and terrestrial species. Future uses on the site must recognize the constraint that sensitive biological and wetland resources pose to some activities, as well as the opportunities to further enhance existing habitat values that have been compromised by past development activities, the spread and establishment of invasive species, and disturbance to natural habitat and native wildlife use caused by the activities of humans and their pets, particularly dogs on the site. The following provides a summary of the sensitive resources on the site and the planning considerations relevant to future uses and opportunities for habitat enhancement.

1. Special-Status Species

Past development has eliminated suitable habitat for special-status species in upland areas on the site. However, areas of intact coastal salt marsh and open water habitat support a number of special-status species, including known occurences of special-status bird species such as Suisun song sparrow and saltmarsh common yellowthroat, numerous special-status fish species that migrate and forage through the open waters of the Strait, and possibly other special-status species as well. Suitable habitat for a number of special-status plant species occurs in the marshland and exposed shoreline of the site, including Mason's lilaeopsis, Delta tule pea, and soft bird's-beak, and detailed surveys would be required to confirm presence or absence of these and other species where natural habitat remains. A number of special-status bird species are known to forage in the marshlands on the site, such as northern harrier, white-tailed kite and possibly California black rail and California clapper rail as they disperse along the shoreline of the Strait. Similarly, there is a remote possibility that salt marsh harvest mouse and Suisun shrew could disperse along the shoreline of the Strait and utilize the protective cover of

the marshlands on the site, although it is unlikely that sustainable populations would be present given the relatively small extent of suitable habitat and lack of protective upland refugia. Nevertheless, the marshland and open water habitats on the site are an important resource for special-status species and must be recognized as such in future planning and enhancement plans.

Modifications to areas of marshland and open water habitat would require consultation with resource agencies, and may require authorizations under the state and federal Endangered Species Acts. This would include disturbance to marshland and open water habitat associated with installation of new piers or elevated boardwalks, or placement of fills or other modifications within or at the edge of marshland habitat.

If disturbance is proposed in the remaining natural areas on the site as part of physical improvements or habitat enhancement, such as invasive species removal, preconstruction nesting surveys would be necessary to ensure that no nests in active use would be disturbed during the nesting season (typically February through August), in compliance with the federal Migratory Bird Treaty Act and CDFW Code.

2. Sensitive Natural Communities

Areas of coastal salt marsh and brackish water marsh are considered sensitive natural communities by the CDFW. Both of these sensitive natural community types are also most likely jurisdictional waters, providing additional regulatory protection. Any modifications to these features could be considered a significant impact under CEQA, requiring compensatory mitigation if they are to be filled or modified as part of future activities.

These natural community types and the habitat they provide to native plants and animals have been compromised by past development, invasive species, and human activity. Highly invasive perennial pepperweed, the scattered Canary Island palms, and possibly the stands of common reed compromise the existing habitat values of the marshlands, and future plans should include a program for invasive species removal and control. Trampling by humans can damage marsh vegetation, particularly clumps of the relatively brittle pickleweed, and access into the marsh by humans and dogs compromises the habitat value of these areas to wildlife. Access should be carefully controlled through the use of interpretive signage and other mechanisms.

3. Jurisdictional Waters

Any modifications to jurisdictional wetlands and other waters of the U.S. would require authorization from jurisdictional agencies. This would include modifications to areas of marshlands to improve habitat values, and possibly fill or modifications to areas considered to be potential seasonal wetlands if these features are confirmed to be jurisdictional wetlands. A formal wetland delineation must be prepared and verified by the Corps to confirm the extent of jurisdictional waters on the site, particularly the areas mapped as potential seasonal wetlands. Depending on the nature of the proposed modification, compensatory mitigation may be required.

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TABLE 1

SPECIAL-STATUS PLANT SPECIES KNOWN OR SUSPECTED TO OCCUR IN BENICIA VICINITY

Taxa Name	Status (Fed/State /CNPS)	Habitat Characteristics (Site Habitat Suitability)	Distribution (Presumed Extirpated)	Flowering Period
Aster *lentus* Suisun marsh aster	-/-/1B	Brackish water marshes and swamps (**Potential habitat present**)	Contra Costa, Napa, Sacramento, Solano	May-Oct.
Astragalus tener var. *tener* Alkali milk-vetch	-/-/1B	Valley grassland, vernal pools, and playas (**No suitable habitat**)	Merced, Solano, Yolo (Alameda, Contra Costa, Monterey, Napa, Santa Barbara, Santa Clara, San Francisco, San Joaquin, Stanislaus)	March-June
Atriplex joaquiniana San Joaquin saltbrush	-/-/1B	Alkaline grassland and scrub (**No suitable habitat**)	Alameda, Contra Costa, Colusa, Glenn, Merced, Napa, Sacramento, Santa Barbara, Yolo (Santa Clara, San Joaquin, Solano, Tulare)	April-Sept.
Blepharizonia plumosa Big tarplant	-/-/1B	Grassland (**No suitable habitat**)	Alameda, Contra Costa, San Joaquin, Solano, Stanislaus	July-Oct.
Centromadia parryi ssp. congdonii Congdon's tarplant	-/-/1B	Grassland **(No suitable habitat**)	Alameda, Contra Costa, Monterey, Santa Clara, Santa Cruz, San Luis Obispo, San Mateo, Solano	May-Nov.
Cordylanthus mollis ssp. *mollis* Soft bird's-beak	FE/SR/1B	Coastal salt marsh (**Potential habitat present**)	Contra Costa, Marin, Napa, Solano	July-Nov.
Fritillaria liliacea Fragrant fritillary	-/-/1B	Coastal scrub and grassland often (**No suitable habitat**)	Alameda, Contra Costa, Monterey, Napa, San Benito, Santa Clara, San Francisco, San Mateo, Solano, Sonoma	February-April
Isocoma arguta Carquinez goldenbush	-/-/1B	Grassland (**No suitable habitat**)	Contra Costa, San Luis Obispo, Solano	August-Dec.
Lasthenia conjugens Contra Costa goldfield	FE/-/1B	Low flats and borders of vernal pools (**No suitable habitat**)	Napa, Solano, (Alameda, Contra Costa, Mendocino, Santa Barbara, Santa Clara)	April-May
Lathyrus jepsonii ssp. *jepsonii* Delta tule pea	-/-/1B	Brackish water marshes and swamps (**Potential habitat present**)	Alameda, Contra Costa, Fresno, Napa, San Benito, Santa Clara, San Joaquin, Solano	May-June
Lilaeopsis masonii Mason's lilaeopsis	-/SR/1B	Brackish water marshes and swamps (**Potential habitat present**)	Contra Costa, Napa, Sacramento, San Joaquin, Solano	June-August
Polygonum marinense Marin knotweed	-/-/1B	Coastal salt marsh (**Potential habitat present**)	Marin, Napa, Sonoma	June-August
Senicio aphanactis Chaparral ragwort	-/-/2	Coastal scrub, chaparral, woodland (**No suitable habitat**)	Alameda, Contra Costa, Fresno, Los Angeles, Merced, Orange, Riverside, Santa Barbara, Santa Clara, elsewhere	Jan-April
Trifolium hydrophylum *Saline* clover	-/-/1B	Salt marsh, alkaline pools, grassland (**No suitable habitat**)	Central coast counties, and Solano and possibly Colusa	April-June

Federal Status:
FE = Listed as "endangered" under the Federal Endangered Species Act.
State Status:
SE = Listed as "endangered" under CESA.
SR = Listed as "rare" under CESA.

CNPS Status:
1A = Plants of highest priority; plants presumed extinct in CA.
1B = Plants of highest priority; plants rare and endangered in CA and elsewhere.
2 = Plants rare, threatened, or endangered in CA; more common elsewhere.

TABLE 2

SPECIAL-STATUS ANIMAL SPECIES KNOWN OR SUSPECTED TO OCCUR IN BENICIA VICINITY

Species	Status Federal/State	Preferred Habitat Type (Site Habitat Suitability)
Invertebrates:		
Bridges' coast range shoulderband	-/-	Grasslands and woodland margins with moist protective cover (**No suitable habitat**)
Callippe silverspot butterfly	FE/-	Open grasslands with golden violet host species (**No suitable habitat**)
Monarch butterfly	-/-	Overwinters in eucalyptus and cypress stands (**No suitable habitat**)
Amphibians/Reptiles/Fish:		
California tiger salamander	FT/ST, SSC	Vernal pools, ponds, streams and adjacent grassland (**No suitable habitat**)
California red-legged frog	FT/SSC	Ponds, streams, adjacent riparian and upland (**No suitable habitat**)
Delta smelt	FT/ST	Brackish zone of Delta (**Marginal habitat in marsh/open water**)
Foothill yellow-legged frog	-/SSC	Permanent streams with cobbles (**No suitable habitat**)
Northwestern pond turtle	-/SSC	Pond, rivers, and streams (**No suitable habitat**)
Longfin smelt	-/ST	Brackish zone of Delta (**Marginal habitat in marsh/open water**)
Sacramento splittail	-/SSC	Sloughs and other slow-moving waters of Delta (**Marginal habitat in marsh/open water**)
Steelhead	FT/SSC	Open water of Bay and Delta, tributary rivers and streams (**Marginal habitat in open water**)
Winter- run chinook salmon	FE/SE	Open water of Bay and Delta, tributary rivers and streams (**Marginal habitat in open water**)
Birds:		
Burrowing owl	-/SSC	Grassland (**Marginal foraging habitat in upper marsh**)
California black rail	-/ST, FP	Salt marsh (**Marginal foraging habitat in marsh**)
California clapper rail	FE/SE, FP	Salt marsh (**Marginal foraging habitat in marsh**)
Cooper's hawk	-/-	Riparian and grassland (**No suitable habitat**)
Double-crested cormorant	-/-	Bays, rivers, lakes - communal roosts protected (**Marginal foraging habitat in open water**)
Golden eagle	-/FP	Open grassland and savanna (**No suitable habitat**)
Loggerhead shrike	-/SSC	Grasslands and scrublands (**Marginal foraging habitat in upper marsh and grassland edge**)
Northern harrier	-/SSC	Grassland (**Suitable foraging habitat in marsh**)
Osprey	-/-	Open water and adjacent tree cover for nesting (**Suitable foraging habitat in open water**)
Peregrine falcon	Delisted/Delisted	Open water and grassland (**Suitable foraging habitat in marsh**)
Prairie falcon	-/-	Grassland (**Suitable foraging habitat in marsh**)
Saltmarsh common yellowthroat	-/SSC	Salt and brackish water marsh (**Suitable foraging and nesting habitat in marsh**)
San Pablo song sparrow	-/SSC	Brackish water marsh and adjacent upland (**Suitable foraging and nesting habitat in marsh**)
Suisun song sparrow	-/SSC	Brackish water marsh and adjacent upland (**Suitable foraging and nesting habitat in marsh**)
Tricolored blackbird	-/SSC	Freshwater marsh and fields (**Marginal foraging and nesting habitat in marsh**)
White-tailed kite	-/FP	Grassland (**Marginal foraging habitat in upper marsh**)
Mammals:		
Big free-tailed bat	-/SSC	Range of habitat types for foraging (**Marginal roosting habitat in structure**)
Salt marsh harvest mouse	FE/SE, FP	Salt marsh and adjacent grassland (**Marginal dispersal habitat in marsh**)
Suisun shrew	/SSC	Salt marsh (**Marginal dispersal habitat in marsh**)

Federal Status:
FE = Listed as "endangered" under the Federal Endangered Species Act (FESA).
FT = Listed as "threatened" under the FESA.
C = A candidate species under review for federal listing. Includes species for which the USFWS currently has sufficient biological information to support listing endangered or threatened.

State Status:
SE = Listed as "endangered" under California Endangered Species Act (CESA).
ST = Listed as "threatened" under CESA.
CP = California fully protected or protected species; individual may not be possessed or taken at any time.
SSC = California Special Concern species by the CDFW; species have no formal legal protection but nests and roosts are generally recognized as significant biotic features.
FP = California "fully protected" species may not be processed.

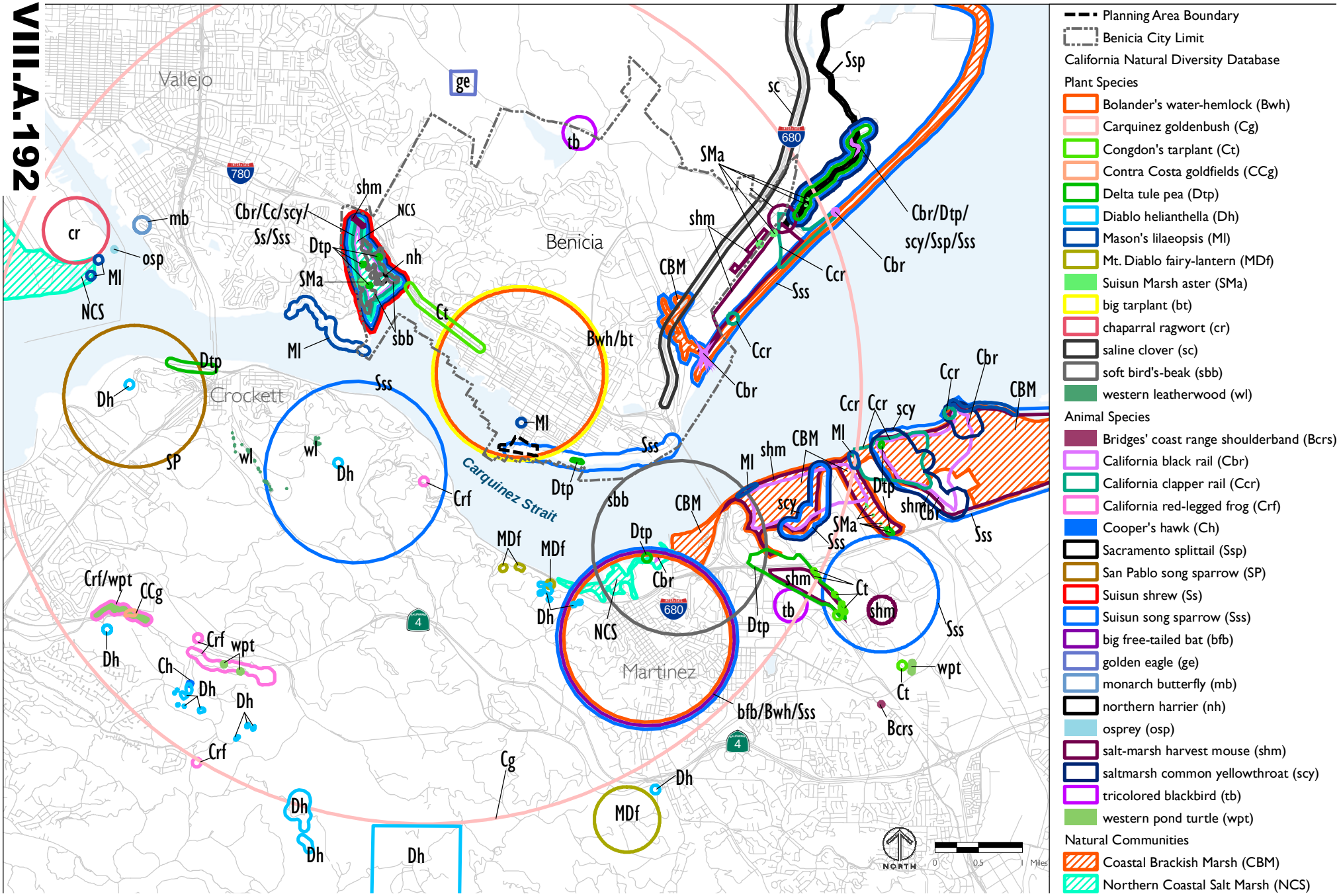

Figure 1 - CNDDB Occurrences of Special-Status Species and Sensitive Natural Communities

Mapping is preliminary based on limited vegetation data and assumed hydrologic criteria. A final determination on all boundaries of jurisdictional waters would wetland delineation and verification by the U.S. Army Corps of Engineers.

Figure 2 - Potential Jurisdictional Wetlands

Urban Waterfront Enhancement and Master Plan
for the City of Benicia

VIII.A.194

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
BUSINESS ITEMS

DATE : September 29, 2014

TO : City Council

FROM : City Manager

SUBJECT : **MARIN CLEAN ENERGY (MCE) - MEMBERSHIP ANALYSIS**

RECOMMENDATION:
1) Review results of Marin Clean Energy (MCE) Membership Analysis and independent assessments prepared for the City of Richmond and City of Mill Valley;
2) Direct the City Manager, by motion, to enter into a contract with MRW & Associates and Davis Wright Tremaine LLP to conduct additional independent analysis, utilizing General Fund salary/benefit savings to fund the analysis; and
3) Schedule Tuesday November 4, 2014 at 8:00 p.m. as the meeting date/time to review the additional information and make a determination regarding joining MCE.

EXECUTIVE SUMMARY:
CCA allows local governments to purchase and/or develop clean power on behalf of their residents, businesses, and municipal accounts. CCA is an energy supply model that works in partnership with Pacific Gas & Electric (PG&E) to deliver renewable electricity, maintain the energy grid, and provide customer service and billing. On June 17, 2014, the City Council allocated $18,000 in Valero Good Neighbor Steering Committee Settlement Agreement funds and authorized the City Manager to execute a contract with Marin Clean Energy (MCE). Council also held a study session on September 9, 2014 so that the public and Council could learn more about CCAs in general. At the conclusion of the study session, Council directed staff to assess the need for further outside review of the pending MCE Membership analysis. Staff received the completed analysis on September 10, 2014, which concluded that Benicia joining MCE would have a net beneficial impact on MCE's current customers and likely reduce near term electrical energy costs for Benicia residents and businesses.

BUDGET INFORMATION:
Independent analyses of the financial and legal risks are estimated to cost $25,000 to $30,000 depending on the regulatory and policy changes that have occurred since the Richmond reports were prepared. These funds could either come from 1) estimated General Fund salary and benefit savings, or 2) Valero

Good Neighbor Steering Committee Settlement Agreement funds. If option 1 is selected, funds will come from the City Attorney's department budget to cover the legal analysis and the Community Development Department for the remainder of the risk analysis. If Option 2 is selected, it will take approximately three months to secure funding since the Community Sustainability Commission does not meet again until November. Even if the Council requested a special CSC meeting to expedite the funding recommendation, it would not be possible to have the funding approved in less than four to six weeks and the City would not be able to accommodate MCE's deadline. In order to try and meet the deadline, staff is recommending that the Council direct the City Manager to fund the analysis through Option 1.

ENVIRONMENTAL REVIEW:
State CEQA Guidelines Section 15378(b)(5) states that a project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." As there is no action proposed at this time, no CEQA determination or action is required.

GENERAL PLAN:
The project supports the overarching Goal of the General Plan, which is Sustainability.

STRATEGIC PLAN:
Relevant Strategic Plan Issues and Strategies:

- Strategic Issue #2: Protecting and Enhancing the Environment
  - Strategy #1: Reduce greenhouse gas emissions and energy consumption
  - Strategy #3: Pursue and adopt sustainable practices

CLIMATE ACTION PLAN:
Relevant Climate Action Plan Issues and Strategies:
- Strategy E-2.6. Community Choice Aggregation Feasibility Assessment

BACKGROUND:
Community Choice Aggregation (CCA) allows local governments to purchase and/or develop clean power on behalf of their residents, businesses, and municipal accounts. CCA is an energy supply model that works in partnership with Pacific Gas & Electric (PG&E) to deliver renewable electricity, maintain the energy grid, and provide customer service and billing. As part of the Council approved Climate Action Plan (CAP) Coordinator Work Plan 14-15, the CAP Coordinator researched CCA programs and potential funding sources to complete a membership analysis required by Marin Clean Energy (MCE), the only existing CCA that Benicia could join at this time. MCE's analysis assesses the

City's electrical load and determines whether MCE can provide service to the City without having a negative impact on its current customers. On June 17, 2014, the City Council allocated $18,000 in Valero Good Neighbor Steering Committee Settlement Agreement funds and authorized the City Manager to execute a contract with MCE. Council also requested that staff organize a Council Study session so that the public and Council could learn more about CCAs in general. At the September 9, 2014 study session, Council directed staff to assess the need for further outside review of the pending MCE Membership Analysis. Staff received the completed analysis on September 10, 2014, which concluded that Benicia joining MCE would have a net beneficial impact on MCE's current customers and likely reduce near term electrical energy costs for Benicia residents and businesses.

Independent reviews commissioned by other cities when considering joining MCE are also attached to this report. Staff is recommending that Council direct the City Manager to update these independent evaluations and provide direction to staff as to what additional questions it would like answers to prior to considering joining MCE. MCE has indicated to staff that in order for it to acquire the energy it needs to accommodate Benicia, it needs Benicia to commit to joining by December 2, 2014. The MCE Board has already pre-approved Benicia joining within that schedule, should its analysis show – as it has – that it would have a neutral or positive impact on existing MCE customers. In order to join, the Council must adopt an ordinance (first and second reading) and sign the Joint Powers Authority (JPA) agreement as a new member. Should the Council direct the City Manager to complete the additional analysis suggested by staff, staff believes it can be completed fairly quickly thereby allowing the council to move forward with a decision about joining in November that would meet MCE's deadline.

PROCESS FOR BECOMING A MEMBER OF MCE

The following steps are needed in Benicia joining MCE.

1. Assess feasibility. Council has already authorized the first step in joining MCE, a technical study assessing the ability of MCE to provide electrical service to Benicia and its existing customers without having a negative impact on existing customers and while still meeting MCE's goals for greenhouse gas (GHG) reduction. That analysis, presented with this report, concluded that there would be net benefits to both existing and potential Benicia customers from Benicia joining MCE.
2. Additional Information. The question before the Council tonight is whether it would like to proceed to consider joining MCE, and if so, what additional information the Council needs prior to making a decision about joining MCE.
3. Pass ordinance to join MCE. Assuming the Council approves proceeding

to further consideration of membership, and assuming the Council gets the information it needs and decides to join, then it must adopt an ordinance (first and second reading) to join MCE. The City Council must also execute a Joint Power Agreement as a new member. While MCE must sign off on these documents, the MCE Board has already pre-approved Benicia's membership, assuming that it passed the feasibility assessment, which it has.

4. MCE will procure enough renewable electricity to meet the demand in Benicia and MCE and the City will begin community outreach and education and provide customers an opportunity to opt out of MCE.

MCE has indicated that if the City wishes to join MCE, it needs to adopt the appropriate ordinances and sign the JPA agreement by December 2. These deadlines relate to MCE procurement deadlines since they procure power to satisfy its load roughly twice per year. They plan to do one additional procurement cycle this year and will not do another until mid-2015. At that time, MCE is not certain that it will be able to extend an offer of membership to Benicia since other communities currently are also considering becoming an MCE member and those communities may offer different or better rate and emissions reductions benefits to MCE and its customer base. Moreover, MCE may wish to take a "time-out" to absorb new members before it offers membership to others.

REVIEW OF MCE MEMBERSHIP ANALYSIS

On September 10, 2014, Staff received the completed MCE Membership Analysis. Overall, the analysis is favorable indicating that if Benicia were to join MCE, it will result in a rate reduction for existing and prospective MCE customers, a reduction in greenhouse gas (GHG) emissions, and financial savings to the City and Benicia residents. A more detailed staff analysis is attached to this report.

RISK/BENEFITS OF JOINING MCE

At the September 30, 2014 City Council study session, the Council expressed a desire to have more information on the potential benefits and risks of joining MCE. To assist with this analysis, staff has provided examples of independent reviews commissioned by other cities when considering whether they should join MCE.

The City of Richmond hired MRW & Associates (Oakland, CA) to conduct a Risk Assessment of Participation in MCE and Dalessi Management Consulting (now Pacific Energy Advisors, El Dorado Hills, CA) to conduct a Financial Impacts Analysis (review of MCE's membership study). Both of these reports, completed in 2011, are attached. In addition, Richmond relied on a legal analysis completed by Davis Wright Tremaine, LLP (San Francisco, CA) for the City of Mill Valley when it was considering joining MCE in 2010; it is also attached. Below is

a summary of these reports. Although they were prepared for other jurisdictions and are a few years old, many of the risks and benefits apply to Benicia as well.

MRW & Associates

MRW's scope of work consisted of four tasks:

- Assess potential risks and benefits to City residents and businesses if Richmond joins the MCE; in particular, the rate risk to the community.
- Assess potential risks and benefits to the City itself if it chooses to join MCE.
- Provide comments on the Dalessi Management Consulting load and resource requirement analysis.
- Provide qualitative comments on any materials MCE provided to Richmond.

The types of risks fall into broad categories: procurement, regulatory, policy, customer cost, and city-specific. MRW created a table outlining these risks and the relative importance of the risk based on potential impact(s) (page VI of MRW report). The MRW report, while providing a good overview of the types of risk involved in joining MCE, was prepared in 2011, when MCE was still in its infancy. MCE is still quite young, and while the benefits MRW identified are essentially the same, some of the risks MRW evaluated in 2011 related to issues associated with MCE starting up and growing. Those same risks may still exist, but the analysis of those risks may lead to different conclusions or concerns now that MCE has more of a track record and its customer base is considerably larger than it was when the report was prepared in 2011.

Dalessi Management Consulting

Dalessi conducted an analysis of the potential City of Richmond electric loads, resource requirements (amount of energy needed to satisfy customer load), and cost of service associated with providing electrical services to the City. This is a quantitative analysis that used historical electric usage data to forecast future electrical demand and assess the economic impact of joining MCE. The analysis assessed whether the:

- Addition of the Richmond load is beneficial to the existing customer base,
- Expansion would result in acceleration of GHG reductions in California, and
- Expansion would allow for increases in the amount of renewable energy being used in California's energy market.

This report took a second look at MCE's analysis and determined whether its conclusions were accurate. Today, MCE subcontracts with Pacific Energy Advisors (formerly Dalessi Management Consulting) to conduct this same analysis for potential new members. At the time the Richmond report was prepared, Dalessi was not working directly with MCE.

Davis Wright Tremaine (DWT)
DWT was hired by the City of Mill Valley in 2010 to conduct an independent assessment of potential risks and liabilities associated with the City's participation in MCE. The assessment primarily focuses on:

- City's potential risks and liabilities as a retail customer of MCE[1] including: future retail rates, exit fees if the City chose to opt out of MCE, future regulatory risks, and whether MCE customers would be liable for a MCE organizational failure.
- City's potential risks and liabilities as a member of the MCE Joint Powers Authority (JPA) including: liability for MCE's legal obligations, how the opt out rate my affect the economic viability of MCE, risk of future MCE investments, and liability for the $100,000 bond posted by MCE to the CPUC.

This qualitative analysis does not assess energy market conditions, future energy costs, and is not an economic analysis. DWT concluded that electricity markets, costs, and rates are volatile and affected by numerous factors. The City of Richmond relied on this legal assessment when it joined MCE. No other member city or potential member city has conducted independent legal review.

Goal of independent review
Independent review(s) provides an opportunity for a third and neutral party to assess the risks and benefits of joining MCE and allows the City Council to have a second opinion on the conclusions in the MCE membership analysis and the structure of the JPA agreement. As indicated in the MRW report, while risks can be identified, there is no simple "bottom line" conclusion to its assessment, and staff does not expect a different conclusion from an updated report. There can be no certainty as to how joining MCE will affect customers in the long run relative to staying with PG&E. Policy makers must weigh risks and benefits and make a decision as to whether the benefits of joining MCE outweigh the risks. As also noted in the MRW report, even if a community chooses to join MCE, individual customers can opt to stay with PG&E with no penalty if they make that decision at the outset, and with a relatively small "penalty" should they leave MCE at a later date. It is also true that MCE offers an "opt-out" option, and that despite the extensive MCE and City outreach efforts (including legally required

[1] Edward W. O'Neal, Davis Wright Tremaine LLP, Independent Assessment of Potential Risks and Liabilities Associated with City's Participation in Marin Clean Energy, p. 3-4 (May 17, 2010). MEA stands for Marin Energy Authority. Originally, Marin Energy Authority (MEA) was the Joint Powers Authority (JPA) that operated the Marin Clean Energy (MCE) program. Now, MCE is used to refer to both the JPA and the program offerings.

direct mailings)to inform potential customers about an upcoming change, some customers who are not paying attention will effectively become MCE customers without their knowledge or consent.

BENICIA-SPECIFIC RISK/BENEFIT ANALYSIS

As noted earlier the attached reports were prepared for Richmond and Mill Valley in 2010 and 2011, fairly early-on in MCE's existence. MCE has a longer track record and its customer base has grown considerably since these reports were completed, and staff therefore recommends that the City Council authorize the completion of new report(s), including:

- Update policy and regulatory risks since they may have changed since 2010.
- Expand assessment of MCE as an organization and its potential for success and failure.
- Expand assessment of MCE financial viabilities, including but not limited to:
    - Earnings expectations and assumptions of customer base,
    - Ability to maintain its net metering credit payout program, and
    - Investments, debt, and reserve goals and strategies.
- Evaluate possible impacts to City of Benicia's revenues and expenditures; including but not limited to:
    - Utility User Tax collections and remittance,
    - Franchise Fees collection and remittance,
    - City's 10 solar sites including rate impacts and other financial risks and benefits, and
    - Expected impact to City electric bills

Anticipating that the Council might direct staff to proceed with the additional analysis, and in order to try and meet MCE's timeline for a decision, Staff spoke with three consultants to obtain cost estimates for this work. Those conversations confirmed that MRW & Associates has the necessary background and familiarity with CCAs and therefore is uniquely suited to update its 2011 analysis. Staff also consulted SAGE Renewables, a company the City previously worked with through a California Energy Commission (CEC) program to assist it with analyzing the City's solar site production and developing an operations and maintenance plan. Because SAGE is intimately familiar with the solar sites, it would be prudent to have them subcontract with MRW and assess the financial impacts to the City's solar accounts.

If the City Council wishes to proceed with this additional analysis, it can be complete by October 21, 2014 for a not to exceed amount of $15,000.

Staff also consulted the City Attorney about the need to update the legal

analysis prepared by DWT. She concluded that the report would need to be updated to reflect any changes in statutory or regulatory matters affecting MCE and the JPA as well as specific changes to the joint powers agreement. DWT could provide this update for a not to exceed amount of $15,000 but likely less since DWT does not anticipate many legal/regulatory changes have occurred or that the JPA agreement has changed significantly since 2010.

As noted under the budget discussion, two potential sources for paying for this work have been identified. These funds could either come from 1) salary and benefit savings from General Fund Community Development Department and the City Attorney's department or 2) Valero Good Neighbor Steering Committee Settlement Agreement funds. If option 2 is selected, it will take approximately three months to secure funding since a recommendation for the use of the funds is required and the Community Sustainability Commission (CSC) does not meet again until November. Even if the Council requests a special CSC meeting to expedite the funding request, it would not be possible to have the funding approved in less than four to six weeks and the City would not be able to accommodate MCE's deadline. In order to try and meet MCE's deadline, staff is recommending this work be funded through salary savings.

CONCLUSION

According to the analysis conducted by MCE, the City of Benicia satisfied its membership criteria and will result in both rate and GHG reductions. This report has outlined the analysis conducted by MCE for the City. It also provides a brief overview of additional, independent analyses completed by other MCE-member cities in an attempt to assess risks and benefits of joining MCE. If Council believes the analysis already available is sufficient, staff is prepared to come back with an ordinance and official request to join MCE on October 21, 2014. If Council directs the City Manager to conduct additional independent review, staff believes it can come back to Council on November 4, 2014.

Attachments:

- CCA Background – Memo to City Manager
- MCE Membership Analysis – Memo to City Manager
- Marin Clean Energy Applicant Analysis for the City of Benicia - August 29, 2014 (received September 10, 2014)
- PG&E and MCE 2013 Power Mix Comparison
- Dalessi Management Consulting, MEA Evaluation of the Potential Extension of MCE Service to the City of Richmond - October 20, 2011
- MRW & Associates, Risk Assessment of Participation in the Marin Clean Energy Community Choice Aggregation Program On Behalf of the City of Richmond - October 20, 2011

- Davis Wright Tremaine LLP, Independent Assessment of Potential Risks and Liabilities Associated with City's (Mill Valley) Participation in Marin Clean Energy - May 17, 2010

VIII.B.10

Community Development Department

MEMORANDUM

Date: September 25, 2014
To: Brad Kilger
From: Alex Porteshawver, Consulting Climate Action Plan Coordinator
Re: Community Choice Aggregation (CCA) - Background

Community Choice Aggregation (CCA) agencies purchase and/or develop renewable energy (electricity only) on behalf of residents, businesses, and municipal accounts in member jurisdictions. CCA is an energy supply model that works in partnership with Pacific Gas & Electric (PG&E). CCA programs generate and procure their own clean electricity and rely on PG&E to deliver electricity through its transmission and distribution system. PG&E continues to provide meter reading, billing, maintenance, and outage response services to customers within its territory.

Existing CCAs

As part of the Council approved CAP Coordinator Work Plan 14-15, the CAP Coordinator researched California CCA programs. Within PG&E's territory there are two active CCAs: Marin Clean Energy (MCE) and Sonoma Clean Power. Currently, MCE is the only CCA that Benicia can join since Sonoma Clean Power is only offering service to customers in Sonoma County.

MCE was launched in 2010 as California's first CCA and is a Joint Powers Authority (JPA) consisting of all jurisdictions in Marin County and the City of Richmond. Currently, MCE's Light Green (51% renewable electricity) rates are slightly less than PG&E and it provides at least 51% renewable electricity to Light Green Customers and 100% renewable electricity to Deep Green customers as compared to PG&E's 22% renewable energy. PG&E expects to offer a Green Option to its customers in the first half of 2015 pending California Public Utilities Commission (CPUC) approval (expected in 2014). PG&E's program will allow customers to enroll and pay a surcharge (amount to be set by the CPUC) for 100% renewable electricity.

The primary goals of the MCE program are 1) to decrease greenhouse gas emissions and 2) to increase the amount of renewable energy power sources. Marin local governments determined that the MCE program was the most cost effective GHG reduction measure that local governments could implement to

meet their respective greenhouse gas reduction goals. The long term programmatic goal of the MCE program is to provide 100% renewable energy to all electric service customers. This goal far exceeds the State of California's Renewable Portfolio Standard that requires investor-owned utilities, electric service providers, and community choice aggregators to increase procurement from eligible renewable energy resources to 33% of total procurement by 2020.

Power Mix in California

PG&E and MCE procure enough electricity to meet their customers' electricity use needs. They may get this electricity from a number of different sources including renewable energy sources and non-renewable sources (see explanation below). In 2002, the State of California made a commitment to increasing the amount of renewable energy generated in the state and passed the California Renewable Portfolio Standard (RPS) that requires investor owned utility companies (i.e. PG&E), electric service providers, and CCAs (i.e. MCE) to increase electricity procurement from "eligible renewable energy sources" to 33% of total procurement by 2020. The following are considered eligible renewable energy sources:

- Biomass & Biowaste
- Geothermal
- Eligible hydroelectric
- Solar electric
- Wind

Other sources of energy include:

- Coal
- Large hydroelectric
- Natural gas
- Nuclear
- Unspecified sources of power.
  Unspecified means electricity from transactions that are not traceable to specific generation sources.

Each year, both MCE and PG&E are required to report their electric power content, including percentage of renewable energy, to the California Energy Commission (CEC) and the CPUC. The 2013 Power Mix Comparison is attached to this report. Keep in mind that MCE voluntarily purchases renewable energy in excess of the RPS requirements (33% by 2020) in order to meet MCE's overall renewable energy content (> 50%) in providing the Light Green and Deep Green products to MCE customers. These requirements are generally met with

short term purchases of unbundled Green-e Energy[1] certified Renewable Energy Credits (RECs).

A REC represents the environmental and renewable attributes of renewable electricity. A REC can be sold either "bundled" with the underlying energy or "unbundled", as a separate commodity from the energy itself, into a separate REC trading market. When MCE buys unbundled RECs, it is only buying the environmental benefit of the electricity produced elsewhere and those environmental benefits cannot be claimed by anyone else.

Delivering Renewable Electricity

Both MCE and PG&E procure renewable electricity by entering into short and long term contracts with a variety of power suppliers to meet the needs of their customers. To ensure that each entity is actually procuring the amount of renewable electricity they claim to be, the CPUC and CEC require annually reporting so that they may verify the amount of renewable energy procured for customers.

The renewable electricity procured by both MCE and PG&E is generated and then distributed via the electricity grid; it does not go directly to any one customer's home. However, by procuring additional renewable electricity, less dirty, non-renewable resources are used to satisfy customers' electricity needs.

1 Green-e Energy is an independent certification and verification program for renewable energy. Green-e Marketplace is a program that allows companies to display its logo when they have purchased a qualifying amount of renewable energy and passed its verification standards.

VIII.B.14

Community Development Department

MEMORANDUM

Date: September 25, 2014

To: Brad Kilger

From: Alex Porteshawver, Consulting Climate Action Plan Coordinator

Re: Review of MCE Membership Analysis

On September 10, 2014, Staff received the completed MCE membership analysis. Below is an overview of that report.

Rate Comparison

On September 9, 2014 (City Council Study Session), MCE staff presented a current rate comparison for a typical residential and commercial customer in MCE's service territory (see tables below) vs. PG&E's territory. These rate comparisons are subject to change as PG&E or MCE implement rate increases or decreases. MCE rates are typically adjusted once per year while PG&E can implement several rate changes per year. MCE attempts to sets rates to be competitive with PG&E.

Electric utility bills are typically structured in three categories:

- Generation, and
- Transmission and Distribution, and
- Fees and taxes approved by the California Public Utilities Commission.

Under the MCE program, customers continue to receive one monthly bill from PG&E, but costs for the generation of electricity are returned to MCE. The

Transmission and Distribution of electricity is administered by PG&E and will remain unchanged regardless of the customer's participation in the MCE program. The two new fees included in the utility bill under CCA programs are the PG&E Franchise Fee and the Power Charge Indifference Adjustment (PCIA) commonly referred to as the "exit fee."

Franchise Fee

Customers who receive their electric supply from a third-party provider are billed a franchise fee that is normally collected directly from PG&E bundled customers in rates but it is itemized separately for customers of third-party providers, such as CCA customers. The money collected through the FFS is paid to municipalities for the purpose of supporting vital local services. CCAs do not bill customers for the franchise fee. Instead, PG&E collects the fee and returns these revenues to local governments. This fee structure and the distribution of those fees back to Benicia will not change if Benicia joins MCE.

PCIA Fee (Exit Fee)

MCE customers must also pay a PG&E PCIA fee. The fee is intended to make PG&E "whole" again since they already procured and paid for power based on its customer load, including Benicia. If Benicia joins MCE, than that load will be reduced and they will have paid for power they no longer need. However, after Benicia joins, PG&E will no longer plan for or procure power for that load and so, the fee depreciates over time as its financial obligations related to power agreements lessen. The CPUC determines what this fee is by using a formula that looks at the market price of power and then assesses outstanding contract obligations in PG&E's portfolio and departing customers pay a percentage of those contracts based on total electricity consumption of kilowatt hours; the fee ranges from $5 - $6. Households that consume less than the average Benicia account will be accessed a lower PCIA fee; conversely, households that consume more energy than the average household will be accessed a higher PCIA fee.

Figure 1 – Residential E-1 rate

	PG&E 22%	MCE Light Green 50%	MCE Deep Green 100%	MCE Local Solar 100%
Delivery	$39.70	$39.70	$39.70	$39.70
Generation	$46.74	$40.13	$45.21	$72.14
PG&E Fees	-	$5.91	$5.91	$5.91
Total Cost	**$86.44**	**$85.75**	**$90.83**	**$117.75**

Figure 2 – Commercial A-1 rate

	PG&E 22%	MCE Light Green 50%	MCE Deep Green 100%	MCE Local Solar 100%
Delivery	$137.42	$137.42	$137.42	$137.42
Generation	$135.55	$111.00	$125.05	$199.51
PG&E Fees	-	$14.49	$14.49	$14.49
Total Cost	**$272.97**	**$262.90**	**$276.95**	**$351.42**

Cost Savings

In addition to the membership analysis, staff requested that MCE evaluate the financial impact of joining MCE. MCE Staff used monthly and annual energy use (provided by PG&E) for the sectors listed below and conducted a rate comparison using existing MCE and PG&E rates (energy use x MCE rate vs. energy use x PG&E rate). The estimated cost savings are outlined below:

City Accounts

$42,344

Positive Impact to Net Energy Metered (NEM) Solar Sites, $59,742.81per year – check issued to City each year

MCE offers the following NEM program:

- Premium rates for excess electricity, crediting customers at an extra $0.01/kWh compared to PG&E;
- Excess credits roll over month after month and never zero out; and
- Excess credits over $100 can be cashed out annually for their full retail value, rather than PG&E's wholesale compensation rate.

PG&E purchases large amounts of power on the wholesale market at cheaper rates than what the retail customer is ultimately charged; MCE credits customers at the higher retail rate. In addition, PG&E does not allow solar customers to cash out their bill credits unless they are a surplus generator; MCE allows customers to receive a check if they have $100 or more of credits regardless if they are surplus generators.

NEM rates in the future

Both PG&E and MCE NEM rates are subject to change. The state recently passed legislation that has been described as "locking in" NEM rates for an extended period of time, which applies to utilities like PG&E, SCE, and SDG&E. Utilities are required to maintain the structure of NEM and crediting itself until 2017 (NEM 1.0), but are not obligated to maintain rates as they are now. That means that NEM rates are still subject to change if approved by regulatory entities.

Staff is still investigating if transitioning the City's solar accounts to MCE would alter its existing NEM agreements with PG&E, which lock-in the NEM 1.0 tariff and extend beyond the NEM 1.0 sunset estimated in mid-2017.

<u>Community – Residential and Commercial</u>

$1,555,043

Of that amount roughly $870,000 is attributed to large industrial/commercial accounts (including Valero that may or may not chose to participate in MCE should the City decide to join as a member). In addition, these cost savings are based on MCE's estimate that 20% of Benicia electricity customers will opt out of MCE. If more or less customers opt out, the savings may decrease or increase.

<u>Greenhouse gas (GHG) reduction</u>

The membership analysis indicates that by joining MCE, the community could see a 15,000,000 lb (6,804 MT) of CO_2 reduction annually. MCE calculated this reduction using the following formula:

206,238Mwh annually (80% participation rate)

X 72lbs/Mwh (difference between PG&E and MCE's 2012 reported emissions factors)

= 14,849,136 lbs of CO_2 avoided per year or 6,735 MT (rounded up to get 15,000,000lbs)

Based on the 2010 GHG Inventory report, the City needs to reduce between 104,000 – 179,000MTCO2e annually to meet its 2020 goal.1 So, joining MCE would achieve between 6.5% and 3.8% of the need reductions.

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[1] The CAP Coordinator team estimated reductions from strategies/programs found in other City plans that may or may not be implemented between now and 2020. Because the team was uncertain about what particular programs would be implemented and to what extent, the team created a range of implementation and corresponding reductions. Therefore, what is left to be reduced to meet the 2020 goal could be on the low end if more non-CAP strategies are implemented or on the high end if less are implemented.

GHG reductions will change over time as MCE and PG&E's power mixes change. GHG reduction is also dependent on level of participation in MCE. For example, these reduction estimates could go up or down depending on what type of customers (commercial vs. residential) opt out of MCE and the number of customers that enroll in the Deep Green (100% renewable electricity) program.

VIII.B.20

Marin Clean Energy Applicant Analysis for the City of Benicia

August 29, 2014

SUMMARY

MCE's currently effective policy regarding new membership requires the completion of a quantitative analysis as part of the preliminary evaluative process. The primary focus of the quantitative analysis is to determine the anticipated net rate impacts that would affect MCE's existing customer base following the addition of the prospective new community – in particular, the quantitative analysis must demonstrate that the addition of the prospective new community will result in a projected net rate reduction for MCE's existing customer base; this is a threshold requirement that must be met before proceeding with further membership activities. In addition, the quantitative analysis addresses the projected environmental impacts that would result from offering CCA service to the prospective new community. More specifically, the analysis prospectively determines whether or not the new community will accelerate greenhouse gas (GHG) reductions (beyond those reductions already achieved by MCE's existing membership) while increasing the amount of renewable energy being used within California's energy market.

MCE has been in discussion with the city of Benicia periodically since October of 2012. In the summer of 2014, MCE received a formal letter from the city of Benicia requesting consideration as a member of MCE. The electric accounts to be considered as part of this membership request include all accounts located within the city of Benicia. On July 3, 2013, the MCE Board of Directors authorized completion of a quantitative membership analysis related to Benicia's membership request. This analysis has been completed and the results are discussed below in this summary report.

In general, the quantitative analysis indicated that rate benefits would likely accrue to existing MCE customers following the addition of prospective CCA accounts located within the city of Benicia. The additional customer base within Benicia would likely result in an approximate 3% rate reduction for MCE customers, including all existing and prospective accounts. The analysis also indicated that including Benicia in MCE's membership would increase the amount of renewable energy being used in California's energy market by approximately 55 thousand MWh per year while reducing GHG emissions by an estimated 15 million pounds of carbon dioxide equivalent per year.[1]

ANALYSIS

MCE conducted an analysis of the potential new electric customers to estimate the revenues and costs associated with extending MCE service to Benicia. The analysis incorporated historical monthly electric usage data provided by PG&E for all current electric customers located within the city of Benicia. The

[1] GHG emission reduction estimates are based on MCE's actual 2012 emission factor of 373 lbs CO2e/MWh and PG&E's reported 2012 emission factor of 445 lbs CO2e/MWh, as released in June 2014: http://www.pgecurrents.com/2014/02/06/new-numbers-confirm-pge%E2%80%99s-energy-among-the-cleanest-in-nation/. The projected GHG savings of 72 lbs CO2e/MWh (based on the difference between MCE's emission factor and PG&E's emission factor) was multiplied by the projected increase in MCE's annual sales volume resulting from the addition of CCA customers located within Benicia, a volume approximating 206,000 MWh/year. Note that these projections are subject to change.

data indicate the potential for over 13,000 new MCE customers with a potential increase in annual electricity sales approximating 273,000 MWh per year. The aggregate peak demand of these customers is estimated at 48 MW.[2]

Table 1: 2013 Benicia Electricity Data

Classification	Accounts	Annual Energy (MWh)	Monthly Per Account (KWh)
Residential	11,363	66,756	587
Small Commercial	1,499	32,268	2,153
Medium Commercial	146	28,388	19,444
Large Commercial & Industrial	47	144,402	310,542
Agricultural and Pumping	0	0	0
Street Lighting	51	918	1,809
Total	13,105	272,731	334,535
Peak Demand (MW)			48

[2] These figures are for all electric customers of PG&E within the City. These figures are unadjusted for expected customer participation rates.

As compared to the current MCE customer base shown in Table 2 below, Benicia includes proportionately fewer residential and agricultural accounts. The large commercial and industrial sector accounts for more than half of Benicia's power consumption. All account types have a larger average kWh per account than the current MCE service area.

Table2: 2013 MCE Electricity Data

Classification	Accounts	Annual Energy (MWh)	Monthly Per Account (KWh)
Residential	106,762	618,385	483
Small Commercial	11,755	195,505	1,386
Medium Commercial	884	155,315	14,642
Large Commercial	329	188,289	47,694
Industrial	<20	121,391	633,830
Agricultural and Pumping	99	3,880	3,266
Street Lighting	850	14,929	1,464
Total	120,695	1,297,694	896
Peak Demand (MW)			221

In regards to seasonal consumption patterns, Benicia electric usage peaks during the summer months, whereas the current MCE load tends to peak during the colder winter months of December and January. These differences can be seen in comparing Figure 1 and Figure 2 below. The seasonal load diversity can help contribute to a flatter overall load profile for MCE, which provides benefits in resource planning and supply management.

Figure 1: Benicia Hourly Load Profile (KW)

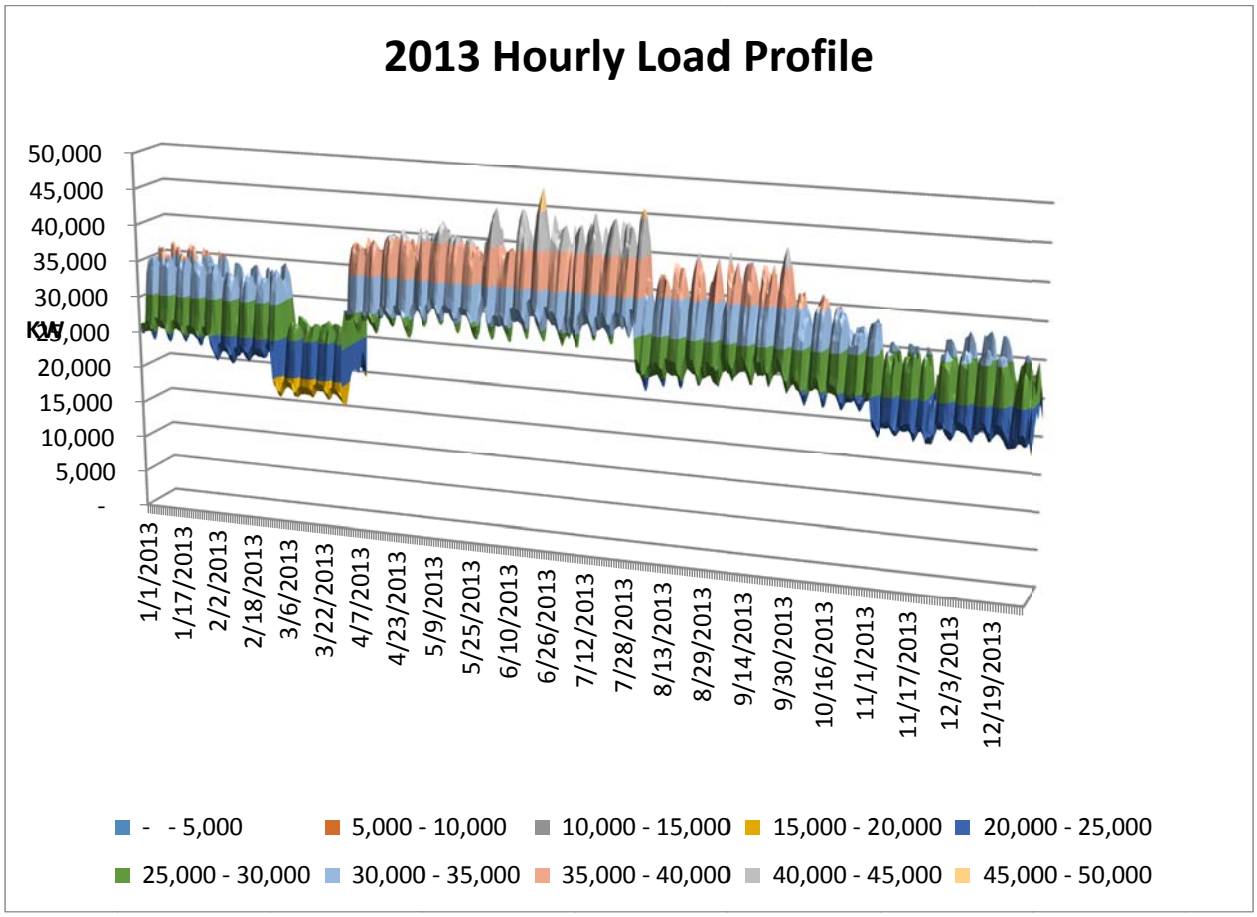
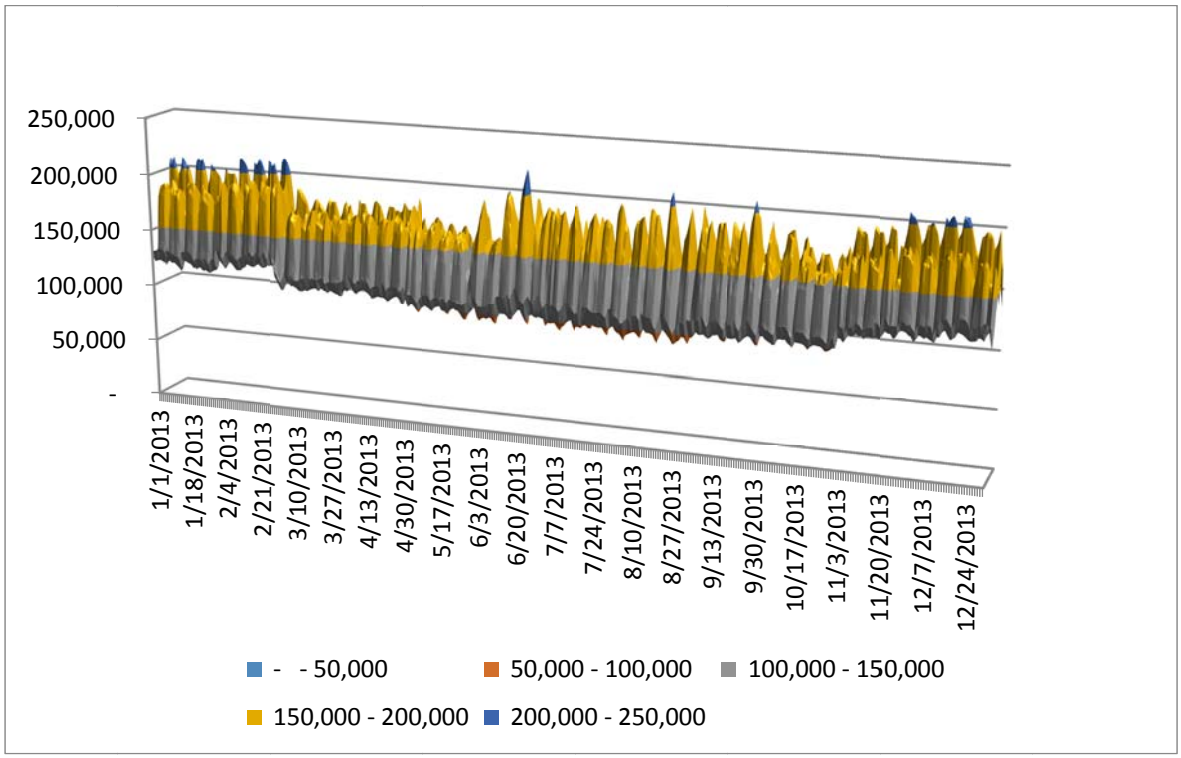


Figure 2: MCE Hourly Load Profile (KW)



RATE IMPACTS

For purposes of the rate impact analysis, it was assumed that service would be initiated to Benicia customers in April, 2015 and that 80% of customers who would be offered CCA service would elect to participate in the MCE program. This would equate to an increase in annual MCE electricity sales of 206,238 MWh or approximately 16%. The rate impact was examined beginning with the 2015/2016 fiscal year, with the new service accounts switched to MCE service during the month of April (April 1st through April 30th, depending on each customer's scheduled meter reading schedule).[3]

Incremental revenues and costs were quantified for the additional Benicia customers, and the revenue surplus (based on the difference between projected revenues and costs directly related to the addition of Benicia customers) was also calculated for the year. The surplus is assumed to offset a share of MCE's fixed costs and can be used to reduce overall MCE rates. The incremental cost analysis accounts for ongoing costs related to additional power supplies, customer billing, customer service support (call center), and PG&E service fees associated with the additional customers. One-time costs associated with the expansion of MCE to Benicia are not included in these figures and are discussed below. Table 3 presents the estimated rate impact for the 2015/2016 fiscal year.

Table 3: FY2015/2016 MCE Rate Impact from Benicia

Volume (MWh)	**206,238**

[3] During the first year, the increase in annual sales volume is slightly lower, estimated at 206,238 MWh, due to the gradual transfer of accounts to MCE service during the first month.

Revenue	$ 16,573,296
Costs	
Power Supply Cost	$ 12,487,830
Billing and Other Costs	$ 328,225
Total Cost	$ 12,816,055
Rate Benefit	$ 3,757,240
MCE Rate Impact	3%

The rate impact analysis indicates that the addition of Benicia customers to MCE's total customer base would provide benefits to MCE ratepayers; it is estimated that expanding MCE service to Benicia would allow for MCE rates to be 3% lower than without such customers.

Additional costs related to the expansion would be incurred prior to initiation of service to the new customers. These costs would be incurred for regulatory, resource planning and procurement activities that would be necessary to incorporate the new member community and its customers into MCE as well as for communication and outreach to the new customers. The projected implementation costs related to a Benicia expansion are expected to be less than the $350,000 expended in preparation for the expansion to Richmond. This appears to be a reasonable assumption because existing staff (previously added to support the Richmond expansion) and technical resources can be leveraged to support the Benicia expansion; the number of prospective customer accounts within Benicia is also less than half of the prospective customer base that was transitioned to MCE service during the Richmond expansion. It should also be noted that the regulatory, resource planning and procurement costs would not be entirely attributable to Benicia if there are other new members brought into MCE at the same time. To the extent that other municipalities are contemporaneously added, such activities could be performed jointly rather than at separate times for each new member.

RENEWABLE ENERGY IMPACTS

Renewable energy requirements were calculated for Benicia to ensure compliance with the statewide Renewables Portfolio Standard (RPS) as well as the more aggressive MCE renewable energy content standards adopted by MCE. The total renewable energy requirement associated with prospective expansion to Benicia would be approximately 109 thousand MWh annually. This renewable energy volume is equivalent to the energy produced by 12 MW of geothermal capacity (or a similar baseload renewable generating technology using a fuel source such as biomass or landfill gas) or approximately 42 MW to 62 MW of solar generating capacity, depending upon location and technology. Including Benicia's electric customers in MCE service will increase the amount of renewable energy being used in California's energy market by approximately 55 thousand MWh annually based on the increased renewable energy procurement targets voluntarily adopted by MCE's governing Board relative to California's then-current RPS mandate (which must be followed by PG&E).

GHG IMPACTS

With regard to projected GHG emission reductions that would result from the expansion of MCE service to Benicia, estimates were derived by comparing the most current, validated emission statistics related

to the MCE and PG&E electric supply portfolios. With regard to these statistics, PG&E and MCE both recently reported their respective emission statistics for the 2012 calendar year. Due to typical timelines affecting the availability of such information, PG&E's current statistics (focused on the 2012 calendar year) will generally reference data related to utility operations occurring 12 to 24 months prior to the current calendar year. This waiting period is necessary to facilitate the compilation of final electric energy statistics (e.g., customer energy use and renewable energy deliveries) and to allow sufficient time for data computation, review and third-party audit before releasing such information to the public. As noted by PG&E, its 2012 emission factor was determined to be 445 lbs CO2/MWh. By comparison, MCE's aggregate portfolio emission factor for the 2012 calendar year was determined to be 373 lbs CO2e/MWh, a difference of 19%.

MCE's 2012 emission factor was derived by using publicly available emission statistics determined by the California Air Resources Board (CARB) for certain unspecified electricity purchases included within the MCE supply portfolio as well as assumed zero carbon emission rates for various renewable energy purchases and deliveries from non-polluting power sources, such as hydroelectric generators. With regard to electricity purchases from unspecified sources, or "system power," as reported on a California retail electricity seller's annual Power Content Label, CARB has assigned an emissions rate of 943.58 lbs CO2e/MWh. This emission rate can be referenced in section 95111(b)(1) of CARB's February 2014 update to the Regulation for the Mandatory Reporting of Greenhouse Gas Emissions: http://www.arb.ca.gov/cc/reporting/ghg-rep/regulation/mrr-2013-clean.pdf. PG&E appears to have applied a similar factor when calculating emissions associated with unspecified generating sources.

In 2012, MCE's supply portfolio was heavily weighted towards non-carbon emitting resources. In fact, over 60% of MCE's energy supply was attributable to various renewable energy and hydroelectric purchases, which do not emit GHGs (MCE's 2013 and 2014 procurement percentages reflect similar ratios). When determining MCE's aggregate portfolio emission factor, the aforementioned CARB statistic of 943.58 lbs CO2e/MWh was applied to MCE's system energy purchases, which totaled 225,593 MWh during the 2012 calendar year. All other non-emitting resources were assigned an emission factor of zero. As such, MCE's portfolio emissions for the 2012 calendar year totaled approximately 213 million pounds. This emission total was divided by MCE's aggregate sales volume of 570,144 MWhs, resulting in an MCE portfolio emissions rate of 373 lbs/MWh, for the 2012 calendar year. The following table provides additional detail regarding these emissions computations for MCE's 2012 supply portfolio.

Table 4: MCE 2012 Greenhouse Gas Emissions

2012 Calendar Year	MWh Purchased/Sold	% Total	Emission Rate (lbs CO2e/MWh)	Total Emissions (lbs)
Total Renewable Energy	304,551	53.4%	0	0
RPS – Eligible	166,522	29.2%	0	0
Non-RPS Eligible Renewable	138,029	24.2%	0	0
Zero Carbon	40,000	7.0%	0	0
System Power	225,593	39.6%	944	212,864,133
Totals	570,144	100%	373	212,864,133

To estimate the projected GHG emissions reductions that would likely result from the addition of prospective CCA customers located within the city of Benicia, MCE calculated the difference between its own emission factor (373 lbs CO2e/MWh) and the related metric reported by PG&E (445 lbs CO2/MWh): 72 lbs CO2/MWh. This difference was multiplied by the projected increase in annual electricity sales that would result from the addition of Benicia's CCA customers (206,238 MWh), resulting in a projected GHG emissions savings related to the transition of Benicia's customers to MCE's cleaner electricity supply. The projected emissions savings/reduction related to this service transition (from PG&E to MCE) was determined to be approximately 15 million pounds of carbon dioxide equivalent per year. It is noteworthy that the future emission factors reported by MCE and PG&E will likely differ from the statistics applied in this analysis – this is due to a variety of factors, including planned/unplanned changes in renewable energy procurement (including planned increases in California's RPS procurement requirements), variations in hydroelectric power production (which may change substantially from year to year based on prevailing regional hydrological conditions) and changes/adjustments in the general procurement policies of each service provider as well as many other factors. Also note that MCE has committed to assembling a power supply portfolio that not only exceeds the renewable energy content offered by PG&E but also provides customers with a "cleaner" energy alternative, as measured by a comparison of the portfolio GHG emission rate (or emission factor) published by each organization. As such, MCE plans to continue procuring electricity from non-GHG emitting resources in sufficient quantities to maintain an emission rate that is continually lower than PG&E's.

PG&E – MCE Comparison

2013 Electric Power Generation Mix*

Specific Purchases	Percent of Total Retail Sales (kWh)		
	PG&E	MCE Light Green	MCE Deep Green
Renewable	**22%**	**51%**	**100%**
• Biomass & Biowaste	4%	6%	0%
• Geothermal	5%	0%	0%
• Eligible hydroelectric	2%	12%	0%
• Solar electric	5%	<1%	0%
• Wind	6%	33%	100%
Coal	**0%**	**0%**	**0%**
Large hydroelectric	**10%**	**10%**	**0%**
Natural gas	**28%**	**0%**	**0%**
Nuclear	**22%**	**0%**	**0%**
Other	**0%**	**0%**	**0%**
Unspecified sources of power	**18%**	**39%**	**0%**
Total	**100%**	**100%**	**100%**

* 2013 data is from the "Annual Report to the California Energy Commission: Power Source Disclosure Program". PG&E data is subject to an independent audit and verification that will not be completed until October 1, 2014.

2012 Total CO_2 Emissions from Electricity Sales per Megawatt-Hour**

PG&E	MCE Light Green	MCE Deep Green
445 pounds	380 pounds	0 pounds

** The CO_2 emission rates reflect the emissions associated with PG&E's and MCE's respective energy supplies in 2012. For the purpose of this chart, renewable energy, hydroelectric and nuclear resources have been considered GHG free.

VIII.B.30

MEA Evaluation of the Potential Extension of MCE Service to the City of Richmond

October 20, 2011

In support of the Marin Energy Authority's evaluation of the potential benefits and costs of extending the Marin Clean Energy program to the City of Richmond ("COR" or "City"), Dalessi Management Consulting ("DMC") conducted an analysis of the potential COR electric loads, resource requirements, and cost of service associated with providing electrical services to the City.

The analysis used historical electric usage data provided by PG&E for all current electric customers located within the City of Richmond to derive a customer and load forecast, which was used as the basis for the economic assessment. The load forecast and analysis was used to determine the resource procurement requirements to serve the City and to estimate the revenues that MEA would receive as well as the costs that MEA would incur in providing electricity to these Richmond customers.

This analysis was necessary to assess certain of MEA's criteria that have been established for consideration of Richmond's membership in MEA. Specifically, the load and economic analysis was necessary to determine the extent to which the following criteria would be satisfied:

- Addition of Richmond load is beneficial to existing customer base by increasing contributions to fixed costs and rate stability
- The expansion results in acceleration of greenhouse gas reductions in California
- The expansion would allow for increases the amount of renewable energy being used in California's energy market

Load Analysis

Based on the historic load data the City obtained from PG&E, DMC prepared a 20-year forecast of service accounts and annual electricity consumption for each of the major customer segments. These include all customers classified as 1) Residential (e.g., rate schedule E-1, E-7); 2) Small Commercial (rate schedules A-1 and A-6); 3) Medium Commercial (rate schedule A-10); 4) Large Commercial (rate schedule E-19), 5) Industrial (rate schedule E-20); 6) Agricultural and Pumping (e.g., rate schedule AG-1, AG-4), and 7) Street Lighting and Traffic Control (e.g., rate schedules LS-1, TC-1). The load data was processed using PG&E's published class hourly load profiles to derive hourly electricity usage estimates for each customer segment and in aggregate.

A comparison of the MEA customer base with its current membership and with COR included is shown in Table 1.

Table 1: MEA Customers and Sales With and Without COR

Potential Customer Base and Retail Sales							
	----- Customers -----				----- Sales (GWh) -----		
Customer Classification	MEA	COR	Total		MEA	COR	Total
Residential	61,401	31,386	92,788		402	152	554
Small Commercial	7,236	2,501	9,737		113	53	166
Medium Commercial	519	265	785		94	52	146
Large Commercial	155	97	252		76	65	141
Industrial	7	7	14		41	98	139
Agricultural	151	1	152		5	1	6
Street Lighting	330	230	560		5	4	9
Total	69,801	34,487	104,287		737	426	1,162

DMC estimates that approximately 35,000 service accounts would be enrolled in MCE, assuming a 20% opt-out rate for PG&E bundled service customers and excluding all customers currently identified as taking service from non-utility energy service providers through the state's direct access program. This would represent an increase in electricity sales of approximately 426 million kWh annually as compared to the current MEA membership.

Comparison of Figure 1 and Figure 2 illustrates that the customer mix within COR includes relatively more industrial and large commercial customers than does the current MEA membership. While these customers would generally be considered attractive to serve because of the large and predictable electric loads, these customers pay rates that are very near the cost of providing electric service. As a consequence, DMC found that retention of the large industrial customers was not a critical determinant of the economic evaluation. However, from a planning perspective it would be important for MEA to know in advance whether these customers would intend to participate in the program before MEA engages in procurement for the COR customer base.

Figure 1: Energy Use by Customer Segment, Current MEA Membership

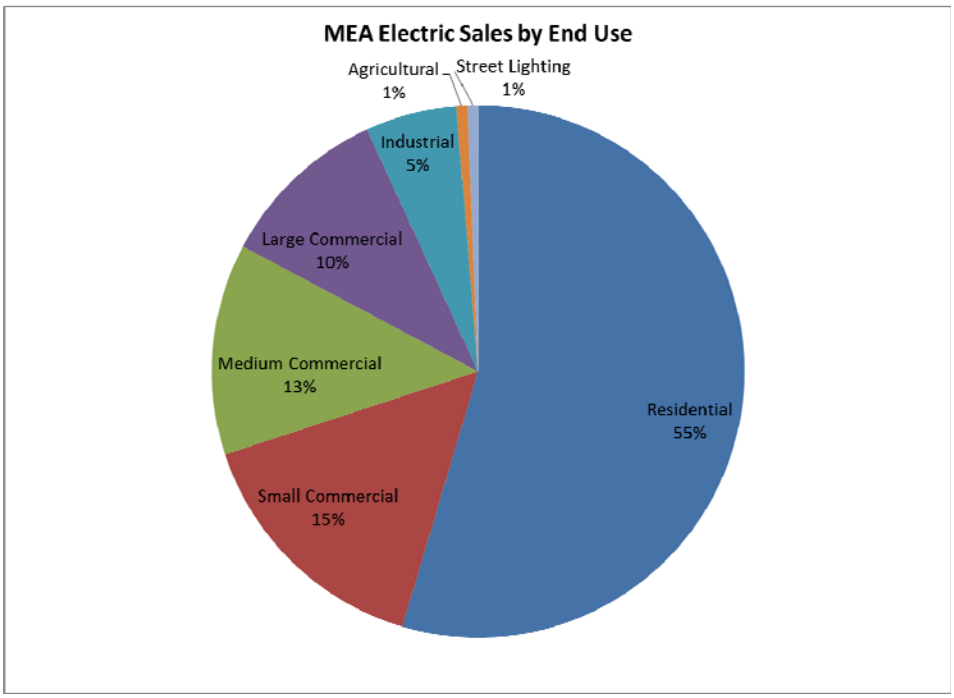
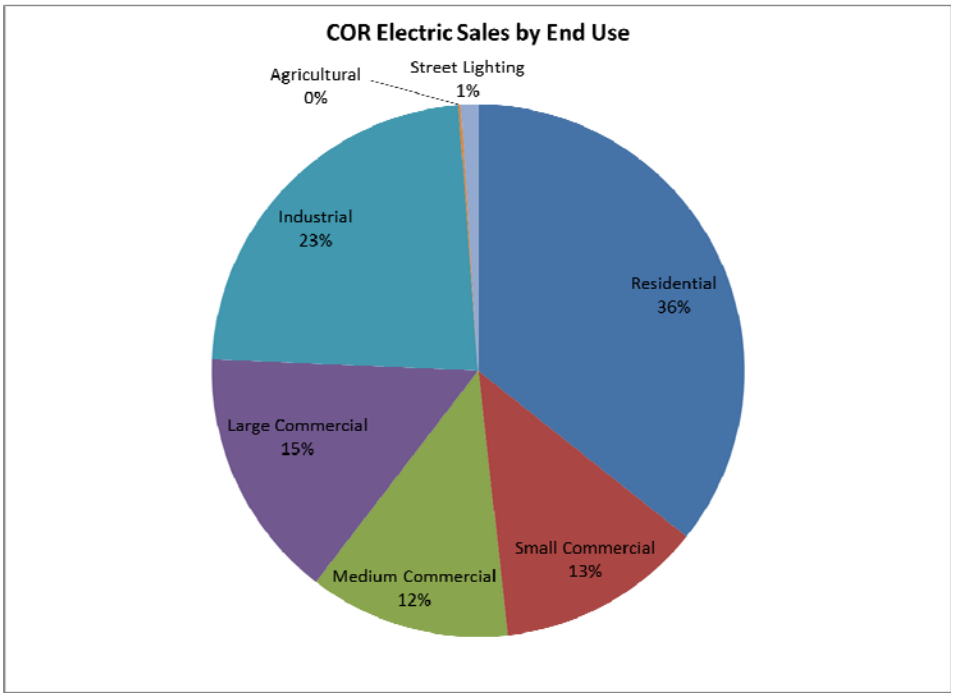


Figure 2: Energy Use by Customer Segment, MEA with COR



Approximately 37% of the COR residential customers participate in the California Alternative Rates for Energy program which provides electric rate discounts to qualifying low income households. MEA offers

discounted rates for customers who participate in the CARE program, and these discounts are funded by other MEA ratepayers through the non-CARE rates.

Resource Requirements

Using the load forecast and hourly load data, DMC quantified the resource requirements that would be needed to serve the COR customers. MEA would need to procure a mix of conventional energy, renewable energy, and generation capacity to supply the aggregate electric demands of these customers.

Renewable energy requirements were calculatedfor COR to ensure compliance with the statewide renewable portfolio standards as well as the more aggressive Marin Clean Energy renewable energy content. The renewable energy requirements were further refined to specify volumes for each of the three procurement categories set forth in the recently enacted Senate Bill X1 2, as each of these renewable procurement categories have different cost characteristics. Assuming MEA achieves its target of 50% renewable energy content by 2020, the total renewable energy associated with serving COR would be approximately 215 million kWh annually. The additional renewable energy is estimated to reduce GHG emissions by approximately 36 thousand metric tons of CO2 per year.

For the remaining conventional energy requirements, DMC quantified the volumes of peak and off-peak energy purchases that would be needed to supply COR's non-renewable energy needs. Purchasing a mix of peak and off-peak energy products in the appropriate quantities would approximately match the aggregate load shape for the COR customers, with any differences between the hourly load and the blocked purchases managed through balancing services provided by the California Independent System Operator.

DMC quantified the monthly generation capacity requirements that would be necessary to comply with the California Resource Adequacy program, which is designed to ensure that all load serving entities maintain sufficient capacity reserves to ensure reliability of the bulk electric system. Capacity volumes were detailed for system resources and for resources located within the applicable local reliability areas. These volumes were specified by month and projected out twenty years.

Timeline

For this analysis it was assumed that Marin Clean Eenrgy service would be offered to COR customers in early 2013, following the planned expansion to Phase 2B in July 2012. This timeline would provide a reasonable amount of time for decision-making by COR and MEA; allow for electric procurement for the incremental load; completion of any incremental staffing activities related to the expansion; completion of all regulatory activities such as revisions to the MEA implementation plan and various regulatory compliance filings; and securing the necessary working capital financingassociated with expansion to COR. An approximate twelve-month lead time between a commitment to join MEA by COR and the enrollment of COR customers would provide sufficient time to complete the necessary activities.

Economic Analysis

In order to determine the economic impact to MEA of extending service to COR, DMC estimated the net revenues that would be expected from serving the new customers, using MEA's financial model populated with the additional load associated with COR customers. Gross revenues were projected using the appropriate Marin Clean Energy rates by schedule (e.g., Res-1, Com-20) applied to projected COR customer monthly usage. Incremental costs were projected for all the following cost elements:

- Peak and off-peak energy
- Renewable energy at MCE renewable energy content
- Generation capacity by month and reliability area
- CAISO grid and scheduling fees
- Customer services for call center, data management
- Staff impacts (assume 3 FTEs)
- Billing and metering fees from PG&E
- Working capital financing (estimated at $2 million)
- Reserves at current percentage of revenue

Based on this analysis, total annual revenues are estimated to increase by $33 million, and total costs are estimated to increase by $31 million. The analysis indicates that expansion to COR would modestly benefit existing MCE ratepayers as the COR revenues would be sufficient to cover all additional costs associated with serving the COR customers.

VIII.B.36

Risk Assessment of Participation in the Marin Clean Energy Community Choice Aggregation Program

On Behalf of the City of Richmond

MRW & Associates, LLC
1814 Franklin Street, Suite 720
Oakland, CA 94612

October 20, 2011

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Acronyms Used

CARE	California Alternate Rates for Energy
CCA	Community Choice Aggregation
CPUC	California Public Utilities Commission
CRS	Responsibility Surcharge
DMC	Dalessi Management Consultants, LLC
GHG	greenhouse gas
JPA	Joint Powers Authority
kWh	kilowatt-hour
LBNL	Lawrence Berkeley National Laboratory
MCE	Marin Clean Energy
MEA	Marin Energy Authority
MRW	MRW & Associates, LLC
PCIA	Power Charge Indifference Amount
PG&E	Pacific Gas & Electric
RPS	Renewable Portfolio Standard

Executive Summary

The Marin Energy Authority (MEA) is a Joint Powers Authority (JPA) consisting of the County of Marin, City of Belvedere, Town of Fairfax, City of Mill Valley, Town of San Anselmo, City of San Rafael, City of Sausalito, and Town of Tiburon. MEA is considering allowing the City of Richmond to become a member of the JPA and participate in the Marin Clean Energy (MCE) Community Choice Aggregation (CCA) program. MCE provides commodity electric service to citizens and businesses throughout Marin.

Richmond retained MRW & Associates, LLC to examine the risks associated with joining MEA, participating in MCE, and review the load studies that Richmond commissioned as part of its due diligence related to participation in MEA and MCE. MRW's scope of work consists of four tasks:

- Assess potential risks and benefits to City residents and businesses if Richmond joins the MEA, in particular, the rate risk to the community.
- Assess potential risks and benefits to the City itself if it chooses to join the MEA.
- Provide comments on the Dalessi Management Consulting load and resource requirement analysis.
- Provide qualitative comments on any materials MEA provides to Richmond.

Participation in MCE does not come without risks. However, remaining a customer of PG&E also involves risks, although those risks may be less easily identifiable. It is up to the policymakers of Richmond to determine if the benefits associated with participation in MCE justify the risks. If Richmond joins MEA, it would allow its citizens and businesses the opportunity to take commodity electric service from MCE. If a customer does not take the conscious choice to opt out from the program and remain with PG&E for commodity electricity service, then they would, by default, become a customer of MCE. The opt-out requirement effectively means that despite the many opt-out notices that MCE is required to send out, some customers could become MCE customers without necessarily intending to do so. This could be a problem because different stakeholders have different values and risk preferences. For example, one customer might be extremely price-sensitive and would not tolerate higher rates for electric service, while another customer might be willing to pay more for electric service in order to obtain power from renewable energy sources.

According to MCE, participation in MCE can provide the citizens and businesses of Richmond with certain benefits. These include:

- Greater levels of power supply from renewable energy sources than offered by PG&E at competitive costs
- Reduced greenhouse gas emissions as a result of participation in MCE
- Alternative power supply opportunities for MCE customers, including self-generation of renewable energy through MCE-sponsored feed-in tariffs

- Development of local renewable resources to supply power to MCE
- Economic development benefits resulting in more jobs and tax revenues
- Rebates to encourage investments in energy efficiency improvements in homes and businesses
- Greater local control over power supply decisions and rate setting.

Given the scope of work for this assignment, MRW has not attempted to quantify or evaluate the relative magnitude of these benefits.

MRW has identified a wide range of potential risks that the City of Richmond, its residents and businesses (if they do not opt out of service from MCE) would face were it to join MEA. Some of these risks are significant while others are less important. The types of risks fall into several broad categories:

- Procurement Risks: This broad category of risks relates to the ability of MCE to procure power at reasonable costs, to avoid significant under- or over-procurement, and the future success of MCE at renewing power supply agreements.
- Regulatory Risks: These risks consist of uncertainty in regulatory decisions by the California Public Utilities Commission that could adversely affect the costs that customers have to pay to take service from MCE, such as exit fees paid by customers and bonding requirements for MCE.
- MEA Policy Risks: While all JPA members have a voice on the MEA Board, no single city can control policy. Thus, given Richmond's differing demographic, economic, and business composition relative to Marin County, Richmond might find that the interests of its citizens and businesses are not well served by decisions of the MEA Board.
- Customer Cost Risks: These risks consist of the uncertainty in exit fees, whether MCE can continue to "meet or beat" PG&E's costs of service, how MCE will handle adding different tranches of customers in the future, and the uncertainty in costs that are passed through directly from the CCA's power supplier to customers. This also includes the risk that MCE may not be willing, or able, to provide low-income customers rates that will be no higher than PG&E's.
- City-Specific Risks: These risks relate to risks that Richmond might bear simply by becoming a member of MEA, separate and apart from any risks that it might bear as a customer purchasing power from MCE.

The following table summarizes the risks discussed in greater detail in the body of the report. The table categorizes the risks based on the type of risk (e.g., procurement, customer costs), the entity that bears the risk (citizens or the City) as well as the relative importance of the risk in terms of the impact that it might have on customer costs or viability of the CCA.

Description of Risk	Magnitude or Importance of Risk
Procurement Risks	
Volume Risk: Uncertainty in load can cause under- or over-procurement	Medium
Future Price Risk: MCE cannot procure power for incremental customers at competitive costs	High
Expansion of CCA: Can current contract accommodate all new customers?	Medium
Contract Renewal: MCE cannot procure power at competitive prices at end of current agreement	High
Regulatory and Policy Risks	
Adverse CPUC Decisions: Exit Fees and bonding costs may be higher than expected	High
MEA's lack of Low-Income ratepayer policy	Very High
Full details of requirements of new MEA members not set	Low
Richmond's interests may not always align with that of other JPA members	Medium
Customer Cost Risks	
PG&E Exit Fees: Who bears risk of changes in exit fees?	High
Uncertainty in Departing Load Fees: How much must customer pay to exit CCA after opt-out period ends?	Medium
MCE Pricing Commitment: Will MCE meet or beat PG&E rate?	High
MCE Pricing Commitment: Will MCE hold CARE customers harmless?	Very High
City-Specific Risks	
Supplier Guarantees: City must provide guarantees to power suppliers	Medium
New Generation Guarantees: City must provide support to obtain financing for new generation	Low
Loss of Participation Fee: City departs CCA	Low

MRW believes the most significant risk is whether MCE will ultimately be able to provide long-term power supplies at costs that are less than PG&E could provide. Thus, if the City's customers are highly price sensitive, then this risk may be of great concern and would indicate that the City should place a premium on ensuring the its citizens and businesses are fully informed about the opt-out requirements of MCE. The City should also delve deeper into the likely future rates for MCE and PG&E, especially for the City's most price-sensitive customers.

This is particularly true for low-income households who currently take service under the California Alternate Rates for Energy (CARE) program offered by PG&E. MCE does not provide any guarantee that these customers would not be financially harmed by participation in MCE. In other words, customers currently taking service from PG&E under the CARE program could (and, given MCE's current policy and rates, would) experience higher electricity bills with MCE than with PG&E. Under current (2011) rates, a typical CARE household taking service from MCE would pay roughly $100 a year more for electricity than it would taking service from PG&E, although given anticipated rate changes, this value is expected to drop to approximately $30-40 in 2012.

1. Introduction and Background

The Marin Energy Authority (MEA) is a Joint Powers Authority (JPA) consisting of the County of Marin, City of Belvedere, Town of Fairfax, City of Mill Valley, Town of San Anselmo, City of San Rafael, City of Sausalito, and Town of Tiburon.[1] MEA is considering allowing the City of Richmond to become a member of the JPA and participate in the Marin Clean Energy (MCE) Community Choice Aggregation program. MCE provides commodity electric service to citizens and businesses throughout Marin. The City has asked MRW & Associates, LLC (MRW) to provide an assessment of the risks and benefits inherent in joining MCE.

1.1 Background on Marin Clean Energy

MCE is a Community Choice Aggregation (CCA) program. As a CCA program, MCE provides commodity electric service and other energy-related services to its customers. MCE, the first fully functioning CCA in California, has been providing these services to a subset of the customers in its service area since May 2010. MCE plans to offer service to customers by July 2012.

At the present time, MCE offers two electric supply products:

1. The Light Green product, which provides electric service that has a greater penetration of California Certified renewable resources (i.e., 27%) than does the incumbent electric utility, Pacific Gas & Electric (PG&E). MCE contends that this energy supply option is cost-competitive with PG&E's retail rates.

2. The Deep Green product, which provides 100% California Certified renewable resources for a $0.01 per kWh surcharge on top of the charges for the Light Green product.

1.2 Background on Potential MEA Membership for Richmond

MEA is allowing other cities in Marin that are not currently members of MEA to join the Joint Powers Authority. In addition, MEA is considering allowing Richmond to join MEA. If a city chooses to join MEA, then that city's citizens and businesses are automatically enrolled as customers of MCE unless a new customer opts out from participation in MCE.

At its October 3, 2011 Board Retreat, MEA noted criteria that would need to be met for Richmond to join the MEA JPA, as well as a potential timeline. The Board Retreat packet (item 6a) noted that for Richmond to join MEA, <u>all</u> of the following criteria need to be met:

- Addition of load is beneficial to existing customer base by increasing contributions to fixed costs and rate stability
- The expansion results in acceleration of greenhouse gas reductions in California

[1] MRW understands that the Town of Ross and the City of Novato have decided to join MEA.

- The expansion would allow for increases the amount of renewable energy being used in California's energy market
- City of Richmond is supportive of and endorses MEA's mission & current electricity procurement plans (target for 33% renewable energy content by 2015)
- City of Richmond adopts MEA's sample resolution and ordinance

The Board Retreat packet also notes that three or more of the following criteria need to be met:

- New opportunities are available to deploy local solar, other distributed renewable generation and/or CHP through MCE's Net Energy Metering Tariff and/or Feed in Tariff
- There is in increase in the ability to launch and operate energy efficiency activities and programs
- Regional benefits are achieved based on Richmond's geographically proximate location
- Greater demand for local jobs and other local economic activity (office rental, office materials, accounting, legal and other vendor services) is likely to result from the expansion
- The City of Richmond has completed polling to determine market interest in MCE with results that demonstrate market interest is present
- The City of Richmond has conducted substantive outreach (i.e. 3 or more community-based meetings) within the community to discuss MCE and receive positive feedback from the public

Assuming that the above criteria are met, the timeline presented at the MEA Board retreat also suggests that the earliest Richmond could begin service from MCE is 2013.

1.3 Scope of Assignment

The office of Richmond's City Manager approached MRW to conduct an independent third-party analysis of the risks associated for Richmond to join the MEA. The Scope of MRW's analysis includes the following four areas:

- Determine potential risks to City residents and businesses if Richmond joins the MEA, in particular, the rate risk to the community
- Determine potential risks to the City itself if it chooses to join the MEA
- Provide comments on the Dalessi Management Consulting load and resource requirement analysis
- Provide qualitative comments on any materials MEA provides to Richmond

Appendix 2 summarizes MRW's qualifications related to this assignment.

It is important to note that this assessment is not a study of the overall risks and benefits of participation in MCE. Thus, this report does not attempt to evaluate or quantify the possible benefits to various Richmond stakeholders (e.g., residential customers, businesses, municipal accounts) or associated risks of remaining on PG&E service. As such, the assessment must be

viewed as being only one part of the assessment of participation by Richmond in MCE. However, as noted above, MCE has clearly outlined the benefits that it sees associated with participation in a CCA such as MCE.

One additional point must be stressed: If Richmond decides to join MEA, the City is merely providing its citizens and businesses with *the opportunity* to take service from MCE: customers have the ability to opt-out from MCE and to remain customers of PG&E. However, customers must take conscious action to remain with PG&E; if they do nothing, they will become customers of MCE. MCE is required to provide at least four notices (post-cards, flyers, etc.) to all potential MCE customers informing them of this opt-out option. Nonetheless, even with the opt-out notices, it is almost certain that some citizens or businesses would become MCE customers effectively without their knowledge or consent. This could be a problem for Richmond's policymakers if the potential benefits and risks of participation in MCE are not consistent with the risk preferences and other goals of the citizens and businesses that become MCE customers by default.

2. Benefits of Participation in MCE

At the Richmond City Council meeting on July 19, 2011, MEA's Executive Director Dawn Weisz gave a presentation on MCE and the potential benefits to Richmond of becoming a member of the MEA JPA. MCE's website and presentation materials that MEA has circulated at other civic meetings discuss these benefits in detail and present additional ones. This section summarizes those benefits.[2]

Some of the primary benefits potentially offered by MCE to Richmond include:

- ***Greater levels of power supply from renewable energy sources than offered by PG&E at competitive costs***

It is clear that MEA's policy and supply portfolio is designed to, and will likely achieve, greater renewable penetration than is projected to be achieved by PG&E. It may or may not be able to do so at costs equal to or less than PG&E.

- ***Competition between electric service providers will lead to more competitive rates and prices for Richmond residents and businesses***

In theory, competition among suppliers will reduce prices to consumers and offer a wider variety of products in the marketplace. MCE, through its light-green and dark-green products, clearly is providing customers greater choice, but it is uncertain whether it will result in more competitive rates.

- ***Reduced greenhouse gas emissions as a result of participation in MCE***

Again, it is clear that MEA's policy and supply portfolio is designed to, and will likely achieve, a net reduction in greenhouse gas (GHG) emissions associated with electricity supply to its customers. This is because the average GHG emissions from the CCA would be lower than the *marginal* emissions from PG&E (i.e., the actual incremental emissions that PG&E would incur if it were serving that load). However, because PG&E has large amounts of carbon-free generation (large hydroelectric dams and the Diablo Canyon nuclear plant), PG&E's *average* GHG emissions rate might still be lower than the MCE's average emissions, even if the MCE has more qualifying "renewable" generation. Even so, as long as fossil fuel is on PG&E's generation margin, which it will be for the foreseeable future, the MCE policies would result in reduced GHG emissions.

- ***Provision of more robust incentives to businesses and residents to sell power back to MCA and thus stimulate the local economy***

Both PG&E and MCE offer net energy metering and feed-in-tariffs for small renewables generators. However, the current rates paid by MCE to small renewables generators through its

[2] This section is not intended to comprehensively repeat those benefits, or postulate additional ones. Instead, we simply reiterate some of the primary benefits that have been presented by MEA and briefly comment upon them.

feed-in-tariff are greater than that offered by PG&E. To the extent that MCE can maintain this price advantage over PG&E, and do so with lower transaction costs (i.e., fewer "hoops" to jump through), incremental local renewable development should occur, providing local economic stimulus.

- ***Attraction of more green businesses to locate in Richmond and thus increase business-related revenues to the City and create jobs for residents.***

and

- ***Creation of more employment opportunities for Richmond residents and contractors through the CCA power procurement contracts.***

To the extent that MCE has local purchase preferences and green businesses are attracted to MCE's offerings, incremental economic development in Richmond may occur.

- ***Greater local control over power supply decisions and rate setting.***

Given that its policies are set by MEA's Board of Directors, MCE would offer greater control of procurement and rate-making decisions than PG&E. However, Richmond has a different economic and demographic makeup than much or all of the other members of MEA. Since Richmond would only have a single vote on the MEA Board, it might find that the interests of the City and its residents and businesses are not always well served by Board decisions, especially in cases where Richmond's interests to not align with those of the other MEA members.

3. Risks of Participation

This section presents MRW's assessment of the major risks facing customer groups and the City as a result of participation in MCE. It then examines potential risks faced by City residents if the City joins MEA. It concludes by examining potential risks to the City itself if the City were to join MEA.

The following table summarizes the risks discussed in the following sections. The table categorizes the risks based on the type of risk (e.g., volume, procurement, customer costs), the entity that bears the risk (e.g., citizens or the City) as well as the relative importance of the risk in terms of the impact that it might have on customer costs or viability of the CCA.

Description of Risk	Magnitude or Importance of Risk
Procurement Risks	
Volume Risk: Uncertainty in load can cause under- or over-procurement	Medium
Future Price Risk: MCE cannot procure power for incremental customers at competitive costs	High
Expansion of CCA: Can current contract accommodate all new customers?	Medium
Contract Renewal: MCE cannot procure power at competitive prices at end of current agreement	High
Regulatory and Policy Risks	
Adverse CPUC Decisions: Exit Fees and bonding costs may be higher than expected	High
MEA's lack of Low-Income ratepayer policy	Very High
Full details of requirements of new MEA members not set	Low
Richmond's interests may not always align with that of other JPA members	Medium
Customer Cost Risks	
PG&E Exit Fees: Who bears risk of changes in exit fees?	High
Uncertainty in Departing Load Fees: How much must customer pay to exit CCA after opt-out period ends?	Medium
MCE Pricing Commitment: Will MCE meet or beat PG&E rate?	High
MCE Pricing Commitment: Will MCE hold CARE customers harmless?	Very High
City-Specific Risks	
Supplier Guarantees: City must provide guarantees to power suppliers	Medium
New Generation Guarantees: City must provide support to obtain financing for new generation	Low
Loss of Participation Fee: City departs CCA	Low

3.1 Procurement-Related Risks

In late 2009, MRW provided an assessment of risks to Marin County and several cities and towns related to participation in MCE. At that time, MRW identified a number of risks that existed in the agreements and policies of MCE. Since then, MEA has finalized its power supply and service agreements and MCE has begun to deliver power to its customers. This section discusses the status of the major risks that MRW identified before MCE began operation.[3]

3.1.1 Uncertainty in Amount of Power to Procure

MCE had to either specify the quantity of renewable and non-renewable energy and other services that it will receive from the supplier or establish some other mechanism whereby its loads are met. This is a concern because if MCE over-procures, then it will have to resell its excess supplies into the market (at unknown prices) and could face significant costs (or gains) from those sales. On the other hand, if MCE under-procures, then it needs to purchase power in the future at unknown rates, which could be higher (or lower) than the fixed prices to be specified in the Agreement when they were originally signed.

MCE suffered lower opt-outs than expected in its first tranche of customers (i.e., 20 percent opt-outs instead of the 25 percent opt-out rate assumed by MEA). However, to ensure that it had not over-procured energy and other products, it allowed other customers to participate in Phase 1. Such a strategy will not be available for Phase II, since there will not be a set of customers waiting to participate in MCE.[4] On the other hand, the high opt-outs in Phase I can be at least partially attributed to a very aggressive campaign by PG&E to encourage customers to opt-out. PG&E appears to have discontinued that practice, so it is reasonable to expect fewer opt-outs in the next phase. The recently-enacted Senate Bill 790 should also discourage PG&E from taking actions against MCE in the future. Furthermore, MCE has demonstrated that it can provide service to the Phase I customers, which might assuage some concerns by customers in later implementation phases regarding the ability of MCE to perform.

3.1.2 MCE's Current Power Supply Agreement May Not be Able to Accommodate the City's (or Other Cities') Loads

As specified in the renegotiated Confirmation between MCE and its power supplier, the power supplier has an obligation to provide full requirements services to MCE. However, the agreement only specifies a fixed quantity of renewable energy that the power supplier must provide. Thus, there is some uncertainty as to the pricing of power for MCE if it is successful in recruiting the City or other cities or counties (such as Sonoma County). If the current agreement does not provide for adequate renewable supply if new entities join MCE, then MCE will have to

[3] MRW identified more risks in its assessment for Marin County than we present here. We have omitted risks that are either not germane to Richmond or not significant.

[4] MCE currently has 9,000 customers and is in the process of offering service to another 5,000 customers. These are primarily residential customers. MCE expects to deliver to 70,000 customers by the end of 2012. Thus, for the purposes of this report, we assume that customers enrolled in 2012 are considered "Phase II" customers.

negotiate yet another agreement with its power supplier. The pricing for power under such an agreement is unknown.

3.1.3 Term of Power Supply Agreement

The MCE agreement with its power supplier runs through May 2015. After that time, MCE will have to negotiate a new power supply agreement for its entire load (not just incremental load added in Phase II or through new cities joining MCE). The pricing of this power supply is unknown. Thus, there is some uncertainty regarding the ability of MCE to "meet or beat" PG&E's price when it is time to renew the MEA power purchase agreement.[5]

Also, MCE's power supply costs are more sensitive to natural gas prices than is PG&E's generation rate. Even though MCE's current contract specifies fixed prices for the first five years of operation, if natural gas prices increase in the future from their relatively low levels today, then this would make it more difficult for MCE to compete with PG&E when MCE attempts to negotiate its next power supply agreement.

3.2 Regulatory and Policy Risks

This section addresses two areas. First, there are the risks to the CCA and its customers of changes in State policies, in particular the regulatory decisions made at the California Public Utilities Commission (CPUC). Second, there are the risks to the JPA member cities and their residents and businesses associated with MEA policies. We raise this second risk area because while all JPA member cities have a voice on the MEA Board, no single city can control policy. Thus, given Richmond's differing demographic, economic and business composition relative to Marin County, Richmond's needs and policy preferences might not be fully addressed in MEA Board decisions.

3.2.1 Need to Establish a Departing Load Fee

MEA's Business Plan assumes that MCE will construct renewable supply sources starting in 2011, with an expected online date of 2014. To undertake this construction program, MEA would issue debt (as is typically the case for other utilities). This effort would allow MCE to increase its level of renewable resources beyond the level assumed in the Agreements and would form the basis for MCE's renewable portfolio after the end of the initial power supply agreements with MCE's power supplier. The Agreements allow MCE to undertake such a development program. MCE indicated to MRW that it would only undertake such a construction program if it appeared to be cost-effective at the time the decision was being made.

[5] Based on a review of the most recent Confirmation and the Cottonwood Solar PPA, it appears that the pricing in the Cottonwood Solar PPA is higher than the cost of renewable power under MCE's agreement with its power supplier (e.g., in 2015, the price for energy plus renewable attributes for Category 1 attributes is $114.03/MWh ($65.03/MWh for energy and $49/MWh for renewable attributes) while the cost of power from Cottonwood is no less than $121/MWh.

MCE developing its own resources or entering into long-term PPAs has certain consequences:

(1) the power supplier would likely have to liquidate some portion of the resources that it procured for MCE under the Agreements, with MCE customers being responsible for any losses (or benefiting from any gains) resulting from those sales; and

(2) MEA would have fixed debt service obligations to pay for its renewable resources.

If MCE customers choose to leave MCE's service after the end of the opt-out period, then either the departing customers must pay a "Departing Load Fee" to MCE or the electric rates for remaining customers would increase. This Departing Load Fee would be only applicable to customers who did not opt out during the four month opt-out window and then subsequently, at some later date, chose to take electric service from someone other than MCE.[6]

MCE's departing load fee is $5 for residential customers and $25 for commercial customers. However, since MCE has not yet constructed any assets, it is unclear whether the departing load fee will change in the future. This uncertainty regarding MCE's policy regarding exit fees may be resolved soon, since MCE has contracted with Cottonwood Solar for 31 MW of fixed price generation.

3.2.2 CCA Bonding Obligation

MCE must post a bond with the CPUC as part of its registration process. The CCA bond is designed to cover the potential reentry costs if the CCA were to suddenly fail and be forced to return all its customers back to PG&E bundled service. The financial risk associated with this CCA Bond is twofold. First, the magnitude of the bond is uncertain. Currently, there is a proposed settlement regarding the approach for determining the CCA bonding requirement that could result in CCA bond amounts much greater than the current bond requirements.[7] Second, if power prices spike and exceed PG&E's generation rate, then the bonding requirements under the the proposed settlement would increase dramatically.

During normal conditions, the CCA Bond amount will not be a concern. However, during a wholesale market price spike, the CCA Bond could potentially increase to tens of millions of dollars. This is one example of how regulatory change can erode the economic viability of a CCA.

On the other hand, it is important to note that high power prices (that would cause a high bond requirement) would also depress PG&E's exit fee and would also raise PG&E rates, which would in turn likely provide MEA sufficient headroom to handle the higher bonding requirement

[6] Also note that if an MCE customer returns to PG&E service after the end of the opt-out period, that customer would not continue to pay Exit Fees to PG&E; they would only have to pay Departing Load Fees to MCE.

[7] The yet-to-be approved settlement at the CPUC in the CCA Docket (R.03-10-003) proposes a formula that would result in even higher CCA Bond amounts. The parties in the Settlement do not include any active or near-term prospective CCAs (i.e., MEA or San Francisco). Both MEA and San Francisco have vigorously opposed the settlement.

and keep its customers' overall costs competitive with what they would have paid had they remained with PG&E.

3.2.3 Meaning of MCE's Commitment to "Meet or Beat" PG&E Rates

MCE has stated that one of the benefits for customers is "Costs at or below PG&E."[8] In discussions with MRW, MCE has clarified that this condition is based on comparing the ***projected*** overall costs of MCE assuming power supply by a third party over the term of the Agreements against MCE's costs assuming power supply was provided by PG&E at MCE's forecast of PG&E's tariffed generation rate. In other words, the following inequality must occur for MCE to sign the Agreements:

MCE Power Supply Costs + Customer Exit Fees + MCE Overhead $\leq$ PG&E Gen Rate[9]

Of course, all of the above factors are somewhat uncertain, although MCE Power Supply Costs are less uncertain than the other factors.

In recent presentations, MCE has shown that its net commercial rates (MCE rate plus the Exit Fee) are competitive with PG&E's generation rate, but that MCE's net residential rates (MCE's RES-1 plus Exit Fee) are higher than PG&E's residential generation rates.[10]

3.2.4 CARE (Low-Income) Rate Policies

To protect low-income households against escalating electricity bills, the CPUC froze rates for the California Alternate Rates for Energy (CARE) program at July 2001 levels. As general rates have increased with CARE rates remaining frozen, the effective CARE discounts now range from 29 to 30 percent in the lower two residential rate tiers and up to 76 percent in Tier 4. While recent Commission action is moving to adjust its rate design to modestly increase the CARE Tier 3 rates, these customers will continue to receive significant discounts relative to other residential customers.

According to the data provided by PG&E, approximately 37% of the residential customers (14,000) in Richmond are on CARE rates, representing 39% of the residential load and 12% of the city's overall load. This is somewhat higher than the PG&E system average, which shows approximately 25% of its residential customers on CARE rates.

The discounts for CARE customers are taken in both the distribution and generation components. This means that the level of CARE discount in the generation rate will have to be accounted for in setting an equivalent CARE rate for low-income CCA customers.

[8] E.g., MEA presentation, October 2009, p. 12.

[9] MEA Power Supply Costs, Customer Exit Fees, MEA Overheads, and PG&E Gen Rate are all forecasted values in early February 2010.

[10] MCE Presentation to the Novato City Council, September 27, 2011.

MEA does not have a written policy concerning the treatment of CARE customers. Currently, for every CARE rate schedule offered by PG&E, MEA offers a parallel rate. However, MEA does not explicitly set its CARE rates to meet or beat PG&E's generation rates. In email correspondence with MEA, Jamie Tuckey reported that "…the majority of our CARE rates do beat PG&E's. There are 33 different rates provided for the CARE customers across the different tiers and rate schedules. Of those 33, 24 beat PG&E's rates."[11] While technically correct, this response is incomplete. When MCE's tariff is combined with the Exit Fee, CARE customers would be paying more than PG&E generation rate.

This means that under the current *ad hoc* situation, MEA does not guarantee that low-income customers will not be financially harmed by taking MEA service. Additional CARE issues this from the customer perspective are discussed in Section 3.3.3.

3.2.5 Timing and Rates for Customers Taking Service in Later Phases of MCE's Development

MCE initially procured power for its Phase I customers in early 2010. It had planned to obtain power for the remainder of its customers (i.e., the Phase II customers) at a later date. This meant that either prices will differ for Phase I and Phase II customers or Phase I customers will have their rates change at the onset of Phase II. According to MCE, it intends to negotiate a separate Confirmation agreement[12] with its Phase I supplier when MCE is ready to start Phase II.[13] MCE envisions this negotiation to address primarily price but also "may consider slight revisions to the Confirm for Phase II to the extent our better information (about opt outs, operations streamlining, other lessons learned) requires revision."[14] The *pro forma* financial analysis provided to MRW in 2009 shows the Phase II load being served on January 1, 2012, however MCE has said that, depending upon market conditions, it intends to remain flexible as to the start date of Phase II, moving it forward or backward by a year (or more) so as to take best advantage of pricing in the power markets. This phase-in approach has both positive and negative aspects.[15] Since power prices are volatile, it is likely that the prices MCE receives from its supplier for Phase II will differ from its pricing for Phase I. If power prices do differ, MCE will need to decide whether it

[11] Email from Jamie Tuckey (MEA) to Mark Fulmer (MRW), October 10, 2011. Included as Appendix 1.

[12] The Confirmation contains prices, quantities, and other important aspects of the agreement between MEA and its supplier.

[13] MCE renegotiated certain terms and conditions of its agreement with Shell Energy North America, the power supplier for Phase I, in May 2011. According to MCE, this allows MCE to "increase its energy purchases and reduce is average supply costs relative to the initial agreement."

[14] Email communication, Elizabeth Rasmussen to Mark Fulmer November 5, 2009.

[15] The positive aspects include simplifying the initial startup of MCE and negotiating a new agreement based on better understanding of opt-out risk. Negative aspects include possibly re-opening issues that were settled in Phase I, seeing wholesale power prices prior to Phase II that do not allow MCE to proceed (because its rates would not meet or beat PG&E's rates at that time) and having to negotiate with a supplier that has great deal of negotiating leverage.

establishes similar rates for all customers or sets rates for its Phase II customers different than for its Phase I customers.[16]

3.2.6 Full Details of New MEA Member Cities Not Known

While MEA is considering providing Cities such as Richmond an opportunity to join MEA, the exact terms of such participation have yet to be released. MRW notes that "[a] broader discussion has been scheduled for October 3rd, 2011 at the MEA Board retreat to finalize draft 'Criteria for New Members,' finalize the 'Process and Timing' document for interested jurisdictions and to finalize the draft 'Application' for interested jurisdictions."[17]

3.3 Potential Risks Faced by the City's Electric Consumers

As discussed above, there were and continue to be several risks that customers of MCE face. These are discussed below.

3.3.1 MCE May Be Unable to Procure Power for its Incremental Light Green Customers at Prices that Meet or Beat PG&E

In 2010, MCE successfully procured power for its Light Green customers at costs that allow those customers to have total energy bills that are less than they would have paid had they remained PG&E customers. However, at that time, PG&E's rate design for residential customers resulted in high usage customers having very high average electric rates. Thus, MCE was able to target the specific customers in its Phase I efforts that had very high rates. MCE will not be able to use this approach in its Phase II (or with Richmond) because of two factors. First, MCE will have to serve lower-usage customers that were not served in Phase I, and, more importantly, rate design changes in 2011 resulted in a "flattening" of PG&E's generation rate for residential customers, meaning that high usage customers no longer pay higher—sometime much higher—generation rates than low-usage residential customers. (Note that MCE essentially competes against PG&E's generation rate.)

As such, MCE is now projecting that it will not be able to offer net residential rates (MCE generation rate + Exit Fee) lower than PG&E's generation rate in 2012. Thus, MCE is not able to "meet or beat" PG&E prices even for its Light Green product. While it may be the case that MCE's net residential rates may be less than PG&E's generation rates in the future, this is by no means certain.

[16] This is exacerbated by the fact that the exit fees charged to CCA customers by PG&E vary depending upon when the customer begins CCA service. If MCE decides to have similar rates for both Phase I and Phase II customers, then the rates for Phase I customers might increase or decrease relative to the rates those customers saw during Phase I.

[17] Ad Hoc Committee on Expansion Scenarios, Staff Report, September 1, 2011.

3.3.2 Uncertainty in Exit Fees

Assembly Bill 117, which established the Community Choice Aggregation program in California, included a provision that states that the customers that remain with the utility should be "indifferent" to the departure of customers from utility service to CCA service. This has been broadly interpreted by the CPUC to mean that the departure of customers to CCA service cannot cause the rates of the remaining utility "bundled" customers to go up. In order to maintain bundled customer rates, the CPUC has instituted an exit fee, known as the "Power Charge Indifference Amount" or "PCIA" that is charged to all CCA customers. The PCIA is intended to ensure that generation costs incurred by PG&E before a customer transitions to CCA service are not shifted to remaining PG&E bundled service customers.

Even though there is an explicit formula for calculating the PCIA, forecasting the PCIA is difficult, since many of the key inputs to the calculation are not publically available and the results very sensitive to these key assumptions. For PG&E, the PCIA has varied widely; for example, at one time the PCIA was negative.

To further add to the uncertainty in future levels for the PCIA, the CPUC is considering revisions to the PCIA calculation methodology. A Proposed Decision in that proceeding would alter the PCIA formula with the net impact of significantly reducing the PCIA.[18] MCE's current policy is that customers bear the financial risk associated with the level of exit fees they will pay to PG&E. Thus, for a customer taking MCE service to be economically better off (i.e., pay less for electricity), the sum of the MCE charges plus the PCIA must be lower than PG&E's generation rate. As noted above, for 2012, this is not projected to be the case for MCE residential customers

3.3.3 CARE Customer Issues

As mentioned in Section 3.2.4, a significant fraction—almost 40%—of Richmond's residential electric customers take service under a discounted, CARE rate. Current MEA policy does not ensure that these customers will not pay more under MCE than they would had they taken service from PG&E. In fact, given current rates, these customers would indeed pay more.

The table below shows the generation rates offered by PG&E and MCE for a standard residential CARE customer. For both the baseline energy use (first ~250 kWhs per month) and above baseline energy use, MCE's rates for customers taking service under its CARE rates are only slightly higher than PG&E's CARE rates. However, MCE's CARE rate does not include PCIA, a rate element that is applicable only to CCA customers. When adding in the PCIA, the low-income customer taking service from MCE would have rates well above those offered by PG&E, which would result in much higher electric bills for that customer. For example, for a CARE customer using 400 kWh per month (the average for a Richmond CARE customer), the customer's annual electric bill at current rates would be at least $100 more per year than taking service from PG&E.

[18] The current PCIA charge for PG&E for customers who began MCE service in 2011 is 1.92¢/kwh. If the Proposed Decision contemplated at the CPUC is adopted, this value should decrease by 50% or more in 2012.

MRW expects that the PCIA will decrease in 2012. However, even if the PCIA is reduced by 50%, the cost impact to a low-income resident of having to pay MCE's rates plus the PCIA would still be significant.

CARE Rate Compaison (current tariffs), ¢/kWh

	PG&E Schedule EL-1	MEA Schedule RES-1-L	Difference
Baseline Generation Rate	4.270	4.40	+.170
Above Baseline Generation Rate	5.517	5.50	+.017
PCIA (Vintage 2010)	n/a	1.920	+1.920

Issue: Transfer of CARE Customers to MEA Service

There are two issues involved in transferring CARE customers from PG&E to MCE. First, MEA must insure that CARE customers are transferred to the proper tariff—RES-1-L rather than the standard residential tariff, RES-1. This would likely not be an issue, but would need to be monitored closely. Second, and more important, CARE customers would have to be fully informed that unless they proactively opt-out to remain on PG&E service, they would likely experience an effective rate increase, or at least be at risk for one. This would likely prove to be a serious communications challenge for MCE. Standard opt-out information routes—post cards, bill inserts, letters, electronic media, and such may not be sufficient to adequately inform all of Richmond's 14,000 CARE accounts. If a customer is not informed that they are becoming an MCE customer, then they will be receiving a rate increase without making an affirmative decision to accept such a rate increase.

Issue: Other Customers Subsidizing CARE Customers

Even if the full PCIA costs are borne by CARE customers, to the extent that the rate MCE charges CARE customers is less than the cost to provide power to those customers, some subsidization will occur. If MCE ultimately decides to hold CARE customers harmless and ensure that their net MCE rate is no higher than PG&E's CARE rate, then there would be increased need to raise rates for the other MCE customers to make up that revenue difference. A question that would likely be raised would be, how willing are MCE's ratepayers in Marin County to subsidize low-income customers in Richmond? MRW does not know the answer to this question but we believe that it could present a political and public relations challenge for Richmond officials as well as MCE.

3.3.4 Regulatory Changes Adversely Affect MEA Customers

Regulatory changes could make MEA's power costs uncompetitive with PG&E. As discussed elsewhere, the CPUC establishes exit fees that customers of MEA have to pay. There is currently

an effort to revise the approach for determination of exit fees.[19] Such decisions have occurred in the past (e.g., MEA and others advocated strongly in opposition to PG&E's effort to flatten its generation rate, but these efforts proved unsuccessful). Also, as discussed above, the CPUC could adopt bonding requirements that would significantly increase the cost of security bonds for MCE, which would also tend to undermine the ability of MCE to provide electricity to its customers at a rate that meets or beats PG&E's rates.

3.4 City's Potential Financial Obligations to MCE

The City, as a consumer of electricity, faces many of the risks discussed above. However, the City also may face other risks as a participant in MEA. This section discusses those potential risks.

3.4.1 Need for City to Provide Backstop Support to MEA Power Suppliers

When MCE was originally established, it needed to fund its startup activities. However, at that time, it had no customers and no credit rating. Thus, MCE had to borrow funds from third parties.[20]

In addition, before startup, MCE needed to post security with its power supplier. MRW is not aware of the specifics of these security requirements but does not believe that they were onerous, primarily because MCE was not procuring a significant amount of energy in its Phase I procurement. However, for Phase II, MCE will need to procure a much greater amount of energy (especially if it is successful in recruiting new members such as the City). If this occurs, MRW believes that potential power suppliers may require greater levels of security from MCE. This security might include calls by the power suppliers to obtain backstop guarantees from MEA members.[21] While MRW does not have any first-hand knowledge of such requirements, this is certainly an issue that the City should investigate fully with MEA prior to making any sort of commitment to join.

Finally, as discussed above, there is a distinct possibility that the CCA bond that MCE must post with the CPUC could increase significantly. According to MEA and San Francisco (which is attempting to form a CCA), it could take up to three years before a CCA could become sufficiently creditworthy to engage an insurance or finance company to underwrite the CCA

[19] The Administrative Law Judge in the proceeding considering this change has issued a Proposed Decision regarding the proposed change. The Proposed Decision would adopt a compromise position between the positions advocated by proponents of CCA (and Direct Access) and the utilities, albeit more heavily weighted towards the position advocated by the CCA proponents.

[20] MRW understands that MCE has established a bank line of credit and has repaid these loans.

[21] MEA states that it would never sign an agreement that had backstop guarantees without approval of its member agencies. That is precisely the point: a power supplier could refuse to sell power to MCE without the backstop guarantee, which would put MCE into the position of either having to ask its members to supply such a guarantee or have to purchase power at higher prices, thereby making its rates less competitive with PG&E.

bond.[22] If this were the case, then it seems plausible that MEA might come to its member cities and request assistance in posting a portion of the CCA bond.[23]

3.4.2 Lenders Requiring MEA Members to Provide Balance Sheet Guarantees for Generation Assets

During MRW's initial review of the risks associated with participation in MEA, it asked MEA staff about the potential risk of cities needing to (or being forced to) provide balance sheet support to allow construction of generation assets that are owned by MCE or MEA. At that time, MRW received assurances that such balance sheet support from MEA members would not be required. This was reiterated by Executive Director Weisz at the September 27 Novato City Council meeting, where she went on to explain that the JPA structure itself protects the JPA's members from debts incurred by the JPA.

In general, this is a legal issue and is beyond the scope of MRW's assessment. However, MRW notes that the Town of Ross's city attorney, Hadden Roth, investigated Ross's liability should it join MEA. His conclusions were:

> …that the Town's general fund will not be responsible for any financial obligations of MEA unless the Ross Town Council first specifically agrees in writing to assume the liability. This protection is provided under both the JPA agreement and State law.[24]

Therefore, it is MRW's understanding that no liability could be placed on Richmond simply by being a member of the MEA JPA.

3.4.3 Participation Fee

In order to join MEA, it is possible that the City may have to pay a participation fee to cover "any new costs related to adding the new member and any other conditions deemed appropriate by the Board."[25] The magnitude of that fee has yet to be set, although MRW notes that the equivalent fee for Marin County cities and towns was estimated to be $20,000 to $40,000. It is reasonable to assume that any fee requested of Richmond would be of a similar magnitude. Furthermore, if the City pays the fee but is unable (or unwilling to act) in a timely fashion, then it may have to forfeit that fee. As this fee is not likely to be great, this is a low risk.

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[22] R.03-10-003, Supplemental Brief Of Marin Energy Authority On Proposed Bond Methodology, February 28, 2011. Page 6.

[23] Even more troubling, San Francisco claims: "even if a CCA's risk of ceasing operations is minimal, the expense of the bond requirement, by itself, could force a CCA out of business."

[24] Minutes to the Special Meeting Of The Ross Town Council, Tuesday, January 12, 2010. http://www.townofross.org/pdf/minutes_council/january-12-2010-special-meeting-adopted-minutes.pdf

[25] Memorandum from Greg Stepanicich to the MEA Chair and Board Members, September 26, 2011. Included as part of item #6c at the Marin energy Authority Mid-Year Retreat Packet, October 3, 2011.

4. Review of Dalessi Load Study

At the July 19, 2011 City Council meeting, Dalessi Management Consultants, LLC (DMC) was authorized to:

- Analyze the monthly customer electric load data for customers within the City as provided by PG&E.
- Incorporate estimates of electricity demand associated with the potential second campus of the Lawrence Berkeley National Laboratory (LBNL) if such estimates are available from the City.
- Create a composite hourly load dataset for the City, using statistical class hourly load profile data.
- Identify resource requirements for baseload energy, peak energy, generation capacity, ancillary services, California Independent System Operator costs, renewable portfolio standards and distribution losses.

MRW reviewed materials generated by DMC, including the workpapers used to analyze the load data, create the composite hourly load of the City (with and without the LBNL campus), and identify baseload energy, peak energy and required generation capacity and renewable portfolio standards. Information concerning California Independent System Operator costs and losses were not provided. In addition, MRW was provided "Summary of MEA's Economic Evaluation of the Potential Extension of MCE Service to the City of Richmond" (Economic Evaluation Summary). The workpapers supporting this economic evaluation were considered proprietary to DMC and MEA and not provided to MRW.

4.1 Comments on the Load Analysis

MRW found that:

- The load analysis method was sound
- The hourly loads derived from the data were reasonable
- Based on the hourly loads, the calculated baseload energy, peak energy and generation capacity needs were reasonable
- The estimates of the renewable energy needed to comply with Renewable Portfolio Standard regulations were reasonable

Our primary criticism with the analysis is with the underlying assumption that 20% of the load in *each customer class* would opt-out of MCE service and remain with PG&E. While the actual opt-out rate is difficult to predict, the composition of the customer base is very important for understanding the shape of the load that is to be served. Residential and small commercial customers tend to have "peakier" loads, as they have relatively high demands during late summer afternoons (driven by air conditioning) and winter evenings (driven by lighting and appliances).

Large commercial and industrial customers tend to have "flatter" loads, as their electricity demand is not as sensitive to weather or daylight hours. "Peakier" loads tend to be more costly to serve than flatter loads.

Because the total composite load is important, the assumptions concerning how each class is likely to participate in the CCA or opt out is likewise important. If Direct Access[26] participation statistics are a reasonable indicator (which we think they are), the industrial, large commercial and to a lesser degree medium commercial customer classes will tend to be more price sensitive and risk averse than other customer classes.

The assumption that 20% of the customers will opt-out from each customer class does not reflect this fact. While the 20% opt-out rate assumption is appropriate, or even conservative, for residential and small commercial customers, it is questionable for larger commercial and industrial customers.

This opt-out question impacts the load that would have to be served by MCE. If fewer large commercial and industrial customers participate in the CCA, the aggregate load served by the CCA would be "peakier," and on an average per-kilowatt-hour basis, a CCA with a customer mix that is dominated by residential and small commercial customers would require higher rates to cover its procurement costs.

When queried about the opt out assumptions, Mr. Dalessi informed MRW that the cost to serve the larger customers was approximately equal to the revenue MCE would receive from them, and that therefore the overall cost-effectiveness results shown in the Economic Evaluation Summary were still valid. As more detailed work papers were not provided (due to MCE confidentiality concerns), MRW cannot verify this, but nonetheless finds the assertion plausible.

4.1 Comments on the Economic Evaluation Summary

In addition to the spreadsheets containing the load analysis, DMC also provided a summary of the economic evaluation it conducted for MEA. The Economic Evaluation Summary outlined the factors taken into account when conducting the analysis, which included the load that would have to be served, estimates of incremental overhead requirements at MCE and incremental financing costs. MRW found the load estimates shown in the summary were consistent with the detailed spreadsheets provided and the other general cost categories identified to be appropriate.

The Economic Evaluation Summary also provided an estimate of "ratepayer impacts." This showed that the revenue that would be received using MCE rates from Richmond customers would equal approximately $33 million per year while the costs to serve those customers would equal approximately $31 million per year, for a net "ratepayer benefit" of $2 million per year.

MRW believes that characterizing the annual $2 million surplus as "ratepayer benefit" is misleading. This value simply says that DMC projects MCE's rates to bring in, on average, $2 million per year more from Richmond customers than its cost to serve those customers. This is

[26] Direct Access is the current program whereby some non-residential customers may elect to receive power from providers other than their host investor-owned utility.

not a ratepayer benefit; instead, this is the benefit to MCE of taking in the residents and businesses of Richmond. Some of this benefit might be passed along to Richmond's customers in the form of lower MCE rates. However, this is not a certainty.

To show an economic benefit to the ratepayers in Richmond, one must compare the aggregate bills the Richmond ratepayers would pay under MCE to that which they would pay under PG&E service. Such an analysis was not provided to MRW.

5. Conclusions

MRW has identified various risks associated with the City's participation in MCE. The most significant risk is whether MCE will ultimately be able to provide long-term power supplies at costs that are less than PG&E generation rates. Thus, if the City's customers are highly price sensitive, then this risk may be of great concern and it might be reasonable for the City to delve deeper into the likely future rates for MCE and PG&E. On the other hand, if the City's residents and businesses are more concerned about the level of renewable resources used to generate their electric supply, then such an assessment is less important.

The price-sensitivity issue is particularly acute for low-income households taking service on CARE rates. MEA does not have a policy in place to ensure such customers will not be harmed by taking MCE service relative to remaining on PG&E service. Given the legislatively-mandated "opt-out" structure of CCA programs in California, MRW believes this should be addressed prior to Richmond committing to MEA membership.

It is beyond the scope of this assessment to either quantitatively assign either potential costs or probability of occurrence to these risks. In addition, this assessment does not identify or attempt to quantify the potential benefits associated with participation in MCE. Richmond's policymakers will need to weigh and balance the potential risks and benefits of participation in MEA given the risk and policy preferences of Richmond's citizens and businesses.

6. Appendix 1: Email Correspondence Concerning MEA CARE Rates

Mark Fulmer

From: Jamie Tuckey [jtuckey@marinenergyauthority.org]
Sent: Monday, October 10, 2011 3:30 PM
To: Mark Fulmer
Cc: Dawn Weisz
Subject: RE: CARE customer policies

Hi Mark,

Our CARE rates are available on our website here:

http://marincleanenergy.com/index.php?option=com_moofaq&view=categories&id=16&Itemid=172

MEA does not currently cover the PCIA charge for any of our customers, including those who are on the CARE schedule. Our CARE rates are not all currently set to meet or beat PG&E's. It depends on which rate schedule and which tier you are comparing, although the majority of our CARE rates do beat PG&E's. There are 33 different rates provided for the CARE customers across the different tiers and rate schedules. Of those 33, 24 beat PG&E's rates.

Please let me know if I can provide you with any other information.

Thanks,
Jamie

Jamie Tuckey
415-464-6024

From: Dawn Weisz [mailto:dweisz@marinenergyauthority.org]
Sent: Monday, October 10, 2011 2:11 PM
To: Mark Fulmer; Jamie Tuckey
Subject: RE: CARE customer policies

Hi Mark,
Jamie can point you to the CARE rates which are shown on our website. Jamie is included here if you have any follow up questions as well.

Thanks,
Dawn

Dawn Weisz
Executive Officer
Marin Energy Authority
781 Lincoln Ave., Suite 320
San Rafael, CA 94901
415-464-6020
MarinCleanEnergy.com

From: Mark Fulmer [mailto:mef@mrwassoc.com]
Sent: Monday, October 10, 2011 1:11 PM
To: dweisz@marinenergyauthority.org
Subject: CARE customer policies

Dawn,

As I'm sure you've been told, MRW is working with the staff at the City of Richmond evaluating the risks of the City joining MEA.

In support of that effort, can you point me to (if it's on the web) or send me MEA's policies concerning rates for CARE customers? In particular, are MEA/MCE's rate set to meet/beat PG&E's CARE rate (it appears so from the website), and does MEA/MCE cover the PCIA for CARE customers?

Best regards,
Mark

Mark Fulmer
MRW & Associates, LLC
1814 Franklin Street, Suite 720
Oakland CA 94612
(510) 834-1999
mef@mrwassoc.com

7. Appendix 2: MRW's Qualifications

Established in Oakland, California in 1986, MRW early on built a solid reputation for delivering local insights on power and fuel markets in the western United States as well as intervening successfully in legislative and regulatory proceedings on clients' behalf. Today, MRW continues to deliver high-quality market insights, analysis, and client support on a national and international level. The company has undertaken engagements in more than twenty different states, including nearly every state in the western U.S. The company maintains a strong focus on California markets and regulatory structures. The location of the company office in Oakland, California, facilitates our active participation in proceedings at the CPUC, the California Energy Commission, and the CAISO.

MRW's client base includes major financial institutions, private power developers, consumer advocates, power marketers, municipalities, Fortune 500 industrial companies, commercial end-users, natural gas pipelines and storage service providers, regulatory agencies, and other strategic players in the energy sector. MRW's team of professionals include specialists in renewable energy, power market modeling, financial analysis, regulatory processes, utility rate design, legislative analysis, commodity procurement, energy use analysis, contract negotiations, transmission planning and pricing, and strategic planning.

On related CCA matters, in the spring of 2005, Navigant Consulting, pursuant to a California Energy Commission grant, issued a series of CCA feasibility studies for the County of Marin and the cities of Berkeley, Oakland and Emeryville. A similar report was issued for the Kings River Conservation District a few months later. The basic reports were nearly identical, differing only in how the customer and load characteristics of each jurisdiction affected the various data tables. MRW, along with JBS Energy, provided an independent third-party review of these studies on behalf of the studies' recipients. The reviews focused on the reasonableness of the analytical approach and assumptions used by the reports' authors, identifying areas that were either unreasonable or would need updating if a particular jurisdiction were to investigate CCA formation in greater detail. The review also identified key risks that would have to be addressed, including such factors as regulatory risk (i.e., impact of changes to PG&E rate design) and environmental compliance costs. As a result of these third-party assessments, Navigant ultimately made significant changes to the preliminary feasibility studies.

In late 2008, MRW conducted an independent review of the reports and documents associated with Marin County's Community Choice Aggregation efforts. This review focused on the "Marin CCA Business Plan" (April 2008), Bill Marcus's professional peer review of the Plan, PG&E's comments on the Plan, and responses to Marcus' and PG&E's comments. MRW's review concentrated on two main areas: the factors that were most important making a CCA financially viable and the major risk factors that would affect potential participants in the CCA. These included:

- the reasonableness of the power procurement strategy proposed in the Plan;
- the reasonableness of the procured power costs forecast in the Plan;
- hedging and risk management activities proposed in the Plan;
- underlying natural gas and wholesale power price projections;

- the consistency of rate and procurement costs with those underlying gas price projections;
- the reasonableness of the Plan's estimates of the non-bypassable charges including the CCA Cost Responsibility Surcharge (CRS);
- the depth and appropriateness of any sensitivity analysis; and
- the forecasts of utility rates (and rate designs) against which the CCA's rates would compete, including the consistency of assumptions underlying the utility rate projection and the CCA rate projection.

In late 2009, the County and City/Town Managers again retained MRW to review the draft service agreements that MEA was proposing to enter into with Shell Energy North America. This review concentrated on identifying the risks to MEA, the Cities, Towns, and the County that were not sufficiently addressed in the MEA-Shell agreement, and provided suggested changes and amendments to the agreements to mitigate those risks. Many of MRW's suggestions were subsequently incorporated in the final contract.

The primary authors of this assessment are William Monsen and Mark Fulmer.

William A. Monsen, a Principal with MRW & Associates, LLC, has been providing technical and economic analysis for the energy industry for more than 30 years. He is an expert in utility resource planning, retail power procurement, power market evaluations, due diligence for power generation projects, and independent power issues. He has helped municipalities and other end-users understand present and future consumption needs and reduce energy costs through competitive commodity procurement and efficiency improvements.

With respect to CCA matters, Mr. Monsen was the Principal in Charge for detailed peer reviews of the CCA feasibility studies for Marin, Berkeley, Oakland, Emeryville and the Kings River Conservation District. He also led MRW's work in reviewing Marin Energy Authority's business plan and draft service agreements that MEA was proposing to enter into with Shell Energy North America. He also provided professional review on behalf of the City and County of San Francisco of the proposed contracts between the city and a potential (but eventually rejected) supplier for their proposed CCA and was a co-author of the Southern California CCA feasibility study MRW conducted in 2008.

Mr. Monsen holds a Master's degree in Mechanical Engineering from the Solar Energy Laboratory at the University of Wisconsin-Madison and a Bachelor's degree in Engineering Physics from the University of California at Berkeley.

Mark Fulmer is a Principal at MRW & Associates, LLC, with over twenty years of experience in the energy industry. Much of this work has been in the regulatory arena, advising customers, trade groups, municipalities, utilities and state public utility commissions on resource planning, energy efficiency and rate matters. He has submitted testimony before FERC and utility commissions in Arizona, California, Hawaii, Pennsylvania, Rhode Island, as well as supporting testimony in ten other states and Canadian provinces.

With respect to CCA matters, Mr. Fulmer was the lead author of a CCA feasibility assessment in Southern California Edison's service area and contributed to the peer reviews of the CCA feasibility studies for Marin, Berkeley, Oakland, Emeryville and the Kings River Conservation

District. He also served as an expert witness before the California PUC on behalf of the City and County of San Francisco on CCA matters, including the rules under which CCA would operate and the fees that PG&E would be allowed to charge CCAs for the various services the utility would have to provide. Most recently, Mr. Fulmer was one of three witnesses sponsored jointly by the Marin Energy Authority, the City and County of San Francisco, and the Direct Access parties in the CPUC proceeding addressing the correct calculation of the Cost Responsibility Surcharge for departing load (CCA and DA) customers.

Mr. Fulmer holds a Master's Degree in Engineering from Princeton University, where he conducted graduate research at the Center for Energy and Environmental Studies, and a Bachelors' Degree in Engineering from the University of California, Irvine.

VIII.B.70

Davis Wright Tremaine LLP

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505 Montgomery Street
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Edward W. O'Neill
(415) 276-6542 tel
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May 17, 2010

Wayne Bush
Interim City Manager
City of Mill Valley
Mill Valley, CA 94941

Re: Independent Assessment of Potential Risks and Liabilities Associated with City's Participation in Marin Clean Energy

Dear Mr. Bush:

This letter is in response to your recent request for an independent assessment of the potential legal risks and liabilities to the City of Mill Valley (the "City") associated with its participation in the Marin Energy Authority ("MEA"), a joint powers authority ("JPA"), and its potential election to remain an electric service customer of MEA through its Marin Clean Energy ("MCE") community choice aggregation ("CCA") program, rather than to return to electric service from Pacific Gas and Electric Company ("PG&E").

Specific Issues You Have Raised

In this regard, we have been asked to under take the following tasks and to address the following specific issues:

1) Review and assess the City's potential risks and liabilities as a retail customer of MEA through its MCE program, including:

a. The risk and related liability that MCE's future retail rates may exceed the retail PG&E's retail rates;

b. The risk that the City may incur exit fees and other charges should it chose to opt out of MCE and return to taking service from PG&E at some point in the future;

c. The risk of future statutory or regulatory changes that may affect MEA's ability to provide service at retail rates competitive with PG&E;

d. The risk that MCE customers may be held liable for an organizational failure of the MEA.

2) Review and assess the City's potential risks and liabilities as a member of the MEA JPA, including:

a. Whether the City may be held liable in whole or in part for legal obligations and commitments of MEA;

b. The risk that the number of customers opting out of MCE may affect the economic viability of MEA;

c. The risk that future investments by MEA in electric generation may result in potential liability of the City as a member of the MEA; and

d. The risk that the City may be held liable in whole or in part for the $100,000 bond posted by MEA to ensure payment of costs associated with returning customers to PG&E.

Qualifications on Our Response

You have asked us to conduct an independent legal assessment of these issues, to the best of our ability, consistent with the limited budget and schedule available for this undertaking. As a result, we have reviewed only those documents and other information considered most likely to be pertinent to the issues you have asked us to address and only in such detail as budgetary and time constraints has permitted. We have also obtained and relied on certain information obtained through interviews with certain individuals to assist in identifying pertinent documents and information for our review and to supplement our understanding of pertinent facts. In preparing this letter, we have, with your permission relied to on certain representations contained in the documents we have reviewed pertaining to MEA without independent investigation or verification as to factual matters only. We have assumed that certain such factual matters are accurate and complete where nothing has come to our attention that would lead us to believe that the factual matters are incorrect in any material respect. We have also conducted such examinations of law and examined such other information, records and opinions as we have deemed necessary and as the authorized budget and schedule has permitted.

The documents and interviews we have relied upon in rendering the opinions expressed herein are listed in Attachment A to this letter.

Some of the issues you have asked us to review are interdisciplinary in nature and involve matters pertaining to energy market conditions, future energy costs, economics and energy policy as well as energy law and regulation. We have not been requested, nor are we qualified to conduct, an independent energy market forecast, economic analysis or policy analysis. Our assessment is limited to potential legal risks and liabilities. We make no representations regarding matters pertaining to energy market forecasts, economics, or future energy costs. To the extent our responses to your inquiries address issues of an interdisciplinary

nature, we have provided you with our best assessment of pertinent legal risks and liabilities informed by our general background and experience in California energy law and regulation in light of the facts contained in the documents we have reviewed and opinions of others regarding energy market conditions, economics and regulatory policy included within such documents and obtained through the interviews we have conducted.

Whenever a statement herein with respect to the existence or absence of facts is qualified by the phrase "to our knowledge," or by another similar phrase, or where it is noted that nothing has come to our attention, it is intended to explain that the opinion stated is based solely on the actual knowledge of those attorneys who have rendered legal services in connection with this matter. Except as described below, we have not undertaken any independent investigation to determine the existence or absence of such facts, and any limited inquiry undertaken by us during the preparation of this letter should not be regarded as such an investigation. No inference as to our knowledge of the existence or absence of such facts should be drawn from our representation of the City in this matter. Such phrase does not include all information that might be revealed if there were to be undertaken a canvass of all lawyers in all of our offices or a review of all of our files.

The law covered by the opinions expressed herein is limited to the California Public Utilities Code ("Pub. Util. Code") and California Government Code ("Gov. Code") and regulations promulgated and decisions and orders issued thereunder by the California Public Utilities Commission presently in effect and as presently construed by the courts of the State of California (collectively, "California Public Utility Regulatory Law").

Based on the foregoing and subject to the limitations, qualifications and assumptions set forth herein, we have reached the following opinions regarding the potential risks and liabilities associated with the City's election to take retail electric service as a customer of MCE and its continued participation in the MEA joint powers authority.

Conclusions

Electricity markets, costs and rates tend to be volatile and are affected by numerous factors that cannot be known or accurately predicted in advance. As a result, any choice of electricity provider, whether to remain an electric service customer of MEA through MCE, or to return to electric service from PG&E, entails some risk. Either choice may result in higher or lower rates than the other. Under these circumstances we believe that it would be prudent for the City to assess its electric service alternatives in light of the overall potential costs and benefits it perceives of the alternatives.

In our opinion, MEA has planned and implemented its CCA program in a reasonable and prudent manner and has significantly reduced the potential risks and costs to customers of taking electric service from MEA. MEA's formation documents, current contracts, policies and rate schedules are well structured to provide reasonable assurance that MEA can meet its stated

objective of providing its Light Green product at rates reasonably competitive with PG&E's and MEA's Deep Green product at a relatively modest rate premium over PG&E's rates. Moreover, MEA has additional opportunities that it has not yet taken advantage of to reduce its future cost of electric generation over the longer term. It may be able to do so through the use of its not-for-profit status and access to tax exempt financing for the construction of electric generating facilities at lower costs than PG&E can achieve.

MEA also appears to have taken reasonable and prudent measures to limit potential risks and liabilities of its individual public agency members for contractual commitments, obligations, debts and liabilities of the MEA JPA. MEA cannot completely eliminate all potential risks of liability to its members for other causes not pertaining to its contractual commitments and obligations, but in our opinion, any such risks associated with the City's participation as a member of the MEA JPA are not likely to be significant or material to the City's continued participation as a member of the MEA JPA.

Responses to Specific Issues

Issue 1.a.: Whether MCE's future retail rates may exceed the retail PG&E's retail rates and related liability?

Response: Energy markets, costs and rates are highly volatile and may be influenced by a wide variety of different factors. MEA's Light Green product currently provides electricity from a greater percentage of RPS eligible renewable power than PG&E's system average power at retail rates competitive with PG&E's rates. In is impossible to predict whether MEA's rate for its Light Green product will be higher, lower or comparable to PG&E's retail rates in the future. We are aware of no law, decision, rule or regulation, or transactional agreement or commitment, however, that would preclude MEA from maintaining rates for its Light Green product at retail rates competitive with PG&E's.

Issue 1.b: Whether the City may incur exit fees and other charges should it chose to opt out of MCE and return to taking service from PG&E in the future

Response: The City will incur no fee or penalty should it opt out of MCE and return to service from PG&E within sixty days of MEA commencing service. Thereafter, the City will incur a modest "Administrative Charge" of up to $25 per account for transferring back to PG&E. It could also potentially incur a cost responsibility charge ("CRC") from MEA for such a transfer although MEA's current CRC is $0.00. This could change in the future, however, if MEA's cost for power exceeds future market prices. Were such circumstances to occur, MEA could impose a CRC on the City for transferring back to service from PG&E equal to a pro rata share of MEA's then existing above market costs. The City may also be required to pay a nominal re-entry fee to PG&E. The CPUC has not issued any final rules regarding the re-entry fees that may be imposed on CCA

customers that return or are returned to investor owned utility service as the result of a cessation of service by a CCA and could potentially require CCA customers to pay a re-entry fee to cover a portion of the incremental costs incurred by utilities to serve the additional customer demand under these circumstances. Any such fee that may be imposed is not likely to be significant, however.

Issue 1.c: Whether future statutory or regulatory changes that may affect MEA's ability to provide service at retail rates competitive with PG&E's

Response: Energy law and regulations frequently change, often in significant respects. Such future changes could potentially affect MEA's ability to provide service at retail rates competitive with PG&E's. Proposition 16, for example, which PG&E is sponsoring and which is on the June 2010 ballot, would require approval by vote of 2/3 of the eligible voters before a municipal utility or CCA could borrow or spend public funds to "expand electric delivery service." There is an exemption for "electric delivery service within the existing jurisdictional boundaries of a local government that is "the sole electric delivery service provider" within those boundaries, but there is no definition within Proposition 16 of what constitutes a "sole electric delivery service provider." This term could potentially be interpreted to effectively prohibit expansion of CCA programs to serve new customers, including MEA's Phase 2, without prior approval by 2/3 of voters since no CCA is likely to be entirely free of customer opt-outs and thus will necessarily provide electric service within geographic areas where PG&E is also providing electric delivery service. If Proposition 16 is approved by voters and interpreted in this matter, it would significantly impede MEA's ability to and cost of expanding service to new customers. Whether it would impair MEA's ability to provide service to its remaining customers at retail rates competitive with PG&E's is unclear and would likely depend upon the market price of electric energy and capacity at the time and whether Shell could remarket the energy and capacity currently under contract to MEA at prices near to or above the prices in MEA's PPA with Shell.

Issue 1.d: Whether MCE customers may be held liable for an organizational failure of the MEA

Response: CCA customers are not likely to be liable for the organizational failure of a CCA. Upon the failure of a CCA, the customers of the CCA will be transferred back to bundled electric service from the investor owned utility that is the provider of last resort for the CCA's customers. The rights and obligations of CCA customers transferred under these circumstances are generally delineated in decisions of the CPUC and implementing tariff provisions of CPUC jurisdictional investor owned utilities. To the best of our knowledge, in the event of an organizational failure of a CCA, the CCA will remain responsible for its own contractual obligations and any incremental costs incurred by the investor owned utility in providing service to CCA customers transferred back to the

utility upon its termination of service, to the extent such obligations are not discharged in bankruptcy.

Issue 2.a: Whether the City may be held liable in whole or in part for legal obligations and commitments of MEA

Response: Under Government Code section 6508.1, JPA's may limit the liability of their members for acts and omissions of the JPA by including in the JPA agreement a provision explicitly stating that the debts, liabilities and obligations of the JPA shall not be debts, liabilities and obligations of the individual members. The MEA JPA agreement includes such a limitation on liability. As a result, the City's participation in MEA does not entail any significant risk that the City will be held responsible for the contractual obligations, debts or liabilities of MEA.

California law provides no comparable means for JPAs to limit the liability of their members for torts or for liability under the "alter ego" doctrine however. As a result, the MEA JPA does not completely eliminate all potential risks of liability arising from the City's participation in the MEA JPA. We do not believe, however, that the City's continued participation as a member of the MEA JPA is likely to entail any significant risk of liability under such other potential causes of action.

Issue 2.b: Whether the number of customers opting out of MCE may affect the economic viability of MEA

Response: The number of customers that opt out of MCE electric service could potentially affect the economic viability of MEA under certain circumstances. To the best of our knowledge and information, MEA's business plan anticipates an opt out percentage that is somewhat greater than it has experienced to date. This level of opt-outs is not expected by MEA to result in aggregate customer electric requirements below the lower limit contained in MEA's PPA with Shell. Even if the aggregate demand were to fall below the lower limit in MEA's PPA, there would be no adverse impact on MEA's economic viability so long as Shell is able to remarket the excess energy and capacity at prices near or greater than the prices contained in the MEA-Shell PPA. Since the prices in the MEA-Shell PPA appear at or below current market prices, there does not appear to be any significant risk at the present time that the number of customers opting out of service from MEA through MCE will adversely affect the economic viability of MEA.

Issue 2.c: Whether future investments by MEA in electric generation may result in potential liability for the City as a member of the MEA

Response: As noted above, the City's participation in MEA does not entail any significant risk that the City will be held responsible for the contractual obligations, debts or liabilities of MEA since the MEA JPA contains an explicit limitation on such liability.

The MEA JPA also includes a provision permitting individual JPA members to opt out of specific future investments that MEA may undertake and states that any members electing to opt out from an investment shall have no obligation or liability arising from the investment.[1]

Issue 2.d: Whether the City may be held liable in whole or in part for the $100,000 bond posted to ensure costs associated with returning customers to PG&E

Response: The California Public Utilities Code and CPUC rules require this bond to be posted by the CCA, not its members. In addition, the $100,000 bond required of MEA was posted by MEA from funds obtained by MEA under its loan agreements. MEA is a separate legal entity from the City and MEA's other public agency members and as noted above, except as otherwise agreed to by individual members, MEA's individual members are not liable for any debts or loan obligations undertaken by MEA.

Discussion

Potential Risks and Liabilities as a Retail Customer of MEA

Since MEA commenced providing electricity service in Marin County, the City has a choice of electricity providers. It may chose to remain an electric service customer of MEA under MCE, or it may opt-out of service by MEA and return to PG&E for electricity service. You have asked for an assessment of the potential risks and liabilities to the City of remaining a retail electric customer of MEA. Either choice entails certain risks - none is without risks. Electricity markets are prone to volatility and are affected by numerous factors including, among others, the weather,[2] market prices for natural gas,[3] changing technologies,[4] changes in consumer

[1] Amendment No. 1 dated December 3, 2009 to the Marin Energy Authority – Joint Powers Agreement.

[2] Weather affects electricity markets in a number of ways. Since California's electric demand peaks during the summer, cooler summer weather reduces air conditioning demand, and reduces California's peak demands during what is typically the most costly time of the year to generate electricity. Winter weather also has a significant effect on California's electricity costs since the amount of hydroelectric generation available to meet California's electricity demands is determined primarily by the size, extent and water content of the winter snow pack in the Sierra Nevada mountains. In general, the greater the snow pack, the larger the percentage of California's electricity requirements that can be met through low cost hydroelectric generation and the less California must rely upon more expensive fossil fuel fired electric generation, including in particular natural gas fired generation. PG&E owns significant hydroelectric generating capacity. As a result, the generating resources available to PG&E to meet its customer demands and its average cost of electric generation are heavily influenced by the weather.

[3] Market prices of natural gas have a significant effect on California electricity prices since a significant percentage of the electric generation California relies upon to meet its requirements is natural gas fired and or priced in a manner that reflects fluctuations in the market price of natural gas.

[4] Technological advances can have significant effects on energy markets and costs. The recent expansion of improved techniques for recovering natural gas from shale formations has had a significant impact on natural gas prices and the cost of natural gas fired electric generation.

demand for electricity,[5] world market demand for the equipment, materials and supplies required for power plant construction,[6] and changes in energy policy, laws and regulations.[7] These factors will affect the cost of providing electric service to Marin residents and businesses irrespective of whether the electricity is supplied by PG&E or MEA. They are likely to affect PG&E and MEA in different ways and to differing extents, however, depending upon the specifics of PG&E's and MEA's existing generating resource mix and costs; purchased power agreements; ownership interests in and costs incurred for utility owned generation; customers and customer demand, and other factors. Since PG&E's power purchase agreements are confidential, and the effects of many of the factors discussed above cannot be known in advance, it is not possible to determine with any degree of certainty whether MEA's retail rates will be higher, lower, or the same as PG&E's over any significant period of time. Either choice, to remain an electric service customer of MEA through MCE, or to return to electric service from PG&E, entails some risk that the City's future rates and electricity costs may be lower if a different choice were made.

In our opinion, however, MEA has planned and implemented its community choice aggregation plan in a reasonable and prudent manner and has significantly reduced the potential risks and costs to customers of taking retail electric service from MEA. MEA's formation documents, current contracts, policies and rate schedules are well structured to provide reasonable assurance that MEA can meet its stated objective of providing its Light Green product,[8] with a significantly greater percentage of energy from renewable generation than

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[5] Customer demand can be affected by numerous factors, including changes in the economy, changes in weather, energy efficiency, and demand side management. California's electricity demand and growth in demand has been significantly reduced over the past 30 years by energy efficiency and demand side management and may be further reduced by these means.

[6] The cost of steel, concrete, turbines and other materials and supplies necessary to construct electric generating facilities is affected by world markets and can vary to a significant degree.

[7] Public policies, laws and regulations can have a profound effect on electricity markets and have been undergoing almost constant change for decades. At any given time, a number of proceedings are typically pending before the CPUC in which new rules and requirements affecting energy markets and changes to existing rules are under consideration. The CPUC has broad responsibility for implementing community choice aggregation ("CCA") in California, for example, but has not yet determined all of the rules and requirements necessary to fully implement CCA. It has not yet delineated all of the rights and obligations of customers who return to taking service from investor owned utilities after electing service for a period of time from a community choice aggregator. The rules and requirements for implementing CCA would be changed in further significant respects if Proposition 16 on the June ballot is approved by voters.

[8] MEA's Light Green product is from a mix of supplies that will be at least 25% RPS qualifying renewable generation sources and 53% carbon free for the initial period through December 31, 2010 equal to or les than the carbon content of energy supplied to PG&E thereafter. See Confirmation, reference: Master Power Purchase and Sale Agreement Between Shell Energy North America (US), L.P. ("Seller") And Marin Energy Authority ("Buyer") as of February 5, 2010 (the "Effective Date") Transaction Date: March 18, 2010 ("MEA-Shell PPA Confirmation") paragraphs 2.2 and 2.3 at 4.

PG&E is able to provide, at rates competitive with PG&E's comparable retail rates[9] and MEA's Deep Green product at a relatively modest rate premium over PG&E's rates.[10]

MEA's business plan does not depend exclusively upon providing renewable power in excess of that offered by PG&E at rates competitive with PG&E's. It also expects and anticipates that a certain percentage of its customers will elect its Deep Green product. MEA's ultimate success, however, may be heavily influenced by its ability to successfully market its Light Green program at rates reasonably competitive with PG&E's rates. As a result, we have focused our assessment of the potential risks and liabilities to the City of remaining a retail customer of MEA primarily upon MEA's Light Green product.

MEA has negotiated a "full requirements" power purchase agreement with Shell Energy North America ("Shell") that provides a generation rate for customers electing the Light Green product commencing May 7, 2010 that is initially competitive with PG&E's average cost of generation.[11] MEA's generation costs under the contract increase over the five year term of the contract by specified amounts at a rate of approximately 4% per year. This is approximately the same rate that PG&E's generation rates have increased over the past few years. PG&E's generation rates are expected to increase further for a number of reasons, the most important of which is that it is not in compliance with the current RPS requirements and will be incurring addition higher costs for electric generation to attain compliance with these requirements.[12]

MEA's contract with Shell appears to enable MEA to offer rates reasonably competitive with PG&E's rates taking into account the Cost Responsibility Surcharge ("CRS") that must be paid to PG&E to compensate PG&E for the costs of power it previously incurred to provide electricity to customer who depart PG&E to take service from MEA.[13] MEA's contract with

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[9] See Marin Energy Authority Rates (April 1, 2010).

[10] MEA's Deep Green product is from a mix of supplies that will be 100% RPS qualifying renewable.

[11] See MEA-Shell PPA Confirmation, paragraph 5 at 5. MEA has represented that its contract with Shell permits it to charge rates initially equal to PG&E's for its Light Green products. Our assessment tends to support this conclusion. The MEA-Shell PPA appears to provide a weighted average cost of generation for the Light Green product of approximately $69/MWh (assuming 47% is comprised of system resources, 25% RPS eligible renewable resources, and 28% other renewable resources). MEA's actual resource mix may reduce its system average cost of generation for the Light Green product below this estimate. PG&E's system average cost of generation, in contrast, is currently approximately $81/MWh.

[12] Under California law, electric utilities are required to procure a minimum of 20% of their energy deliveries from RPS qualifying renewable generating resources by 2010. PG&E procures approximately 15% of its energy from qualifying renewable resources and may not be able to meet the 20% minimum requirement for 2010 until 2012. PG&E's cost for new renewable generation is expected to be significantly above its system average cost of generation. As a result, its average generation cost is expected to continue to trend higher for a number of years.

[13] This charge is a form of exit fee charged customers who depart from taking PG&E service for service from a community choice aggregator or municipal utility and is also referred to as the "power charge indifference adjustment" or "PCIA." The CRS includes "pre-restructuring resources that existed prior to March 31, 1998 and are not subject to ongoing CTC charges (principally retained utility generation), any remaining DWR power contracts,

Shell thus provides reasonable assurance that MEA will be able to meet its objectives regarding increased reliance on renewable generation, reduced GHG emissions, and rates competitive with PG&E for its Light Green at least for the initial period of the MEA-Shell PPA and potentially longer.

MEA has not yet taken advantage, however, of the best means available to it of ensuring that its electric generation costs and rates remain competitive with PG&E's over the longer term. MEA has procured its current electric generation resource portfolio exclusively through its power purchase agreement with Shell. The best means of ensuring that its rates remain competitive over the long term would, however, be to take as much advantage as is reasonably possible of public agency access to tax exempt financing for capital investment in electric generation. Public agency access to tax exempt financing is one of the most significant potential economic benefits of public power and one of the most important factor contributing to the ability of municipal utilities to maintain rates at or below the level of California's investor owned utilities.[14] Public agencies also benefit from their not-for-profit status and consequent ability to set their rates without any markup for profits, income taxes on such profits, or shareholder dividends. The benefit of this factor is also most significant in the context of capital investments in infrastructure since, like public agency access to tax exempt financing, it reduces the long term costs of such investments to municipal utilities relative to investor owned utilities that do include a mark up on such investments for profits, income taxes on profits and dividends to shareholders. As a result, MEA has additional opportunities to reduce its long term cost of electric generation that has not yet taken advantage of and which provides an additional means of meeting its objective of providing more renewable power to its customers than PG&E is able to provide, at rates competitive with PG&E's.

As noted above, energy markets and prices are subject to change due to a number of factors some of which could adversely affect MEA's ability to continue to provide its Light Green product at rates comparable to PG&E's. Among the factors that could have adverse effects on MEA are potential changes in energy markets that could affect the cost of system power and the CRS that must be paid to PG&E in an inverse manner, and changes in the number

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and "new world generating resources.' Customers who depart PG&E service for service from MEA in the first half of any year will be responsible for stranded PG&E generation related costs associated with new generation resource commitments made by PG&E through the end of the previous year and customers leaving in the second half of the year will be responsible for stranded PG&E generation related costs associated with new generation resource commitments made through the end of the year. A CRS of approximately $14/MWh will have to be paid to PG&E for customer load that departs from service by PG&E to service by MEA during MEA's Phase 1. As a result, in order for MEA's generation costs for its Light Green product to remain competitive with PG&E's, MEA's cost of power with a 25% renewable component must be approximately $14/MWh less than PG&E's average cost of generation.

[14] This is one of the key reasons why the retail rates of the great majority of municipal utilities in California are lower than the retail rates of California's investor owned electric utilities and why PG&E's retail rates are among the highest in the State.

and electricity demand of MEA's anticipated customer base. Should the market price for natural gas decline, for example, this would reduce system average generation costs for both PG&E and MEA, but may also increase the CRS that must be paid to PG&E. This would tend to increase MEA's overall cost of providing service relative to PG&E's and put upward pressure on MEA's retail rates. An unanticipated decrease in the number of customers taking electric service from MEA could potentially decrease MEA's aggregate customer demand below the "lower limit" set forth in MEA's PPA with Shell and require Shell to sell the resulting excess electricity and capacity on the market. If market prices at the time were below the price for capacity and purchased power under the MEA-Shell PPA, we believe that MEA would be responsible for paying the difference.[15] MEA's contract with Shell appears to be at or below market at the present time, which if true, reduces any such risk. It is possible, however that circumstances may potentially change, which could increase MEA's cost of providing service and put upward pressure on its rates.

Should MEA's retail customer rates exceed PG&E's rates and the benefits of MEA's renewable electric service products be judged insufficient to warrant the difference in rates, MEA customers could reduce the impact of such changes in circumstances by opting-out of service from MCE and returning to electric service from PG&E.[16] California law requires community choice aggregators to provide their customers with certain rights to opt out of CCA and MEA rules provide its customers with reasonable opportunities to do so.[17] The costs that would be incurred to opt out of service from MEA and return to service from PG&E would depend upon circumstances existing at the time and are somewhat uncertain.

At the present time, MEA is imposing no cost for doing so. A modest administrative fee will be imposed shortly, however, and fees for such transactions could potentially increase in the future. MEA customers will not incur any fee or penalty for opting out of MEA service unless they remain with MEA at least sixty days, or two billing cycles, after MEA commences providing service. After this point in time, MEA customers will incur a "Termination Fee" for opting out and returning to service from PG&E. The termination fee will consist of an "Administrative Fee and a Cost Responsibility Charge ("CRC"). The Administrative fee varies by customer class, from $5 for Residential customers to $25 for Large Commercial and Industrial customers.[18] The CRC will be equal to a pro rate share of any above market costs of MEA's actual or planned electricity supply portfolio at the time the customer terminates service from MEA. MEA has determined that it will set its CRC on an annual basis once each year.

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[15] Under paragraphs 7.2 and 7.4, MEA is responsible for certain costs incurred by Shell for energy and capacity in the event that MEA's metered usage for energy is less than the "Lower Limit" set forth in paragraph 6 and Exhibit 1A or MEA's reserved Capacity is less than the Lower Limit set forth in the PPA.

[16] See MEA Rule No. 001 Fees.

[17] See MEA Rule No. 001 Fees.

[18] See MEA Rule No. 001 Fees, at 3.

Since its current costs for generation are at market, the current CRC is $ 0.00.[19] There will be no CRC imposed on MEA customers who depart MEA service to return to service from PG&E so long as the cost to MEA of its electricity supply under its power purchase agreement with Shell remains at or below market.[20] Should in the future MEA's cost for purchased power exceed market prices, MEA could and presumably would impose a CRC equal to a pro rata share of its above market costs. The potential amount of any CRC that could be imposed by MEA under such circumstances is uncertain. MEA has estimated that every $0.01/kWh increase in retail electric rates would increase annual electricity costs to the City by approximately $16,000.[21] PG&E's current CRS includes certain above market costs incurred by PG&E many years ago and is currently approximately $0.014/kWh. PG&E's current CRS cost may serve as proxy for a potential CRS within the range of potential worst-case CRC scenarios for MEA.

If the City opted out or terminated service from MEA and returned to service from PG&E, PG&E may also impose a re-entry fee. Any such fee is likely to be nominal. If the City opts out during the "Follow-up Notification Period" and after enrollment in CCA service, it may return to service from PG&E without any penalty or re-entry fee.[22] Under current CCA rules, if the City opts out after this period, it may return to PG&E service after providing six-months advance notice and paying a "re-entry fee" of $3.94 per account.[23] This re-entry fee is intended to cover PG&E's cost of processing customer requests to switch accounts back to PG&E bundled service after the opt-out period has expired.[24] More significant re-entry fees could potentially be required should the City return or be returned to service from PG&E as a result of a voluntary or involuntary cessation of service by MEA. Under these circumstances, PG&E would be entitled to recover any incremental costs it may incur to provide service to the transferred MEA customers. Payment of the costs resulting from such a cessation of service would, however, be an obligation of MEA under existing law[25] and MEA has posted a $100,000 bond with the CPUC to cover such costs. The amount of this bond is "interim," however.[26] The CPUC has issued no final decision on the amount of the bond that will be required for this purpose or determined whether CCA customers returning to service from the investor owned utility may be responsible for any incremental costs the utility may incur in excess of the amount of the bond.

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[19] See MEA Rule No. 001 Fees, at 3.

[20] Marin Energy Authority, Community Choice Aggregation Implementation Plan and Statement of Intent (January, 2010), at 50.

[21] See estimated annual electricity costs for City in "FY 08/09 Annual Energy Consumption and Estimate Price Premium for MEA "Deep Green" Option (Electricity Only)."

[22] Pacific Gas and Electric Company, Electric Tariff Rule No. 23, Section I. 5.

[23] Pacific Gas and Electric Company, Electric Tariff Rule No. 23, Section L. and Schedule E-CCA.

[24] Pacific Gas and Electric Company, Electric Tariff Rule No. 23, Section L and Schedule E-CCA.

[25] Public Utilities Code sec. 394.25(e).

[26] In rulemaking R.03-10-003, the CPUC is considering how the amount of the bond required should be calculated and whether returning CCA customers should be responsible for any costs associated with their involuntary return to bundled service from investor owned utilities as a result of a CCA's business failure or default.

We consider it unlikely, however, that the City would be liable for any significant re-entry fee in the event it returns or is returned to PG&E after taking service from MEA as a result of the cessation of service by MEA.

Potential Liability For Debts and Liabilities of MEA

You have also asked for an assessment of the potential risks and liabilities to the City associated with its participation as a member of the MEA JPA and whether the City is at risk of liability for the commitments, obligations, debts or liabilities of the MEA JPA. MEA appears to have been established in a reasonable and prudent manner with appropriate provisions in its formation documents and contracts to limit the potential risks and liabilities of its individual public agency members for contractual commitments, obligations, debts and liabilities of the MEA joint powers authority. MEA cannot completely eliminate all potential risks of liability for other causes not pertaining to its contractual commitments and obligations. In our opinion, however, any such risks associated with the City's participation as a member of the MEA JPA are not likely to be significant or material to the City's continued participation as a member of MEA.

Under Government Code section 6507, joint power authorities are separate legal entities from their public agency members, but the debts, obligations and liabilities may under certain circumstances pass through to and become debts, obligations and liabilities of the individual public agency members of JPAs. Under Government Code section 6508.1, the debts, obligations and liabilities of JPAs are the debts, obligations and liabilities of the JPAs members unless the JPA agreements specifies otherwise. JPA members may, however, limit their liability for acts and omissions of a JPA by including in the JPA agreement a provision explicitly stating that the debts, liabilities and obligations of the JPA shall not be debts, liabilities and obligations of the individual members of the JPA. Where JPA agreements include such provisions, California courts have upheld the limitation on the liability of individual members of JPAs.[27]

The MEA JPA agreement includes such a limitation on liability. It specifically states that the debts, liabilities and obligations of the MEA shall not be the debts, liabilities and obligations of the members of the MEA.[28] MEA's power purchase agreement with Shell also contains a specific acknowledgement that MEA is a joint powers authority and a separate legal entity from its members, and that its individual members are not liable for any debts, obligations or liabilities

[27] *Tucker Land Co. v. State of California*, 94 Cal. App.4th 1191 (2nd App. Dist. 2001). In *Tucker*, The court concluded that under section 6508.2, the constituent members of a JPA created by a joint powers agreement were not liable for the contractual obligations of the JPA when the JPA failed to pay a judgment on an underlying promissory note to purchase land for open space. In particular, the court found that the constituent members were not liable for the contractual obligations of the JPA where the joint powers agreement specified that they were not and did not provide for liability other than that of the JPA itself. *Id.* at 1193

[28] Marin Energy Authority – Joint Powers Agreement (effective December 19, 2008, as amended by Amendment No 1 dated December 3, 2009, as further amended by Amendment No. 2 dated March 4, 2010), Section 2.3.

arising out of the contract.[29] As a result, the City's participation in MEA does not entail any significant risk that the City will be held generally responsible for the contractual obligations, debts or liabilities of MEA or more specifically for MEA's specific contractual commitments under its PPA with Shell, which is the primary risk associated with the City's continued participation as a member of MEA.

The protection afforded MEA members by the limitation on liability in the JPA agreement may not be absolute, however. Under Government Code section 895.2, individual members of JPAs may be held jointly and severably liable for injuries caused by negligent or wrongful acts or omissions occurring in the performance of a JPA agreement. This section imposes tort liability on individual members of JPAs and cannot be avoided by limitations on liability contained in JPA agreements. It does not affect the City's immunity from contract liability for MEA debts, liabilities and obligations under section 6508.1, however, which is the primary risk associated with the City's participation as a member of MEA.[30]

The City could also potentially be held liable for debts, liabilities and obligations of MEA under the "alter ego" doctrine. In order for there to be any liability under this doctrine, at least two conditions must be met: (1) first, there must be such a unity of interests and ownership between the JPA and its individual members that the separate personalities of the JPA and its members do not really exist, and (2) there must be an inequitable result if the acts in question are treated as those of the JPA alone. This is a high standard[31] and we do not consider there to be any significant risk of liability to the City under this doctrine.

This letter is delivered as of its date and without any undertaking to advise you of any changes of law or fact that occur after the date of this letter even though the changes may affect the legal analysis, a legal conclusion or information confirmed in this letter. This letter is rendered only to the City and is solely for the City's benefit in connection with its assessment of potential risks and liabilities associated with its participation in the MEA JPA and election among electric service options. It may not be used or relied on for any other purpose or by any other person or entity.

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[29] Master Power Purchase and Sale Agreement Cover Sheet, between Shell Energy North America and Marin Energy Authority, Execution Version (February 5, 2010 Effective Date), Paragraph 25 at 13-14 (adding a new Section 10.13 to the agreement).

[30] See discussion of section 895.2 in *Tucker Land Co v. State of California*, 94 Cal. App.4th 1191 (2nd App. Dist. 2001).

[31] See *Tucker Land Co. v State of California*, 94 Cal. App.4th 1191 (2nd App. Dist. 2001) rejecting the claim that the individual members of a conservation authority formed to acquire real estate for open space purposes were individually liable for the conservation authority's failure to pay a judgment on an underlying promissory note to purchase land under the alter ego doctrine.

We appreciate the opportunity to assist the City in this regard. Should you have any questions or require any additional information regarding the results of our assessment or any matter addressed in this letter, please feel free to contact me at the above address, telephone number or e-mail address.

Very truly yours,

DAVIS WRIGHT TREMAINE LLP

Edward W. O'Neill

Edward W. O'Neill

APPENDIX A
DOCUMENTS AND INFORMATION REVIEWED[32]

(1) Marin – California, Community Choice Aggregation Business Plan, Final Report (April, 2008)

(2) Letter dated March 5, 2008 to Charles McGlashan, Supervisor, District 3, Count of Marin from Pacific Gas and Electric Company

(3) William B. Marcus, JBS Energy, Inc., Review of CCA Business Plan

(4) William B. Marcus, JBS Energy, Inc., Review of PG&E's March 5, 2008 Comments on the Business Plan for the Marin County Community Choice Aggregation Program (March 31, 2008)

(5) Letter dated October 15, 2008 to Peggy Curran, Town Manager, Town of Tiburon from William Monsen and Mark Fulmer, MRW & Associates

(6) Marin Clean Energy: Pull the Plug, 2009-2010 Marin County Civil Grand Jury (December 2, 2009)

(7) Response to Grand Jury Report, Approved by the Board of Directors of the Marin Energy Authority at its Regular Meeting on January 7, 2010

(8) Marin Energy Authority – Joint Powers Agreement (effective December 19, 2008, as amended by Amendment No. 1 dated December 3, 2009, as further amended by Amendment No. 2 dated March 4, 2010)

(9) Amendment No. 1 dated December 3, 2009 to the Marin Energy Authority – Joint Powers Agreement

(10) Amendment No. 2 dated March 4, 2010 to the Marin Energy Authority – Joint Powers Agreement

(11) Marin Energy Authority, Community Choice Aggregation Implementation Plan and Statement of Intent (January, 2010)

(12) Marin Energy Authority, Operating Rules and Regulations (As Amended)

[32] Some of the documents included in this list may refer to or incorporate by reference other documents not set forth therein. We have not reviewed documents referred to or incorporated by reference into other documents but not set forth therein unless the documents so referred to or referenced are specifically included in the list above.

(13) Marin Energy Authority Rates (April 1, 2010)

(14) Master Power Purchase and Sale Agreement Cover Sheet, between Shell Energy North America and Marin Energy Authority, Execution Version (February 5, 2010 Effective Date)

(15) Confirmation, reference: Master Power Purchase and Sale Agreement Between Shell Energy North America (US), L.P. ("Seller") And Marin Energy Authority ("Buyer") as of February 5, 2010 (the "Effective Date") Transaction Date: March 18, 2010

(16) Community Choice Aggregator (CCA) Service Agreement between Marin Energy Authority and Pacific Gas and Electric Company (December 15, 2009)

(17) Letter dated January 4, 2010 from Greg Stepanicich, City Attorney to Mill Valley City Council

(18) Letter dated February 2, 2010 to Dawn Weisz, Interim Director, Marin Energy Authority from Paul Clanon, Executive Director, California Public Utilities Commission

(19) Letter dated April 23, 2010 to Dawn Weisz, Interim Director, Marin Energy Authority from Wayne Bush, Interim City manager, City of Mill Valley

(20) Response from Dawn Weisz, Interim Director, Marin Energy Authority to Letter dated April 23, 2010 from Wayne Bush, Interim City manager, City of Mill Valley

(21) Letter dated April 23, 2010 to Katie Kerns, Governmental Relations Representative, Pacific Gas and Electric Company from Wayne Bush, Interim City manager, City of Mill Valley

(22) Letter dated May 7, 2010 to Wayne Bush, Interim City manager, City of Mill Valley from Ryan Marruffo, Pacific Gas and Electric Company

(23) Pacific Gas and Electric Company, Electric Tariff Rule No. 23, Community Choice Aggregation Service

(24) Pacific Gas and Electric Company, Electric Tariff Rule No. 23.2, Community Choice Aggregation Service

(25) Pacific Gas and Electric Company, Electric Tariff Schedule E-CCA "Services to Community Choice Aggregators"

(26) Steven Weissman and Harry Moren, Berkeley Law, Center for Law, Energy & the Environment, "California's Proposition 16, June 2010 Primary: An Analysis" (May 2010)

(27) FY 08/09 Annual Energy Consumption and Estimate Price Premium for MEA "Deep Green" Option (Electricity Only)

(28) Conversation with Dawn Weisz, MEA Interim Director (May 14, 2010)

(29) Conversation with Steve Roscow, CPUC Energy Division (May 14, 2010)

AGENDA ITEM
CITY COUNCIL MEETING DATE - OCTOBER 7, 2014
BUSINESS ITEMS

DATE : October 1, 2014

TO : City Council

FROM : City Manager

SUBJECT : **MAYOR PATTERSON'S REQUEST TO AGENDIZE AN ITEM REGARDING TRAFFIC, PEDESTRIAN AND BICYCLE SAFETY COMMITTEE (TPBS)**

RECOMMENDATION:
Consider Mayor Patterson's request to agendize this topic for future City Council meeting.

EXECUTIVE SUMMARY:
Mayor Patterson would like the City Council to consider agendizing an item regarding the Traffic Pedestrian and Bicycle Safety Committee.

Attachment:
- Mayor Patterson's Agenda Item Form

VIII.c.2

APPENDIX A: COUNCIL MEMBER REQUESTED AGENDA ITEM

Requested by: Mayor Patterson

Desired Initial Council Meeting Date: October 7, 2014

Desired Date for Second Step or Policy Calendar Review:

Give direction at this meeting to TPBS Committee for the following (or schedule future council for further discussion):

Deadline for Action, if any: By end of year 2014

Problem/Issue/Idea Name:

Public comments on the TPBS Committee survey in 2012 and additional comments since that survey and council study session have requested public members to be added to this Committee and that the mission and duties of the Committee be updated to foster integration with planning and other city plans as well as a forum for updates on STA and SolTrans.

Description of Problem/Issue/Idea:

This is a request to have council direct TPBSC to conduct a public study session to review mission and recommend changes and updates after a scan of other jurisdictions for similar committees; consider the election of the chair rather than appointment by mayor; consider public members, liaison members for other commissions, STA subcommittee members or functionally equivalent role, staff as ex officio member without vote or alternative determined by committee; consider Committee as forum for information and education on mobility issues; and consider meeting schedule. The study session would seek public participation including other boards and commissions as appropriate and current city representatives on regional subcommittees.

Such public comments and requests have included ideas for the TPBSC to examine issues relating to financing; the advisory role, of development and implementation of master plans pertaining to pedestrian, streets, transit, bicycles, automobiles, congestion, traffic signalization, and transportation facilities; the use of technology; and education of the public and non governmental (including private industry/commercial/retail) on transportation topics; that the Committee acts a forum for the community to express their needs and concerns; that

the Committee coordinates with other City boards and commissions on projects and issues that are of mutual interest.

Current authority for the TPBSC includes the increase or decrease of state speed limit on certain streets

Reasons for Committee and Mission: It shall be the duty of the TPBSC to suggest the most practicable means for coordinating the activities of all officers and agencies of this city having authority re traffic regulations including traffic [safety] reports; receive complaints and make recommendations (§10.10.040).

Membership: city traffic engineer, chief of police or representative, chief of the traffic division, a member of city council and such number of other city officers and representatives of unofficial bodies as may be determined and appointed by the mayor. Chairman (sic) of the committee shall be appointed by the mayor.

Currently there are five members, two of which are council members, one police representative, the city engineer and the senior civil engineer.

**See August 28, 2012 Study Session minutes and related discussion of BCCs.

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COUNCIL DIRECTION

- ☐ No Further Action
- ☐ Schedule for Second Step on _____
- ☐ Schedule for Policy Calendar Review on _____
- ☐ Refer to: Staff _____
  Commission _____
  Board _____
  Committee _____

Date Due: _____