

**RESOLUTION #3
TO APPROVE THE PROJECT**

- (A) Project Findings
- (B) Conditions of Project Approval

RESOLUTION NO. 08-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
APPROVING A VESTING TENTATIVE MAP, MASTER PLAN OVERLAY,
AND REZONING FOR THE BENICIA BUSINESS PARK PROJECT, WITH
CONDITIONS**

WHEREAS, On October 6, 2004, Discovery Builders submitted an application for Vesting Tentative Map, Master Plan Overlay and Rezoning for the Benicia Business Park project; and

WHEREAS, the proposed project is located in northeastern Benicia and consists of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road; and

WHEREAS, the City Council certified the Environmental Impact Report (EIR) for the project on February 19, 2008; however, Council also determined that the project as proposed could not be approved due to inconsistency with the City's General Plan; and

WHEREAS, the applicant submitted a revised Vesting Tentative Map, Master Plan Overlay and Rezoning application March 20, 2008, and a proposed EIR Addendum and letter regarding traffic impacts on March 26, 2008; and

WHEREAS, the revised project includes:

- Rezoning of the site to apply the Master Plan Overlay designation and adjust the General Commercial and Limited Industrial zoning district boundaries;
- Subdivision of the site into 80 lots ranging from 1.5 to 5.4 acres;
- Development of approximately 150 acres of limited industrial and 35 acres of commercial land uses, with approximately 2.35 million square feet of industrial building space and 857,000 square feet of commercial uses – projected to result in the direct creation of 4,535 jobs;
- Open space totaling 312 acres, including buffers to preserve drainages, topographic features and the rural character of Lake Herman Road;
- Utilities and infrastructure, including 30 acres of roads; and
- Two 1,000,000-gallon tanks to supply water for the project; and

WHEREAS, the Planning Commission at a regular meeting on April 10, 2008, conducted a public hearing, and considered testimony and documents regarding the revised project, and recommended denial of the project based on insufficient information to eliminate inconsistencies with the General Plan regarding impacts on geologic resources, urban decay downtown, overall community health, and bicycle and pedestrian circulation; and

WHEREAS, a majority of Planning Commissioners expressed a desire for more time to review the project, in part because environmental documentation for the revised project was not yet available; and

WHEREAS, the Draft EIR Addendum, published April 29, 2008, concludes that the revisions to the project have resolved the prior General Plan inconsistencies that created a significant impact per CEQA; and

WHEREAS, at its regular meetings of May 6, 2008, May 20, 2008, and June 3, 2008, the City Council conducted a public hearing, and considered testimony and documents regarding the revised project; and

WHEREAS, on June 3, 2008 the City Council closed the public hearing except for traffic issues to allow a traffic study to be completed; and

WHEREAS, the City Council held a continued public hearing on October 7, 2008 to receive comment on the updated traffic study; and

WHEREAS, the City Council considered relevant testimony and documents regarding the revised project including information in the staff reports for the project at the various City Council meetings; and

WHEREAS, on October 7, 2008, the City Council approved by separate Resolution the requisite CEQA Documentation for the project, consisting of: (A) EIR Addendum (by reference), (B) CEQA-required Findings, (C) Statement of Overriding Considerations for Air Quality Impact due to Ozone Precursors, and (D) Mitigation Monitoring and Reporting Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby approves the Vesting Tentative Map, Master Plan Overlay and Rezoning for the Benicia Business Park project, based on the attached Findings (Exhibit "A") and subject to the attached Project Conditions (Exhibit "B").

* * * * *

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 21st day of October, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

EXHIBIT "A"
FINDINGS IN SUPPORT OF APPROVAL
FOR THE BENICIA BUSINESS PARK PROJECT

The City Council of the City of Benicia makes the following findings based upon the testimony and documents in the public record including the staff reports for the May 6, May 20, June 3 and October 7, 2008 City Council meetings for this project.

Vesting Tentative Map

- a) The proposed map is consistent with the applicable provisions of Benicia Municipal Code Title 16 (Subdivisions) and City of Benicia General Plan goals, policies and programs; and
- b) The site is physically suitable for the type of development, as the majority of the site terrain will be maintained in its current state, and the site contains no known constraints to development of the proposed project; and
- c) The site is physically suitable for the proposed density of development, as the proposed development generally conforms to the existing topography of the site, contains no known easements that would constrain the proposed development and can therefore support the proposed density of development; and
- d) The design of the subdivision and proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as the revised project plans would not create a substantial or potentially substantial adverse change in any of the physical conditions within the area of the project due to March 2008 revisions to project design and mitigation measures prescribed in the project Environmental Impact Report (EIR) that when implemented will reduce such impacts to less-than-significant levels; and
- e) The design of the subdivision and the type of improvements will not cause serious public health problems since all building, fire and engineering codes and standards enforced by the City of Benicia can and will be met as part of the proposed project; and
- f) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of the property within the proposed subdivision, since no known easements traverse the project site.

Rezoning/Master Plan Overlay

- g) The proposed Master Plan conforms to the General Plan, as the revised development plan is now consistent with applicable General Plan goals, policies and programs; and

- h) The proposed Master Plan complies with the land use and development regulations of the base zoning districts and does not significantly alter the regulations since specific design guidelines are prescribed for all future commercial and industrial projects to be constructed within the development site; and
- i) The project can be adequately, reasonably and conveniently served by public services, utilities and public facilities, as new public services, utilities and public facilities will be required and constructed as part any development of the phased project.

EXHIBIT "B"
CONDITIONS OF APPROVAL
FOR THE BENICIA BUSINESS PARK PROJECT

General

1. This approval is of no force and effect unless and until the City Council adopts a Mitigation Monitoring and Reporting Program and EIR Addendum for the project.
2. The plans and maps submitted for approval and development of the site must substantially comply with the plans prepared by Gates and Associates Landscape Architects and Morton and Pitalo, Inc., dated March 27, 2008 on file in the Community Development Department consisting of Sheets L-1, L-2, L-3 and Sheets labeled "Vesting Tentative Map," "Preliminary Drainage Plan," Preliminary Sewer and Water Plan," "Phasing Plan," "Master Plan," subject to the conditions contained in this resolution.
3. This approval expires two years from the effective date of adoption of a City Council Resolution of approval of the Vesting Tentative Map and Rezoning, unless made permanent by the issuance of building permits for the first phase and recordation of a final map that includes all necessary improvements for the first phase and parcel extents for subsequent phases, or unless an extension of time is requested and approved by the City Council prior to the expiration of the two years.
4. This project must adhere to all applicable ordinances, plans, and specifications of the City of Benicia in effect at the time the Vesting Tentative Map was submitted and must obtain any and all permits required by other government agencies having jurisdiction over the project. Any alteration of the approved plans, including substitution of materials, must be requested in writing and approved by the Community Development Department prior to changes being made in the field. Depending on the degree of the any proposed alteration of the approved plans, the Community Development Director must determine whether such change must be reviewed by the Planning Commission. Minor changes must be reviewed and approved by the Community Development Director, and substantial and significant changes to the project must be reviewed and approved by the Planning Commission. Minor changes are defined as technical errors or minor omissions that do not significantly change the original project approval. Substantial and significant changes to the project involve relocation of roads, sidewalks, buildings, changes in landscaping design and materials, changes in the proposed grading of the site, proposed changes in public services to the site, and any changes to the commercial or industrial design guidelines applicable to the project.
5. Prior to filing of a Final Map, the applicant must submit draft Covenants, Conditions and Restrictions (CC&Rs) for the project, which are subject to the approval by the Community Development Director and the City Attorney. The CC&Rs must address landscape maintenance of each newly created lot, maintenance of the proposed open space areas, and all other areas of concern as it pertains to this development as

directed by the City of Benicia. The CC&Rs must be recorded with the final subdivision map.

6. ~~No Adult Business as defined by the Benicia Municipal Code is allowed in the Benicia Business Park project.~~ Any non-flex use office use proposed in the Limited Industrial - IL portion of the project site may be permitted with Use Permit reviewed and approval by the Planning Commission. The Use Permit request must include detailed parking data and analysis that clearly shows that the proposed development will have adequate on-site parking, and any additional traffic impacts associated with the office development will be mitigated and not substantially or significantly impact surrounding development sites or existing businesses.
7. All mitigations measures set forth in the Environmental Impact Report and Addendum *as modified by these conditions of approval* (is the italics necessary) are hereby incorporated by reference and made conditions of this approval.
8. Americans with Disabilities Act (ADA) compliant access must be provided throughout all areas of the project. This includes public and private areas of the Benicia Business Park.
9. Thirty (30) days prior to any grading or demolition onsite, the applicant must notify all tenants and property owners within a 300' radius of any particular project phase the intended date of construction. The notice must contain a contact number and contact person at Discovery Builders or its agent, and a contact number and contact person with the construction company or its agent for the public to contact with complaints or concerns. The notice must include allowed construction hours. The notice must include the contact number for the Solano County Environmental Health Department vector control and the appropriate City representative. The notice must remind the public to patrol their foundations and foundation vents and openings to secure them against vectors.
10. A 4' x 8' painted sign must be posted onsite prior to initiation of onsite work, including clearing and grubbing, and must remain onsite through the duration of such work. This sign must contain the contact number and contact person at the Discovery Builders or its agent, ~~and a contact number and contact person with the construction company~~ and the City for the public to contact with complaints or concerns.
11. ~~Prior to acceptance by the City, the proposed EIR Addendum will require analysis of data regarding changes to the project to support its conclusions. The applicant must also provide an updated traffic and Urban Decay analysis for review and consideration by the City prior to approval of the first any final map for the project.~~
12. No more than 10% of the area zoned General Commercial – CG shall be used for Eating and Drinking Establishment use unless a Planning Commission Use Permit is first obtained. Pedestrian access through the commercial area to the Eating and Drinking Establishments must be maintained.

13. The project, if approved, includes ~~all written commitments made by the applicant as specified in all written documents submitted as part of the application as contained in the project file.~~ The applicant must work with the Economic Development Manager to attract high quality business including cleantech and zero waste/emission companies.
14. Prior to issuance of a building permit, the applicant must file a Final Map in conformance with the Subdivision Map Act and local ordinances that covers all lots in ~~each that~~ phase of the project.
15. Prior to issuance of a building permit, the applicant must enter into a bonded subdivision improvement agreement for the installation of the public improvements and grading necessary to accommodate the related portion of this the project. Plans for these improvements must be designed by a Registered Civil Engineer and in conformance with the City's Engineering Design Standards. Improvements must include ~~brick patterned sidewalk,~~ a looped water system, public sewer extension, and storm drainage improvements incorporating storm water run-off best management practices and conforming to the Hydrology Report prepared for this project dated February 18, 2004 on file with the Community Development Department. The applicant must complete all work encompassed by the subdivision improvement agreement for that phase prior to issuance of a Certificate of Occupancy.
16. The grading plan must be prepared by a registered civil engineer and comply with the requirements of a soils report prepared for this project and the City's Grading Ordinance. An erosion control plan must be incorporated into the grading plan. Also included must be a Storm Water Pollution Prevention Plan incorporating best management practices and complying with the City's Storm Water Ordinance.
17. Prior to issuance of a building permit for a particular building within a phase of the project or individual building to be constructed within the project site, the applicant must pay all school, traffic impact and other applicable development fees for that permit.
18. Prior to final map approval, a geotechnical report must be prepared by a registered geotechnical engineer, and all recommendations of the report must be incorporated into the final engineering design for each structure onsite to avoid potential geologic impacts.
19. Prior to issuance of a building permit, the applicant must grant to the City easements on the Final Map necessary to accommodate ~~this that~~ that phase of the project, including water, sewer, and access easements.
20. The site must be provided with Fire apparatus access roads and water/hydrants to meet California Fire Code Article 9. All improvement or development plans require Fire Department approval.

21. A Property Owner Association and/or Community Facilities District must be established by the developer to install and maintain private and public access, and storm water drainage, and open space and common areas. The documents governing the Property Owner Association and/or Community Facilities District must be approved by the City Attorney prior to recordation of the first Final Map.
22. The applicant or permittee must defend, indemnify, and hold harmless the City of Benicia or its agents, officers, and employees from any claim, action, or proceeding against the City of Benicia or its agents, officers, or employees to attack, set aside, void, or annul an approval of the City Council, Planning Commission, Historic Preservation Review Commission, Community Development Director or any other committee, agency, or department of the City concerning a development, CEQA approval, subdivision map, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless must be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

Site Plans

23. Site plans within the Benicia Business Park must be coordinated with adjoining projects within the Benicia Business Park to take advantage of similar perimeter landscape themes, common access, or similar features. Particular care and coordination must be considered as it pertains to bioswale features, LEED standards and other design guidelines for a particular project. Prior to the first building permit in each phase, the applicant must provide a site-specific plan with building footprints, landscaping, and architectural design that conforms with applicable LEED-ND guidelines, Low-impact Development standards, and campus design (open spaces between buildings, shaded outdoor gathering spaces, and paths that connect buildings, open space and trails).
24. Water quality features such as bioswales and bio-retention basins must be integrated in a cohesive and logical manner and take advantage of site topography, orientation and visibility.
25. Pervious paving must be used in-lieu of impervious paving wherever possible. Paving must be reduced to the minimum necessary to accomplish site circulation and parking needs.
26. Recycled products for driveway and parking lot base material must be used, whenever possible.
27. Building setbacks and coverage must comply with the limitations specified in Benicia Municipal Code Section 17.32.030.

28. Buildings must be located and oriented to provide a strong visual and functional relationship with the site, adjacent sites, and nearby thoroughfares whenever feasible. Where feasible, accessory facilities such as mechanical equipment, trash collection, storage areas, and vehicle service areas must be located away from portions of the site visible from public roadways or adjacent properties with dissimilar improvements.
29. Underground utilities must be installed in accordance with Benicia Municipal Code Section 17.70.230.
30. ~~An ultra-high bandwidth broadband fiber network~~ Telecommunications infrastructure using best-available technology must be installed ~~that serves all lots and businesses for each phase of the project.~~

Circulation, Parking and Loading

31. Pedestrian access to primary building entrances must be separated from auto access by walkways to the extent possible. Visitor parking must be located near the entrance of the building and must be removed from loading areas and truck parking areas to the extent feasible.
32. ~~Driveway access along streets must be kept to the minimum width essential for proper industrial traffic circulation. Driveways must be aligned with existing or planned driveways on the opposite side of the street or oriented to existing or future street median breaks. Where possible, driveways must be located to avoid arterial streets, close proximity to street corners or adjacent driveways and areas with restricted visibility.~~
33. In order to minimize interference with street circulation, a minimum driveway length of twenty feet ~~must be~~ required between the property line and the first parking stall.
34. Parking lots or stalls that require backing directly into public streets are prohibited by Benicia Municipal Code Section 17.74.130. All new parking areas must facilitate forward movement into public streets unless a variance is granted by the Planning Commission.
35. Parking and loading facilities must be sufficient to serve each business without the need to park on adjacent streets. Each project must comply with the number and configuration of spaces required by Benicia Municipal Code Chapter 17.74.
36. Per Benicia Municipal Code Section 17.70.190 E., parking lot design must include landscape planters, sidewalks, or other separators at the end of parking bays. All parking, loading and driveway areas must be separated from landscaped areas by concrete curbs.
37. Parking and loading areas must be designed so that they do not interfere with each other or with other site activities.

38. Access to loading facilities must eliminate the need for trucks to back into or out of street rights-of-way.
39. Provision must be made for adequate access and circulation of emergency vehicles.
40. Pursuant to ~~Benicia Municipal Code Section 17.74.020 K.~~, a deviation from parking standards may be approved by the Planning Commission if there will be ample on-street parking. The deviation may be sought if any site within the industrial zoned portion of the Benicia Business Park is used for offices. ~~Conflict with BMC 17.74.130 must be resolved either by public dedication of the parking elsewhere within the development site or other means approved by the City Attorney prior to issuance of building permits.~~

Landscape Design

41. Trees, shrubs and groundcover, including native species to the maximum extent possible, must be used to provide variety and to reduce the apparent mass of large, blank facades. Earth berms may be used to reduce the apparent mass and height of a building.
42. Landscaping and berms must reinforce circulation patterns and screen and shade large visible paved surfaces such as loading areas.
43. The visual impact of parking lots and other large circulation areas must be minimized through the use of planting, earth mounds, and/or low fencing along the street frontage. Views through the site must be maintained for orientation and security.
44. Project landscape design, materials and treatment must comply with specifications of Benicia Zoning Ordinance Section 17.70.190 and the Benicia Business Park Master Landscape Plan. In the event of a conflict Benicia Zoning Ordinance Section 17.70.190 must prevail.
45. Street trees must be provided along all public and private streets with a minimum of one tree installed for each thirty feet of frontage. One dominant tree must be selected for each street. The final landscape plan for the Benicia Business Park project must reflect this requirement.
46. Plant, shrub and tree species must be appropriate to Benicia's climate and must require minimal water and care. New trees must be uniform in appearance and wind tolerant.
47. Disturbed slopes must be hydroseeded with native vegetation.
48. Live plant material must be used for all ground cover areas. Wood chip mulch must be used for weed retardation.

49. Automatic irrigation must be provided. Where drought-resistant landscape materials are planted, only temporary irrigation is required until landscaping is established.

50. Landscaping must be provided around the perimeter of each building lot.

Fencing and Screening

51. All exterior mechanical equipment, utility meters and valves, refuse storage and containers, and above ground storage tanks must be located and screened in a manner compatible with the design of the project and nearby development, in accordance with Benicia Municipal Code Sections 17.70.210 and 17.70.220.

52. Telecommunications equipment must be installed in conformance with Benicia Municipal Code Section 17.70.250.

53. Outdoor storage and display of merchandise, materials or equipment must be located and screened in accordance with Benicia Municipal Code Section 17.70.200.

54. In accordance with Benicia Municipal Code Section 17.28.030 M., the maximum height of a commercial fence or wall ~~must be~~ is 8 feet.

55. In accordance with Section 17.32.030 J., the maximum height of an industrial fence or wall must be 12 feet.

56. New fencing along public rights-of-way must be softened with landscaping.

57. Fencing must not impair traffic safety by obscuring views.

58. Fencing must be designed for compatibility with nearby building and landscape materials. It must have a high design quality and must be constructed of highly durable materials. Use of wood and masonry is encouraged. Chain link and barb-wire fencing must not be installed along street frontages.

Exterior Lighting

59. Exterior lighting type, brightness, height and fixture design must be appropriate to the building design, its function and location. ~~Lighting must be adequate but not overly bright.~~ Lighting fixtures must be properly scaled to the pedestrians, and automobiles and trucks.

60. Light bulbs or tubes must not be exposed. Generally, exterior lighting must shine downwards and be non-glare. Lights must not glare into adjacent streets or neighboring properties outside the Benicia Business Park.

61. Security lighting must be indirect or diffused and shielded or directed away from a residential district, in accordance with Benicia Municipal Code Section 17.70.240 D.

62. Outdoor parking area lighting must comply with Benicia Municipal Code Section 17.74.170.

Architecture

63. The architectural design of new buildings and major exterior additions must be compatible with neighboring buildings within the Benicia Business Park. Size, bulk, materials and colors must have a complementary relationship to other buildings in the vicinity. Primary buildings in close proximity on the same property must have harmonious proportions and similar architectural styles. Nearby accessory buildings must be of compatible design and treatment.
64. Due to their potential impact upon the character of Benicia as a whole, particular attention must be given to the architectural design quality of buildings that will be highly visible from entry gateways to the city: I-680, East Second Street and Lake Herman Road.
65. Variety in roof shapes and form is encouraged to add diversity, enhance scale, and complement the features of nearby buildings. Where parapet walls are used, they must be treated as an integral part of the building design.
66. Exterior design features including materials, texture, color and trim detailing must be included on all building elevations to an extent that maintains overall design continuity.
67. The apparent mass of large buildings must be reduced by introducing variations in wall setbacks and heights, additions of windows and other openings, variety in materials or finishes, and similar methods. Monotonous building forms must be avoided by using various methods to help create interest and reduce scale. Examples include the staggering of vertical walls, recessing openings, providing upper-level roof overhangs, using deep score lines at construction joints, contrasting compatible building materials, and using horizontal bands of compatible colors.
68. The appearance of large structures must be reduced in following ways:
- a. Vary the planes of the exterior walls in depth and/or direction. Wall planes must not run in one continuous direction without an offset.
 - b. Vary the height of the buildings so that it appears to be divided into distinct massing elements.
 - c. Articulate the different parts of a building's facade by use of color, arrangement of facade elements, or change of materials.
 - d. Create horizontal emphasis through the use of trim.

- e. Use landscaping and architectural detailing at the ground level to lessen the impact of an otherwise bulky building.
69. Mixing of unrelated architectural styles, materials and details must be avoided within a single building.
 70. All roof-mounted equipment, including air-conditioners, large vents, blowers or any other mechanical device, must be screened from public view by roof elements, an outside parapet wall, an equipment well, or alternate architectural screening and devices that fit the building design.
 71. Mirrors or highly reflective glass must not cover more than 20 percent of a building surface visible from a street, unless it meets the glare performance requirement specified in Benicia Municipal Code Section 17.70.240 D.
 72. Exterior siding materials must be masonry, plaster, wood, metal, or an approved alternate material. Metal clad buildings must have baked-on enamel exterior finishes or equal.
 73. The size of windows and doors must relate to the size of the wall in which they appear. Monotonous repetition must be avoided in the location, size and shape of windows and small doors. Variety must be provided to large, flat, uninterrupted expanses of exterior walls by the variety, size, proportions, and rhythm of window and door openings. Recessed openings help provide contrast by creating shade patterns and by adding depth to flat planes.
 74. Mixed-use buildings containing non-industrial uses must highlight the public entry to the structure to create a sense of human scale and to emphasize a primary entry feature.
 75. Exterior walls must incorporate compatible finishes and colors. Very bright, very light and very dark colors must be limited to accents rather than occur as primary wall colors.
 76. Utility doors, fire doors, loading docks and other potentially unsightly service features must be designed to blend with the building's architecture.
 77. Commercial structures must include significant wall articulation, multi-plane and treated pitched roofs, and regular or traditional window rhythm.
 78. Large blank and/or flat wall surfaces, unpainted concrete block walls, highly reflective surfaces, metal or plastic siding on the main façade, square "boxlike" appearance, mixtures of unrelated styles must be prohibited.

Sustainable Design

79. All buildings must be LEED certified and construction must adhere whenever possible to the following LEED guidelines, as established in the project application:
- a. Design efficient use of space and air distribution with the goal of minimizing conditioned areas.
 - b. Design building orientation and shading to minimize solar gain and maximize daylight harvesting.
 - c. Provide high efficiency HVAC systems with non-HCFC refrigerants.
 - d. Provide natural ventilation.
 - e. Provide waterless urinals.
 - f. Include materials which minimize embodied energy.
 - g. Design efficient detailing to minimize the amount of waste material.
 - h. Include low VOC, low CPC and formaldehyde free materials, finishes, paints and materials.
 - i. Capture and filter gray water for irrigation purposes.
 - j. Include photo-sensors and localized lighting controls to reduce the amount of artificial light needed within indoor spaces.
 - k. Provide motion detectors in accessory function areas.
 - l. Use recycled and recycled-content building materials; post consumer and post-industrial.
 - m. Provide photovoltaic cells to produce a portion of the electrical needs.
 - n. Divert and recycle construction waste from going to the landfill.
 - o. Capture and direct stormwater to landscape areas prior to release.
 - p. Secure purchase agreements with serving utility for green power sources.
 - q. Utilize sustainable harvested lumber per the Forest Stewardship Council (FSC Label).
 - r. Utilize fly ash or slag concrete mix design.

- s. Minimize light trespass and reduce sky glow to increase night sky access.

Signs

80. All signs must comply with Benicia Municipal Code Section 17.78.
81. Every structure and commercial complex proposal must include a signage plan that includes provisions for sign placement, sign scale in relationship with the building, and sign readability. All signs must be compatible with building and site design relative to color, material, and placement.
82. Monument signs are the preferred alternative for business identification whenever possible. Where several tenants occupy the same site, individual wall mounted signs may be allowed in combination with a monument sign identifying the development and address.
83. Backlit individually cut letter signs must be utilized wherever feasible.
84. Each development site must be appropriately signed to provide directions to loading and receiving areas, visitor parking and other special areas.

Specific Landscaping and Open Space Requirements

85. A licensed landscape architect must prepare landscape and irrigation plans for all landscaped areas including designated open space areas and the public service facilities. The Community Development Department must review and approve landscape and irrigation plans prior to issuance of any site-specific building permit. The final landscape plans must include:

- A plant legend including common and botanical plant name, quantity, size, spacing, method of planting, and similar landscape design information.
- Shrubs at least five (5) gallons and trees (exclusive of specimen trees) fifteen (15) gallon (3/4" to 1" trunk caliper) in size; approximately one third of all trees planted on the site must be specimen size (minimum 2" trunk caliper) located at all major focal points.
- Deep root barriers for all trees within eight (8) feet of pavement. Trees must not be planted within 10 feet of sewer or water lines.

The final landscape plan must be approved by Community Development staff prior to issuance of a building permit for this site.

86. All required landscaping and related improvements must be completed prior to the issuance of a Certificate of Occupancy for each lot.
87. Appropriate care and maintenance of all required landscaping onsite including open space areas and public areas such as the Police/Fire facility and in the adjacent right-of-way are ~~shall be~~ the responsibility of the ~~project sponsor~~ Property Owner

Association/Community Facilities District to maintain in perpetuity. The landscape improvements required by the City to be installed by the project sponsor must be maintained through a Property Owner Association/Community Facilities District ~~private maintenance association or similar entity~~. The City Attorney, the Director of Public Works ~~City Engineer~~ and the Community Development Director prior to acceptance of any final map must approve the funding mechanism for maintenance of the required landscape improvements. The mechanism must be in place prior to or concurrently with acceptance of any final map. Standard of maintenance must be determined by the City and included in the Covenants, Conditions and Restrictions for the project.

88. Prior to site development, a tree report prepared by a consulting arborist must identify trees that will be preserved. The report must include measures to protect the preserved trees, and identify the location, size, and health of these trees. The project sponsor must apply for a Tree Permit for the removal of any protected trees that includes a tree replacement program.

89. The project sponsor must provide the following within and adjacent to each phase of the project:

- A 10' wide concrete Bikeway/Sidewalk or Class II bike lanes along Lake Herman Rd between A Blvd. and I -680.
- A 10' wide concrete Bikeway/Sidewalk between East 2nd St and Lake Herman Road in the project site.
- A 10' wide concrete Bikeway/Sidewalk along A Blvd. from Industrial to Lake Herman Road.
- A 10' wide concrete Bikeway/Sidewalk along Park Rd. from A Blvd. to East 2nd Street.
- A 10' wide concrete Bikeway/Sidewalk along East 2nd St. from Industrial Way to Lake Herman Road.
- A Class II Bikeway along Lake Herman Rd. between Industrial Way and A Blvd.

90. The project sponsor must install and maintain public access trails in the project open space and connecting to surrounding areas (per EIR Addendum Recommended Measure GREEN-1) to meet the recreation demands of site employees and visitors and/or contribute an amount commensurate to installation and maintenance of such amenities to the City for provision of recreational opportunities.

Public Works

91. ___ The project applicant must comply with all the mitigation measures listed in the certified EIR and Addendum and they must be considered as Conditions of Approval for this project. Prior to approval of a final map, phasing of the project and timing of project improvements may be modified by the City Council at the request of the applicant based on the recommendation of the Director of Public Works/City Engineer. The project applicant must provide to the Director of Public Works/City Engineer the necessary documentation in the form of updates to the traffic studies;

updates to the sewer, water, drainage master plans; and/or other information as required by the Director of Public Works/City Engineer to make their recommendation to the City Council on the affected Conditions of Approval and/or mitigation measures for this project.

92. The project applicant must comply with all the applicable provisions of the Benicia Municipal Code (BMC), the Benicia General Plan, the 1992 Benicia Engineering Standard Plans and Design Criteria and any recent updates relating to public health and safety issues, any applicable policy or specific plan, and these Conditions of Approval. Any failure by the applicant to comply with all applicable provisions of the Benicia General Plan, any applicable City policy or specific plan, and these Conditions of Approval may result in the revocation of the project approval permits (including but not limited to encroachment, grading, building, zoning).
93. The project applicant must comply with all regulatory and resource agency requirements imposed upon this project. Any requirements that require substantial or material amendments or deviations from the approved project or these Conditions of Approval as determined by the City may require the project applicant to resubmit the project (or affected portions) to the City Council for consideration at a duly noticed public hearing with the applicant responsible for paying new application fees in accordance with the BMC.
94. The project applicant must obtain the necessary permits from all applicable State and Federal regulatory and resource agencies prior to receiving approval from the City on any grading, encroachment or building permit within that certain phase on this project and prior to commencement of any work on that certain phase on this project.
95. No work must commence on this project until the project applicant receives a grading, encroachment, and/or building permit from the City and pays all applicable fees, bonds, security deposits, charges, assessments, and development impact fees in accordance with the BMC. This project will not receive any fee credits on sewer, water and traffic impact fees for improvements required by EIR mitigation measures.
96. The project applicant must ~~apply for and procure~~ obtain approval from the Benicia City Council to form a new Property Owner Association/Community Facilities District, backed by a financial instrument to be described in the subdivision improvement agreement for each phase, for the purpose of providing and guaranteeing a funding mechanism to pay for the full costs of ongoing maintenance for improvements located within and adjacent to this project, including but not limited to:
- a. Landscaping/irrigation improvements within the common lot parcels, along both sides and within the medians of each public street (including East 2nd St., Lake Herman Road & Industrial Way), around the perimeter of the fire substation and corporation yard lots and within other areas to be landscaped as required by the City.
 - b. Drainage system improvements within the common lot parcels including the detention basins, inlet/outlet facilities, open swales and other drainage

features. This does not include the underground drainage pipeline systems located within the street rights-of-way.

- c. Open space areas within the common lot parcels, ~~street rights-of-way, and public conservation easements for areas and other locations~~ to be left in a natural state as required by the City.
- d. Ongoing inspection and maintenance of sedimentation basins, detention basins, drainage swales, inlets/outlets, slopes, debris benches and v-ditches.
- e. Ongoing weed abatement program.

It is the responsibility of the project applicant to complete the necessary reports and legal documentation to establish the Property Owners Association or other mechanism with approval required by the City Attorney and Community Development Director prior to the filing of the first final map for this project. The standards for ongoing maintenance levels must be determined by the City and included in the CC&R's for this project and this maintenance district.

97. The project applicant must ~~only~~ submit final map applications for each phase defined on the phasing plan for this project. No final map applications will be allowed to create partially phased areas or establish parcels in a later phase that would be out of sequence with the phasing plan submitted with this project. If the applicant wishes to create parcels for a later phase, then all the conditions triggered by that phase must be implemented.

98. Prior to approval and recordation of the final map for the *first phase* of this project, the applicant must:

- a. Submit ~~specific~~ updated master plan studies regarding sewer (~~updated~~), water, and drainage systems to serve *all phases* of this project showing proposed onsite and offsite improvements necessary to mitigate the impacts (additional flows, runoff, etc.) from this project. Approval of these ~~specific~~ updated master plans is required as part of this *first phase* and before submittal of the specific improvement plans for each system.
- b. Submit a complete set of overall "rough" grading plans accompanied by a soils/geotechnical report and a storm water pollution prevention program (SWPPP) utilizing best management practices (BMP's) for the "rough" grading work required for *all phases* of this project. The applicant City must complete require the "rough" grading work for the first phase and the drainage area to the north of A Blvd. to be completed with the first phase. The applicant must aAlso submit a complete set of "finish" grading plans (as necessary) accompanied by a soils/geotechnical report, erosion control plans and SWPPP for the grading required for the *first phase* of this project. Prior to approval of "rough" grading plans for the western portion of the commercial area, the applicant must obtain approval from the City Council, upon the recommendation of the Community Development Director, of a redesigned grading plan for this area that better conforms to the existing topography and minimizes cuts and fills.
- c. Submit a complete water system analysis plan for *all phases* of this project to establish the operational and design parameters to create a separate zoned

- water system required for *all phases* of this project including, but not limited to, determining the number, size and elevation requirements for the new reservoirs and pump stations; developing the overall looped layout of the distribution system; establishing the appropriate water pressures; and accommodating the water quality issues. Approval of this system analysis is required as part of the *first phase*. Once approved, submit water system improvement plans for improvements required for the *first phase* of this project, which includes the installation of the distribution system, onsite storage and pumping facilities, and the connection to the main service line from the city water treatment plant. ~~The City must require the applicant~~ must ~~to~~ fully fund and install these water system improvements prior to the issuance of the first building permit for this project.
- d. Submit a complete set of improvement plans for the offsite stand-alone sewer system improvements required for *all phases* of this project including, but not limited to the connection points, gravity lines, offsite lift station and offsite force main as referenced in the EIR mitigation measures, ~~shown on the mitigated Preliminary Sewer and Water Plan dated March 20, 2008, included in the Brown and Caldwell Benicia Business Park Sewer Collection System Analysis dated October 16, 2006 and shown as Alternate Route B (Bayshore Road) in the Stetson Engineers Analysis dated September 27, 2006, as stipulated in Mitigation Measure UTIL-4).~~ The City must require the applicant must ~~to~~ fully fund and install all of these offsite improvements designed for cumulative development in the Benicia Business Park and *all phases* of this development and to complete them with this *first phase*. Also submit a complete set of sewer system improvement plans for the onsite collection system and the connections to offsite lines required within the *first phase* of this project and sized to accommodate all other development in the Benicia Business Park that will utilize this portion of the collection system in the future.
- e. Submit a complete set of drainage system improvement plans accompanied by a hydraulic study for the improvements required on *all phases* of this project to ensure that no increased and/or new concentrated stormwater runoff will be present downstream of any portion of this project. The plan needs to clearly show the proposed drainage system improvements including, but not limited to, detention basins, swales, pipeline systems, and their relationship to existing upstream and downstream systems and the flow rates and capacities given for pre and post project conditions. The plan must show how drainage from the City's Water Treatment Plant site and proposed water storage reservoirs are addressed ~~in the event of an overflow or catastrophic event per Mitigation Measures GEO-3a and GEO 5.~~ Approval of this design will be required as part of this *first phase*. Once approved, the applicant must submit drainage system improvement plans for the site-specific pipeline and bio-swale improvements required for the *first phase* of this project. All detention facilities, improvements within the common lot areas, and offsite improvements required to mitigate the overall stormwater flows for *the phase* must be installed as part of the "rough" grading improvements. The site-

specific pipeline and bio-swale systems to serve each phase must be installed as part of the "finish" grading for that phase.

- f. Submit a complete set of street improvement plans for the improvements required to be completed for the *first phase* of this project which must include:
 - i. East 2nd Street widening improvements from Lake Herman Road to the Channel Road Bridge to provide for a minimum 70-foot curb-to-curb width with 4-thru lanes, separate left and right turn lanes, raised median islands, paved shoulders, ~~4-foot wide concrete sidewalk on the north side~~ and 10-foot wide concrete bike/ped path on the north ~~south~~ side (each separated from the curb by a 6-foot minimum width parkway), transit facilities and access connections to internal bikeway and public accessways.
 - ii. Lake Herman Road improvements between A Boulevard and the northbound 680 freeway ramps including modifications to the intersections to mitigate the additional traffic to be generated by *all phases* of this project. Improvements must include 2 to 4 thru lanes, separate left and right turn lanes, raised median islands, striped bike lanes, sidewalks on both sides (separated by a 6-foot minimum width parkway) and access connections to internal bikeway and public accessways.
 - iii. New internal street improvements (A Blvd. and the extension of Park Rd.) for the *first phase* of this project to provide for a minimum 48-foot curb-to-curb width with 2-thru lanes, striped two-way turn medians, 10-foot wide concrete bike/ped paths on both sides (separated by a 6-foot minimum width parkway) and transit facilities.
 - iv. New street lighting with decorative pole standards (as specified in Mitigation Measure VIS-4a) along both sides of each new internal street (*first phase*), within the raised median along both sides of E. 2nd St. and along both sides of Lake Herman Road (between A Boulevard and the northbound 680 freeway ramps).
 - v. New traffic signal installations and intersection modifications at East 2nd St./Park Rd., East 2nd St./Lake Herman Rd., and Lake Herman Rd./680 freeway northbound and southbound ramps in accordance with the mitigation measures in the EIR.
 - vi. New intersection improvements incorporating a roundabout design or other alternate traffic control design as approved by the Director of Public Works/City Engineer for Lake Herman Rd./A Blvd and A Blvd./Park Rd. internal road extension.
- g. Submit a complete set of landscape/irrigation plans for those improvements required for the first phase of this project which must include:
 - i. Landscaped medians along East 2nd St. (between Channel Road Bridge and Lake Herman Road).
 - ii. Landscaped parkway strips along ~~both the north sides~~ of East 2nd St. (same limits between Industrial Way and Lake Herman Road).
 - iii. Perimeter landscaped areas along edges of new onsite roadways and along East 2nd St. (same limits between Industrial Way and Lake Herman Road).

- iv. Landscaped areas within common areas, bike paths, accessways as approved by the Community Development Director.
- h. Submit a complete set of bikeway and public accessways plans for those improvements required for the first phase of this project which must include:
 - i. Class I bikeway (10-foot wide concrete bike/ped path) bikelanes along the north both sides of East 2nd St. (between the Channel Road Bridge and Lake Herman Road.
 - ii. Class II bikelanes along both sides of Lake Herman Road (between Reservoir Road and East 2nd St.-I-680 and the westerly limits of the commercial area).
 - iii. Class I bikeways and offstreet accessways within the *first phase* showing connections to the surrounding sidewalks, pathways and accessways.
- i. Include all necessary easements and dedications on the final map to accommodate the onsite public improvements necessary for this project and provide all necessary easement/right-of-way documents to accommodate the offsite public improvements necessary for this project including, but not limited to, street, utilities, water, sewer, drainage, public accessways (bikes, peds, etc.), open space, and landscape/irrigation improvements.
- j. Enter into a subdivision improvement agreement with the City incorporating the requirements for the *first phase* of this project including the installation of the public improvements outlined above; payment of all necessary plan check and inspection fees; payment of a \$10,000 non-refundable cleanup deposit; posting all necessary bonds and securities; and providing the proper indemnification and hold harmless guarantees.
- k. The project applicant shall submit a Transportation Demand Management (TDM) plan to reduce the amount of vehicle use (especially single-occupant vehicle); to encourage the use of alternative modes of travel such as transit, walking and bicycling; and to reduce the demand for travel during the AM, PM and midday peak periods of traffic. The TDM plan shall include at a minimum the following programs that must be implemented and funded by the project applicant prior to the recordation of the final map for the second phase of the proposed project:
 - Shared-use parking.
 - Carpool and vanpool ride match program.
 - Free shuttle service established to serve the project site, the Benicia Industrial Park and Downtown Benicia.
 - Transit center constructed on the project site with bus/shuttle transit stops provided with shelters, bus bulbs, info kiosks, bike racks, park-and-ride facilities and other transit support facilities.
 - Traffic calming measures employed throughout the site
 - Employee financial incentive program to NOT drive.

99. Prior to approval and recordation of the final map for the *second phase* of this project, the applicant must:

- a. Submit a complete set of overall "rough" grading plans accompanied by a soils/geotechnical report and a storm water pollution prevention program (SWPPP) utilizing best management practices (BMP's) for the "rough" grading work required for *second and third phases* of this project. The applicant City must complete the "rough" grading work for the *second and third phases* and the drainage area to the north of A Blvd. ~~to be completed~~ with the *second phase*. The applicant must also a complete set of "finish" grading plans (as necessary) accompanied by a soils/geotechnical report, erosion control plans and storm water pollution prevention plans for the grading required for the *second phase* of this project.
- ~~b.c.~~ Submit a complete set of water system improvement plans for the onsite distribution system improvements required for the *second phase* of this project.
- ~~e.d.~~ Submit a complete set of sewer system improvement plans for the onsite collection system and the connections to offsite lines required for the *second phase* of this project.
- ~~d.e.~~ Submit drainage system improvement plans for the site-specific pipeline and bio-swale improvements required for the *second and third phases* of this project. All detention facilities, improvements within the common lot areas, and off-site improvements required to mitigate the overall stormwater flows for the *second and third phases* must be installed as part of the "rough" grading improvements *second phase*. The site specific pipeline and bio-swale systems to serve each phase must be installed as part of the "finish" grading for that phase *second and third phases*.
- ~~e.f.~~ Submit a complete set of street improvement plans for the improvements required for the *second phase* of this project which must include:
- i. Construction of the new Industrial Way connection (East 2nd St. to A Blvd.) to provide for a minimum 70-foot wide curb-to-curb width with 2- 4-thru lanes and raised median islands, separate left and right turn lanes, 10-foot wide concrete bike/ped paths on the west both sides and 4-foot wide concrete sidewalk on the east side (each separated from the curb by a 6-foot minimum width parkway), transit facilities and access connections to internal bikeway and public accessways.
 - ii. ~~Construction of the new Industrial Way connection (A Blvd. to Lake Herman Rd.) to provide for a minimum 48-foot wide curb to curb width with 2 thru lanes, striped two-way turn medians, 4 foot wide concrete sidewalks on the east side and 10 foot wide concrete bike/ped path on the west side (each separated by a 6-foot minimum width parkway) and access connections to internal bikeway and public accessways.~~
 - iii. Demolition of the entire necessary length of Reservoir Road including but not limited to the removal of all pavement, structures, drainage facilities, and base material to return the roadway area to a natural condition in accordance with the approved "rough" grading plan for this project.
 - iv. ~~Lake Herman Road widening improvements between Reservoir Road and the westerly city limits to provide for safe shoulders and new~~

- Class II striped bikelanes while maintaining the roadway's 2-lane rural curvilinear alignment.
- v. The applicant may choose to defer the installation of items 99(e)ii, 99(e)iii and 99(e)iv, until the *fourth phase* of this project by repaving (including necessary reconstruction of all substandard roadbase) shall repave the entire length of Reservoir Road between A Blvd. and Lake Herman Road (including necessary reconstruction of all substandard road base) to the satisfaction of the Director of Public Works/City Engineer so that the roadway remains in operation until the new Industrial Way connection is completed before the first certificate of occupancy on the *fourth phase* of this project.
 - vi. Provisions for a 60-foot right-of-way with grading improvements to accommodate a future roadway and bikeway connection to Channel Road (12% maximum grade) near the vicinity of Lot 64 in Lot A.
 - vii. Construction of remaining portions of A Blvd., to provide for a minimum 48-foot curb-to-curb width with 2-thru lanes, striped two-way turn median, 10-foot wide concrete bike/ped paths on both sides (separated from the curb by a 6-foot minimum width parkway) and transit facilities.
 - viii. New internal street improvements for the *second phase* of this project to provide for a minimum 48-foot curb-to-curb width with 2-thru lanes, a striped two-way turn median, sidewalks on both sides (separated from the curb by a 6-foot minimum width parkway) and transit facilities.
 - ix. New street lighting with decorative pole standards as specified in Mitigation Measure VIS-4a along both sides of each new internal street (*second phase*) and along both sides of the new Industrial Way connection (between E. 2nd St. and Lake Herman Road).
 - x. New traffic signal and intersection installations and/or modifications at East 2nd St./Industrial Way, East 2nd St./Rose Dr., Park Rd./Industrial Way, Park Rd./Bayshore Rd., Industrial Way/680 freeway northbound and southbound ramps, and Bayshore Rd./680 freeway northbound and southbound ramps in accordance with the mitigation measures in the EIR.
 - xi. New intersection improvements incorporating a roundabout design or other alternate traffic control design as approved by the Director of Public Works/City Engineer for Lake Herman Rd./Industrial Way and at A Blvd./Industrial Way.
 - xii. New pedestrian, school crossing and traffic safety improvements for enhancements for the intersection of East 2nd St. between Riverhill Dr. and Seaview Dr. Hillcrest Ave. as approved by the Director of Public Works/City Engineer to include (1) installation of, including a high-visibility crosswalks at East 2nd/Riverhill Dr. and East 2nd/Hillcrest Av.; (2) installation of radar speed signs coupled with school-zone signage to alert drivers of their speed as they approach a school zone; (3) installation of dual alternating-flash yellow "wig-wag" warning treatment with flashing lights to alert drivers to slow down before

entering the school zone; (4) ensure the continued presence of the crossing guards at East 2nd/Riverhill Dr. and East 2nd/Hillcrest Ave. through a secure funding arrangement with the school district; and (5) installation of raised landscaped/irrigated median islands along this corridor as a traffic calming measure to reduce vehicle speeds and increase safety.

- xiii. New improvements safety enhancements for the intersections of East 2nd/Seaview and East 2nd/Riverhill as approved by the Director of Public Works/City Engineer to include the installation of including left turn prohibitions and/or median modifications (e.g., signage or median improvements) to properly manage safely address side street traffic congestion during the peak AM, PM and midday hours of traffic.
- xiv. New improvements for the intersection of East 2nd/Military East as approved by the Director of Public Works/City Engineer including to include updates to the signal timing and phasing to accommodate eastbound and westbound split phasing, lead/lag eastbound left turn operation, and lead/lag southbound right turn overlap operation.
_____ to address the future traffic congestion during the peak midday hour.

f.g. Submit a complete set of landscape/irrigation plans for those improvements required for the *second phase* of this project which must include:

- i. Landscaped medians along the new Industrial Way connection (East 2nd St. to A Blvd.) to provide additional landscaping in compliance with Mitigation Measure VIS-1.
- ii. Landscaped parkway strips along both sides of the new Industrial Way connection (East 2nd St. to Lake Herman Rd.).
- iii. Perimeter landscape areas along edges of new onsite roadways and along the new Industrial Way connection between East 2nd St. and Lake Herman Rd.
- iv. Landscaped areas within common areas, bike paths, accessways as approved Community Development Director.

g.h. Submit a complete set of bikeway and public accessways plans for those improvements required for the *second phase* of this project which must include:

- i. Class I bikeway (10-foot wide concrete bike/ped path) alongside the new Industrial Way connection between East 2nd St. and Lake Herman Rd. located a minimum distance of six (6') ten (10) feet behind the new Industrial Way west curb line. May defer the installation of this bikeway until fourth phase of this project if Reservoir Road is repaved per Condition No. 99(e)v.
- ii. Class I bikeway and offstreet accessway connections between the existing sewer access roadway westerly of Channel Rd. to connect with the new sidewalks and bikelanes on East 2nd St. and to Channel Rd.
- iii. Class I bikeways and offstreet accessways within the *second phase* showing connections to the surrounding sidewalks, pathways and accessways.

- h.i. Include all necessary easements and dedications on the final map to accommodate the onsite public improvements necessary for this project and provide all necessary easement/right-of-way documents to accommodate the offsite public improvements necessary for this project including, but not limited to, street, utilities, water, sewer, drainage, public accessways (bikes, peds, etc.), open space, and landscape/irrigation improvements.
- i.i. Enter into a subdivision improvement agreement with the City incorporating the requirements for the *second phase* of this project including the installation of the public improvements outlined above; payment of all necessary plan check and inspection fees; payment of a \$10,000 non-refundable cleanup deposit; posting all necessary bonds and securities; and providing the proper indemnification and hold harmless guarantees.

100. Prior to approval and recordation of the final map for the each *succeeding phase* of the project, the applicant must:

- a) Submit a complete set of "rough" and "finish" grading plans (as necessary) accompanied by a soils/geotechnical report, erosion control plans and storm water pollution prevention plans for that phase.
- b) Submit a complete set of water and sewer system improvement plans for that phase.
- c) Submit a complete set of drainage system plans accompanied by a hydraulic study for that phase.
- d) Submit a complete set of street improvement plans including, but not limited to, street pavement, sidewalks, bikeways, street lights, traffic signals, median islands, transit facilities and landscape/irrigation improvements for that phase.
- e) Enter into a subdivision improvement agreement with the City incorporating the requirements for that phase including the installation of the necessary public improvements; payment of all necessary plan check and inspection fees; payment of a \$10,000 non-refundable cleanup deposit; posting all necessary bonds and securities; and providing the proper indemnification and hold harmless guarantees.
- f) Submit a set of improvement plans for the following improvements that must be required as part of the *fourth phase* of this project:
 - i. New traffic signal and intersection modifications at the intersections of East 2nd St./Rose Dr. and East 2nd St./780 freeway eastbound and westbound ramps in accordance with the mitigation measures in the EIR.
 - ii. Installation of additional onsite storage and pumping facilities and connection to the main service line from the city water treatment plant with connections to the distribution systems required for the remaining phases of this project.
 - iii. Construction of the new Industrial Way connection (A Blvd. to Lake Herman Rd.) to provide for a minimum 48-foot wide curb-to-curb width with 2-thru lanes, striped two-way turn medians, 4-foot wide concrete sidewalk on the west-east side and 10-foot wide concrete bike/ped path on the east-west side (each ~~concrete~~ separated from the

- curb by a 6-foot minimum width parkway) and access connections to internal bikeway and public accessways.
- iv. Demolition of the entire remaining length of Reservoir Road including, but not limited to, the removal of all pavement, structures, drainage facilities, and base material to return the roadway area to a natural condition in accordance with the approved "rough" grading plan for this project. ~~Lake Herman Road widening improvements between Reservoir Road and the westerly city limits to provide for safe shoulders and new Class II striped bikelanes while maintaining the roadway's 2-lane rural curvilinear alignment.~~
 - v. ~~Lake Herman Road widening improvements between Reservoir Road the westerly limits of the commercial area and the westerly city project limits to provide for safe shoulders and new Class II striped bikelanes while maintaining the roadway's 2-lane rural curvilinear alignment.~~
 - vi. ~~Class I bikeway alongside the new Industrial Way connection between East 2nd St. and Lake Herman Rd. located a minimum distance of ten (10) feet behind the new Industrial Way curb line.~~
 - vii. As part of the improvement plan submittals, an updated traffic study shall be prepared to evaluate the service levels at the intersection of E 2nd St./Military East and if operating at a level worse than LOS D, then new improvements will be required to reconfigure the intersection to include two exclusive eastbound left-turn lanes with the widening of the north leg to accommodate two receiving lanes.

101. Prior to the issuance of a grading, encroachment and/or building permit for the applicable phase of the project:

- a) The grading, erosion control and storm water pollution prevention plans must have been reviewed and approved by the Director of Public Works/City Engineer.
- b) The water and sewer system improvement plans must have been reviewed and approved by the Director of Public Works/City Engineer.
- c) The drainage system plans and hydraulic study must have been reviewed and approved by the Director of Public Works/City Engineer.
- d) The street improvement plans must have been reviewed and approved by the Director of Public Works/City Engineer.
- e) The landscape/irrigation plans must have been reviewed and approved by the Community Development Director.
- f) The project applicant must file a "Notice of Intent" with the Regional Water Quality Control Board and must prepare a Storm Water Pollution Prevention Plan with Monitoring Program for review and approval by the Director of Public Works/City Engineer.
- g) All water system improvements for the first initial phase (reservoir, pump station, distribution system with hydrants) must be completed, tested and operational prior to the issuance of the first building permit so that adequate water supply with minimum fire flow requirements is provided before any structure is under construction. All water system improvements for each

subsequent phase must be completed prior to the issuance of the first building permit for that phase.

102. Prior to the issuance of a certificate of occupancy for the first building on the applicable phase of the project (per BMC Section 16.36.100):

- a) All public improvements (except for water system improvements with earlier completion times per Condition #101g) required for that phase must be completed and accepted by the City Council.
- b) The "as built" plans and final soils/geotechnical reports must be submitted and approved by the Director of Public Works/City Engineer for all improvements and grading required for that phase.
- c) All landscape/irrigation improvements must be completed and accepted by the Community Development Director.
- d) All damaged pavement, sidewalk, curb, landscaping, utilities or other public improvements within, or adjacent to or serving that phase of the project must be repaired by the applicant to the satisfaction of the Director of Public Works/City Engineer
- e) All necessary easement/right-of-way documents required for that phase must be executed and recorded at the County.
- f) All necessary legal documentation establishing the Property Owner Association for ongoing maintenance of all open space, drainage systems and landscape/irrigation improvements must be executed and recorded at the County.
- g) All building improvements must be completed and accepted by the Building Official on the initial building permit.

103. Other Public Works Conditions also required for this project: must include:

- a) Connections to any existing public storm drain, sewer or water line will ~~must~~ require prior approval by the Director of Public Works/City Engineer and will only be considered after the project applicant provides an engineering analysis for the City's review on both the capacity and condition of the existing public system to accept the impacts from the system proposed for this project. Any deficiencies or capacity constraints must be corrected by the project applicant before any connection is approved.
- b) Project applicant must be ~~required to~~ underground all existing overhead utilities along the frontages of the project limits including East 2nd St., Reservoir Rd. and Lake Herman Road in accordance with the requirements of ~~the Benicia Municipal Code~~ BMC Section 16.36.020 (G). The timing of the undergrounding of overhead utilities must be in conjunction with the street improvements required for each phase of this project.
- c) Sight distances at all street intersections and at the driveways intersecting public streets must conform to the standards established by the Institute of Transportation Engineers and as approved by the Director of Public Works and City Engineer.
- d) Project applicant must obtain written approval from all applicable agencies or utility companies before any existing easement or right-of-way may be considered for vacation ~~abandonment~~.

- e) All water, sewer, drainage, street and other public infrastructure required to serve each phase of development must be completed by no later than 24 months from the approval of the final map for the initial year of development of that phase (per BMC Section 16.36.100) and prior to the issuance of the first certificate occupancy for that phase except when earlier completion times are required by applicable provisions of the Benicia Municipal Code (BMC), Benicia Engineering Standard Plans and Design Criteria, any City policy or specific plan, mitigation measures for this project and these Conditions of Approval.
- f) The project applicant must pay the City for the cost to hire a full-time professional engineer selected by the City with expertise in flood control and stormwater quality/management techniques to review the significant grading and drainage plans, the SWPPP, the proposed pre- and post-construction best management practices (BMP's) and to perform inspections during implementation. The project may receive a credit toward a portion of the inspection fees beyond the cost for standard City inspection as approved by the Director of Public Works/City Engineer. The applicant also must provide 24-hour security personnel at the site, who must inform the Public Works Department immediately of any activity occurring outside hours allowed by City regulations.
- g) The project applicant must assign a project construction manager and prepare a construction management plan for review and approval by the Director of Public Works/City Engineer prior to the issuance of any permit for this project. This plan must include, but not be limited to, truck route requirements, scheduling/time restrictions for trucks and construction traffic, working hour restrictions, noise mitigation measures, street sweeping, provisions for worker parking, staging areas, storage areas and a process for responding to and tracking complaints.
- h) All construction traffic for this project must access the site from the 680 freeway at the Lake Herman Road or Bayshore/Industrial Road interchanges and must only travel along Bayshore Road, Park Road, Industrial Way, East 2nd St. (north of Industrial Way) and Lake Herman Road (east of A Boulevard) to the project site. Any violations of this restriction must be cause for the issuance of a stop work order on applicable permits issued for this project.
- h)i) During construction of the project, the applicant must make periodic improvements to area roadways impacted by the construction traffic including pothole repairs, street section repairs, cleanup of debris and other street section damages as determined by the Director of Public Works/City Engineer. Upon completion of each phase of construction, the project applicant must pay the City for the cost to hire a street pavement expert selected by the City to assess the condition of the area streets impacted by construction and to determine the appropriate mitigation measures and/or impact fee to be assessed to the project applicant with the final determination to be made by the Director of Public Works/City Engineer in accordance the mitigation measures included in the EIR.

- h) During construction of the project, the applicant must implement the necessary controls to minimize the air quality impacts including, but not limited to, dust control/watering all active areas twice a day (minimum), covering all dirt/rock hauling trucks, sweep area streets twice a day (minimum), covering dirt/rock stockpiles, installing erosion control measures and other mitigation measures as stipulated in the EIR.
- i) The project applicant must ensure that the entire project site has been fully characterized by the appropriate regulatory agencies for the presence of military ordnance and hazardous materials prior to the start of any earthwork and site development activities. The project applicant will must be responsible for any remediation action required in accordance with the mitigation measures included in the EIR.
- j) The project applicant must ensure that the City's existing water main transmission pipelines within and adjacent to the site are properly located and clearly marked prior to the start of any earthwork and site development activities in accordance with the mitigation measures included in the EIR.
- k) ~~The project applicant must be responsible for the cost to extend Benicia Transit to the project site including all capital costs (buses, shelters, turnouts, signage, etc.) and one year in operating costs with the timing for implementation as determined by the City.~~
- l) The project applicant must provide a 7-acre minimum site for a future City corporation yard in Phase 2 of the project at the southeast corner of Industrial Way and A Boulevard in accordance with the mitigation measures included in the EIR, and graded with a slope greater than 1% and no more than 5% must be designed so that existing water transmission mains are not impacted and will not require relocation.

~~The project applicant must receive no credits on the required city impact fees (including traffic, sewer, water) for this project on improvements the project applicant is required to install to mitigate the impacts from this project as identified in the mitigation measures in the EIR and listed in these Conditions of Approval. The city impact fees are required to pay for those additional citywide improvements required to mitigate the impacts from cumulative development, including this project.~~

Fire Requirements

- 104. Additional fire protection requirements may be indicated on the final building plans when submitted.
- 105. No portion of any structures shall be more than 150 feet from an approved access roadway. Where a fire apparatus access roadway is required, a minimum of 20'-0" clear width and 13'-6" vertical clearance must be provided. All private access roadways in excess of 150 feet in length must be constructed with a maximum grade of 16% with a traffic index of 4, and provide an approved turn around area.
- 106. Unless otherwise waived by the Fire Marshall, a fire alarm system installed in accordance with the Uniform Fire Code, Section 1007, will be required for each

- structure. A permit for the installation of the system must be secured from the Fire and Life Safety Division prior to work commencing.
107. Portable fire extinguishers must be provided for each structure. Fire Extinguisher size and locations to be approved by the Fire Department.
 108. The water system for fire protection must provide a minimum of ~~1,750~~ gallons per minute flow determined by the Fire Marshall with a minimum residual main pressure of 20 psi for a two-hour duration. Fire flow test data must be provided by the Fire Department, at the expense of the developer, prior to the issuance of a building permits. Additional fire flow test data reports may be required during the course of construction and/or prior to final acceptance of the project.
 109. Standard fire hydrants must be installed for this project. All fire hydrants must be operable and accessible by means of an approved paved road per Uniform Fire Code, Sections 901 and 902, prior to any combustible construction occurring on site. Hydrants must be installed in accordance with City Engineering Standards. All fire hydrants must be located as approved by the Fire Department.
 110. Structures must be equipped with an automatic fire sprinkler system in accordance with the Benicia Municipal Code and the Uniform Building Code. A permit for the installation of the system must be obtained from the Fire and Life Safety Division prior to work commencing. Private fire protection water systems must be supplied through an approved back flow device per City Engineering Standards. The location of the back flow device and the fire department connections must be approved by Community Development, Public Works and the Fire Department.
 111. Structures must be provided with a non-combustible or fire retardant roof in accordance with Benicia Municipal Code.
 112. Smoke detectors must be installed in accordance with City Ordinance and the Uniform Building Code.
 113. Tenant improvement plans must be submitted to the Fire and Life Safety Division for approval prior to construction.
 114. Structures must be in compliance with the applicable sections of the California Fire Code and California Building Code, Titles 19 and 24.
 115. Water plans for any water system supplying fire protection must be attached with the building plans for review and must include the location of all appliances, components and layout of the system prior to the issuance of a building permit. Private fire protection water systems must be supplied through an approved back flow device per City Engineering Standards. The location of the back flow device and the fire department connections must be approved by Community Development, Public Works and the Fire Departments.

EIR Mitigation Measures

116. Mitigation Measure GEO-1: Prior to the issuance of any site-specific grading or building permit a final design-level geotechnical investigation report must be prepared and submitted to the City of Benicia Planning and Building Department for review and confirmation that the proposed project fully complies with the California Building Code (Seismic Zone 4). The report must determine the project site's geotechnical conditions and address potential seismic hazards such as seismic shaking. The report must recommend foundation techniques appropriate to minimize seismic damage. In addition, the geotechnical investigation must conform to the California Division of Mines and Geology (CDMG) recommendations presented in the Guidelines for Evaluating Seismic Hazards in California, CDMG Special Publication 117. All subsequent parcel-specific development and building plans must comply with the California Building Code (Seismic Zone 4) requirements, or requirements superseding California Building Code requirements. In addition, future development plans must comply with the requirements of the final design-level geotechnical investigation report unless superseded by a parcel-specific design-level geotechnical investigation report. All mitigation measures, design criteria, and specifications set forth in the geotechnical reports must be followed.
117. Mitigation Measure GEO-2a: Prior to the issuance of a site-specific grading permit, a final design-level geotechnical investigation, to be prepared by licensed professionals and approved by the City of Benicia Planning and Building divisions, must include measures to ensure potential damages related to expansive soils are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.
118. Mitigation Measure GEO-2b: Prior to the issuance of any site-specific building permit, designs of all common landscaped areas must be reviewed and approved by the City of Benicia Community Development Department. The designs of all common landscaped areas must incorporate low water-need plantings to minimize the potential for damage associated to pavements, utilities, and structures from expansive soils. The use of similar landscaping must be encouraged at individual parcels by providing information to new tenants regarding the relationship between irrigation and subsequent property damage. A document which describes the potential for damage from expansive soils from over-irrigation and includes solutions such as drought-tolerant plant material and drip irrigation systems must be prepared by the applicant and provided to all occupants of the proposed commercial and industrial facilities.
119. Mitigation Measure GEO-3a: Prior to the issuance of any site-specific grading or building permit, a final design-level geotechnical investigation, to be prepared by

licensed professionals, and approved by the City of Benicia Public Works Department, must include measures to ensure potential damages related to long-term deformation and deep cuts and fills are minimized or eliminated by adoption of best industry practices as related to these conditions. In addition, the geotechnical investigation must make a determination as to the effect such work may have on the stability of materials underlying the proposed 1,000,000-gallon water tanks and the offsite water tank and other facilities of the City of Benicia Water Treatment Plant. The applicant must incorporate all recommendations of the final geotechnical investigation report regarding mitigation of potential effects associated with cut and fill into the project design.

120. Mitigation Measure GEO-3b: Prior to the issuance of any site-specific grading or building permit, the applicant must establish a self-perpetuating slope maintenance program (to be managed by a project site Business Owners Association or similar entity), to be reviewed and approved by the City of Benicia Public Works Department. The self-perpetuating slope maintenance program must include annual inspections of slopes, debris benches, and v-ditches. Any accumulation of slope detritus on the benches or in the v-ditches must be promptly removed. The association would also be responsible for repair of any slope failures that may occur on the cut slopes of the project site. An annual report documenting the inspection and any remedial action conducted must be submitted to the Planning and Building Divisions of the Community Development Department and the Engineering Division of the Public Works Department for review and approval. Approval by the City of Benicia City Engineer is required with respect to the Grading and Erosion control requirements of the City of Benicia Municipal Code Section 15.28.040 – Hazards (or its successor).
121. Mitigation Measure GEO-4a: Prior to the issuance of any site-specific grading or building permit, a final design-level geotechnical investigation report must be prepared and submitted to the City of Benicia Planning and Building divisions for review and confirmation that the proposed project fully complies with the California Building Code (Seismic Zone 4). The applicant must incorporate all recommendations of the final geotechnical investigation report regarding mitigation of slope instability into the project design.
122. Mitigation Measure GEO-4b: All grading plans, cut and fill slopes, compaction procedures, and retaining structures must be designed by a licensed professional engineer and inspected during construction by a licensed professional engineer (or representative) or Certified Engineering Geologist (or representative). All designs must be submitted to, and approved by, the City of Benicia prior to implementation.
123. Mitigation Measure GEO-4c: The 40-scale grading plans, when prepared, must be reviewed by a registered professional engineer, to ensure that the detailed plans conform to the intent of the preliminary geotechnical report.
124. Mitigation Measure GEO-5: The project must be designed so that the proposed development will accommodate the potential flooding associated with accidental or

earthquake-induced release of water from the Water Treatment Plant or water tank reservoirs. Prior to issuance of a building or grading permit, the project sponsor must retain a hydrologist to review final project grading and drainage plans to ensure that flooding would not endanger human health or property on the project site. The hydrologist's findings must be reviewed and approved by the City of Benicia Public Works Department.

125. Mitigation Measure HYDRO-1: As a condition of approval of the final grading and drainage plans for the project, a final detailed design-level hydraulic analysis must be submitted to the City of Benicia detailing that implementation of the proposed drainage plans will conform to the following standards or include the following components:

- 1) The project sponsor must pay the cost of the City to hire a professional engineer with expertise in flood control and stormwater quality/management techniques to review the significant grading and drainage plans, the SWPPP, and proposed post construction BMPs and implementation, and to perform inspections.
- 2) The project must result in no increase peak in runoff rates from any subareas and no increase in combined peak runoff volumes from subareas draining to the same downstream conveyance component (i.e. reductions in one subarea can offset increases in another subarea, if they drain to the same downstream conveyance, so long as total peak flows are not in excess of current flow levels). The final drainage plan for the project must be prepared by a licensed professional engineer.
- 3) Include drainage components that are designed in compliance with City of Benicia standards. The grading and drainage plans must be reviewed for compliance with these requirements by the City of Benicia Department of Public Works. Any improvements deemed necessary by the City must be part of the conditions of approval.
 - i. The sponsor must establish a self-perpetuating drainage system maintenance program (to be managed by a project site Business Owners Association or similar entity), that includes annual inspections of sedimentation basins, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris must be promptly removed. An annual report documenting the inspection and any remedial action conducted must be submitted to the City of Benicia Department of Public Works for review.

126. Mitigation Measure HYDRO-2: The sponsor must prepare a Storm Water Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction and life of the project. The SWPPP would act as the overall program document designed to provide measures to mitigate potential water quality impacts associated with implementation of the proposed project. The SWPPP must include:

- 1) *Specific and detailed Best Management Practices (BMPs) designed to mitigate construction-related pollutants.* These controls must include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g. fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP must specify properly designed centralized storage areas that keep these

materials out of the rain. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors must conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list must be specified in the SWPPP. The SWPPP must specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. City of Benicia personnel must conduct regular inspections to ensure compliance with the SWPPP. If grading must be conducted during the rainy season, the primary BMPs selected must focus on erosion control (keeping sediment on the site). End-of-pipe sediment control measures (e.g. basins and traps) must be used only as secondary measures. If hydro-seeding is selected as the primary soil stabilization method, then hydroseeded areas must be seeded by September 1 and irrigated to ensure that adequate root development has occurred prior to October 1. Entry and egress from the construction site must be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities must be designed to be accessible and functional both during dry and wet conditions.

- 2) *Measures designed to mitigate post construction-related pollutants.* The SWPPP must include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. The specific BMPs that would be required of a project can be found in San Francisco Bay Regional Water Quality Control Board Staff Recommendations for New and Redevelopment Controls for Storm Water Programs. The selection of required BMPs for a specific project is based on the size of the development and the sensitivity of the area. In general, areas near surface waters (i.e. creeks, lakes, or the Bay) are considered sensitive areas by the RWQCB. Passive, low-maintenance BMPs (e.g. grassy swales, porous pavements) are preferred over higher maintenance BMPs (e.g. sedimentation basins, fossil filters). The funding for long-term maintenance needs must be provided by the project sponsor (the City will not assume maintenance responsibilities for these features). Design of stormwater management features in open space areas must also incorporate recommendations in *Start at the Source: Design Guidance Manual for Stormwater Quality Protection* (Bay Area Stormwater Management Agencies Association, 1999). In addition, some of the individual industrial businesses (depending on the type of activity) that operate within the project site may be subject to regulation under the General Industrial Activities Storm Water Permit administered by the RWQCB. These businesses would be required to file a Notice of Intent (NOI) to comply with General Permit, conduct site inspections, collect runoff samples, and file annual reports.

127. Mitigation Measure HYDRO-3: Implement Mitigation Measures HYDRO-1 and HYDRO-2.

128. Mitigation Measure HAZ-1: The contractor overseeing grading and project site development must prepare and implement a spill prevention plan for potentially hazardous materials to be used during site development activities. The plan must be prepared and submitted to the City for review and approval by the Planning

and Building Divisions of the Community Development Department and the Engineering Division of the Public Works Department prior to the issuance of a grading permit. The plan must designate an on-site employee responsible for plan implementation and include types and quantities of hazardous materials, anticipated equipment needs and maintenance, temporary hazardous materials storage areas, emergency response procedures for hazardous materials releases (including the provision for spill kits), and procedures for contacting regulatory agencies in the event of a hazardous materials release. The plan must specify that all equipment be inspected for leaks immediately prior to construction and regularly inspected thereafter, and must prohibit equipment cleaning and repair (other than emergency repairs) within the project site. The spill prevention plan may be included as part of a Storm Water Pollution Prevention Plan and implementation of Best Management Practices (see Mitigation Measure HYDRO-2).

129. Mitigation Measure HAZ-2a: The project sponsor must ensure that a lead-based paint and asbestos survey (including the analysis of suspect materials, as appropriate) is prepared by a qualified environmental professional for all buildings to be demolished. This survey must be submitted to the City prior to the issuance of any demolition permit. If asbestos-containing materials are determined to be present, the materials must be abated prior to demolition by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District (BAAQMD). If lead-based paint is identified, the paint must be removed by a qualified lead abatement contractor. Specifications developed for the demolition activities must include the proper packaging, manifesting, and transport of demolition wastes by trained workers to a permitted facility for disposal, in accordance with local, State, and Federal requirements.
130. Mitigation Measure HAZ-2b: The project sponsor must ensure that a health and safety plan is prepared and implemented by a qualified environmental professional for all workers involved in building removal or demolition activities. The purpose of the health and safety plan must be to mitigate potential exposure of workers to asbestos, lead-based paint, or other hazardous building materials, if present. The plan must specify training and certification requirements, air monitoring requirements, personal protective equipment for workers, engineering controls and work practices, housekeeping procedures, hygiene facilities, medical surveillance requirements, project monitoring/supervision, required permits, and other items for protection of workers involved in demolition activities, and public health protection as required by local, State, and Federal requirements. The health and safety plan must be included in the demolition specifications prepared as part of Mitigation Measure HAZ-2a.
131. Mitigation Measure HAZ-2c: Containers of potentially hazardous materials identified during the site reconnaissance visits must be removed prior to site development activities. Prior to removal, the containers must be examined by a qualified environmental professional, and if the containers are found to contain

material, samples of the material must be collected by environmental personnel for purpose of profiling the material prior to transport. Analysis of samples must be conducted by a California-certified laboratory, under chain-of-custody procedures. Once the contents of the containers have been profiled, the container with its contents must be removed from the site by an environmental professional and transported to an appropriate facility for recycling or disposal, as appropriate, in accordance with local, State, and Federal requirements for hazardous waste management. The project sponsor must ensure that documentation regarding the removal of any containers of hazardous materials from the project site is reviewed by the City of Benicia Planning and Building divisions, prior to issuance of a grading permit.

132. Mitigation Measure HAZ-2d: Other hazardous materials and wastes generated during demolition activities, such as fluorescent light tubes and computer displays, must be managed and disposed of by the demolition contractor in accordance with the applicable hazardous waste regulations. The demolition specifications (see Mitigation Measure HAZ-2a) must include provisions for appropriate off-site disposal of these materials in accordance with applicable regulations.
133. Mitigation Measure HAZ-3a: The contractor must prepare and implement a fire prevention and preparedness plan during site development activities. The plan must be prepared prior to the start of earth working activities at the site and must be reviewed and approved by the City of Benicia Fire Department prior to issuance of a building permit. The plan must designate an on-site employee responsible for plan implementation and include potential fire hazards; on-site fire prevention measures during construction (e.g. parking of vehicles away from flammable materials, availability of fire extinguishers, preventing idling of vehicles, use of spark arrestors on heavy equipment); emergency response procedures for fires, including evacuation routes and places of safe refuge; and, procedures for contacting emergency responders in the event of a fire. Workers involved in site development activities must receive training in these procedures at the start of site development activities. The fire prevention and preparedness plan may be prepared as part of other required plans.
134. Mitigation Measure HAZ-3b: The project sponsor must comply with requirements for maintaining fire breaks, and other fire protection regulations of the Uniform Fire Code.
135. Mitigation Measure HAZ-4a: The project sponsor must ensure that the entire project site has been fully characterized for the presence of ordnance and explosives (OE) and hazardous materials prior to the start of earthwork activities and site development activities (in accordance with General Plan policies 4.7.3 and 4.7.5). The site characterization may be based on previous investigations completed and/or new investigations completed by a qualified environmental professional. Past land uses of the property with potential hazardous materials or OE uses must be considered in characterizing the site. The site characterization

must occur under the oversight of a regulatory agency (e.g. SCEHS or DTSC), and must demonstrate that the site will not pose an unacceptable human health or safety risk to construction workers or future site occupants based on the proposed land use (e.g., Cal/EPA California Human Health Screening Levels for hazardous materials for commercial/industrial uses, or risk-based Benicia Screening Levels for soil). Criteria for determining whether the site poses an unacceptable human health or safety risk must be approved by the regulatory oversight agency. A report documenting characterization of the site must be prepared by a qualified environmental professional and submitted to the regulatory oversight agency and City prior to acquiring a site grading permit. Any remediation actions required to achieve the health and safety criteria above must also be overseen by the selected agency, and must be completed prior to site development by a qualified environmental professional. Specific remedies would depend on the extent and magnitude of contamination and requirements of the regulatory agency. Requirements of the regulatory oversight agency for site remediation must also be adhered to, including preparation of a health and safety plan, an assessment of health impacts associated with excavation activities, identification of standards that may be exceeded by any remedial actions (including dust levels), management of wastes removed, and risk of public upset must there be an accident during site remediation activities. Site remediation activities must be completed and certified by the regulatory oversight agency prior to application for a site grading permit (in accordance with General Plan Policy 4.7.7).

136. Mitigation Measure HAZ-4b: If any known or suspected ordnance or explosives are encountered during earthwork activities on-site, construction in that area must be immediately halted and all personnel must vacate the area. The contractor must then contact the 911 emergency system to report the emergency and request assistance. Ordnance and explosives discovery procedures must be documented by the contractor prior to the start of earthwork activities; posted in the work area, and discussed with all on-site personnel prior to work on the site. (These procedures may be developed as part of other required plans, see mitigation measures discussed above). The local responding agency (e.g. Benicia Police Department or Fire Department) must contact the Sacramento District of the Army Corps of Engineers and Department of Toxic Substances Control to assist in removal of any identified OE, and to determine if further action is needed prior to the time that site development work resumes in the area. Work must not resume in the affected area until the area it is deemed safe to do so by the local responding agency, and/or the Sacramento District of the Army Corps of Engineers and Department of Toxic Substances Control.

137. Mitigation Measure HAZ-4c: If contaminated soil is encountered or suspected during site development activities (through soil discoloration or odor), all work must halt in the immediate area and personnel must immediately vacate the area and notify Solano County Environmental Health Services (SCEHS). Soil samples must be collected by a qualified environmental professional (e.g. registered geologist, professional engineer) prior to further work in the area. The samples must be submitted for laboratory analysis by a State-certified laboratory under

chain-of-custody procedures. The analytical methods must be selected by the environmental professional based on the suspected contamination and consideration of historical land uses of the site and any previous analyses completed for soil samples collected in the areas, if applicable. The analytical results must be provided to SCEHS and reviewed by a qualified environmental professional. The professional must provide recommendations, as applicable, regarding soil management, worker health and safety training, and regulatory agency notifications, in accordance with local, State, and Federal requirements. Work must not resume in this area(s) until these recommendations have been implemented under the oversight of SCEHS.

138. Mitigation Measure HAZ-4d: The contractor involved in site grading and site development activities must ensure that underground pipelines (e.g. the water pipelines associated with the Benicia Water Treatment Plant) or other underground or aboveground utilities within the project site are identified and clearly marked prior to earthworking activities to avoid unexpected contact with these utilities. Emergency procedures that can be implemented in the event utilities are ruptured must be developed by the contractor; these procedures must be reviewed and approved by the City Engineering Division of the Public Works Department, prior to implementation. On-site workers must be trained in how to implement these procedures. (These procedures may be developed as part of other plans required by the mitigation measures discussed above).

139. Mitigation Measure BIO-1: Prior to site development, a tree report must be prepared by an arborist or biologist to identify the location, size, and health of trees on the site, and the trees that would be preserved and removed during construction of the project. The report must also specify measures to protect all preserved trees during construction, including through the creation of Tree Protection Zones. The sponsor must apply for a Tree Permit for the removal of all protected trees. As part of the Tree Permit, an arborist or biologist must develop a tree replacement program in accordance with the City's tree ordinance. Two 15-gallon trees are generally required for the replacement of each mature tree that is removed. In some cases, one or two 24-inch box trees, or a mature tree is required for the replacement of one mature tree. Mitigation for the removal of protected red willow trees along the stream channels and wetlands must be implemented in conjunction with the wetland mitigation measures as described in Mitigation Measure BIO-2a.

140. Mitigation Measure BIO-2a: The project sponsor must obtain the appropriate Federal and State permits authorizing fill of wetlands or waters and must provide copies of the permits to the City prior to issuance of a grading permit. All work in jurisdictional areas and non-jurisdictional waters of the State must be in compliance with all terms and conditions of the permits.

141. Mitigation Measure BIO-2b: The project sponsor must implement the wetland mitigation and monitoring plan prepared by Sycamore Associates as modified to reflect wetlands impacts that would occur as part of the mitigated project. The

revised wetlands mitigation and monitoring plan shall be implemented as mitigation for impacts to jurisdictional wetlands and waters of the United States, and implement the recommendations and revisions to the original mitigation plan in the subsequent mitigation feasibility report prepared by WRA (as modified to reflect the mitigated project). The mitigation plan and recommendations of the feasibility report are incorporated into this mitigation measure by reference and together are referred to as the mitigation plans. The plan details the mitigation design, wetland planting design, maintenance and monitoring requirements, reporting requirements, and success criteria. This plan must be approved by the U.S. Army Corps of Engineers (USACE) and the City prior to implementation. As detailed in the mitigation plans, created wetlands must be monitored for a minimum of 5 years. Annual monitoring of each site must include: 1) observation of existing and developing problems and recommendations for remedial actions; 2) an assessment of creation of wetland habitats; 3) a formal wetland delineation in year 5; 4) notation of invasive exotic species; 5) measurement of willow survival; and 6) photo-documentation. Monitoring visits must be made in the winter and spring of each year and quantitative data must be collected in the spring. Annual reports must be submitted each fall to the Corps and the City for review. At the end of the 5-year monitoring period, the Corps and the City must review the reports and determine if the success criteria have been met. If the success criteria have not been achieved at the end of the 5-year monitoring period, remedial measures must be identified in consultation with the City and USACE. Remedial measures could include grading, planting, seeding, exotic/invasive vegetation control, and/or an extension of the maintenance or monitoring period. Remedial measures must be implemented by the project sponsor.

142. Mitigation Measure BIO-2c: A contractor education program must be created and initiated by the project restoration specialist prior to the initiation of ground disturbing activities. The purpose of this program must be to inform the contractors about the mitigation measures being implemented onsite, the biology and life history of special-status species that may be present, the areas to be preserved and avoided during construction, and the measures being implemented to avoid the impacts to these species during construction. During construction, wetlands to be preserved must be clearly marked with flagging and/or construction fencing. During construction in the vicinity of jurisdictional wetlands and non-wetland waters of the United States, the project restoration specialist must conduct periodic site visits (once every week or once every two weeks, depending on the level of activity) to provide direction and ensure protection of sensitive resources and permit compliance.

143. Mitigation Measure BIO-2d: During project construction, no material must be allowed to enter or be stored in any wetlands that are to be preserved. Project related dirt and other material must be kept sufficiently far away from preserved wetlands and drainages to prevent material from entering these features. If earthmoving activities or material stockpiling occurs upslope from a preserved wetland or drainage, silt fencing must be installed around the preserved feature to prevent soil from entering the wetland or drainage. Silt fencing must be installed

at the least 5 feet from the edges of preserved wetlands and drainages. Silt fencing must also be installed around preserved features whenever earthmoving activities or material stockpiling occurs within 20 feet of a preserved feature. All equipment washing must occur downslope from preserved wetlands to prevent the runoff from entering the preserved wetlands. Berms or other barriers must be constructed outside of preserved wetlands or drainages to prevent wash water runoff from entering the preserved wetlands.

144. Mitigation Measure BIO-2e: A conservation easement (or similar restriction) must be established over the preserved and created wetlands to preserve these wetlands in perpetuity. A designated public agency, conservation group, or open space organization must hold the easement to ensure retention of the wetland mitigation site (including the mitigation wetlands and the associated uplands) in perpetuity as wetland habitat.
145. Mitigation Measure BIO-2f: The project sponsor must provide financial assurances of a type (i.e. bond, letter of credit) and amount to be determined by the Corps and the City to ensure successful implementation of the mitigation and monitoring plan. The project sponsor must also provide a long-term funding mechanism for the maintenance of the wetlands in the conservation easements in perpetuity.
146. Mitigation Measure BIO-3: Prior to construction of the project, a survey must be conducted for pappose tarplant, to locate and map any individuals of this species on the site and to estimate the population size. If pappose tarplant is found on the site, then the following standards and procedures must be implemented. If feasible, impacts to these plants must be avoided completely. If complete avoidance is not possible, the extent of impact will be minimized to the extent possible by the proposed development project. The project sponsor and City, in consultation with a qualified botanist, must determine the feasibility of implementing avoidance measures and must develop and implement those measures based on the botanist's recommendations and field assistance. Avoidance measures include redesigning the project footprint, avoiding changes in the hydrology of the plants' habitat, fencing the existing plants with ESA fencing prior to construction and establishing a buffer zone, and training construction personnel to identify this species. Long-term avoidance measures must also be developed to ensure the long-term stability of the population. If impacts to pappose tarplant are unavoidable, the project sponsor must develop and implement a salvage and recovery plan for individuals prior to initiation of construction activities on the site. The mitigation, which must be prepared by a qualified botanist experienced in the development and implementation of native plant restoration, mitigation, and management plans, must include the following:
- Salvage and/or recovery requirements, including clearly defined goals focusing on plant establishment (stability, succession, reproduction) and non-native species control measures.

- Locations and procedures for restoration/replanting of salvaged plant material including seeds. Onsite relocation in the undeveloped areas of the site must be considered if suitable habitat for this species is present.
- The project sponsor must document the progress/success of the revegetation effort, subject to approval by CDFG. If the revegetation is not successful, an additional period of correction and monitoring must be specified.
- Specification of a 5-year post-construction maintenance and monitoring program by a qualified restoration team to ensure that the project goals and performance standards are being met. The monitoring program must include provision for remedial actions to correct deficiencies, as needed. After 5 years, the species relocation must be considered successful if the number of plants that were removed on the site is successfully established at the mitigation site at a minimum of a 1:1 ratio. Annual reports and a final report prepared by the project sponsor and subject to approval by CDFG must document the progress/success of the revegetation effort. If the revegetation is not successful, an additional period of correction and monitoring must be specified.
- The project sponsor must provide and secure a source of funding for this salvage and monitoring operation.
- The mitigation must be considered a success if for the last 3 years of the 5-year monitoring program, the numbers of pappose tarplants has remained above the number of individuals that were adversely affected by the project (1:1 mitigation). The populations must show no sign of decline during this period. In addition, for at least the last 4 out of 5 monitoring years, the growth of grass, presence of thatch, and growth of weeds must not hinder tarplant plants. Grazing is a potential management tool to reduce competition from non-native grasses and weeds. If the mitigation is unsuccessful after 5 years because the number of tarplants is less than a 1:1 ratio during the last 3 monitoring years (Years 3, 4 and 5), then monitoring could be continued for a 6th year if it is feasible that a 1:1 ratio could be achieved for Years 4, 5, and 6. If the lack of success after 5 years suggests that a 6th year of monitoring is not warranted, off-site mitigation land that supports this species must be purchased. The purchase of these lands must be approved by the City or CDFG.

147. Mitigation Measure BIO-4a: Surveys to assess the presence of Pacific Pond Turtles must be conducted in the vicinity of the onsite stream channels. The surveys must be conducted to identify basking sites and potential nesting areas and must occur during the spring or summer when the turtles are active and observable. Surveys must be conducted in the spring or summer prior to the start of construction and the issuance of a building or grading permit. If pond turtles are present, measures must be implemented to avoid turtles during construction and relocate any turtles found in work areas. A pre-construction survey must be conducted no more than 48 hours prior to ground disturbing activities within areas inhabited by turtles. Areas inhabited by turtles must be fenced and avoided during construction activities. If pond turtles are observed within the construction area at

any time, a qualified biologist must move the turtles to a safe location at least 500 feet from the construction zone. Turtle relocations must be approved by CDFG and carried out by a qualified biologist.

148. Mitigation Measure BIO-4b: Protocol-level surveys for California Red-Legged Frogs must be conducted according to the August 2005 protocol in all areas of the site that provide suitable habitat for this species. The results of the surveys must be provided to the City at the same time that the survey results are provided to the USFWS and CDFG. Surveys for Pacific Pond Turtles may be conducted at the same time as the surveys for Red-Legged Frogs. If no Red-Legged Frogs are observed during the survey, no additional mitigation beyond the protection and avoidance measures stipulated below and those stipulated in permits issued by the USACE, USFWS, and CDFG must be required. If California Red-Legged Frogs are observed on the site during the surveys, the project sponsor must develop and implement a USFWS-approved mitigation plan to compensate for the loss of red-legged frog habitat on the site. The mitigation plan must provide mitigation at a ratio of 3:1 for all adversely affected habitat (either direct or indirect) and must provide a buffer of 300 feet around all preserved aquatic habitats onsite. Detailed protection measures must be included in the plan. The plan must also identify a secure funding source to provide for the maintenance of mitigation sites in perpetuity. All mitigation sites must be placed in a conservation easement to preserve the sites as wildlife and plant habitat in perpetuity. The easements must be held by CDFG, or the City of Benicia. The sponsor must provide evidence of compliance with the mitigation requirements of the USACE, USFWS, and CDFG prior to issuance of a grading permit.

149. Mitigation Measure BIO-4c: If no California Red-Legged Frogs are observed during the surveys, and the USFWS and CDFG concur with the findings of the surveys, then the sponsor must comply with protection measures required by the USACE, USFWS or CDFG. At a minimum, the following protection measures must be implemented.

- A qualified biologist must monitor all construction or ground disturbing activities within 300 feet of suitable red-legged frog aquatic habitat.
- Immediately prior to ground disturbance or construction activities in areas with aquatic habitats or within 300 feet of aquatic habitats, a qualified biologist must survey the work area for California Red-Legged Frogs.

If Red-Legged Frogs are found within the work area, all work must cease and the occurrence must be reported immediately to the City, USFWS and CDFG. Work onsite must resume only when authorized by the USFWS. If Red-Legged Frogs are found, a report must be prepared at the end of each construction season detailing the results of the monitoring effort. The report must be submitted to the City by November 30 of each year.

150. Mitigation Measure BIO-5a: A qualified biologist must conduct raptor and passerine nest surveys prior to tree pruning, tree removal, ground disturbing activities, or construction activities on the site to locate any active nests on or immediately adjacent to the site. Preconstruction surveys must be conducted no

more than 14 days prior to the start of pruning, construction, or ground disturbing activities if the activities occur during the nesting season (February 1 and August 31). Preconstruction surveys for nesting raptors must be conducted on a minimum of 3 separate days during the 14 days prior to disturbance. Preconstruction surveys must be repeated at 30-day intervals until construction has been initiated in the area. Locations of active nests must be described and protective measures implemented. Protective measures must include establishment of clearly delineated (i.e. orange construction fencing) avoidance areas around each nest site that are a minimum of 500 feet from the dripline of the nest tree or nest for raptors and 50 feet for passerines. The active nest sites within an exclusion zone must be monitored on a weekly basis throughout the nesting season to identify any signs of disturbance. These protection measures must remain in effect until the young have left the nest and are foraging independently or the nest is no longer active. A report must be submitted to the City at the end of the construction season documenting the observations made during monitoring.

151. Mitigation Measure BIO-5b: A preconstruction survey must be conducted no more than 30 days prior to demolition or removal of the abandoned barn. If no owls are observed, then demolition or removal may proceed. If Barn Owls (or other owls species) are observed during the preconstruction survey, a determination must be made on whether birds are roosting or nesting. If a single owl is roosting, demolition or removal of the structure can proceed after the owl has been persuaded to move from the roost area. Non-invasive techniques include light shining into the roost space for one or two nights and days. If Barn Owls (or other owls species) are found to be actively nesting in the barn, any work on or demolition of the structure must be postponed until one of the following conditions have been met: 1) a qualified biologist monitoring the nest determines that the owls have abandoned the nest without any outside interference or 2) a qualified biologist monitoring the nest has determined that the young have fledged and are capable of relocating and using another roost site. Under either scenario, the monitor must ensure that all owls have left the building prior to demolition activities. Once the young have fledged, non-invasive techniques may be used to encourage the owls to leave the barn. The Barn Owl nesting period is typically between February 15 and July 15. Buildings being used by nesting owls must be fenced and designated off-limits to prevent entry into the buildings.

152. Mitigation Measure BIO-6a: Preconstruction surveys must be conducted for Burrowing Owls prior to site preparation, grading and construction. These surveys must conform to the survey protocol established by the California Burrowing Owl Consortium. Preconstruction surveys must be conducted no more than 30 days prior to the initiation of construction activities and at 30-day intervals if construction activities have not been initiated in an area. The following measures must also apply:

- a) If Burrowing Owls are found onsite, they must be avoided to the extent practicable, as determined by the City in consultation with the California Department of Fish and Game. A clearly defined area (i.e. an area demarcated by orange construction fencing) must be established around

each Burrowing Owl burrow to be avoided. No disturbance must occur within 50 meters (approx. 160 feet) of occupied burrows during the non-breeding season of September 1 through January 31 or within 75 meters (approximately 250 feet) during the breeding season of February 1 through August 31.

- b) If Burrowing Owls occur at the project site and construction would begin before February or after the end of August, and the burrows cannot be avoided, then passive relocation techniques may be used to relocate owls from the site. These passive relocation techniques would include excavating all potential burrows after excluding owls from the burrow for the required length of time. Passive relocation must be undertaken according to the current protocol established by the CDFG. Artificial burrows must be provided on the mitigation site for each occupied burrow destroyed at the project site at a ratio of 2:1 (two artificial burrows created for each occupied burrow destroyed).
- c) If Western Burrowing Owl occurs at the project site and construction would begin during the breeding season (February through August), then a buffer of a radius of 75 meters (approximately 250 feet) must be established around any burrows containing owls.
- d) Removal of Burrowing Owls at the project site must conform to the requirements of CDFG's Staff Report on Burrowing Owl Mitigation. This must entail establishing 6.5 acres of suitable habitat for each pair of Burrowing Owls displaced from the project site. These 6.5 acres must be adjacent to an area already used by Burrowing Owls. The replacement mitigation site must be preserved in perpetuity for use as Burrowing Owl and wildlife habitat. An endowment for management and monitoring the site must also be established.

153. Mitigation Measure BIO-6b: As an alternative to purchasing land as mitigation for Burrowing Owls, the sponsor may purchase credits at a CDFG-approved mitigation bank authorized to sell credits for Burrowing Owl mitigation. The number of credits to be purchased must be equivalent to purchasing 6.5 acres per pair or single bird observed on the site. The final mitigation requirement must be determined following the completion of the protocol-level survey. The sponsor must provide the City with evidence of completion of the mitigation or purchase of mitigation credits prior to the issuance of a grading permit.

154. Mitigation Measure BIO-7: A qualified biologist must conduct surveys of the grassland habitat onsite to identify any badger burrows. These surveys must be conducted no sooner than 2 weeks prior to the start of construction. Impacts to active badger dens must be avoided by establishing exclusion zones around all active badger dens, within which construction related activities must be prohibited until denning is complete or the den is abandoned. A qualified biologist must monitor each den once per week in order to track the status and inform the project sponsor of when a den area has been cleared for construction. Surveys for badger dens may be conducted at the same time as Burrowing Owl surveys.

155. Mitigation Measure BIO-8a: Preconstruction surveys for bat roosts must be conducted in all buildings or trees that will be removed or modified. The survey must take place no more than 30 days prior to construction/demolition/removal activities. Preconstruction surveys must be repeated if demolition or construction activities are delayed more than 30 days.
156. Mitigation Measure BIO-8b: If a bat roost is found in a building or tree cavity, the species of bat using the roost must be identified and methods to encourage the bats to leave the roost or to prevent them from returning to the roost must be implemented prior to roost removal. A mitigation plan must be developed to specify the methods to be used and the timing of the activities, and this mitigation plan must be submitted to the City for review and approval.
157. Mitigation Measure BIO-8c: Materials from roost sites must be salvaged, when feasible, to be used in the construction of artificial roosts.
158. Mitigation Measure BIO-8d: If special-status bats (i.e. Pallid Bat, Pale Townsend's Big-Eared Bat) are found onsite, and the roost would be destroyed during development, an artificial roost must be provided for the bats. The roost must be constructed and placed onsite prior to removal of the original roost. A mitigation plan specifying the construction details and siting of the structure must be prepared and approved by the City and CDFG prior to removal of the existing roost. The sponsor must provide a secure source of funding for the monitoring of the artificial roost for a period of at least 5 years. A report documenting the implementation of the plan must be provided to the City within 1 month of completion of the artificial roost. The plan must be completed and implemented prior to the issuance of the grading permit.
159. Mitigation Measure BIO-8e: Removal of maternity roosts for special-status bats must be coordinated with CDFG prior to removal. Maternity roosts for any species of bat, either common or special-status, must not be demolished until the young are able to fly independently of their mothers.
160. Mitigation Measure TRANS-11: The project sponsor must install and pay for the following improvement without Transportation Impact Fee credits: Signalize the intersection of East 2nd Street, Park Road and the new access road: this intersection meets Signal Warrant 11, Peak Hour Volumes for both the AM and PM peak hours. Reconfigure NB approach to provide two exclusive left turn lanes, and one through-right lane. Reconfigure SB approach to provide one two exclusive left-turn lanes and one through-right lane. Reconfigure EB approach to provide one shared through-right lane, and one exclusive left-turn lane. Reconfigure WB approach to provide one shared through-left lane, and one exclusive right-turn lane.
161. Mitigation Measure TRANS-12: The project sponsor must install and pay for the following improvement to East 2nd Street and Industrial Way without Transportation Impact Fee credits: Reconfigure SB approach to provide one

~~exclusive left-turn lane, one through lane, and two exclusive right-turn lanes. Reconfigure EB approach to provide two exclusive left-turn lanes, one through lane, and one exclusive right-turn lane. Reconfigure WB approach to provide one exclusive left-turn lane, two through lanes, and one exclusive right-turn lane. Overlap the SB right-turn movement with the protected EB left-turn movement.~~

162. ~~DELETED Mitigation Measure TRANS-13:~~ The project sponsor must install and pay for the following improvement to East 2nd Street and Rose Drive without Transportation Impact Fee credits: ~~Reconfigure SB approach to provide two through lanes, and one exclusive right-turn lane. Reconfigure NB approach to provide two exclusive left-turn lanes, and two through lanes. Reconfigure EB approach to provide one exclusive left-turn lane, one shared left-right lane, and one exclusive right-turn lane.~~

163. Mitigation Measure TRANS-14: The project sponsor must install and pay for the following improvement to East 2nd Street and the I-780 Westbound Ramps without Transportation Impact Fee credits: Reconfigure NB approach to provide one exclusive left-turn lane, one through lane, and one exclusive through-right lane. Reconfigure SB approach to provide one exclusive left-turn lane, one shared through-right lane, and one exclusive right-turn lane.

164. Mitigation Measure TRANS-15: The project sponsor must install and pay for the following improvement to East 2nd Street and the I-780 Eastbound Ramps without Transportation Impact Fee credits: Reconfigure WB approach to provide one shared left-right turn lane, and one free right-turn lane.

165. Mitigation Measure TRANS-16: The project sponsor must install and pay for the following improvement to Lake Herman Road and the extension of Industrial Way without Transportation Impact Fee credits: Signalize intersection: this intersection meets Signal Warrant 11, Peak Hour Volumes for both the AM and PM peak hours.

166. Mitigation Measure TRANS-17: The project sponsor must install and pay for the following improvement to Lake Herman Road and East 2nd Street without Transportation Impact Fee credits (although signalization improvements may be eligible for a Transportation Impact Fee credit):

The following improvement was recommended for Cumulative Conditions:

Signalize the intersection of Lake Herman Road and East 2nd Street as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours.

In addition, the following improvement is recommended for Cumulative Plus Project Conditions:

- ~~Widen Lake Herman Road from the intersection of A Street/Lake Herman Road to the intersection of Lake Herman Road/I-680. Reconfigure the NB approach to provide one shared through-left lane, and two right-turn lanes. Reconfigure the EB approach to provide one exclusive left-turn lane, one~~

through lane, and one through-right lane. Reconfigure the WB approach to provide two exclusive left-turn lanes, one through lane, and one through-right lane. Protect the EB and WB left-turn movements. Overlap the two NB right-turn lanes with the WB left-turn movement.

- ~~Implementation of the identified improvements would result in this intersection operating at an acceptable LOS B and LOS D with delays of 19.3 and 36.4 seconds for the AM and PM peak hours, respectively. This improvement must be included in a comprehensive plan to improve the operation of the I-680/ Industrial Way/Lake Herman Road interchange complex, consistent with the goals and policies of the City's General Plan.~~

167. Mitigation Measure TRANS-18: The project sponsor must install and pay for the following improvement to Lake Herman Road and the I-680 Southbound Ramps without Transportation Impact Fee credits: Signalize intersection as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours. Widen Lake Herman Road from the intersection of A Street/Lake Herman Road to the intersection of Lake Herman Road/I-680. Reconfigure WB approach to provide one exclusive left-turn lane, and one through lane. Reconfigure SB approach to include one all-movement lane and one right-turn lane. This improvement must be included in a comprehensive plan to improve the operation of the I-680/Industrial Way/Lake Herman Road interchange complex, consistent with the goals and policies of the City's General Plan.

168. Mitigation Measure TRANS-19: The project sponsor must install and pay for the following improvement to Lake Herman Road, the I-680 Northbound Ramps and Goodyear Road without Transportation Impact Fee credits: Signalize intersection as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours. Widen Lake Herman Road from the intersection of A Street/Lake Herman Road to the intersection of Lake Herman Road/I-680. Reconfigure NB approach to provide one exclusive left turn lane, and one shared through right lane. Reconfigure EB approach to provide one exclusive left turn lane, one shared through right lane, and one exclusive right turn lane. Reconfigure WB approach to provide one exclusive left turn lane, and one shared through right lane. This improvement must be included in a comprehensive plan to improve the operation of the I-680/Industrial Way/Lake Herman Road interchange complex, consistent with the goals and policies of the City's General Plan.

169. Mitigation Measure TRANS-20: The project sponsor must install and pay for their fair share of the costs (in the form of traffic impact fees) for the installation of traffic signalization at the intersection of the following improvement to Park Road and Industrial Way. without Transportation Impact Fee credits: Signalize intersection as it meets Signal Warrant 11, Peak Hour Volumes for the AM and PM peak hours.

170. Mitigation Measure TRANS-21: The project sponsor must install and pay for the following improvement to Park Road and Bayshore Road without Transportation

Impact Fee credits: Signalize the intersection. Though the intersection would not meet signal warrants, the only other possible improvements would require extensive widening, including dual left-turns and dual right-turns. Typically, dual turn lanes are not recommended for at stop controlled intersections for driver confusion and safety reasons. Reconfigure SB approach to provide two exclusive left turn lanes, and one shared through right lane. Reconfigure WB approach to provide one shared through left lane, and two exclusive right turn lanes.

171. Mitigation Measure TRANS-23 (as modified by the City Council): The project sponsor must be responsible for the cost to extend Benicia Transit (Benicia Breeze) to and within the project site. Current routes which connect Benicia with Pleasant Hill BART Station, Baylink Ferry Terminal, and other destinations in Solano County do not currently serve the project site. These costs must include all capital costs (i.e. buses, transit shelters, and signage) associated with build-out of the Benicia Business Park.

172. Mitigation Measure TRANS-24 (as modified by the City Council): The project sponsor must incorporate the following design elements and services into the proposed development plans to minimize potential pedestrian and bicycle facility impacts. Bicycle facilities would be developed along East 2nd Street and Industrial Way as part of the project.

- Pedestrian sidewalks connecting all major buildings and parking areas within the project site;
- Pedestrian routes between cul-de-sacs and adjacent parcels;
- Crosswalks at all areas where there may be potential pedestrian/vehicular conflicts;
- Bicycle racks at all building entrances, and shower facilities for bicyclists;
- and
- Incentives for individual buildings to contain showers and lockers, and secure indoor bicycle lockers;
- Sidewalks along East 2nd Street, A Street, and Industrial Way;
- Sidewalks along Lake Herman Road (between A Street and East 2nd Street);
- and
- Class I/II Bikeway along Lake Herman Road (between A Street and I-680);
- Class II/III Bikeway along Lake Herman Road (between Industrial Way and A Street);
- Class I Bikeway between East 2nd Street and Lake Herman Road in the project site;
- Class I Bikeway between Channel Road and East 2nd Street; and
- Parking and building leases at the Business Park must be "unbundled" (i.e. rents for building space and parking lots must be separate). Businesses at the Business Park that have 50 or more employees and provide employee parking on a free or subsidized basis must provide financial compensation to those employees who commute by means other than private automobile, in accordance with CA Health and Safety Code 43845.

173. Mitigation Measure TRANS-25: Prior to the issuance of each building permit, the project sponsor and construction contractor must meet with the Benicia Public Works Department and other appropriate City of Benicia agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction of the project. The project sponsor must develop a construction management plan for review and approval by the City Public Works Department. The plan must include at least the following items and requirements:

- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, provisions for truck queuing, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
- Identification of any transit stop relocations.
- Provisions for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.
- Identification of parking space removal and any relocation of parking for employees, and public parking during construction.
- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur.
- Provisions for accommodation of pedestrian flow.
- No construction traffic must be allowed on East 2nd Street south of Industrial Way, and on Lake Herman Road and Reservoir Road.
- Location of construction staging areas for materials, equipment, and vehicles.
- Identification of haul routes for movement of construction vehicles that would minimize impacts on vehicular and pedestrian traffic, circulation and safety; and provisions for monitoring surface streets used for haul routes so that any damage and debris attributable to the haul trucks can be identified and corrected by the project sponsor.
- A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager.

174. Mitigation Measure TRANS-26: The project sponsor must prepare an overall construction traffic management plan to limit the effects of trucks and other construction traffic on surface conditions of area roads and intersections. This plan must be prepared in coordination with the City of Benicia, and must include the following provisions:

- Prior to implementation of the proposed project, the project sponsor must survey the condition of truck access route roadways and prepare an existing conditions report to document roadway baseline conditions.
- During the construction of the project, or periodically throughout the project's construction period, the project sponsor must make periodic improvements to area roadways to maintain minimum standards, including clean-up of construction debris (e.g. sand and gravel) and spot repaving of potholes or other pavement section damage.
- Upon completion of all or most of project construction activities, the project sponsor must identify any impacts to roadway conditions. The project sponsor

must install improvements and/or pay an impact fee to mitigate any damage to the existing street pavements on East 2nd Street, Industrial Way, and Lake Herman Road to/from the project site caused by heavy construction traffic accessing the project site, as determined by the City Engineer.

175. Mitigation Measure AIR-1: Consistent with guidance from the BAAQMD, the following actions must be required of construction contracts and specifications for the project. The following controls must be implemented at all construction sites:

- Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses must be kept damp at all times, or must be treated with non-toxic stabilizers to control dust;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers must vacuum up excess water to avoid runoff-related impacts to water quality;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
- 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 traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Install baserock at entryways for all exiting trucks, and wash off the tires or tracks of all trucks and equipment in designated areas before leaving the site; and
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

176. Mitigation Measure AIR-2 (as modified by the City Council): The *BAAQMD CEQA Guidelines* identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project. The project must provide as many of the following measures as practicable:

- Provide transit facilities (e.g. bus bulbs/turnouts, benches, shelters).
- Provide bicycle lanes and/or paths, connected to a community-wide network.
- Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
- Provide secure and conveniently located bicycle storage.

- Implement feasible Trip Demand Management (TDM) measures, including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.
- A park-and-ride site as needed to serve the project.

The implementation of an aggressive trip reduction program with the appropriate incentives for non-auto travel can reduce project impacts by approximately 10 to 15 percent. A reduction of this magnitude would not reduce PM₁₀ or ozone precursor emissions to levels below the BAAQMD significance threshold. There is no mitigation available with currently feasible technology to reduce the project's regional air quality impact to a less-than-significant level.

177. Mitigation Measure NOI-1a: During all project site excavation and on-site grading, the project contractors must equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards.
178. Mitigation Measure NOI-1b: The project contractor must place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
179. Mitigation Measure NOI-1c: The construction contractor must locate equipment staging in areas that will create the greatest possible distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
180. Mitigation Measure NOI-1d: The construction contractor must ensure that all general construction related activities are restricted to the hours of 7:00 a.m. and 10:00 p.m.; with the exception of all excavating, grading, and filling activity, which must be restricted to the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.
181. Mitigation Measure NOI-2a: For all hotels built at the project site that include outdoor activity areas, **one** (or more) of the following measures must be implemented:
- All hotel outdoor activity areas must be located so that they are completely sheltered by the hotel building from direct exposure to both Lake Herman Road and East 2nd Street; or
 - All hotel outdoor activity areas must be located at a distance greater than 93 feet from the centerline of the outermost travel lane of Lake Herman Road and also at a distance greater than 122 feet from the centerline of the outermost travel lane of East 2nd Street; or
 - A sound barrier at least 8-feet-high must be constructed around all outdoor hotel activity areas that are located within 57 feet of the centerline of the outermost travel lane of the East 2nd Street roadway segment; a 6-foot-high sound barrier must be constructed around all outdoor activity areas located

between 57 feet and 122 feet from the centerline of the outermost travel lane of the East 2nd Street roadway segment.

182. Mitigation Measure NOI-2b: If a sound study confirms that the interior noise level without sound-attenuated ventilation systems would exceed the City's standards, sound-attenuated ventilation systems, such as air conditioning, must be installed in all buildings that require good speech intelligibility (as outlined in sub-note 5 of Table IV.I-4) for buildings located as follows:

- Within 199 feet from the centerline of the outermost travel lane of Lake Herman Road; and
- Within 263 feet from the centerline of the outermost travel lane of East 2nd Street.

183. Mitigation Measure NOI-2c: For existing unprotected residential and school land uses along East 2nd Street from I-780 to Rose Drive, one (or more) of the following measures must be implemented:

- A sound barrier at least 8-feet high must be constructed along the property/right-of-way line of sensitive receptors along this roadway segment; or
- Rubberized asphalt must be used to resurface the entire identified roadway segment.

184. Mitigation Measure VIS-1: The sponsor must develop a detailed landscape plan that includes landscape screening designed to protect views from public roadways, including Lake Herman Road and I-680. The landscape plan must also address the project's effect on views from the residential neighborhood to the southwest of the project site. Final landscaping plans must include provisions for street and site tree plantings that would be designed to at least partially screen views of the buildings from off-site viewpoints within 5 years of planting. The final landscaping plan must be reviewed and approved by City staff.

185. Mitigation Measure VIS-2a: Implement Mitigation Measure VIS-1.

186. Mitigation Measure VIS-2b: The final building designs must include wall articulation and varied rooflines. Prior to the approval of a building permit for an individual building at the project site, the City of Benicia Planning Department must ensure that building plans include variations in exterior wall depth, varied rooflines, appropriate buildings materials and colors and the use of landscaping to break up continuous walls through the City's Design Review process.

187. Mitigation Measure VIS-3a: Both water tanks must be set on graded pads set 30 feet into the hillsides so that the tops of the water tanks are not visible from Lake Herman Road.

188. Mitigation Measure VIS-3b: The proposed water tanks must be painted an earth tone color, such as clay or sienna, that blends into the adjacent landscape. The

color must be subject to approval by City staff prior to the issuance of building permits for the tanks.

189. Mitigation Measure VIS-3c: The water storage tanks must be screened by native vegetation. Trees must be planted to obscure at least 50 percent of the water tanks within 10 years of final project build out. A 20-foot buffer between the vegetation and tanks would be required to maintain access to the tanks. The trees must be properly planted and maintained by the project sponsor or its successor-in-interest.
190. Mitigation Measure VIS-4a: Prior to the approval of the first Development Plan for the site subsequent to the approval of the Master Plan, the project sponsor must submit for City staff review the proposed lighting fixtures that will be used for security lighting, street lighting, lighting in parking lots and along sidewalks or paths throughout the project site. The fixtures must be selected to minimize light and glare spillover into areas outside of the project site and must be to the satisfaction of City staff. The detailed manufacturer's specifications must be provided for the proposed fixtures. A variety of fixture types may be used, provided that each is approved by City staff. Additionally, the project sponsor must submit the proposed maximum height of any poles to be used for security, street or parking lot lighting. City staff may require photometric analysis if necessary to properly evaluate the proposed lighting.
191. Mitigation Measure VIS-4b: All exterior lighting fixtures mounted on buildings must be hooded and downward-directed to minimize spillover light and glare onto adjacent properties.
192. Mitigation Measure VIS-4c: No flood lighting of buildings, landscaping or signs must be permitted unless expressly approved as part of a Development Plan or Design Review approval in which City staff has made a determination that such lighting can occur without adverse light and glare impacts.
193. Mitigation Measure CULT-1a: Lot plans for the project site must be designed to avoid impacts to BBP-2. The design must employ impact avoidance strategies as described in 14 CCR §15126.4(b)(3)(B)(2-3) by either: (1) incorporating BBP-2 and a 25-foot buffer around its known boundary in project area open space, thus providing for its protection from future ground disturbance; or (2) capping BBP-2 and a 25-foot buffer around its known boundary with at least two feet of chemically neutral fill devoid of cultural debris and a layer of geofabric between the fill and the surface of the site and buffer zone area. Prior to placing BBP-2 in open space or capping the deposit, archaeological boundary definition excavation must be conducted to identify the limits of subsurface deposits and features and assist in establishing protective measures. If option #2 (capping) is selected, the location of BBP-2 and the 25-foot buffer must be recorded on the tentative map prior to final permit approval, and no ground-disturbing construction must occur below the depth at which the fill meets the original ground surface.

194. Mitigation Measure CULT-1b: In accordance with the recommendations presented the *Benicia Business Park Cultural Resources Assessment* (prepared by Ric Windmiller in November 2006), the following actions must be taken prior to project construction if avoidance or capping as described in Mitigation Measure CULT-1a is not feasible. The applicant must undertake archaeological excavation to document and analyze BBP-2. Must significant subsurface architectural features or archaeological deposits be encountered during the exploratory excavation, the applicant must document such finds as necessary to recover a representative sample of the data that justify the California Register eligibility of BBP-2. The level of documentation necessary must be determined in the field depending on the results of the initial exploratory excavation and based on the professional judgment of the archaeologist conducting the work. Documentation may include, but is not limited to: a detailed recording on California Department of Parks and Recreation Form 523 Records and/or data recovery excavation. If data recovery excavation is the selected approach, the work must satisfy the requirements and objectives of a research design prepared for the data recovery pursuant to 14 CCR §15126.4(b)(3)(C). Any mitigation documentation must be conducted by, or under the direction of, an archaeologist listed in the Register of Professional Archaeologists.

Note: Either Measure CULT-1a or Measure CULT-1b must be implemented.

195. Mitigation Measure CULT-2: If human remains are encountered by project activities, construction activities must be halted and the County Coroner notified immediately. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification, and a qualified archaeologist must be contacted to evaluate the situation. The NAHC will identify a Native American Most Likely Descendent (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. As part of the archaeological assessment, immediate consultation must be undertaken with the City. The archaeologist must recover scientifically-valuable information, as appropriate, and in accordance with the recommendations of the MLD. Upon completion of such analysis and/or recovery, the archaeologist must prepare a report documenting the methods and results of the investigation. This report must be submitted to the City, the project applicant, and the NWIC.

196. Mitigation Measure CULT-3: A qualified paleontologist must monitor initial project ground-disturbing construction below the soil layer (i.e., below the bottom of the soil layer approximately, which is approximately 2.5-3.5 feet below the original ground surface). The paleontologist must then determine the appropriate level of monitoring needed based on the sensitivity of the area in which construction is occurring. Appropriate levels of monitoring may include continuous monitoring, periodic spot checks, or no further monitoring. Monitoring must continue in accordance with the recommendations of the paleontologist. The paleontological monitor must be empowered to halt construction activities at the location of a discovery to protect the find while it is

being evaluated. If significant fossil resources are recovered, they must be curated at an appropriate facility (e.g., University of California Museum of Paleontology). Upon completion of paleontological monitoring, a report must be prepared documenting the methods and results of the monitoring. The report must be submitted to the project proponent and appropriate City agencies.

197. Mitigation Measure CULT-4a: If deposits of prehistoric or historical archaeological materials are encountered during project activities, all work within 25 feet of the discovery must be redirected and a qualified archaeologist contacted to assess the find, record the find on Department of Parks and Recreation (DPR) Form 523 (at the discretion of the archaeologist), and make recommendations for the find's treatment. If feasible, such deposits must be avoided by project activities. If avoidance is not feasible, the find must be evaluated for its California Register eligibility. If the deposits are not eligible, avoidance is not necessary and work may continue in the area of the find. If the find is eligible, impacts to the find must be mitigated. Mitigation may include, but is not limited to, data recovery excavation, artifact curation, report preparation, and information dissemination to the public. Upon completion of the assessment and/or evaluation, the archaeologist must prepare a report documenting the methods and results of the archaeological assessment/evaluation, and provide recommendations for the treatment of the find. The report must be submitted to the project sponsor, appropriate City agencies, and the Northwest Information Center (NWIC).
198. Mitigation Measure CULT-4b: If paleontological resources are discovered during project activities, all work within 25 feet of the discovery must be redirected until a paleontological monitor has assessed the situation and made recommendations for their treatment. If feasible, the find must be avoided by project activities. If avoidance is not feasible, the paleontological find must be evaluated for its significance. If the find is not significant, avoidance is not necessary and work may continue in the area of the find. If the find is significant, impacts to the find must be mitigated. Paleontological mitigation may include, but is not limited to, data recovery, fossil curation, and information dissemination to the public. Upon completion of evaluation, as well as mitigation (if necessary), a report must be prepared documenting the methods and results of the paleontological investigation. The report must be submitted to the project sponsor and appropriate City agencies. Funding for additional personnel and equipment must be provided by the City.
199. Mitigation Measure PUB-1a (as modified by the City Council): The project sponsor must set aside an appropriately-sized and located parcel and building space within the project site to accommodate new public services facilities required to serve the project. The parcel and building space must be large enough to include the facilities listed below:
- A new Fire Department station facility, totaling a minimum of 2.5 acres, must be located along the Industrial Way extension, near the East 2nd Street intersection. The new station must be constructed and made operational prior to the occupation of the first Pphase 1 and include a multi-purpose room for

community meetings and training grounds. A total of 12 full-time firefighters would be required to staff the new sub-station. One fire engine and one brush truck would be required to equip the facility. Due to the life-hazard nature of the commercial components at the first phase of the project, fire and emergency medical services must be provided at the sub-station prior to occupation of project facilities. Funding for this facility must be provided by fees imposed on the proposed project. Funding for 50% of fire additional personnel and equipment must be provided each by the project and the City.

- A new Police subStation of 200- 800 to 400- 1000 square feet. Funding for the five additional officers and administrative support and equipment required to serve the commercial area of the project shall be provided by fees imposed on the proposed project. The Police Department space must be constructed on the ground floor of a prominent building in the commercial area of the project and made operational prior to occupancy of Phase 1.
- The project must include a parcel of approximately 7 to 15 acres of land for the development of an auxiliary corporation yard. The corporation yard must include the types of facilities currently located in the existing corporation yard, as determined to be required by the Public Works Department, and must be funded via fees imposed on the proposed project. Funding for additional personnel and equipment must be provided by the City.

These facilities include five police officers, two patrol cars, 12 fire fighters, a fire engine, a brush truck, and administrative support.

200. Mitigation Measure PUB-1b: Development plans for the proposed project must be subject to the following review:

- During the development review process, the Fire Department must be responsible for ensuring that the proposed project and subsequent individual site proposals are in conformance with locally-defined performance standards, including the Uniform Fire Code as adopted by the Benicia Fire Department, and California Building Code standards.
- The Fire Department must review detailed site plans for site access, road widths and turning radii, road grades, surfacing, load bearing capability, sprinkler systems, stand pipes, smoke detectors, and fire alarms, and resistant landscaping in open areas adjacent to buildings within the project site.
- The City's Engineering Division and Fire Department must review the project during the development review process to ensure that adequate water supply is available to meet the minimum fire flow requirements for fire suppression.

201. Mitigation Measure UTIL-1: Construction of water supply infrastructure must be subject to the following measures:

- The main water storage and pumping facilities as required by the Benicia Public Works Department to provide domestic and fire service must be constructed and operational before the first phase of development begins. The main connections must be sized to serve the whole development and not upsized with each phase.

- All on-site water infrastructure improvements required to serve each phase of development must be constructed in the initial year of development of that phase.
- The sponsor must obtain City approval for each phase of development, including development of individual projects. Development plans for individual projects must only be approved when a dependable and adequate water supply is available to serve new development.
- The two new tanks shown on the project plans are located at different elevations, which would require two separate pressure zones. Pressure-reducing valve stations and zone valves must be required to allow the new zones to connect to the City's existing Zone 1 system in an emergency.

202. Mitigation Measure UTIL-2: Construction activities for the proposed project must be subject to the following measures:

- Final design of the proposed project must specify the appropriate depths at which grading and construction activities would be allowed in order to ensure the safety of the City's water supply and distribution system.
- Water lines must be rerouted or redundant lines installed by the sponsor if necessary to avoid impacts to the City's water supply distribution system.
- No work must be performed within 30 feet of the centerline of the City's water line until after improvement plans prepared by a registered engineer are submitted for review and approval by the City and a permit is issued by the City.
- Prior to issuance of a City permit, contingency plans must be submitted for review and approval by the City to address a potential accident during construction resulting in damage to the line.
- The sponsor must require that all construction activities are undertaken with the necessary precautions to avoid impacts to the City's water distribution system.

203. Mitigation Measure UTIL-3: Construction of sewer infrastructure improvements for the proposed project must be subject to the following measures:

- All on-site sewer infrastructure improvements required to serve each phase of development must be constructed in the initial year of development of that phase.
- Since the ultimate commercial and industrial users of the proposed project are unknown, the City must review each building permit application for information regarding flows and loads to ensure that wastewater flows do not exceed capacity, and to allow for the phasing of improvements.

204. Mitigation Measure UTIL-4: Prior to the issuance of building permits for Phase 1 of the proposed project, the project sponsor must fully fund and install all the required wastewater collection improvements to serve the project. Required improvements must consist of one of the stand-alone alternatives listed in the Benicia Business Park Sewer System Collection Analysis (October 16, 2006)

prepared by Brown and Caldwell that solely serves the proposed project. Required improvements include the following:

- Replace the existing 8-inch west fork of the Industrial Park gravity sewer system with a new 18-inch sewer line.
- Replace the existing 8-inch force main with a new 16-inch force main that is cross-connected to the existing force main.
- Replace the existing PILS to operate at a new higher pressure to maximize capacity in both pipelines. Upgrade the PILS to meet the design criteria of the two pipelines.
- Increase maintenance of eastern fork of gravity sewer to reduce root intrusion and the long-term settlement of debris.
- A force main surge analysis must be performed prior to approval of final project design. Proposed improvements to the force main must be reviewed and approved by the City prior to installation.

205. Mitigation Measure DECAY-1: The land uses proposed for the Benicia Business Park and analyzed in this EIR include a maximum of 100,000 square feet of retail uses. This limitation on commercial development would preclude the establishment of big box retail uses (larger than 20,000 square feet per BMC 17.70.360) on the project site without additional evaluation. As identified in the EIR, a substantial increase in the amount of retail uses could increase the potential for urban decay in Benicia or other local commercial centers. If the project sponsor proposes to increase the amount of retail uses beyond 100,000 square feet, the project sponsor must provide the City with an updated economic analysis. The adequacy of the economic analysis must be subject to review and approval by the City's Director of Community Development, who may require revisions and additional analysis if he or she deems it appropriate. If the Director finds, based upon the economic analysis, that the additional retail uses could contribute to urban decay, the City and project sponsor must develop a mitigation measure to reduce this impact to a less-than-significant level. If no effective and feasible mitigation measures are identified to reduce the potential urban decay impacts to a less-than-significant level, the City must conduct environmental review for the project changes that would allow for the adoption of a statement of overriding considerations and appropriate findings (e.g., a supplemental or subsequent EIR). A revised economic analysis must be similarly completed in conjunction with subsequent CEQA review of any changes to the project, if deemed necessary by the City.

206. Project Condition Oversight. The project applicant must pay the City for the cost to hire an independent third party to ensure compliance with all project conditions and all requirements of the project Mitigation Monitoring and Reporting Program.

207. Revenue Sharing Agreement. Prior to the first final map, a Revenue Sharing Agreement shall be established by the City and the project sponsor that includes only property, sales and transient occupancy taxes and business license fees. The

agreement shall provide means for property owners to recoup costs of: (1) construction, operation and maintenance of police facilities and services; (2) operation and maintenance of fire facilities and services; (3) transit capital and operation; (4) maintenance of public landscaping and lighting; and (5) maintenance of public access trails. The agreement shall provide for reimbursement only beyond the project's fair-share and for zero cost to the City for the services set forth herein. The project's obligation to pay operational costs specified herein shall cease only upon termination of a Community Facilities District for the project. The agreement must accommodate project conditions 21, 87, 90, 96, 171, and 199.

**RESOLUTION #4
TO REJECT THE ADDENDUM AND THE
PROJECT**

RESOLUTION NO. 08-___

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA
REJECTING THE ADDENDUM TO THE BENICIA BUSINESS PARK FINAL
ENVIRONMENTAL IMPACT REPORT (EIR), PROPOSED FINDINGS
RELATED TO THE PROJECT, STATEMENT OF OVERRIDING
CONSIDERATIONS, AND THE MITIGATION MONITORING AND
REPORTING PROGRAM AND DENYING THE VESTING TENTATIVE MAP,
MASTER PLAN OVERLAY, AND REZONING FOR THE BENICIA BUSINESS
PARK PROJECT**

WHEREAS, On October 6, 2004, Discovery Builders submitted an application for Vesting Tentative Map, Master Plan Overlay and Rezoning for the Benicia Business Park project; and

WHEREAS, the proposed project is located in northeastern Benicia and consists of 527.8 acres of undeveloped land bounded on the south and east by East 2nd Street. The western boundary is an irregular property line that generally parallels the alignments of West Channel Road and Industrial Way. The northern property line is also irregular and is bounded in part by the City of Benicia Water Treatment Plant and Lake Herman Road; and

WHEREAS, the City Council certified the Environmental Impact Report (EIR) for the project on February 19, 2008; however, Council also determined that the project as proposed could not be approved due to inconsistency with the City's General Plan; and

WHEREAS, the applicant submitted a revised Vesting Tentative Map, Master Plan Overlay and Rezoning application March 20, 2008, and a proposed EIR Addendum and letter regarding traffic impacts on March 26, 2008; and

WHEREAS, the revised project includes:

- Rezoning of the site to apply the Master Plan Overlay designation and adjust the General Commercial and Limited Industrial zoning district boundaries;
- Subdivision of the site into 80 lots ranging from 1.5 to 5.4 acres;
- Development of approximately 150 acres of limited industrial and 35 acres of commercial land uses, with approximately 2.35 million square feet of industrial building space and 857,000 square feet of commercial uses – projected to result in the direct creation of 4,535 jobs;
- Open space totaling 312 acres, including buffers to preserve drainages, topographic features and the rural character of Lake Herman Road;
- Utilities and infrastructure, including 30 acres of roads; and
- Two 1,000,000-gallon tanks to supply water for the project; and

WHEREAS, the Planning Commission at a regular meeting held on April 10, 2008, conducted a public hearing, and considered testimony and documents regarding the

revised project, and recommended denial of the project based on insufficient information to eliminate inconsistencies with the General Plan regarding impacts on geologic resources, urban decay downtown, overall community health, and bicycle and pedestrian circulation; and

WHEREAS, a majority of Planning Commissioners expressed a desire for more time to review the project, in part because environmental documentation for the revised project was not yet available; and

WHEREAS, the Draft EIR Addendum, published April 29, 2008, concludes that the revisions to the project have resolved the prior General Plan inconsistencies that created a significant impact per CEQA; and

WHEREAS, at the June 3, 2008 City Council meeting the City Council directed that a comprehensive traffic study be conducted between the August 25 and the October 7, 2008 Council meeting to consider review traffic on East 2nd Street including south of I-780 and Robert Semple School; and

WHEREAS, at its regular meetings of May 6, 2008, May 20, 2008, June 3, 2008, and October 7, 2008 the City Council conducted a public hearing, and considered testimony and documents regarding the revised project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Benicia hereby finds, based upon the evidence presented to it both orally and in writing, at the hearings that:

1. Public comments and the traffic study raised issues that should have been further evaluated in the proposed addendum.
2. The proposed addendum does not adequately analyze the proposed project because the proposed project is substantially changed from the project and alternatives evaluated in the EIR. The proposed project was not evaluated in the EIR either as the project or as one of the alternatives. Combining several of the alternatives and reducing the industrial portion of the project has resulted in a project whose impacts were not evaluated in sufficient detail including traffic impacts and the economic and urban decay issues that may result from the reduced industrial portion of the project.
3. Substantial changes have been made to the proposed project from the original project which involve new significant environmental effects as noted in these findings or a substantial increase in the severity of the previously identified effects such as impacts to animals and their habitat corridors.
4. The City Council has not been presented with a draft revenue sharing agreement and so cannot determine if the proposed condition #207 adequately addresses the fiscal impacts of the project or if it implements the mitigation measures regarding the provision of police and fire facilities and services. The fiscal impacts of the project have

not been studied and it is unclear whether the reduced development on the project site will still allow the project to be "cost neutral."

5. The proposed addendum improperly relied on studies not yet been completed such as the updated traffic analysis and urban decay analysis. The City Council cannot evaluate the impacts of the proposed project, which are different than the project analyzed in the EIR, without these two studies. Although the supplemental traffic study has been completed, it has shown there are impacts that must be mitigated from the CEQA standpoint that were not addressed in the certified EIR or the addendum. Similarly and especially since the economic analysis of the project was completed in 2006, the urban decay analysis could result in mitigation measures that should be included in the mitigation monitoring program and conditions of approval for the proposed project.

6. An analysis of the reduction of industrial uses needs to be done to see if the reduction results in changes to the economic impact of the project and the sizing of public facilities, such as water and sewer, needed to serve the project.

7. The modification of the industrial areas from the original project may result in more intrusion of humans and domesticated animals into the wildlife areas in the new habitat corridors.

8. The project remains inconsistent with the General Plan in grading and traffic impacts. Delaying the revision of the grading plan until the first phase of the project does not allow potential impacts from grading such as reduced building sites or increased proximity to, or intrusion into, habitat corridors to be evaluated. General Plan Policy 2.20.1 states "Maintain at least Level of Service D on all city roads, street segments, and intersections." The supplemental traffic study indicates a Level of Service F at some times.

9. The proposed project because of its size and location near a school would create a significant, unmitigable air quality impact that cannot be outweighed by any benefit to the City and its citizens from development of the proposed project.

10. Proposed Vesting Tentative Map

The proposed map is not consistent with the applicable provisions of Benicia Municipal Code Title 16 (Subdivisions) and City of Benicia General Plan goals, policies and programs; and

a. The site is not physically suitable for the type of development, as the majority of the site terrain will be severely graded, and the site terrain constrains development of the proposed project; and

b. The site is not physically suitable for the proposed density of development, as the proposed development does not conform to the existing topography of the site; and

c. The design of the subdivision and proposed improvements will cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, as the revised project plans would create a substantial or potentially substantial adverse change in any of the physical conditions within the area of the project and there are insufficient mitigation measures prescribed in the project EIR and addendum that when implemented will reduce such impacts to less-than-significant levels.

11. Rezoning/Master Plan Overlay

The proposed Master Plan Overlay does not conform to the General Plan, as the revised development plan remains inconsistent with multiple applicable General Plan goals, policies and programs, as enumerated in the EIR, the record and this Resolution, especially as it pertains to protection of hillsides and wildlife habitat, and as the project can not be adequately, reasonably and conveniently served by public services, utilities and public facilities.

BE IT FURTHER RESOLVED that because of the findings made above, the City Council rejects the addendum to the Benicia Business Park Final EIR, proposed findings related to the project, the statement of overriding considerations and the mitigation monitoring and reporting program.

BE IT FURTHER RESOLVED that because of the findings made above, the City Council denies the vesting tentative map, master plan overlay and rezoning for the project.

* * * * *

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 21st day of October, 2008 and adopted by the following vote:

Ayes:

Noes:

Absent:

Elizabeth Patterson, Mayor

ATTEST:

Lisa Wolfe, City Clerk

**CORRESPONDENCE
FROM THE APPLICANT**



4061 Port Chicago Highway, Suite H
Concord, California 94520
(925) 682-6419
Fax (925) 689-7741

October 15, 2008

VIA FACSIMILE

Jim Erickson
City Manager
City of Benicia
250 East L Street
Benicia, CA 94510

Re: Benicia Business Park; Consideration of Resolution Re: CEQA
Documentation

Dear Mr. Erickson;

On October 7, 2008 and continuing into the early morning on October 8, 2008, the Council considered the proposed Benicia Business Park Project, with the various amendments and modifications which have been discussed at length with you and City staff.

Although this Project has been discussed at length and the public hearing is closed, we understand that Staff believes there is additional opportunity for discussion regarding the Statement of Overriding Considerations and the additional conditions of approval which have been proposed. We therefore encourage that the City consider continuing any hearing on this project until November 18, 2008. We will waive any time limitations which would arise from a continuation of consideration of this issue from October 21, 2008 until November 18, 2008.

Please feel free to contact me should you have questions regarding this suggestion.

Very truly yours,

DISCOVERY BUILDERS


Salvatore Evola

IX-A-232



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Kristina D. Lawson
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925 941 3283

October 1, 2008

VIA FACSIMILE AND MAIL

Charlie Knox
Community Development Director
City of Benicia
250 East L Street
Benicia, CA 94510

Re: Response to Letter from Miller Brown Dannis regarding Addendum to Final Environmental Impact Report

Dear Mr. Knox:

Last week we received a copy of a September 12, 2008 letter from the offices of Miller Brown Dannis (on behalf of the Benicia Unified School District ("District")) to the City of Benicia. On behalf of our clients, who are the proponents of the proposed Benicia Business Park project (the "Project"), we appreciate the opportunity to respond to the letter's erroneous and unmeritorious claims that the environmental documents prepared by the City's environmental consultant are deficient.

1. The Potential Environmental Impacts Of The Project Have Been Under Review For Over Three Years, And The Addendum Has Been Available For Over Six Months

As you know, our clients' application for entitlements for the Project was deemed complete in April of 2005, and the City has been studying and evaluating the proposal for well over three years. In accordance with the requirements of the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.; "CEQA"), in January of 2007 the City circulated a public draft environmental impact report ("DEIR") for the Project. Over the following nine months, the City held three separate public hearings to review the DEIR, comments received on the DEIR, and responses to comments prepared by the City's EIR consultant. A final environmental impact report ("FEIR") was prepared and formally certified by the City Council in February 2008.¹

¹ As noted in the FEIR, the FEIR includes: (1) a December 2007 revised version of the DEIR incorporating text revisions made as part of a Response to Comments

Since the February 2008 certification, at the request of the City Council, our client made certain changes to the project which incorporated most of the environmentally superior features of the DEIR's Waterway Preservation Alternative and Hillside/Upland Preservation Alternative into the Project. Upon submittal of this "Mitigated Project" the City and our client evaluated whether the Mitigated Project would result in any new or more severe significant environmental impacts not previously considered in the FEIR. Because the City's evaluation and analysis (in consultation with the City's EIR consultant) concluded that the Mitigated Project would not result in any new significant environmental effects or a substantial increase in the severity of previously identified significant effect, the City requested its EIR consultant to prepare an addendum to the FEIR (the "Addendum"). (See Pub. Resources Code, § 21166; 14 Cal. Code Regs., § 15162.)

The Addendum was prepared by LSA Associates, Inc., and was provided to the public over six months ago. We are unaware of the reason that the District delayed providing its comments to the City; however, in light of this substantial delay, and in light of the fact that the public comment period on the DEIR was closed in 2007, we understand that the City has not instructed its consultants to prepare a written response to the District's letter. (We understand that representatives of LSA Associates, Inc. will be prepared to address the concerns raised in the letter at the October 7, 2008 City Council meeting.)

2. **The Addendum Does Not Replace The FEIR, And Pursuant To CEQA Is Not Required To Contain The Same Level Of Impact Analysis As The FEIR**

The District's letter suggests that certain impact-related issues were not addressed in the Addendum. The District has apparently confused the purpose of a FEIR with the purpose of an addendum. The purpose of an addendum is to identify necessary changes or additions to a previously certified FEIR where no new significant environmental impacts will result, and there is not a substantial increase in the severity of a previously identified significant effect. (14 Cal. Code Regs., § 15164(a).) As explained in the draft Addendum, the Addendum evaluated the Mitigated Project to determine whether the environmental effects of the Mitigated Project were adequately analyzed in the FEIR. (See Addendum, p. 1.) This evaluation determined that the Mitigated Project was "substantially environmentally superior" to the previously proposed Project, and "would reduce or eliminate several of the significant impacts that were expected to result..." (Id.)

document published in July 2007, and a Supplemental Response to Comments Document published in November 2007 (all citations to the FEIR in this letter are to this document); (2) the Final Benicia Business Park Environmental Impact Report Supplemental Response to Comments Document dated November 2007; (3) the Final Benicia Business Park Environmental Impact Report Response to Comments Document dated July 2007; and (4) the DEIR.

In contrast to the Addendum, the FEIR includes: (1) the DEIR, (2) comments and recommendations received on the DEIR, (3) the responses to significant environmental points raised in the review and consultation process. (14 Cal. Code Regs., § 15132.) With respect to the District's "observation" that the Addendum did not address comments raised by Dirk Fulton, on behalf of the District's Board of Trustees, we refer the District to pages 42 through 45 of the Response to Comments Document dated July 2007. As required by CEQA, this document, which is part of the FEIR, properly responds in good faith to all comments raised by Mr. Fulton. The comments raised are not properly addressed in an addendum, which is intended only to identify changes or additions to a certified FEIR, and is not designed to respond point-by-point to previously raised comments.²

3. **The District's Specific Comments Are Fully And Adequately Addressed In The FEIR's Impact Analyses**

The District's letter suggests that various impacts were not properly addressed in the Addendum. As set forth above, the purpose of the Addendum is not to conduct an EIR-level impact analysis. Accordingly, certain impacts are not addressed in detail in the Addendum – however, those impacts are fully and adequately addressed in the FEIR's impact analyses. Attached to this letter as Exhibit A is a table that identifies each specific District comment, and identifies the relevant section in the FEIR containing the applicable impact analysis.

4. **The EIR Is A Project EIR**

The CEQA Guidelines define "Project EIR" as follows:

The most common type of EIR examines the environmental impacts of a specific development project. This type of EIR should focus on the changes in the environment that would result from the development project. The EIR shall examine all phases of the project, including planning, construction, and operation.

(14 Cal. Code Regs., § 15161.) A project EIR is prepared for a specific project – such as the Modified Project – and examines site-specific considerations in detail. (*In re Bay Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1169.) As set forth on page 5 of the FEIR (dated December 2007), the FEIR was "prepared to evaluate the environmental impacts of the proposed Benicia Business Park (project)." The "project" is then described in detail on pages 59 to 89 of the FEIR. Not only does the FEIR make

² Notably, neither Mr. Fulton nor the District raised any concern about the adequacy of the July 2007 responses during the numerous public hearings held to consider the environmental review of the Project.

Charlie Knox
October 1, 2008
Page 4

clear that it evaluates a particular development project (and is therefore a "Project EIR"), it also clearly satisfies the definition of project EIR set forth in the CEQA Guidelines and applicable law.

On page 2 of its letter, the District asserts that there has been "inadequate analysis" in the FEIR because the EIR purportedly only vaguely defines the proposed site uses. We refer the District to pages 68 through 85 of the FEIR, and to pages 6 through 12 of the FEIR for a detailed description of the proposed uses. More specifically, we refer the District to Table III-2 in the FEIR ("Project Land Use Details"), and to Table 1 in the Addendum ("Project Land Use Details") for a description, by square foot, of the proposed site uses for the project. Because the FEIR clearly and unambiguously describes the project – including proposed site uses – the District's comment is meritless.

* * *

As indicated above, we appreciate the opportunity to respond to the District's recent comments, and look forward to meeting with the City Council on October 7, 2008 to further discuss the Modified Project. Please feel free to contact us should you have any questions or require further information.

Very truly yours,

MILLER STARR REGALIA

Kristina D. Lawson (use)

Kristina D. Lawson

KDL:KDL/vse

cc: Clients
Jim Erickson, City Manager
Heather McLaughlin, City Attorney

IX-A-236

Exhibit A

District Comment	Reference to Impact Analysis In FEIR
<p>District Letter, p. 2: "The Mitigated Project's impact on air quality for the District's students and staff in general, and most particularly those attending at working at the Robert Semple Elementary School ("Semple School"), 2015 East Third Street, Benicia, was not Addressed in the Addendum."</p>	<p>The District is referred to page 159 of the FEIR and page 32 of the draft Addendum. As indicated on those pages the project itself would not emit hazardous air pollutants within ¼ mile of an existing or proposed school. The District is also referred to page 261 of the FEIR and page 38 of the draft Addendum for a description of the Mitigated Project's operational emissions. These emissions were determined by the City's consultant to be below the federal and state CO standards.</p>
<p>District Letter, p. 2: "The proposed traffic calming measures and the potential impacts of the increased vehicular traffic created by the Mitigated Project, although reduced from the 2007 Project, remain at a significant threshold for the students and staff at Semple School and have not been addressed in any meaningful way in the Addendum."</p>	<p>The District is referred to Section IV.G of the FEIR (pp. 205 – 252), and to pages 35 to 38 of the draft Addendum for a complete and adequate discussion of the Mitigated Project's transportation and circulation impacts. As set forth in the Addendum, transportation and circulation impacts remain potentially significant. Accordingly, the mitigation measures set forth in the FEIR will be required to be implemented to mitigate this identified impact.</p>
<p>District Letter, p. 2: "The Mitigated Project's impact of increased noise level at Semple School was not addressed in the Addendum, and as a result, it is unclear as to whether the City is asserting that the Mitigated Project no longer has noise level impacts at this location."</p>	<p>The District is referred to pages 281-282 of the FEIR regarding off-site traffic noise impacts. As set forth in the last paragraph on page 281 of the FEIR: "Noise traffic levels greater than 65 dBA CNEL are in excess of the City's General Plan policies for the following land uses: residential, transient lodging, hospitals, nursing homes, churches, meeting halls, schools, libraries, museums, playgrounds, and neighborhood parks. <i>There are not currently any of these land use types within the impacted range of the traffic noise contours of the described roadway segments.</i>" (Emph. added.)</p> <p>Additionally, the FEIR notes that a significant impact would occur if a project would expose sensitive receptors to a 3 dBA increase in ambient noise levels. (FEIR, pp. 283-284.) A potential impact, and associated mitigation, is identified for the segment of East 2nd Street from I-780 to Rose Drive. The Addendum does not alter this impact and mitigation conclusion.</p>
<p>District Letter, p. 2: "The Addendum reaches the conclusion that no new sources of toxic air</p>	<p>The District is referred to page 261 of the FEIR, which provides: "The implementation of the</p>

<p>contaminants will be present as a result of the Mitigated Project. No evidence is provided by which this conclusion is reached."</p>	<p>proposed project would not result in any new sources of Toxic Air Contaminants, and the project land uses would not be located near any existing major sources of Toxic Air Contaminants. The project would not have the potential to expose sensitive receptors or the general public to substantial levels of Toxic Air Contaminants, and would be deemed to have a less-than-significant impact." As set forth on pages 253 through 259 of the FEIR, this conclusion is based upon air quality standards set by the federal and state governments.</p>
<p>District Letter, pp. 2-3: "The Addendum concludes that since the Mitigated Project contains fewer square feet of industrial development that it will be expected to produce less CO and not contribute cumulatively to CO concentrations. There is no reduction in the square footage of commercial development and the fact that the mix of industrial and commercial occupants has not been determined precludes the conclusion that less CO will be produced."</p>	<p>The District is referred to Table 1 on page 6 of the draft Addendum, which sets forth (by square foot) the project land use details for the Mitigated Project. This table is used throughout the Addendum as a basis for its analysis.</p>
<p>District Letter, p. 3: "The Addendum concludes that due to the lesser amount of grading (from 9 million cubic yards down to 4 million cubic yards of grading) proposed under the Mitigated Project that construction-period air quality impacts would be reduced to a less than significant level. [¶] The District asserts that stating that the reduction in size of the project in conjunction with the implementation of the mitigation measures is not sufficient analysis to support the conclusion reached in the Addendum."</p>	<p>Section 8.e. of the Addendum provides: "As with the 2007 project, the mitigated project would include demolition and construction period activities that could generate significant dust, exhaust, and organic emissions. However, since the mitigated project would result in 4 million cubic yards of grading, compared to 9 million cubic yards of grading proposed under the 2007 project, construction-related emissions and dust associated with the mitigated project would be reduced, but not to a less-than-significant level. Implementation of Mitigation Measure AIR-1, identified in the 2007 Final EIR, would reduce construction-period air quality impacts to a less-than-significant level."</p> <p>The District is also referred to pages 266 through 268 of the FEIR for a complete analysis of the impact, and description of the required mitigation. As set forth on page 267, the mitigation required is consistent with guidance from the Bay Area Air Quality Management District, which implements the Bay Area Clean Air Plans (CAPs) in accordance with the requirements of state law.</p>
<p>District Letter, pp. 3-4: "The Addendum concludes that the Mitigated Project's size, not its design features, results in significant unavoidable emissions of ozone precursors. [¶] The District requests that the City refrain from certifying the</p>	<p>The District is referred to pages 268 and 269 of the FEIR for a complete discussion of Impact AIR-2. Both the Addendum and the FEIR conclude that the project will result in a significant and</p>

<p>Addendum based on the finding made in the FEIR that there will be a significant and unavoidable impact to the regional air quality. The FEIR states that 'the potential [is small] for an individual project to significantly deteriorate regional air quality or contribute to significant health risk...' (FEIR at 269.) However, the Addendum states that it is the project's size that is the reason for its result in 'significant unavoidable emissions of ozone precursors.' (Addendum at 39.) The Addendum, in essence, contradicts the FEIR's finding that it is unlikely that regional air quality or health risk would worsen from the current condition due to emissions from an individual project. (FEIR at 269.) That statement is not analyzed in the FEIR and no supporting documentation is provided. While the Addendum reaches the same result (approval of the Mitigated Project) as the FEIR does for the 2007 Project, the Addendum makes a contradictory assertion. The similarity between the two environmental documents is that neither contains appropriate analysis to support the conclusion reached."</p>	<p>unavoidable impact with respect to ozone precursors. The supporting analysis for this conclusion is set forth in detail on pages 268 and 269 of the FEIR, and is summarized on page 39 of the Draft Addendum.</p>
<p>District Letter, p. 4: "The Addendum reaches the conclusion that the Mitigated Project will result in similar construction period noise impacts as would the 2007 Project. The FEIR has determined that the 2007 Project could have a significant impact for a short term along 2nd Street. [¶] The District reiterates its previous request (March 9, 2007) that further analysis of potential noise is conducted and that all proposed mitigations be required of the project sponsor."</p>	<p>The District is referred to pages 43 through 45 of the Response to Comments Document dated July 2007. In response to the District's request for further analysis of noise impacts, the City's consultant evaluated the noise analysis, and added an additional mitigation measure to expressly address the concerns of the District. That mitigation measure will be required of the project sponsor, and will be enforceable through a mitigation monitoring program adopted by the City.</p>
<p>District Letter, pp. 4-5: "The Addendum concludes without analysis that the reduction in the size of the Mitigated Project and the implementation of Mitigation measure NOI-2a, 2b, and 2c will ensure that noise impacts are reduced to a less than significant level. The Addendum acknowledges this while stating that transportation modeling data was unavailable at the time the Addendum was written. The District asserts that the Addendum, like the FEIR before it, has failed to properly analyze the cumulative impacts of the increased traffic noise on the students and staff at Semple School. [¶] The proposed Mitigation Measures (FEIR at 285), for the siting of a hotel with proposed outdoor activity (FEIR at 284) may be minimally adequate for a hotel however, the District believes that additional noise mitigation measures may be necessary for students and staff at Semple School. The proposed and minimally acceptable</p>	<p>The District is referred to pages 281 through 286 of the FEIR for a complete discussion of Impact NOI-1. As set forth above, in response to the District's previous noise-related comments, Mitigation Measure NOI-2a was modified to address the District's concerns and provide specific mitigation to alleviate impacts to Semple School. Mitigation Measures NOI-2b and NOI-2c do not apply to Semple School.</p>

<p>mitigation measures include construction of a noise barrier, sound wall or sound wall/berm combination around all outdoor activity areas (FEIR at 285). Further the City standards for 'office/industrial facilities with areas that require good speech intelligibility...must be constructed to maintain an interior noise level of 45 dBA CNEL.' (FEIR at 285.) To achieve this interior noise level, installation of noise-attenuated ventilation systems should be required of the project applicant to attain mitigation of the impacts of the Mitigated Project on the students and staff at Semple School."</p>	
<p>District Letter, p. 5: "The FEIR acknowledges that the City's General Plan prohibits noise levels in excess of 65 dBA CNEL for schools (among other uses). However, no measurement is made of the location of the Semple School despite being recognized as a sensitive receptor under the General Plan. The Addendum concludes, without analysis, that implementation of the four-part Mitigation Measure will ensure that the Semple School is not negatively impacted by the increase in noise from vehicular traffic."</p>	<p>Because of the location of Semple School, it would not be affected by construction-related noise. It may, however, be subject to operational noise impacts. As set forth on pages 281 through 286 of the FEIR, the FEIR evaluated increases in traffic noise between the segment of East 2nd Street from I-780 to Rose Drive, and determined that noise impacts were potentially significant. This evaluation and analysis was conducted in response to previous comments by the District. In addition, the DEIR was revised to include Mitigation Measure NOI-2a, which specifically addresses the school districts concerns.</p>

Message

Anne Cardwell - from Seeno for CC packet 1

From: Charlie Knox
To: Anne Cardwell
Date: 10/1/2008 2:01 PM
Subject: from Seeno for CC packet 1

>>> Susan Elwell <VSE@msrlegal.com> 10/1/2008 1:56 PM >>>

As requested by the City Attorney, we have prepared and are forwarding the attached document.

This email is sent at the request of Kristina D. Lawson.
Please reply to KDL@msrlegal.com

Susan Elwell
Assistant to Kristina D. Lawson
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IX-A-241

Benicia Business Park

Proposed Measures to Reduce Greenhouse Gas Emissions
and the Effects of Global Warming

BBP Condition of Approval	Attorney General's Mitigation Measure
<p>5. Prior to filing a Final Map, the applicant must submit draft Covenants, Conditions, and Restrictions (CC&Rs) for the project, which are subject to approval by the Community Development Director and the City Attorney. The CC&Rs must address landscape maintenance of each newly created lot, maintenance of the proposed open space areas, and all other areas of concern as it pertains to this development as directed by the City of Benicia. The CC&Rs must be recorded with the final subdivision map.</p>	<p>Page 3, Global Warming Measures – Land Use: “Preserve and create open space...”</p>
<p>12. No more than 10% of the area zoned General Commercial – CG shall be used for Eating and Drinking Establishment use unless a Planning Commission Use Permit is first obtained. Pedestrian access through the commercial area to the Eating and Drinking Establishments must be maintained.</p>	<p>Page 3, Global Warming Measures – Land Use: “Include pedestrian and bicycle-only streets and plazas within developments. Create travel routes that ensure that destinations may be reached conveniently by public transportation, bicycling or walking.”</p> <p>Page 4, Global Warming Measures – Transportation: “Create bicycle lanes and walking paths directed to the location of schools, parks and other destination points.”</p>
<p>23. Site plans within the Benicia Business Park must be coordinated with adjoining projects within the Benicia Business Park to take advantage of similar perimeter landscape themes, common access, or similar features. Particular care and coordination must be considered as it pertains to bioswale features, LEED standards and other design guidelines. Prior to the first building permit in each phase, the applicant must provide a site-specific plan with building footprints, landscaping, and architectural design that conforms with applicable LEED-ND guidelines, Low-impact development standards, and campus design (open spaces between buildings, shaded outdoor gathering spaces, and paths that connect buildings, open space, and trails).</p>	<p>Page 2, Global Warming Measures – Energy Efficiency: “Design buildings to be energy efficient...”</p> <p>Pages 2-3, Global Warming Measures – Water Conservation and Efficiency: “Implement low-impact development practices that maintain the existing hydrologic character of the site to manage storm water and protect the environment...”</p> <p>Page 3, Global Warming Measures – Land Use: “Include pedestrian and bicycle-only streets and plazas within developments. Create travel routes that ensure that destinations may be reached conveniently by public transportation, bicycling or walking.”</p> <p>Page 4, Global Warming Measures – Transportation: “Create bicycle lanes and walking paths directed to the location of schools, parks, and other destination points.”</p>
<p>24. Water quality features such as bioswales and bio-retention basins must be integrated in a cohesive and logical manner and take advantage of site topography, orientation, and visibility.</p>	<p>Page 2, Global Warming Measures – Water Conservation and Efficiency: “Implement low impact development practices that maintain the existing hydrologic character of the site to manage storm water and protect the environment. (Retaining storm water</p>

(See also Conditions of Approval 125, 126 and 127.)	runoff on-site can drastically reduce the need for energy-intensive imported water at the site.)”
28. Buildings must be located and oriented to provide a strong visual and functional relationship with the site, adjacent sites, and nearby thoroughfares whenever possible...	Page 2, Global Warming Measures – Energy Efficiency: “...Site buildings to take advantage of shade, prevailing winds, landscaping and sun screens to reduce energy use.”
30. Telecommunications infrastructure using best-available technology must be installed for each phase of the project.	Page 4, Global Warming Measures – Transportation: “Institute a telecommute work program. Provide information, training, and incentives to encourage participation. Provide incentives for equipment purchases to allow high-quality teleconferences.”
42. Landscaping and berms must reinforce circulation patterns and screen and shade large visible paved surfaces such as loading areas.	Page 2, Global Warming Measures – Energy Efficiency: “Install light colored ‘cool’ roofs, cool pavements, and strategically placed shade trees.”
46. Plant, shrub and tree species must be appropriate to Benicia’s climate and must require minimal water and care. New trees must be uniform in appearance and wind tolerant.	Page 2, Global Warming Measures – Water Conservation and Efficiency: “Create water-efficient landscapes.”
49. Automatic irrigation must be provided. Where drought-resistant landscape materials are planted, only temporary irrigation is required until landscaping is established.	Page 2, Global Warming Measures – Water Conservation and Efficiency: “Install water-efficient irrigation systems and devices, such as soil moisture-based irrigation controls.”
79. All buildings must be LEED certified and construction must adhere whenever possible to the following LEED guidelines, as established in the project application: (a) Design efficient use of space and air distribution with the goal of minimizing conditioned areas; (b) Design building orientation and shading to minimize solar gain and maximize daylight harvesting; (c) Provide high efficiency HVAC systems with non-HCFC refrigerants; (d) Provide natural ventilation; (e) Provide waterless urinals; (f) Include materials which minimize embodied energy; (g) Design efficient detailing to minimize the amount of waste material; (h) Include low VOC, low CPC, and formaldehyde-free materials, finishes, paints and materials; (i) Capture and filter gray water for irrigation purposes; (j) Include photo-sensors and localized lighting controls to reduce the amount of artificial light needed within indoor spaces; (k) Provide motion detectors in accessory function areas; (l) Use recycled and recycled-content building materials; post consumer and post industrial; (m) Provide photovoltaic cells to produce a portion of the energy needs; (n) Divert and recycle construction	<p>Page 2, Global Warming Measures – Energy Efficiency: “Design buildings to be energy efficient...”</p> <p>Page 2, Global Warming Measures – Energy Efficiency: “Install efficient lighting and lighting control systems. Use daylight as an integral part of lighting systems in buildings.”</p> <p>Page 2, Global Warming Measures – Energy Efficiency: “Install energy efficient heating and cooling systems, appliances and equipment, and control systems.”</p> <p>Page 2, Global Warming Measures – Renewable Energy: “Install solar and wind power systems, solar and tankless hot water heaters, and energy efficient heating ventilation and air conditioning...”</p> <p>Page 2, Global Warming Measures – Water Conservation and Efficiency: “Design buildings to be water efficient. Install water-efficient fixtures and appliances.”</p>

<p>waste from going to the landfill; (o) Capture and direct stormwater to landscape areas prior to release; (p) Secure purchase agreements with serving utility for green power sources; (q) Utilize sustainable harvested lumber per the Forest Stewardship Council (FSC Label); (r) Utilize fly ash or slag concrete mix design; (s) Minimize light trespass and reduce sky glow to increase night sky access.</p>	<p>Page 2, Global Warming Measures – Water Conservation and Efficiency: “Use graywater...”</p> <p>Page 3, Global Warming Measures – Solid Waste Measures: “Reuse and recycle construction and demolition waste...”</p>
<p>89. The project sponsor must provide the following within and adjacent to each phase of the project:</p> <ul style="list-style-type: none"> • A 10' wide concrete Bikeway/Sidewalk or Class II bike lanes along Lake Herman Rd. between A Blvd. and I-680; • A 10' wide concrete Bikeway/Sidewalk between East 2nd and Lake Herman Road in the project site; • A 10' wide concrete Bikeway/Sidewalk along A Blvd. from Industrial to Lake Herman Road; • A 10' wide concrete Bikeway/Sidewalk along Park Rd. from A Blvd. to East 2nd Street; • A 10' wide concrete Bikeway/Sidewalk along East 2nd Street from Industrial Way to Lake Herman Road; • A Class II Bikeway along Lake Herman Road between Industrial Way and A Blvd. <p>(See also Condition of Approval 172.)</p>	<p>Page 4, Global Warming Measures – Transportation: “Incorporate bicycle lanes and routes into street systems, new subdivisions, and large developments.”</p> <p>Page 4, Global Warming Measures – Transportation: “For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting, including, e.g., locked bicycle storage or covered or indoor bicycle parking.”</p> <p>Page 4, Global Warming Measures – Transportation: “Create bicycle lanes and walking paths directed to the location of schools, parks, and other destination points.”</p>
<p>90. The project sponsor must install and maintain public access trails in the project open space and connecting to surrounding areas...to meet the recreation demands of site employees and visitors and/or contribute an amount commensurate to installation and maintenance of such amenities to the City for provision of recreational opportunities.</p>	<p>Page 3, Global Warming Measures – Land Use Measures: “Preserve and create open space and parks...”</p>
<p>171. The project sponsor must be responsible for the cost to extend Benicia Transit (Benicia Breeze) to and within the project site...</p>	<p>Page 3, Global Warming Measures, Land Use Measures: “Incorporate public transit into project design.”</p>
<p>176. The BAAQMD CEQA Guidelines identifies potential mitigation measures for various types of projects. The following are considered to be feasible and effective in further reducing vehicle trip generation and resulting emissions from the project. The project must provide the following measures:</p> <ul style="list-style-type: none"> • Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters); 	<p>Page 3, Global Warming Measures, Land Use Measures: “Incorporate public transit into project design.”</p> <p>Page 3, Global Warming Measures, Transportation: “Promote ride sharing programs...”</p> <p>Page 4, Global Warming Measures – Transportation: “Incorporate bicycle lanes and routes into street systems,</p>

<ul style="list-style-type: none"> • Provide bicycle lanes and/or paths, connected to a community-wide network; • Provide sidewalks and/or paths, connected to adjacent land uses, transit stops and/or a community-wide network; • Provide secure and conveniently located bicycle storage; • Implement feasible Trip Demand Management measures, including a ride-matching program, coordination with regional ride-sharing organizations, and provision of transit information; • A park-and-ride site as needed to serve the project 	<p>new subdivisions, and large developments.”</p> <p>Page 4, Global Warming Measures – Transportation: “For commercial projects, provide adequate bicycle parking near building entrances to promote cyclist safety, security, and convenience. For large employers, provide facilities that encourage bicycle commuting, including, e.g., locked bicycle storage or covered or indoor bicycle parking.”</p> <p>Page 4, Global Warming Measures – Transportation: “Create bicycle lanes and walking paths directed to the location of schools, parks, and other destination points.”</p>
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Proposed FY 2007-09 Budget Preparation Calendar

April, 2007		CMO	FD	DONE
April 6	Budget Worksheets Due (Call for Extension)		X	
April 13	Budget Narratives Due		X	
April 16-20	Department Meetings with Finance Director	X	X	
April 20	CIP Revisions from Finance Director	X	X	
April 23-27	Department Meetings with City Manager	X	X	
April 30-May 4	Department Revisions Due			

May, 2007		CMO	FD	DONE
May 3	Strategic Planning Workshop	X	X	
May 7-11	Final Budget Review with City Manager	X	X	
May 15	Department Head Staff Meeting	X	X	
	Final Budget Review with Departments	X	X	
	Budget Presentation Planning	X	X	
	CIP Ready for Approval	X	X	
	Master Fee Schedule Ready for Approval		X	
May 16	Budget Proofing & Delivery to Council		X	
May 18	Powerpoint Presentations Due	X	X	

May, 2007 – Continued...		CMO	FD	DONE
May 23	1 st Budget Workshop	X	X	
	Budget Delivered to Council	X	X	
	CIP Delivered to Council		X	
	Master Fee Schedule Delivered to Council		X	
	Presentations from CMO Admin–Finance–Library–HR–Police–Fire			
May 30	2 nd Budget Workshop	X	X	
	Presentations from Police – Fire – Parks & CS – Public Works – All Other			

June, 2007		CMO	FD	DONE
June 5	Council Budget Deliberation and Approval	X	X	
June 19	Back-Up Date for Council Budget Approval	X	X	