

**ADDENDUM TO THE
CERTIFIED FINAL ENVIRONMENTAL IMPACT REPORT
FOR THE BENICIA BUSINESS PARK**

March 26, 2008

PURPOSE

This Addendum to the Final Environmental Impact Report for the Benicia Business Park (“Addendum”) has been prepared to address modifications to the proposed Benicia Business Park project made by the project proponent in response to express direction from the City of Benicia City Council. (A depiction of the Mitigated Project is attached hereto as Exhibit A.) Section 15164(a) of the California Environmental Quality Act (“CEQA”) Guidelines provides that the lead agency shall prepare an addendum to a previously certified environmental impact report (“EIR”) if some changes or additions are necessary but none of the conditions described in CEQA Guidelines section 15162 calling for preparation of a subsequent EIR have occurred. This Addendum conclusively demonstrates that none of the conditions described in CEQA Guidelines section 15162 have occurred.

BACKGROUND

The application for entitlements for the proposed Benicia Business Park project was formally deemed complete by the City of Benicia (“City”) on April 27, 2005. Subsequently, the City of Benicia, as lead agency, authorized preparation of a draft environmental impact report (“DEIR”) to describe and analyze the potentially significant environmental effects of the proposed project and discuss ways of mitigating or avoiding those effects.

On January 11, 2007, a Notice of Completion of the DEIR was filed with the Office of Planning and Research, and a Notice of Availability of the DEIR was posted at City Hall and was mailed to property owners within three hundred feet of the location of the proposed project. Copies of the DEIR were also provided to the State Clearinghouse and to those public agencies that have jurisdiction by law with respect to the proposed project.

Thereafter, the DEIR was circulated for public review and comment from January 11, 2007 to March 12, 2007. The City’s Planning Commission held a hearing on February 9, 2007 to receive comments on the DEIR.

In accordance with section III.D.9.c of the City’s CEQA Environmental Review Guidelines (which has subsequently been repealed), the City Council also held a public hearing on May 1, 2007 to determine “whether to accept the Draft EIR after determining it is in conformance with the CEQA Guidelines and that there has been an adequate response to potential environmental impacts.” The City Council continued the May 1, 2007 hearing to August 7, 2007, at which time it determined that the DEIR for the proposed Benicia Business Park project conformed to the City’s CEQA Guidelines and adequately responded to potential environmental impacts.

In December 2007, a Final Environmental Impact Report (“FEIR”) consisting of the DEIR, July 2007 Response to Comments, November 2007 Response to Comments, and the December 2007 FEIR, and incorporating all written comments received and all oral comments made at the May 1 and August 2007 public hearings was prepared and released to the public and to all public agencies that have jurisdiction by law with respect to the project.

On February 19, 2007, the City Council adopted Resolution No. 08-13, certifying the FEIR for the proposed Benicia Business Park project. Specifically, the City Council certified that (1) the FEIR was completed in compliance with CEQA, the CEQA Guidelines, and the City’s CEQA Environmental Review Guidelines, (2) that the FEIR identified and adequately evaluated all potentially significant environmental impacts and identified and recommended all appropriate mitigation measures to address identified environmental impacts, (3) that the FEIR adequately addressed all agency, organization, and public comment received regarding the DEIR, and (4) that the FEIR reflected the City’s independent judgment and analysis.

While the City Council certified the FEIR and determined that it was prepared in compliance with CEQA, it also determined that the proposed project evaluated in the FEIR conflicted with certain provisions of the City’s General Plan, and that these conflicts must be resolved before the proposed project could be approved. To resolve these conflicts, the City Council directed:

...that the Hillside/Upland preservation alternative be evaluated in an Initial Study that conforms to law; analyzes, in particular, the following issues: Leadership Energy and Environmental Design (LEED), AB 32, I-780 traffic, sustainability and urban decay; and considers appropriate mitigations for the environmental impacts.

On March 20, 2008, in accordance with the conclusions direction provided by the City Council, the project proponent delivered to the City a mitigated vesting tentative map, mitigated master plan, mitigated phasing plan, mitigated preliminary drainage plan, mitigated preliminary sewer and water plan, master plan overlay design guidelines for the limited industrial zoning designation, master plan overlay design guidelines for the commercial zoning designation, conceptual landscape plan, letter from Abrams & Associates, and a description of the mitigated Benicia Business Park project (the “Mitigated Project”). To ensure consistency with the City’s General Plan, the Mitigated Project includes most of the environmentally superior features of both the DEIR’s Waterway Preservation Alternative and Hillside/Upland Preservation Alternative (the Mitigated Project is described in more detail below).¹

Because the Mitigated Project includes environmentally superior features of both the DEIR’s Waterway Preservation Alternative and Hillside/Upland Preservation Alternative, in an effort to comply with the intent of the City Council’s direction to evaluate the Hillside/Upland

¹ The City of Benicia has the authority to adopt a project alternative rather than the project evaluated in the certified FEIR, particularly if it finds that the alternative will have less impacts than the one previously proposed. (Pub. Resources Code, §§ 21002-21002.1, 21004; 14 Cal. Code Regs., § 15002(a).) While the City could choose to adopt either the Waterway Preservation Alternative or the Hillside/Upland Preservation Alternative without further CEQA review, this Addendum was prepared to document that no new or more severe environmental impacts would result from the Mitigated Project, which combines the environmentally superior features of both alternatives.

Preservation alternative in an Initial Study that conforms to law, the project proponent, and City staff evaluated whether the mitigated project (which is a combination of the environmentally superior features of the DEIR's Waterway Preservation Alternative and Hillside/Upland Preservation Alternative) would result in any new or more severe significant environmental impacts not previously considered in the FEIR. Because no new or more severe significant environmental impacts have been identified, this Addendum was prepared to document the City's conclusions in accordance with CEQA.

CEQA REQUIREMENTS

Pursuant to section 15164(a) of the CEQA Guidelines, the lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.

Section 15162 of the CEQA Guidelines provides that, for a project covered by a certified EIR, preparation of a subsequent or supplemental EIR (rather than an addendum) may be required only if one or more of the following conditions occur:

- Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

- Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.

An Initial Study is a preliminary analysis prepared by the lead agency to determine whether an EIR or a negative declaration must be prepared. 14 Cal. Code Regs., § 15365. Where an EIR has been prepared and certified for a project, and a further discretionary approval is required for the project, the “initial study” consists of determining whether a subsequent or supplemental EIR should be required. This determination is made by evaluating whether one of the above-referenced conditions has occurred.

Project changes, standing alone, are not sufficient to trigger the requirement for a further EIR; the other threshold requirements for a further EIR must exist. As explained by the courts, an EIR is required in the first instance whenever a project may have a significant effect on the environment. A subsequent or supplemental EIR is prepared only where it is necessary to explore a new or more significant impact that was not considered in the original EIR but that will result from the proposed changes to the project. *See River Valley Preservation Project v. Metropolitan Transit Development Bd.* (1995) 37 Cal.App.4th 154, 167.

PREVIOUS ENVIRONMENTAL DOCUMENTS INCORPORATED BY REFERENCE

Consistent with section 15150 of the CEQA Guidelines, the following documents were used in the preparation of this Addendum and are incorporated herein by reference:

- Benicia Business Park Draft Environmental Impact Report;
- Final Response to Comments Document;
- Supplemental Response to Comments Document;
- Final Environmental Impact Report.

MITIGATED PROJECT DESCRIPTION

The certified FEIR evaluated a proposed Master Plan for a 527.8-acre site northeast of downtown Benicia located east of Industrial Way and north of East 2nd Street. The project considered in the certified FEIR consisted of the following key features: (1) subdivision of the 527.8-acre site into 80 lots, (2) development of approximately 280 acres of limited industrial uses and development of approximately 35 acres of commercial uses, (3) provision of approximately 180 acres of vacant land, including a buffer strip to preserve the rural character of Lake Herman Road, and a “reach” of open space extending from Lake Herman Road to East 2nd Street around a major drainage, (4) installation of necessary infrastructure, including roadways, water, sewer and utilities, (5) installation of two 1,000,000-gallon water tanks that would provide water supply for the proposed development, and (6) construction of approximately 4,443,440 square feet of industrial building space and approximately 857,000 square feet of commercial building space.

The Mitigated Project consists of the same general project features, and a similar configuration of commercial and industrial land uses as was evaluated in the certified FEIR: commercial uses would be clustered on the eastern end of the site near I-680 and industrial uses would stretch to the west. Both commercial and industrial land uses would be bisected by bands of open space. The Mitigated Project would also preserve buffers on each side of the creeks, drainages, swales, and other wetlands within the project site, and would preserve the larger hills within the project site, including the prominent hilltops south of Lake Herman Road.

The Mitigated Project includes the following land uses:

- 34.6 acres of Commercial
- 150 acres of Limited Industrial
- 30 acres of roadways
- 313.2 acres of Vacant Land

Additionally, as set forth in detail in the master plan overlay design guidelines for the limited industrial zoning designation, and the master plan overlay design guidelines for the commercial zoning designation, various LEED goals and strategies are identified for construction for each new building in the Benicia Business Park. The LEED Green Building Rating System is a voluntary, consensus-based, market-driven building rating system based on existing proven technology. It evaluates environmental performance from a whole building perspective over a building's life cycle, providing a definitive standard for what constitutes a "green building." LEED is a measurement system designed for rating new and existing commercial, institutional, and residential buildings. It is based on accepted energy and environmental principles and strikes a balance between known established practices and emerging concepts. While the certified FEIR recognizes that no standardized criteria exist for determining the significance of the project's contributions to global climate change, (see FEIR, pp. 264-266) consistent with the City Council's express direction the Mitigated Project incorporates into its project description measures designed to reduce the project's contributions to global climate change.

EVALUATION OF ENVIRONMENTAL IMPACTS OF MITIGATED PROJECT

Land Use and Planning Policy

The Mitigated Project would result in the development of commercial and limited industrial uses on the project site, similar to the uses proposed in the certified FEIR. The Mitigated Project is consistent with the General Plan and zoning designations for the project site. Compared to the project evaluated in the certified FEIR, the Mitigated Project would be substantially more consistent with policies in the General Plan, specifically those that relate to preservation of wetlands, creeks, associated plant and animal communities, and hillsides. Therefore, the Mitigated project would not result in the significant policy inconsistency-related impacts that would result from the project evaluated in the certified FEIR. (See FEIR, pp. 359 & 362.)

Population, Employment and Housing

Because the Mitigated Project proposes less developable acreage than the project evaluated in the certified EIR, the Mitigated Project would result in employment growth on the site that would be less than growth that would occur as a result of the project evaluated in the certified FEIR. Like the project evaluated in the certified FEIR, the Mitigated Project would not displace existing housing or residents. (See FEIR, pp. 359 & 362.)

Geology, Soils and Seismicity

Because the amount of vacant land is increased in the Mitigated Project, the amount of grading is substantially reduced. Like the project evaluated in the certified FEIR, the Mitigated Project would still expose people on the site to geologic hazards, including earthquakes, landslides, and soils prone to expansion and deformation. However, because reliance on engineered fill would be reduced, some of the geologic hazards associated with the project evaluated in the certified FEIR would be reduced. (See FEIR, pp. 360 & 362.)

Hydrology and Water Quality

The open space created as part of the Mitigated Project would preserve all significant drainages and wetlands within the project site. The riparian channels would continue to serve as natural channels to convey runoff that would be generated by new impervious surfaces on the site. These natural channels would treat storm water runoff from the site through photo degradation, slowing water speed, and the absorption of pollutants by plants. Although the new impervious surfaces that would be developed as part of the Mitigated Project would result in water pollution and a higher potential for down-grade flooding (like the project evaluated in the certified FEIR), these impacts would be substantially reduced compared to the project. (See FEIR, pp. 360 & 362.)

Biological Resources

The Mitigated Project, which would maintain existing drainages and wetlands on the project site, would avoid most of the significant biological resources impacts identified in the certified FEIR. The Mitigated Project would retain the project site's sensitive plant and animal communities, including riparian zones and wetlands, and would not substantially diminish the habitat of protected plant and animal species. The proposed vacant property areas would encompass the abandoned structures on the site, allowing for the preservation of these structures (and avoid impacts on significant bat and owl habitat). (See FEIR, pp. 360 & 362-365.)

Transportation and Circulation

The Mitigated Project would generate trips during the construction and operation periods. The Mitigated Project would reduce trips on a segment of I-780 which would allow for elimination of Mitigation Measure TRANS-22. (See March 26, 2008 Letter from Abrams Associates.)

Otherwise, operation-period trips would be less than the project evaluated in the certified FEIR, and would be expected to result in reduced transportation impacts. (See FEIR, pp. 360 & 365.)

Air Quality

The Mitigated Project would result in air quality impacts that are similar to or less than the project evaluated in the certified FEIR, including the emission of a substantial quantity of regional pollutants. (See FEIR, pp. 360 & 365.)

Noise

The Mitigated Project would result in similar noise impacts compared to the project evaluated in the certified FEIR. Noise levels would increase during the construction period and during the project operation period due to more intense uses on the project site, and vehicle-related noise on streets in the vicinity of the site. Like the project evaluated in the certified FEIR, noise impacts associated with the Mitigated Project would not be significant. (See FEIR, pp. 360 & 365.)

Visual Resources

The Mitigated Project would retain key aesthetic components of the project site, including major hillsides, wetlands, and riparian areas. Although the site would be developed with commercial and industrial uses, the vacant property would enhance the visual quality of the area, compared to the project evaluated in the certified FEIR. Views of the site from Lake Herman Road and other public viewpoints in the vicinity of the site would be less affected by the Mitigated Project than by the project evaluated in the certified FEIR. (See FEIR, pp. 360-361 & 365.)

Public Services

The Mitigated Project could include a parcel that could be used to accommodate new public facilities on the site. Therefore, the impacts of the Mitigated Project would be substantially reduced from those associated with the project evaluated in the certified FEIR. (See FEIR, pp. 361 & 365.)

EXPLANATION OF THE DECISION NOT TO PREPARE A SUPPLEMENTAL OR SUBSEQUENT ENVIRONMENTAL IMPACT REPORT

CEQA Guidelines sections 15162 and 15164 set forth the criteria for determining the appropriate environmental documentation, if any, to be completed when there is a pre-existing certified FEIR for a project. As required by CEQA Guidelines section 15164(e), the following discussion and findings set forth the City's reasons for preparing an Addendum:

CEQA Guidelines section 15162(a) provides that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole public record, one or more of the following:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

Discussion and Conclusion: To ensure consistency with the City's General Plan, the Mitigated Project includes the environmentally superior features of both certified FEIR's Waterway Preservation Alternative and Hillside/Upland Preservation Alternative. The City of Benicia has the authority to adopt a project alternative rather than the project evaluated in the certified FEIR, particularly if it finds that the alternative will be less environmentally damaging than the one previously proposed. (Pub. Resources Code, §§ 21002-21002.1, 21004; 14 Cal. Code Regs., § 15002(a).) While the City could adopt either the Waterway Preservation Alternative or the Hillside/Upland Preservation Alternative without further CEQA review, this Addendum was prepared to document that no new or more severe environmental impacts would result from the Mitigated Project, which combines the environmentally superior features of both alternatives. In light of the certified FEIR's complete evaluation of the Waterway Preservation Alternative and the Hillside/Upland Preservation Alternative, the Mitigated Project does not represent a substantial change to the project evaluated in the certified FEIR, and no major revisions to the certified FEIR are required. Additionally, as set forth above, the potentially significant environmental impacts of the Mitigated Project have been evaluated, and no new significant effects have been identified, nor will the Mitigated Project result in an increase in the severity of previously identified effects.

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

Discussion and Conclusion: No changes have occurred with respect to the circumstances under which the project is undertaken. Additionally, as set forth above, the potentially significant environmental impacts of the Mitigated Project have been evaluated, and no new significant effects have been identified, nor will the Mitigated Project result in an increase in the severity of previously identified effects.

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified shows any of the following:

a. The project will have one or more significant effects not discussed in the previous EIR;

Discussion and Conclusion: As set forth above, the potentially significant environmental impacts of the Mitigated Project have been evaluated, and no new significant effects have been identified.

b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;

Discussion and Conclusion: None of the potentially significant environmental effects identified in the certified FEIR will be substantially more severe as a result of the Mitigated Project.

c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative;

Discussion and Conclusion: The Mitigated Project will not alter the intent or application of any of the mitigation measures identified in the certified FEIR, and the project proponent has not declined to adopt any feasible mitigation measures.

d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Discussion and Conclusion: The project proponents have not declined to adopt any mitigation measures.

CONCLUSION

In summary, the analysis concludes that none of the conditions described in section 15162 of the CEQA Guidelines requiring preparation of a subsequent or supplemental EIR have occurred. Thus, this Addendum to the Final Environmental Impact Report for the Benicia Business Park has been prepared in accordance with section 15164 of the CEQA Guidelines. The changes to the proposed Benicia Business Park project made by the project proponent in response to direction from the City of Benicia City Council do not introduce new significant environmental

effects, increase previously identified significant effects, make previously infeasible mitigation measures or alternatives feasible, or require adoption of infeasible mitigation measures or alternatives.