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SAN FRANCISCO

October 7, 2008

**E-MAIL AND MAIL**

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

Re: Supplemental Transportation Assessment to Final Environmental Impact Report  
Benicia Business Park;  
Comments by Benicia Unified School District;  
Our file 1375.10308

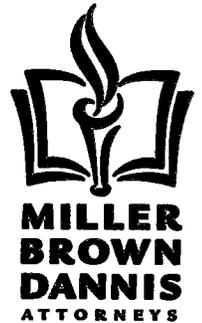
Dear Mr. Knox:

The Benicia Unified School District ("District") has asked this office to provide the City of Benicia ("City") with the District's comments to the Supplemental Transportation Assessment to the Final Environmental Impact Report ("Assessment" and "FEIR," respectively) for the proposed Benicia Business Park ("BBP") in the City of Benicia ("City"). The Assessment, requested in June 2008, was to be made available for review on September 19, 2008. On the evening of October 1, 2008, nearly 2 weeks late, the Assessment was delivered. Despite the last minute delivery, the District provides these comments. The Assessment was prepared in response to the City Council's request of June 2008 to analyze the traffic impacts of the mitigated BBP as proposed in its current form (the "Mitigated Project") in contrast to the 2007 project ("2007 Project") that was analyzed in the FEIR.

We are also using this opportunity to provide the District's final comments to the Addendum to the FEIR ("Addendum"). The Addendum was prepared to analyze the environmental impacts of the changes proposed by the project sponsor (the "Mitigated Project") in contrast to the 2007 project ("2007 Project") that was analyzed in the FEIR.

**GENERAL OBSERVATIONS**

The District's primary concern is to educate each of its students in a healthy environment and to ensure that all of its teachers and staff work in a safe environment.



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Community Development Manager  
City of Benicia  
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This concern is particularly important for students and staff at the Robert Semple Elementary School ("Semple School"), which is located at 2015 East Third Street, Benicia, California. Once again, the District raises the following issues, which remain unaddressed in the three environmental reports prepared on the City's behalf: the FEIR, the Addendum, and the Assessment ("Environmental Reports").

The District brings to the City's attention the following issues regarding the Environmental Reports:

- The District has previously communicated to the City its concerns regarding the BBP project. In or about March 4, 2007, Dirk Fulton, on behalf of the Board of Trustees provided extensive comments on the impacts to the District. We reiterate those comments and provide an additional copy of that correspondence. The District believes that these issues were not been addressed in sufficient detail in the FEIR, the Addendum, or the Assessment.
- The FEIR and the Addendum conclude that the Mitigated Project's impacts have been reduced to a less than significant level based in part on vaguely defined site uses. The generalized approach in the FEIR and the Addendum, which is appropriate for a "program" or "tiered" EIR, is inadequate for a project EIR. These documents do not rise to the level of analysis required under CEQA for a project EIR. Since there has been inadequate analysis of a "project" and its impacts, there cannot be defensible conclusions as to whether mitigation of impacts has been achieved until specific project data is available.
- The Mitigated Project's impact on air quality for the District's students and staff in general, and most particularly those attending or working at the Semple School was not addressed in the Addendum.
- The proposed traffic calming measures and the potential impacts of the increased vehicular traffic created by the Mitigated 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.
- The Addendum did not address the Mitigated Project's impact of increased noise level at Semple School; 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.
- The Assessment fails to provide the necessary level of detail as to the potentially high volumes of truck traffic one would anticipate with the development of over two million square feet of space for industrial use. Further, the Assessment fails to account for the impact on peak hour traffic of the additional traffic equivalencies due to the composition of the truck traffic.

**COMMENTS ON SPECIFIC SECTIONS OF THE FEIR, ADDENDUM, AND THE ASSESSMENT**

**A. FEIR, Addendum and Assessment (“Environmental Reports”) do not constitute a project EIR; rather they constitute a minimally sufficient program EIR.**

1. **The Environmental Reports contain the elements of a “program” EIR but reach conclusions as a “project” EIR.**
2. The CEQA Guidelines define a “program” as, *inter alia*, “a series of actions that can be characterized as one large project” and related, in pertinent part and applicable here, geographically and as logical parts in the chain of contemplated actions.” (CEQA Guidelines, § 15168, subd. (a).) CEQA Guidelines, section 15168, subdivision (c)(5), states that “A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible.”
3. The CEQA statutes and the CEQA Guidelines have different types of EIRs and accompanying procedures that can be used depending upon the type, specificity, and known detail of the proposed project. (*Friends of Mammoth et al v. Town of Mammoth Lakes Redevelopment Agency* (2000) 82 Cal.App.4th 511, 527 [98 Cal.Rptr.2d 334].) The program EIR is designed to streamline later development review, reduce paperwork, avoid duplicative reconsideration of basic policy considerations, and to allow the lead agency to consider broad policy alternatives at an early time when the lead agency has greater flexibility. (CEQA Guidelines, § 15168 (b)(1) – (5).) A benefit of a program EIR is that it allows for subsequent projects to be reviewed in a more cursory manner and if consistent with the program EIR, no “subsequent or supplemental environmental impact report shall be required by the lead agency . . . unless one or more of the following events occurs: (a) Substantial changes are proposed in the project which will require major revisions to the environmental impact report. (b) Substantial changes occur with respect to the circumstances under which the project is being undertaken which will require major revisions in the environmental impact report. (c) New information, which was not known and could not have been known at the time the environmental impact report was certified as complete, becomes available.” (Pub. Resources Code, § 21166, subds. (a) – (c).)
4. Assuming certification by the City Council (as the lead agency), Public Resources Code section 21166 prohibits an agency from requiring

additional environmental review on the “project” unless one of the three changes occurs. However, if the environmental reports are concluded to be those of a “program” EIR, additional CEQA review is required for future phases of the development.

5. The prohibition against further review by the lead agency is a powerful incentive for BBP’s insistence that the documents prepared to date constitute a “project” EIR. Therefore, the District demands that the project sponsor provide analysis that is more thorough to determine if the Environmental Reports done to date constitute a program or a project EIR. We believe that the issue remains unresolved, despite the reply by the project sponsor’s attorney of October 1, 2008, that the Environmental Reports constitute a “project” EIR.

**B. A “project” EIR must contain all required contents set forth in CEQA and the CEQA Guidelines and comply with statutory and Guidelines requirements that apply to required contents as well as the reasonably foreseeable consequences of a proposed project.**

1. A “project” EIR must be prepared with sufficient degree of analysis to provide decision-makers with the information necessary to make informed decisions as to environmental consequences of a proposed project. A “project” EIR, in contrast to a “program” EIR must be prepared for “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and that is, in pertinent part: 1) an activity directly undertaken by any public agency including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code sections 65100-65700.” (CEQA Guidelines, § 15378, subd. (a)(1).) Subdivision 2 defines a “project” EIR as including “[A]n activity involving the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.” (CEQA Guidelines, § 15378, subd. (a)(2).)
2. The California Supreme Court, in *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376 [253 Cal.Rptr. 426] set forth a two-prong test to determine when future phases or consequences of a proposed project should be assessed as part of the initial EIR. It held that “an EIR must include an analysis of the environmental effects of future expansion or other action if (1) it is a reasonably foreseeable consequence of the initial project; and (2) the

future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.” (*Id.* at p. 396.) The Court went on to say that ... “[a]n EIR must include detail sufficient to enable those who did not participate in its preparation to understand and to consider meaningfully the issues raised by the proposed project.” (*Id.* at 47 Cal.3d at pp. 404-405.)

3. The District asserts that the City has not made clear whether the FEIR and the Addendum are intended to comprise a program EIR or a project EIR and as a result fails to provide the reader with sufficient information with which to read and evaluate the document. Several examples of ambiguous nature of the analysis in the Addendum are: 1) the variety of types and sizes of specific land uses that are assumed for inclusion in the Mitigated Project (Addendum at 6); 2) the lack of specific site plans for the proposed 857,000 square feet of commercial and industrial construction (Addendum at 7); and, 3) infrastructure, such as interior streets, that would not be connected until final phase of development adjacent to the road (Addendum at 9-10).
4. Section 15146 of the CEQA Guidelines, addresses the degree of specificity of an EIR, *i.e.*, it will correspond to the degree of specificity involved in the underlying activity, described in the EIR. Subsection (a) states: “An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.” (Cal. Code Regs., tit 14, § 15146, subd. (a).)
5. CEQA Guidelines, section 15378, subdivision (c) states that the term “project” refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. Based on this, it is unclear exactly what has been approved by the City due to the vague nature of the uses proposed and the wide-ranging possible uses that could be constructed within the Mitigated Project. (Cal. Code Regs., tit 14, § 15378, subd. (c).)
6. In applying the definitions and case law interpretations, here, the Environmental Reports do not constitute a project EIR because they do not provide sufficient detail as to the reasonably foreseeable consequences of the Mitigated Project. The Environmental Reports fail to provide meaningful information as to 1.3 million square feet of “flexible uses” pursuant to the City’s Limited Industrial zoning. This broad category allows uses that range from wholesale, distribution and storage facilities, research and development facilities as well as their

related industrial and commercial services. Also allowed within the Limited Industrial zoning are auto sales and services, mini-storage, eating and drinking establishments, and churches.

7. The Environmental Reports fail to address the impacts of 1.3 million square feet of industrial space. This represents fully one-third of the entire Mitigated Project. The potential uses range from research and development (“R&D”) to restaurants to churches. These wide-ranging possible uses require that the project sponsor provide the City with additional evaluation as to the possible environmental impact of these uses. As an example, contrast two different uses: construction of R&D facilities versus construction of an auto sales and service establishment. The number of employees will differ as well as the hours worked. The number and type of vehicles, the routes taken and the cargo the vehicles will contain could be dramatically different. Without providing at least a composite of proposed uses that would be allowable and analyzing the impacts of the proposed uses, the Environmental Reports fail to meet the requirements of a project EIR. The California Supreme Court distinguished a program EIR from a project EIR as follows: “... a *program* EIR is distinct from a *project* EIR, which is prepared for a specific project and must examine in detail site-specific considerations.” (*In re Bay-Delta Programmatic Environmental Impact Report Coordinated Proceedings* (2008) 43 Cal.4<sup>th</sup> 1143, 1169 [77 Cal.Rptr.3d 578, 598] quoting Cal. Code Regs., tit.14, §§ 15168, 15161.) (Emphasis in original.)
  8. The lack of detail provided in the Environmental Reports precludes that it be considered a project EIR for the Mitigated Project. Therefore, the District must reiterate its prior comments as to the lack of in-depth analysis of the impacts of noise, air pollution, and traffic on the students and staff at the Semple School and demand that the City require that the project sponsor an appropriately detailed EIR for the Mitigated Project that includes sufficient analysis of the environmental impacts of development of 900,000 square feet of commercial uses and 2.4 million square feet of industrial uses.
- C. The Environmental Reports fail to analyze the cumulative impacts of increased vehicle traffic on air quality at Semple School. (Addendum Section 8.)**
1. Section 8 c. Toxic Air Contaminants. The Addendum reaches the conclusion that no new sources of toxic air contaminants will be present because of the Mitigated Project. No evidence is provided to support

reaching this conclusion. The District requests that this issue be addressed in a more comprehensive manner.

2. Section 8 d. Operational Emissions – CO Analysis. 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.

The District again provides the City a copy of the “Traffic-Related Air Pollution Near Busy Roads Study” (May 31, 2004), attached to the letter from Dirk Fulton, which indicates that children attending schools that are located within 500 feet of a road with more than 25,000 cars will suffer a 7% increase in respiratory problems associated with asthma and asthma precursor type symptoms. (American Thoracic Society, Traffic-related Air Pollution near Busy Roads (2004) American Journal of Respiratory and Critical Care Medicine, Vol. 170, pp. 520-526.)

The District reiterates its request, made March 9, 2007, for long term health assessments to ensure student health is maintained and not negatively impacted while attending Semple School.

3. Section 8 e. Demolition and Construction Emissions. 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.

4. Section 8 f. Long-term Emissions Impacts. 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 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.) The FEIR contains no analysis nor is supporting documentation 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.

**D. The Environmental Reports fail to analyze the impacts of increased noise on the learning environment at the Semple School. (Addendum Section 9.)**

1. Section 9 c. Construction Period Impacts. 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 2<sup>nd</sup> Street.
2. The District reiterates its previous request (March 9, 2007) that additional analysis of potential noise is conducted and that all proposed mitigations are required of the project sponsor.
3. Section 9 d. Operation Impacts. 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 analyze appropriately the cumulative impacts of the increased traffic noise on the students and staff at Semple School.
4. 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 the Semple School. The proposed and minimally acceptable 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.

5. The FEIR acknowledges that the City’s General Plan prohibits noise levels in excess of 65dBA CNEL for schools (among other uses). However, no measurement is made of the location of the Semple School despite its recognition 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.

**E. The Environmental Reports fail to address the composition of the traffic and the environmental impact of increased truck traffic along 2<sup>nd</sup> Street, immediately adjacent to Semple School.**

1. Our analysis of the Environmental Reports, and in particular, the Assessment, indicates that they fail to include sufficiently detailed information regarding the composition of the increased vehicle traffic adjacent to the Semple School. Additionally, the impact of the increased truck traffic that would occur as a result of the Mitigated Project has not been analyzed.
2. Due to the nature of the proposed development, Limited Industrial, the Environmental Reports should contain an identification of, and subsequent analysis of the anticipated environmental impact of increased truck traffic.
3. The requested analysis should contain measurable equivalencies between automobile traffic and truck traffic as well as measurement of the various types of trucks, that is, medium and/or heavy trucks. Data of this type is required to analyze properly the impact of both noise and emissions of the increased traffic volume on 2<sup>nd</sup> Street.
4. Further information as to the minimally sufficient information for inclusion in subsequent environmental documents is included in the October 3, 2008 memorandum prepared by Benson Lee and Dennis Pascua, attached hereto.

**F. The Environmental Reports fail to address the likelihood that the project sponsor will implement the proposed mitigation measures.**

1. The Environmental Reports include numerous mitigation measures that will be the responsibility of the project sponsor. For the traffic impacts, the proposed mitigation measures range from installing signals to extending bus routes. The mitigation measures for noise include installation of sound barriers as well as ensuring that construction is restricted to established hours. To mitigate impacts to air quality, the project sponsor is required to comply with numerous restraints during the construction period. The Environmental Reports do not contain details as to the means for enforcement of these proposed mitigation provisions.
2. The California Supreme Court has stated “an EIR cannot be meaningfully considered in a vacuum devoid of reality... .” (*Laurel Heights Improvement Association v. Regents of the University of California* at 420. See also: *Maintain Our Desert Environment v. Town of Apple Valley* (2004) 124 Cal. App.4<sup>th</sup> 430, 448 [15 Cal.Rptr.3d 322], “the environmental record of a project proponent can be a significant factor in determining whether its promises should be believed such that mitigation measures are likely to be adequate. (*Maintain Our Desert Environment* at 448, quoting *Laurel Heights*.) In *Laurel Heights*, the Supreme Court stated: “a court should consider relevant factors including: the length, number, and severity of prior environmental errors and the harm caused; whether the errors were intentional, negligent, or unavoidable; whether the proponent’s environmental record has improved or declined; whether he has attempted in good faith to correct prior problems; and whether the proposed activity will be regulated and monitored by a public entity.” (*Laurel Heights* at 449.)
3. In 2002, the project sponsor, West Coast Home Builders, Inc., pled guilty to two federal criminal charges for its 2001 killing of red-legged frogs and the deliberate destruction of frog habitat in violation of the federal Endangered Species Act. The violations occurred at the construction site of the West Coast Homes Builders’ site in the City of Pittsburg’s San Marco subdivision. As part of the plea agreement, the company, headed by Albert Seeno, Jr., agreed to pay \$1 million dollars in fines and restitution for its 2001 instruction to company employees to drain two ponds at San Marco and to bulldoze frog habitat. This was despite surveys completed nearly 10 years earlier that indicated that the rare frogs lived there.
4. In 2008, the Seeno Construction Company agreed to pay \$2.95 million dollars in settlement of Clean Water Act violations. Seeno Construction

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Company agreed to pay for illegally filling wetlands and water courses in the process of building a large development in Contra Costa County known as Mira Vista Hills. The settlement was severe in consideration of Seeno's prior conviction in U.S. federal court, according to the Executive Officer of the California Regional Water Quality Control Board as reported in the Board's meeting minutes. The minutes, which contain details as to the payment of funds to five California public agencies and the California Wildlife Foundation, can be viewed at [http://www.waterboards.ca.gov/centralvalley/barod\\_info/exec\\_officerreports/0801eo.pdf](http://www.waterboards.ca.gov/centralvalley/barod_info/exec_officerreports/0801eo.pdf)).

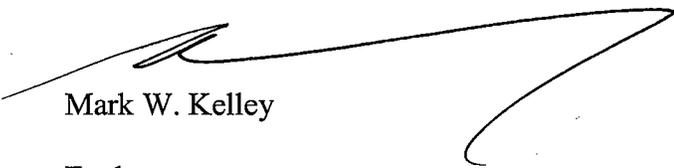
5. If the City proceeds with the Mitigated Project, it should be cognizant of the prior history of the project sponsor and take into account its failure to comply with environmental laws in the recent past. The District requests revision of the Environmental Reports to reflect more specifically the enforcement mechanisms that the City will employ to ensure completion of the proposed mitigation measures.

#### **G. Conclusion**

For the foregoing reasons, we believe that the Environmental Reports have failed to meet the requirements of a "project" EIR pursuant to the CEQA statutes and the CEQA Guidelines. As a result, they do not adequately identify the impacts of the Mitigated Project on the District's students and staff, and in particular the impact to the students and staff of the Semple School. We urge the City to reject the Mitigated Project as currently configured.

Very truly yours,

MILLER BROWN & DANNIS



Mark W. Kelley

Enclosures

cc: Board of Trustees, Benicia Unified School District  
Elizabeth Patterson, Mayor, City of Benicia

## MEMORANDUM

**Date:** October 3, 2008

**To:** Janice Adams, Benicia Unified School District

**cc:** Mark Kelley, Miller, Brown & Dannis  
Ralph Caputo, RGM

**From:** Benson Lee, Consulting  
Dennis Pascua, PTP

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**Subject: Review of September 30, 2008 Supplemental Transportation Assessment for the Benicia Business Park Project**

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The following memorandum provides our comments based on a review of the Benicia Business Park Project's (proposed project) *Supplemental Transportation Assessment*, prepared by DMJM Harris on September 30, 2008. The proposed project is located in the City of Benicia (City), west of I-680, south of Lake Herman Road, and north of Second Street; adjacent to the I-680/Lake Herman Road interchange. The Supplemental Transportation Assessment was prepared to assess a reduced project description (than the one analyzed in the *Benicia Business Park EIR*); assess the midday peak hour traffic impacts associated with lunchtime traffic; and, assess the traffic impacts on Second Street at the intersections adjacent to Semple Elementary School.

The original project description included approximately 857,000 square feet of commercial space and 4,443,440 square feet of industrial space. The revised project description reduces the amount of total industrial space by 46 percent, from 4,443,440 square feet to 2,399,760 square feet. The size of the commercial space would remain the same at 857,000 square feet.

According to Table 2: Trip Generation Comparison, the revised project would generate fewer trips than the original project. The revised project would generate 39,827 ADT, 3,511 a.m. peak hour trips, 2,207 midday peak hour trips, and 4,068 p.m. peak hour trips. Based on the Draft EIR, approximately 35 percent of the project's traffic was distributed through Second Street in the vicinity of Semple School. Using the 35 percent distribution percentage on Second Street, the proposed project would add approximately 13,939 ADT, 1,229 a.m. peak hour trips, 795 midday trips (based on a 36 percent midday distribution), and 1,424 p.m. peak hour trips. Even with the revised project, this would represent a significant growth in traffic along Second Street when compared to recent traffic volumes (without the Benicia Business Park) collected in the area.

The following are our comments based on review of the Supplemental Transportation Assessment (assessment):

1. In general, the assessment is consistent with the methodologies of the traffic analysis prepared for the Benicia Business Park EIR. The methodologies are consistent with the analysis guidelines and policies of the City of Benicia, Solano County Transportation Authority, and Caltrans.
2. With addition of these trips, significant traffic impacts were forecast at Second Street/Seaview Drive (LOS F during all peak hours). The intersection of Second Street/Hillcrest Avenue would continue to operate with satisfactory LOS (LOS C or better) in all peak hours) with the revised project. The impact at Second Street/Seaview Drive was mitigated to less than significant with the implementation of an eastbound left turn restriction at the intersection.
3. Although the trip generation analysis provides some level of detail regarding the proposed land uses, there is no detailed information provided for the potential high volumes of truck traffic originating from the proposed 50,000 square feet of R&D uses, 1,091,000 square feet of tilt-up (industrial) uses, and 1,308,000 for flex (industrial) uses. With the assumption of a 35 percent trip distribution on Second Street, there is no analysis of the amount of truck trips assumed on the roadway that would pass by Semple Elementary School. Furthermore, a passenger-car equivalence (PCE) factor should be applied to these truck trips (e.g., 2.0 PCE for medium trucks, and 2.5 to 3.0 PCE for heavy trucks). With the application of PCEs, peak hour volumes would increase which would require re-analysis of the peak hour traffic volumes.
4. Once the truck traffic volumes have been properly identified, a permanent truck routing plan for the proposed industrial uses should be prepared. This truck routing plan should encourage a majority of truck trips to utilize the I-680/Lake Herman Road interchange to access regional freeway facilities. Lake Herman Road in this vicinity already contains predominantly industrial and commercial uses. Truck traffic should be discouraged along Second Street (to I-780) because of the existing residential uses and pedestrian traffic created by Semple Elementary School.
5. We agree with the assessment's consideration of implementation of the following traffic calming measures on Second Street in the vicinity of Semple Elementary School:
  - a. Installation of high-visibility crosswalks at Second Street/Hillcrest Avenue
  - b. Install Radar Speed Feedback signs
  - c. Install flashing yellow beacons
  - d. Ensure the presence of crossing guards at Second Street/Hillcrest Avenue
  - e. Implementation of on-street traffic calming devices

Implementation of these devices would discourage high speed traffic in the school's vicinity as well as divert a majority of traffic from the proposed project away from Second Street during the peak school hours of Semple Elementary School.

At a minimum, the attached Caltrans *Traffic Operations Policy Directive* (#08-06, September 12, 2008) should be implemented on Second Street in the vicinity of Semple Elementary School.

Attachment: Caltrans *Traffic Operations Policy Directive* (#08-06, September 12, 2008)

**POLICY DIRECTIVE**

TR-0011 (REV 9/2006)

<b>TRAFFIC OPERATIONS POLICY DIRECTIVE</b>	NUMBER: <b>08-06</b>	PAGE: 1 of 6
ROBERT COPP, DIVISION CHIEF (Signature) 	DATE ISSUED: September 12, 2008	EFFECTIVE DATE: September 12, 2008
SUBJECT: <b>Inclusion of interim policy for reduced speed limits in school zones in the California Manual on Uniform Traffic Control Devices (California MUTCD)</b>	DISTRIBUTION <input checked="" type="checkbox"/> All District Directors <input checked="" type="checkbox"/> All Deputy District Directors - Traffic Operations <input checked="" type="checkbox"/> All Deputy District Directors - Maintenance <input checked="" type="checkbox"/> All Deputy District Directors - Construction <input checked="" type="checkbox"/> All Deputy District Directors - Design <input type="checkbox"/> All Deputy District Directors - Transportation Planning <input type="checkbox"/> Chief, Division of Engineering Services <input checked="" type="checkbox"/> Chief Counsel, Legal Division <input checked="" type="checkbox"/> Publications (California MUTCD Website) <a href="http://www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/ca_mutcd.htm">www.dot.ca.gov/hq/traffops/signtech/mutcdsupp/ca_mutcd.htm</a> <input type="checkbox"/> Headquarters Division Chief(s) for:	
DOES THIS DIRECTIVE AFFECT OR SUPERSEDE ANOTHER DOCUMENT? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE Adds Chapter 7B of the California MUTCD	
WILL THIS DIRECTIVE BE INCORPORATED IN THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, DESCRIBE Interim 2-year period in Chapter 7B, Section 7B.11 & 7B.12.	

**DIRECTIVE**

Pursuant to the requirements of Assembly Bill (AB) 321 (Nava) and the authority granted to the California Department of Transportation (Department) in Section 21400 and 21401 of the California Vehicle Code (CVC), interim policy changes to the following signs shall be included for a 2-year period in Part 7 of the California Manual on Uniform Traffic Control Devices (California MUTCD), dated September 26, 2006;

California Code	MUTCD Code	Title of Sign	California MUTCD Section
Assembly C(CA)	None	School Speed Limit Assembly	Section 7B.11
None	S4-5 & S4-5a	Reduced Speed School Zone Ahead Sign	Section 7B.12

**POLICY DIRECTIVE****IMPLEMENTATION**

In this section, for purposes of clarity, italic text is used to denote text that is being added to the California MUTCD. All other formatting as defined under the Definitions section of this Policy Directive is still applicable.

The following interim policies shall be included in the California MUTCD for a 2-year period:

**Section 7B.11 School Speed Limit Assembly (S4-1, S4-2, S4-3, S4-4, S4-6, S5-1)*****EXTENDED 40 KM/H (25 MPH) AND/OR REDUCED SPEEDS IN SCHOOL ZONES (Interim)******Option:***

*A local authority may, by ordinance or resolution, determine and declare prima facie speed limits in a residence district as follows:*

- *A 20 km/h (15 mph) prima facie limit on a highway with a posted speed limit of 50 km/h (30 mph) or slower, when approaching at a distance of less than 150 m (500 ft) from, or passing, a school building, the grounds of a school building, and/or other school grounds that are not separated from the highway by a fence, gate or other physical barrier, contiguous to a highway and posted with a school warning sign that indicates a speed limit of 20 km/h (15 mph), while children are present (School Speed Limit Assembly C(CA) see Figure-103(CA)), and/or*
- *A 40 km/h (25 mph) prima facie limit on a highway with a posted speed limit of 50 km/h (30 mph) or slower, when approaching at a distance of 150 to 300 m (500 to 1,000 ft) from a school building, the grounds of a school building, and/or other school grounds that are not separated from the highway by a fence, gate, or other physical barrier, contiguous to a highway and posted with a school warning sign that indicates a speed limit of 40 km/h (25 mph), while children are present (School Speed Limit Assembly C(CA) see Figure 7B-103(CA)).*

*When a 20 k/h (15 mph) speed limit is authorized at a distance of less than 150 m (500 ft) from a school, as described above, on a street with a posted speed limit of 50 km/h (30 mph), an intervening speed limit of 40 km/h (25 mph) may be authorized by ordinance or resolution at a distance of 150 to 300 m (500 to 1,000 ft) from a school, in order to provide progressive speed reduction.*

***Standard:***

*If authorized by ordinance or resolution in a residence district, the prima facie speed limits described above shall apply when approaching, at distances of:*

- *Less than 150 m (500 ft), for a reduced school zone speed limit of 20 km/h (15 mph), and/or*
- *150 to 300 m (500 to 1,000 ft), for an extended school zone speed limit of 40 km/h (25 mph)*

*from, or passing, a school building, the grounds of a school building, and/or other school grounds that are not separated from the highway by a fence, gate or other physical barrier, contiguous to the highway and posted with a school warning sign that indicates the reduced and/or extended school zone speed limit(s) while children are present (see Figure 7B-103(CA)).*

*Prima facie limits established by any criterion above shall apply only to highways that have a maximum of two traffic lanes and a maximum posted 50 km/h (30 mph) prima facie speed limit immediately prior to and after the school zone. These prima facie limit(s) shall apply to all lanes of an affected highway, in both directions of travel (see Figure 7B-103(CA)).*

**POLICY DIRECTIVE****IMPLEMENTATION (cont'd)**

*When used, a local ordinance or resolution adopted to establish a 20 km/h (15 mph) reduced school zone speed limit and/or a local ordinance or resolution adopted to establish an extended 40 km/h (25 mph) school zone speed limit shall not be effective until appropriate signs giving notice of the speed limit(s) are erected upon the highway.*

*On a State highway, the ordinance or resolution shall not be effective until the ordinance or resolution has been approved by the Department of Transportation and appropriate school zone speed signs are erected upon the State highway. The local authority shall reimburse the Department of Transportation for any and all costs incurred as a result of the implementation of the ordinance or resolution.*

*For purposes of a 20 km/h (15 mph) reduced prima facie speed limit, school warning signs indicating a speed limit of 20 km/h (15 mph) shall be placed at a distance up to 150 m (500 ft) away from school grounds. For purposes of an extended 40 km/h (25 mph) prima facie speed limit, school warning signs indicating a speed limit of 40 km/h (25 mph) shall be placed at any distance between 150 to 300 m (500 to 1,000 ft) away from school grounds. Refer to Figure 7B-103(CA) for maximum distances to post reduced school zone speed limits from a school building, the grounds of a school building, and/or other school grounds that are not separated from the highway by a fence, gate, or other physical barrier.*

*The need to reduce a prima facie speed limit to 20 km/h (15 mph) and/or extend a 40 km/h (25 mph) school zone speed limit, as described above, shall be documented in writing, in an engineering study. The engineering study shall identify the provisions of Section 627 of the Vehicle Code that support the reduced and/or extended school zone speed limit(s).*

**Guidance:**

*When preparing an engineering study pursuant to the Standard above, the local authority should cite all elements of an Engineering and Traffic Survey, as discussed in Section 627 of the Vehicle Code, that support the need for a reduced speed limit of 20 km/h (15 mph) and/or an extended 40 km/hr (25 mph) school zone speed limit. Generally, a minimum of two conditions should be present before a reduced speed limit should be considered (i.e., collision history, residential density, pedestrian and bicyclist safety). However, prevailing speeds (85th-percentile speed) should not be required as the basis for a reduced speed limit.*

**Section 7B.12 Reduced Speed School Zone Ahead Sign (S4-5, S4-5a)*****EXTENDED 40 KM/H (25 MPH) AND/OR REDUCED SPEEDS IN SCHOOL ZONES (Interim)******Option:***

*For school area traffic control with a reduced school zone speed limit of 20 km/h (15 mph) and/or an extended school zone speed limit of 40 km/h (25 mph) in a residence district, the Reduced Speed School Zone Ahead (S4-5, S4-5a) sign may be used to give advance notice of a reduced 20 km/h (15 mph) school zone speed limit and/or an extended school zone speed limit of 40 km/h (25 mph).*

In all applications of this policy, engineering judgment must be exercised. The objective is to provide uniform applications of signs statewide. If there are any questions regarding implementation, districts should consult with the Headquarters Traffic Operations Liaison.

**ADA Notice**

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 653-3657 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS89, Sacramento, CA 95814.

**POLICY DIRECTIVE**

**DELEGATION**

No new delegations of authority are created under this policy.

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**BACKGROUND**

The purpose of this directive is to implement the requirements of AB 321 in administrative law in the California MUTCD to provide local authorities with standards, guidance, and options for speed limits in school zones in a Residence District. AB 321 was signed into law by the Governor in October 2007 to amend CVC Section 22358.4, to designate existing statutory language as subdivision (a) and adds subdivision (b) to this section. This administrative law applies to school zones in a Residence District where local authorities, by ordinance or resolution, may expand the prima facie speed limit of 40 km/h (25 mph) from 150 to 300 m (500 to 1,000 ft) from a school; and/or, reduce the prima facie speed limit to 20 km/h (15 mph) within 150 m (500 feet) of a school.

Due to the fact that existing statute in CVC Section 22358.4(a) includes a wider application beyond school zones, this interim policy addresses only new language in CVC Section 22358.4(b) as it relates to Section 7B.11 "School Speed Limit Assembly" and 7B.12 "Reduced Speed School Zone Ahead Sign" in the California MUTCD. However, the Department is currently working on revising Section 2B.13 "Speed Limit Sign" of the California MUTCD which will encompass the provisions of CVC Section 22358.4(a).

The implementation of AB321 was brought before the CTCDC at their May 29, 2008 meeting for discussion and presentation of alternatives. The CTCDC considered the draft language and the impact to all local agencies in California. In the end, the CTCDC recommended that the Department implement these changes to the California MUTCD for a limited time period to allow evaluation of the changes but only after consultation with the Department's legal staff. The Department requested and received a legal opinion from the Department's legal staff that supported the implementation of these changes. Therefore, the Department will implement this interim policy in the California MUTCD for a limited term of 2-years which is sufficient time to allow for proper evaluation of these changes. During this time period, the Department will review and confer with the CTCDC on the operational experience of local agencies with this interim policy at regular intervals. The Department, at the expiration of 2-years, will develop the final policy and, upon recommendation from the CTCDC, will include it in the California MUTCD.

This policy will be interim until such time that is either revised or incorporated in final form into the California MUTCD at which time it will be retired.

**POLICY DIRECTIVE**

**DEFINITIONS**

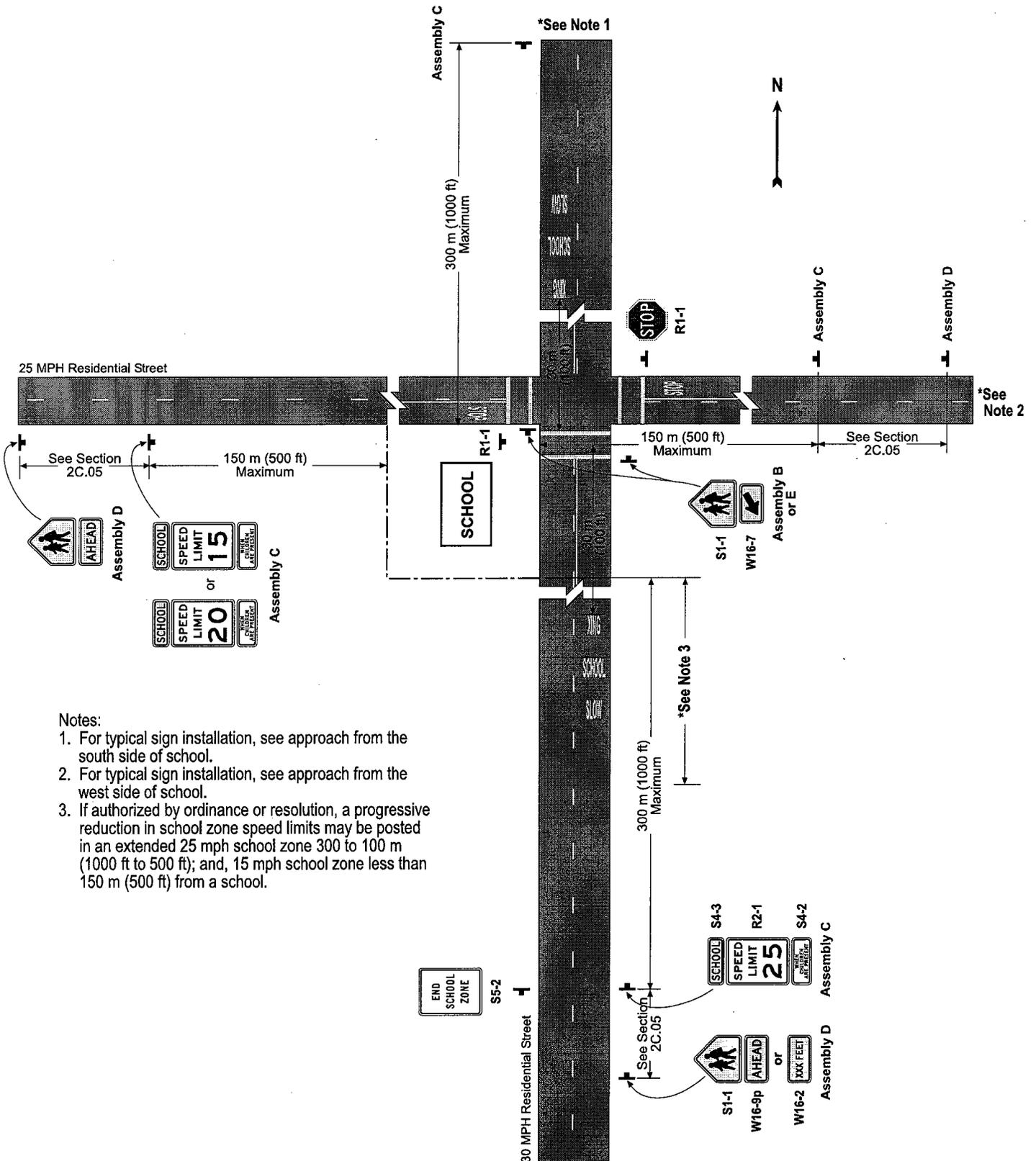
When used in this Traffic Operations Policy Directive, the text shall be defined as follows:

- 1) **Standard** – a statement of required, mandatory or specifically prohibited practice. All standards text appears in **bold** type. The verb **shall** is typically used. Standards are sometimes modified by Options.
  - 2) **Guidance** – a statement of recommended, but not mandatory, practice in typical situations, with deviations allowed if engineering judgment or engineering study indicates the deviation to be appropriate. All Guidance statements text appears in underline type. The verb should is typically used. Guidance statements are sometime modified by Options.
  - 3) **Option** – a statement of practice that is a permissive condition and carries no requirement or recommendation. Options may contain allowable modifications to a Standard or Guidance. All Option statements text appears in normal type. The verb may is typically used.
  - 4) **Support** – an informational statement that does not convey any degree of mandate, recommendation, authorization, prohibition, or enforceable condition. Support statements text appears in normal type. The verbs shall, should and may are not used in Support statements.
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**ATTACHMENTS**

1. Figure 7B-103(CA) Example of Signing for School Area Traffic Control with Extended and/or Reduced School Zone Speed Limits

**Figure 7B-103(CA). Example of Signing for School Area Traffic Control with Extended and/or Reduced School Zone Speed Limits**



**Notes:**

1. For typical sign installation, see approach from the south side of school.
2. For typical sign installation, see approach from the west side of school.
3. If authorized by ordinance or resolution, a progressive reduction in school zone speed limits may be posted in an extended 25 mph school zone 300 to 100 m (1000 ft to 500 ft); and, 15 mph school zone less than 150 m (500 ft) from a school.