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# **Appendix A**

## NOPs and Comments Received

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# **NOP and Comments Received**

NOP Date: March 24, 2023



# NOTICE OF PREPARATION

## SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT THE FIELDS AT ALAMO CREEK PROJECT

<b>DATE OF NOTICE:</b>	Friday, March 24, 2023
<b>MEETING DATE:</b>	Thursday, April 13, 2023
<b>MEETING TIME:</b>	6:00 pm
<b>SUBJECT:</b>	<b>NOTICE OF PREPARATION (NOP) OF AN INITIAL STUDY AND SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) FOR THE FIELDS AT ALAMO CREEK PROJECT.</b>
<b>LEAD AGENCY:</b>	City of Vacaville, Community Development Department
<b>PROJECT TITLE:</b>	The Fields at Alamo Creek
<b>PROJECT LOCATION:</b>	East of Leisure Town Road, City of Vacaville (APN: 0138-010-040)
<b>COMMENT PERIOD:</b>	March 24, 2023 through April 24, 2023

Notice is hereby given that the City of Vacaville (City) will be the lead agency and will prepare a Supplemental Environmental Impact Report (SEIR) for the proposed Fields at Alamo Creek Project (Project). This Notice of Preparation (NOP) has been issued to notify responsible and trustee agencies and other interested parties that the City will be preparing an SEIR to The Farm at Alamo Creek Specific Plan EIR, which is a larger development project that was previously approved in 2019 on the adjoining site to the west. The Project will be relying on future improvements from the Farm at Alamo Creek. The purpose of this NOP is to request feedback on the scope and content of the analysis to be evaluated in the SEIR.

A scoping session meeting will be held online via Zoom on April 13, 2023 at 6:00 pm. The scoping session, which is part of the SEIR process, is the time when the City gathers input from the public and agencies on specific topics that may need to be addressed in the environmental analysis. The scoping process is designed to enable the City to determine the scope and content of the SEIR, identify the range of actions, and identify potentially significant environmental effects, alternatives, and mitigation measures to be analyzed.

Written comments on the scope of the SEIR may be sent to:

**Albert Enault**  
**Senior Planner**  
**City of Vacaville**  
**650 Merchant Street**  
**Vacaville, CA 95688**  
[albert.enault@cityofvacaville.com](mailto:albert.enault@cityofvacaville.com)  
**Phone: (707) 449-5364**

The 30-day comment period for the NOP is extended to account for holidays and runs from **March 24, 2023** through **April 24, 2023**. Comments on the NOP are due no later than 5:30 PM on Monday, April 24, 2023. Public agencies that provide comments are asked to include a contact person for the agency.

**PROJECT LOCATION AND EXISTING CONDITIONS:** The project site is located within unincorporated Solano County immediately adjacent to the eastern city limits bordered by Hawkins Road to the north, the adopted The Farm at Alamo Creek Specific Plan to the west and to the south, and PG&E overhead transmission lines and undeveloped agricultural lands to the east. The project site is undeveloped agricultural land designated by the Department of Conservation as Prime Farmland that does not contain any trees or buildings. A Solano Irrigation District canal runs adjacent to Hawkins Road along the north side of the property. The project site is located within the City's Sphere of Influence and Urban Growth boundary.

**PROJECT DESCRIPTION:** The Fields at Alamo Creek proposal includes a tentative subdivision map for the development of up to 223 detached single-family residential units, a 0.52-acre park, and 6.71 acres of open space agricultural buffer on a 33.6-acre parcel of land located immediately adjacent to the eastern boundary of The Farm at Alamo Creek Specific Plan. There would be two available lot sizes, providing for homes less than 2,000 square feet on small lots and up to 2,300 square feet on the larger lots. The proposed park would be centrally located on the site, and the 300-foot-wide open space agricultural buffer would border the eastern project boundary.

Development of the proposed project would require annexation to the City to access municipal services, such as water, sewer, and storm drainage. The project applicant is requesting to amend the General Plan Land Use designation from Urban Reserve to Residential Medium Density where the residential units are proposed and Agricultural Buffer where the open space agricultural buffer is proposed. Additional text amendments to the General Plan are proposed, related to lot counts and size requirements for lots adjacent to an agricultural buffer. The project site is zoned A-40, Exclusive Agricultural 40 acres in the Solano County General Plan (Solano County 2008). The project is requesting the site be zoned Residential Medium Density and Public Facilities (for the agricultural buffer). Because the project site is designated as Prime Farmland, the project would be required to purchase conservation easements or fund the creation of new irrigated Prime Farmland, pursuant to the General Plan. The project also requests a Specific Plan Amendment which would incorporate the proposed project within The Farm at Alamo Creek Specific Plan. The Farm at Alamo Creek Specific Plan assumed future development would occur at the project site and provided for road and utility connections. The proposed project would integrate the planned connections into the project design, as well as land use patterns and design characteristics that are included in The Farm at Alamo Creek Specific Plan.

**WEBSITE INFORMATION:** <https://bit.ly/FieldsAtAlamoCreek>

**POTENTIAL ENVIRONMENTAL EFFECTS:** The SEIR will evaluate changes in the physical environment that could occur as a result of the approval of the proposed project and whether these issues would result in new or substantially more severe significant impacts than identified in The Farm at Alamo Creek Specific Plan EIR. It is anticipated that the preparation of an SEIR, per CEQA Guidelines Section 15163 would address, at a minimum, the following environmental topics: Air Quality, Biological Resources, Land Use, Utilities and Service Systems, and Transportation.

For the following environmental topics, it is anticipated that the proposed project would not involve new or more severe environmental impacts that were not evaluated in The Farm at Alamo Creek Specific Plan EIR, and therefore would not be evaluated in the SEIR. These environmental topics not evaluated in the SEIR would be described and an explanation would be provided describing why the analysis in The Farm at Alamo Creek Specific Plan EIR adequately addresses the proposed project.

- Aesthetics
- Agriculture and Forestry Resources
- Cultural Resources
- Geology, Soils, Seismicity
- Greenhouse Gases
- Mineral Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Population and Housing
- Public Services and Recreation
- Wildfire

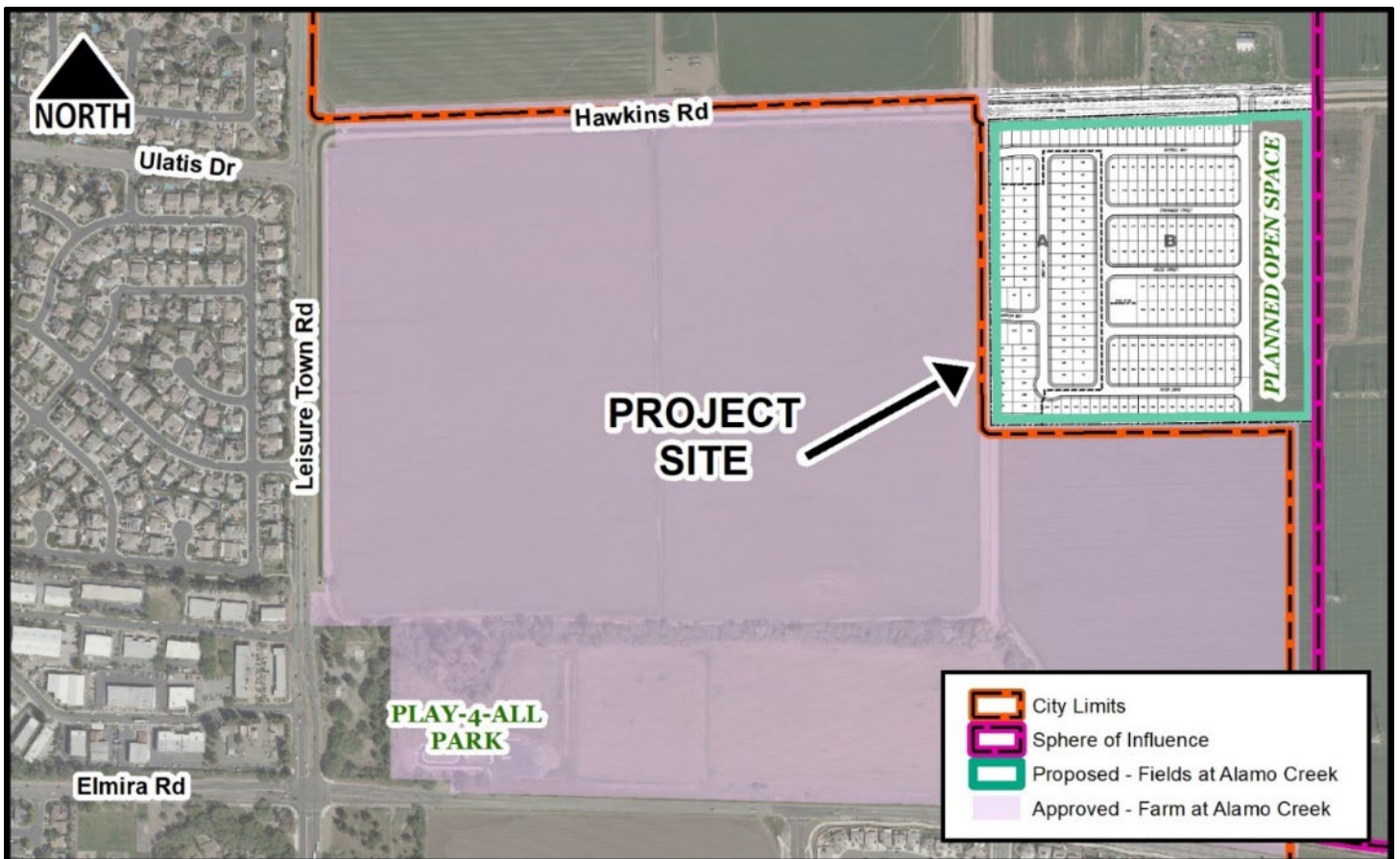
# SCOPING MEETING INSTRUCTIONS

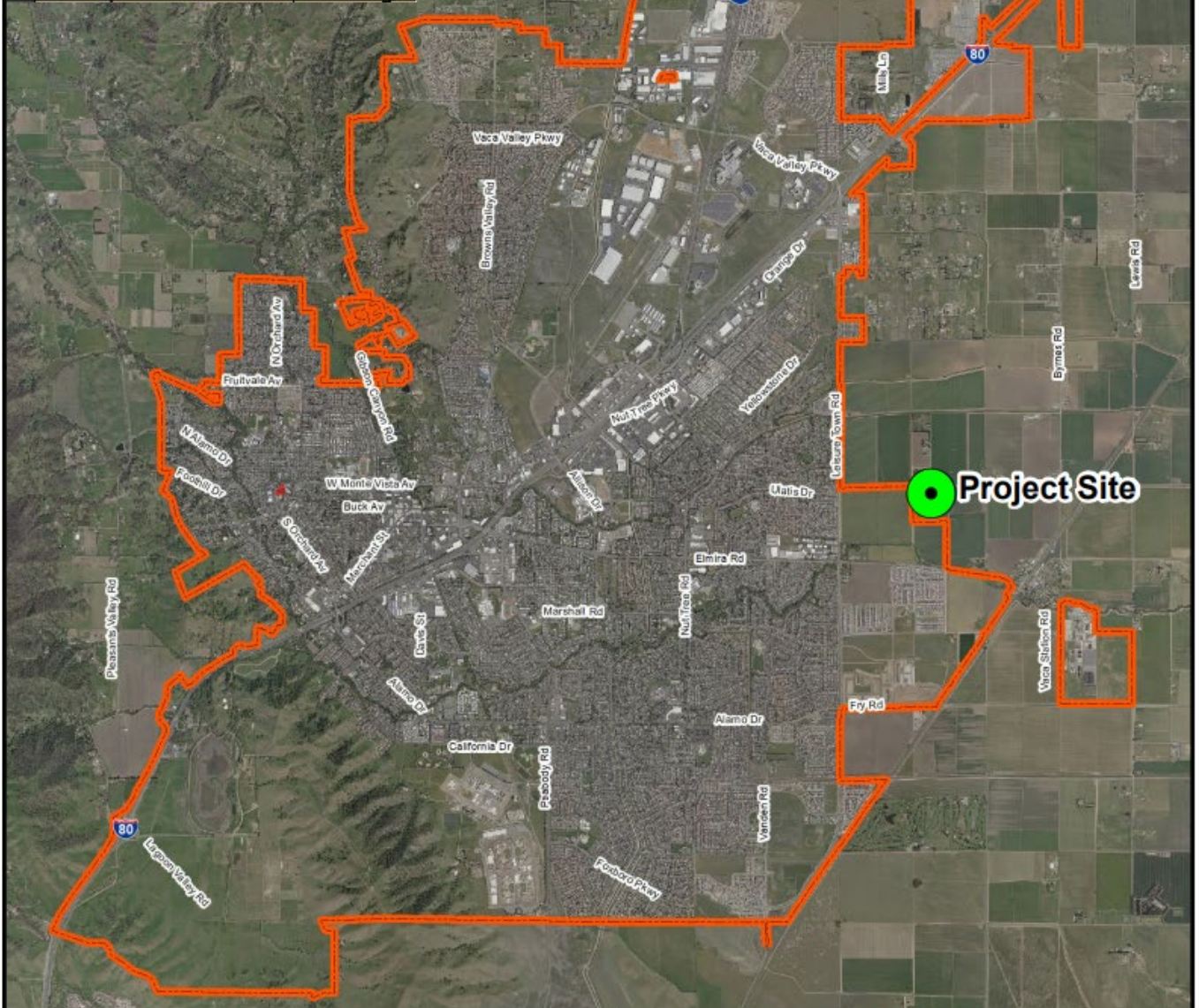
A Scoping Meeting will be held remotely via Zoom conferencing, which may be accessed using the instructions below:

Step 1) In an internet browser, go to [cov.zoom.us/join](https://cov.zoom.us/join) and enter 11 digit meeting ID number **823 3930 1428**; and password **067631**

Step 2) On the phone, call **(669) 219-2599** and dial meeting ID number **823 3930 1428**

This is an informational meeting, and no decision will be made on the project. Both City staff and the applicant will be present to review the plans and answer questions related to the proposal. We encourage your participation throughout the review process. You may submit comments by attending the meeting, emailing the Project Planner, or mailing them to the Community Development Department located at 650 Merchant Street prior to the scheduled meeting date listed above. Please feel free to contact the Project Planner, Albert Enault, to ask questions or be added to the mailing list. Additional information about the project is available on the website noted above. You may also visit the Community Development Department in City Hall located at 650 Merchant Street, Vacaville, CA 95688. Our offices are open between the hours of 8:00 am to 5:30 pm, Monday through Friday, excluding every other Friday.





**CITY OF VACAVILLE**  
 COMMUNITY DEVELOPMENT DEPT.  
 PLANNING DIVISION



**LOCATION MAP**

**THE FIELDS AT ALAMO CREEK**  
 SOUTH OF HAWKINS ROAD & KATLEBA LANE  
 (APN 0138-010-040)



Via Electronic Mail

March 28, 2023

Albert Enault  
Senior Planner  
City of Vacaville  
650 Merchant Street  
Vacaville, CA 95688  
albert.enault@cityofvacaville.com

**Re: Earthjustice Comments on the Notice of Preparation of a Draft Environmental Impact Report for The Fields at Alamo Creek Project**

Earthjustice appreciates the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report (“DEIR”) for the Fields at Alamo Creek Project (“Project”), which contemplates the development of up to 223 detached single-family homes with accompanying open spaces. Our initial comments focus on the importance of incorporating building electrification requirements into the Project. New construction that relies on burning gas for end uses such as cooking and space and water heating has significant greenhouse gas (“GHG”), energy, and health impacts under the California Environmental Quality Act (“CEQA”). All-electric buildings avoid these impacts. Moreover, all-electric buildings are typically less costly to construct due to avoided costs of gas infrastructure. With the California Public Utilities Commission (“CPUC”) now ending subsidies for gas lines to new development, cost savings from all-electric construction will further increase. Accordingly, to comply with CEQA’s obligation to adopt all feasible mitigation to reduce significant environmental impacts, the City must require an all-electric Project design that is not connected to the gas system.

**I. Projects Connecting to the Gas System Have Significant GHG, Energy and Public Health Impacts.**

**A. The GHG Impacts of Projects Connecting to the Gas System Are Significant.**

CEQA requires a DEIR to identify all the significant impacts of a proposed project, including impacts from the project’s GHG emissions.<sup>1</sup> One option to determine the significance of the Project’s GHG impacts is to apply a net-zero emissions threshold. In addition to being CEQA-compliant, a net-zero threshold is also consistent with the severity of the climate crisis and the recognition that any increase in GHG emissions exacerbates the cumulative impacts of climate change.

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<sup>1</sup> CEQA Guidelines § 15126.2; Appendix F.

Another option is to apply the approach recently adopted by the Bay Area Quality Management District (“BAAQMD”). In determining the significance of project impacts, a lead agency “must ensure that CEQA analysis stays in step with evolving scientific knowledge and state regulatory schemes.” *Cleveland National Forest Foundation v. San Diego Assn. of Gov’ts* (2017) 3 Cal.5<sup>th</sup> 497, 519. To stay in step with evolving scientific knowledge and state policy, the Bay Area Quality Management District (“BAAQMD”) updated its previous CEQA GHG guidance for buildings this year to require all new projects to be built without natural gas and with no inefficient or wasteful energy usage in order to receive a finding of no significant impact.<sup>2</sup> BAAQMD’s previous 1,100 MT GHG significance threshold was derived from Assembly Bill (“AB”) 32’s 2020 GHG reduction targets, but did not reflect later developments, such as Senate Bill (“SB”) 32’s requirement to reduce GHGs to 40 percent below 1990 levels by 2030, nor Executive Order B-55-18’s requirement to achieve carbon neutrality by 2045.<sup>3</sup> As BAAQMD properly noted in its justifications for its updated GHG threshold, “[f]or California to successfully eliminate natural gas usage by 2045, it will need to focus available resources on retrofitting existing natural gas infrastructure. This task will become virtually impossible if we continue to build more natural gas infrastructure that will also need to be retrofit within the next few years.”<sup>4</sup>

Even outside of BAAQMD’s jurisdiction, the analysis supporting its zero-gas threshold provides substantial evidence to support an EIR’s finding of significance, particularly where, as here, GHGs are a globally dispersed pollutant. Indeed, state agencies have made similar findings regarding the incompatibility of gas in new construction with achievement of state climate requirements. As the California Energy Commission (“CEC”) determined in its 2018 Integrated Energy Policy Report (“IEPR”) Update:

New construction projects, retrofitting existing buildings, and replacing appliances and other energy-consuming equipment essentially lock in energy system infrastructure for many years. As a result, each new opportunity for truly impactful investment in energy efficiency and fuel choice is precious. If the decisions made for new buildings result in new and continued fossil fuel use, it will be that much more difficult for California to meet its GHG emission reduction goals. Parties planning new construction have

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<sup>2</sup> See BAAQMD, *Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans*, at 11 (Apr. 2022) (“BAAQMD 2022 Update”), <https://www.baaqmd.gov/~media/files/planning-and-research/ceqa/ceqa-thresholds-2022/justification-report-pdf.pdf?la=en>.

<sup>3</sup> See BAAQMD, *CEQA Guidelines Update, Proposed Thresholds of Significance* at 10-22 (Dec 7, 2009), <http://www.baaqmd.gov/~media/files/planning-and-research/ceqa/proposed-thresholds-of-significance-dec-7-09.pdf?la=en> (explaining methodology for previous project-level GHG threshold).

<sup>4</sup> Justification Report at 12.



the opportunity instead to lock in a zero- or low-carbon emission outcome that will persist for decades.<sup>5</sup>

Consistent with the CEC’s findings, the California Public Utilities Commission (“CPUC”) recently adopted a Decision that would end gas line extension allowances, finding that “gas line subsidies encourage gas use by providing incentives to builders to install more gas appliances, perpetuating a continued reliance on the gas system both now and over the life of the appliance, and offsetting if not reversing any GHG emission reduction benefits secured through other decarbonization measures.”<sup>6</sup> Accordingly, the CPUC found, subsidies for these new gas connections “work against today’s climate goals and conflict[] with SB 32 and 1477.”<sup>7</sup> This reflects the growing consensus that aggressive electrification will be needed to achieve the state’s climate goals. Indeed, the 2022 Title 24 update already requires heat pumps as a baseline for either space or water heating in single-family homes, as well as a heat pump space heating standard for new multi-family homes and businesses.<sup>8</sup> In addition, any new mixed-fuel single-family homes must already be electric-ready so they can “easily convert from natural gas to electric in the future.”<sup>9</sup>

Earthjustice strongly cautions against using approaches to determine the significance of Project GHG impacts that involve comparisons against “business-as-usual” emissions or a per capita emissions metric. In *Center for Biological Diversity v. Cal. Dept of Fish & Wildlife* (2015) 62 Cal.4th 204, the California Supreme Court held that determining the significance of project GHG impacts by comparing project emissions with emissions under a business-as-usual scenario derived from statewide emissions reduction goals under AB 32 lacked substantial evidence. For similar reasons, use of statewide per capita emissions metrics to determine the significance of project emissions has also been rejected for the purpose of determining project GHG impacts under CEQA. As the court held in *Golden Door Properties LLC*, “using a statewide criterion requires substantial evidence and reasoned explanation to close the analytical gap left by the assumption that the ‘level of effort required in one [statewide] context . . . will suffice in the other, a specific land use development.’” *Golden Door Properties LLC v. County of San Diego* (2018) 27 Cal.App.5th 892, 904 (quoting *Center for Biological Diversity*, 62 Cal.4th at 227). While use of a statewide per capita metric to determine the significance of GHG impacts may be useful for a General Plan, which examines collective community emissions of

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<sup>5</sup> CEC, *2018 Integrated Energy Policy Report Update, Vol. II* at 18 (Jan. 2019)(“2018 IEPR Update”), <https://efiling.energy.ca.gov/getdocument.aspx?tn=226392>

<sup>6</sup> D.22-09-026, Phase III Decision Eliminating Gas Line Extension Allowances, Ten-Year Refundable Payment Option, and Fifty Percent Discount Payment Option Under Gas Line Extension Rules, at 27 (Sep. 20, 2022), <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M496/K987/496987290.PDF>.

<sup>7</sup> *Id.*

<sup>8</sup> See CEC, 2022 Building Energy Efficiency Standards Summary, at 9 (Aug. 2021), [https://www.energy.ca.gov/sites/default/files/2021-08/CEC\\_2022\\_EnergyCodeUpdateSummary\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2021-08/CEC_2022_EnergyCodeUpdateSummary_ADA.pdf).

<sup>9</sup> *Id.*

existing and proposed new development, it is not appropriate for projects that only govern new development.

**B. The Energy Impacts of Projects Connecting to the Gas System are Significant.**

A key purpose of the evaluation of project energy impacts under CEQA is “decreasing reliance on fossil fuels, such as coal, natural gas and oil.”<sup>10</sup> Addressing energy impacts of proposed projects requires more than mere compliance with Title 24 Building Energy Efficiency Standards.<sup>11</sup> Including gas hook-ups in new projects, and thereby perpetuating reliance on fossil fuels, is contrary to California’s energy objectives and should be considered a significant impact under CEQA.

In addition to the lock-in effect discussed above and its perpetuation of reliance on fossil fuel infrastructure, gas appliances are also inherently wasteful because they are significantly less efficient than their electric alternatives. Heat pumps for space and water heating are substantially more efficient than their gas counterparts. Because heat pumps use electricity to move heat around rather than creating heat, their efficiency is far greater than 100 percent (energy services delivered are much greater than energy input). For example, gas water heaters advertised by Rheem, a major water heating manufacturer, have uniform efficiency factor (“UEF”) of 0.58 – 0.83.<sup>12</sup> In contrast, Rheem’s heat pump water heaters have UEFs between 3.7 and 4.0, making them roughly four to seven times more efficient than gas alternatives.<sup>13</sup> As recognized by the CEC, “[u]sing heat pumps for space and water heating, as well as other uses, is cost-effective in the long run simply because electrification technologies can be significantly more efficient than natural gas technologies.”<sup>14</sup> Given the low inherent efficiencies of gas space and water heating as compared to heat pump options, homes that continue to rely on gas cannot be reasonably construed as “the wise and efficient use of energy” and therefore result in significant energy impacts under CEQA.

**C. The Health/Air Quality Impacts of Projects Connecting to the Gas System are Significant.**

CEQA also requires consideration of “health and safety problems” that may result from a project’s emissions.<sup>15</sup> Indeed, Section III.(d) of Appendix G of the CEQA Guidelines

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<sup>10</sup> CEQA Guidelines, Appendix F, Sec. I.

<sup>11</sup> See *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173, 211.

<sup>12</sup> Rheem, *Gas Water Heaters*, [https://www.rheem.com/products/residential/water-heating/tank/residential\\_gas/](https://www.rheem.com/products/residential/water-heating/tank/residential_gas/).

<sup>13</sup> Rheem, *Professional Prestige Series ProTerra Hybrid Electric Water Heater with LeakGuard*, <https://www.rheem.com/group/rheem-hybrid-electric-water-heater-professional-prestige-series-hybrid-electric-water-heater>.

<sup>14</sup> 2018 IEPR Update at 32.

<sup>15</sup> CEQA Guidelines § 15126.2; see also *Sierra Club v. County of Fresno* (2018) 6 Cal. 5th 502, 520 (requiring an EIR to not only discuss air quality impacts and human health impacts separately, but to draw a connection between the two segments of information, to “meet CEQA’s requirements.”).

specifically asks a lead agency to evaluate if the project would “[e]xpose sensitive receptors to substantial pollutant concentrations.”<sup>16</sup> The health and safety hazards of gas-burning appliances in buildings are well-documented by the California Air Resources Board (“CARB”), the CEC, and numerous peer-reviewed academic studies. In a Board-adopted resolution, CARB determined that that “cooking emissions, especially from gas stoves, are associated with increased respiratory disease.”<sup>17</sup> Children in homes with gas stoves are particularly at risk. A meta-analysis examining the association between gas stoves and childhood asthma found that “children in homes with gas stoves have a 42 percent increased risk of experiencing asthma symptoms (current asthma)” and “a 24 percent increased risk of ever being diagnosed with asthma by a doctor (lifetime asthma).”<sup>18</sup> Other health effects observed in children from exposure to nitrogen dioxide (“NO<sub>x</sub>”), which is a byproduct of gas combustion, include cardiovascular effects, increased susceptibility to allergens and lung infections, irritated airways and other aggravated respiratory symptoms, and learning deficits.<sup>19</sup> As found repeatedly by peer-reviewed studies, combustion of gas in household appliances produces harmful indoor air pollution, including carbon monoxide, nitric oxide and nitrogen dioxide, formaldehyde, acetaldehyde, and ultrafine particles, often in excess of the levels set out by the California Ambient Air Quality Standards and the National Ambient Air Quality Standards.<sup>20</sup> CARB has therefore recognized “the conclusion of recent studies that 100 percent electrification of natural gas appliances in

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<sup>16</sup> CEQA Guidelines, Appendix G, Sec. III(d).

<sup>17</sup> CARB, *Combustion Pollutants & Indoor Air Quality*, <https://perma.cc/J6YH-VVZH> (as of March 30, 2022).

<sup>18</sup> Brady Seals & Andee Krasner, *Gas Stoves: Health and Air Quality Impacts and Solutions*, Rocky Mountain Institute, Physicians for Social Responsibility, and Sierra Club, at 13 (2020), <https://rmi.org/insight/gas-stoves-pollution-health/>.

<sup>19</sup> *Id.*

<sup>20</sup> See, e.g., Jennifer M. Logue et al., *Pollutant Exposures from Natural Gas Cooking Burners: A Simulation-Based Assessment for Southern California*, 122 *Env’t Health Perspectives* 43, 43–50 (2014), <http://dx.doi.org/10.1289/ehp.1306673> (modeling exposure rates for gas stove pollutants and finding that “62%, 9%, and 53% of occupants are routinely exposed to NO<sub>2</sub>, CO, and HCHO levels that exceed acute health-based standards and guidelines” and that “reducing pollutant exposures from [gas stoves] should be a public health priority.”); John Manuel, *A Healthy Home Environment?*, 107 *Env’tl. Health Perspectives* 352, 352–57 (1999), <https://doi.org/10.1289/ehp.99107a352> (finding that gas furnaces and other gas appliances can be sources of unsafe indoor carbon monoxide concentrations); Nasim A. Mullen et al., *Impact of Natural Gas Appliances on Pollutant Levels in California Homes*, Lawrence Berkeley Nat’l Lab’y (Dec. 2012), [https://eta-publications.lbl.gov/sites/default/files/impact\\_of\\_natural\\_gas\\_appliances.pdf](https://eta-publications.lbl.gov/sites/default/files/impact_of_natural_gas_appliances.pdf) (finding that concentrations of NO<sub>2</sub>, NO<sub>x</sub>, and carbon monoxide were associated with use of gas appliances); Dr. Zhu et al., *Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California*, UCLA Fielding School of Pub. Health, (Apr. 2020), <https://ucla.app.box.com/s/xyzt8jclixnetiv0269qe704wu0ihif7> (finding that gas combustion appliances are associated with higher concentrations of NO<sub>2</sub>, NO<sub>x</sub>, CO, fine particulate matter, and formaldehyde in indoor air, and discussing the health impacts of acute and chronic exposure to each pollutant).

California would result in significant health benefits.”<sup>21</sup> Accordingly, projects that permit gas appliances such as stoves have significant air quality impacts under CEQA.

Gas appliances contribute to indoor air pollution even when they are not turned on. A recent study sampling the gas supply to home appliances also found additional harmful pollutants present, including the Hazardous Air Pollutants benzene and hexane in 95% and 98% of samples, respectively, among others.<sup>22</sup> These pollutants have serious health impacts, particularly given that residential appliances can last for upwards of ten years, and residents may be repeatedly exposed to their pollution multiple times daily. For example, in addition to being a known carcinogen, non-cancer long-term health effects of exposure to benzene include “harmful effects on the bone marrow,” “excessive bleeding,” and can compromise the immune system.<sup>23</sup> Similarly, “[c]hronic inhalation exposure to hexane is associated with sensorimotor polyneuropathy in humans, with numbness in the extremities, muscular weakness, blurred vision, headache, and fatigue,” and animal studies have shown “pulmonary lesions” as well as damage to reproductive organs following chronic inhalation exposure.<sup>24</sup> These pollutants were present in the gas supplied to home appliances prior to combustion, and a 2022 study also found that most gas stoves leak supply gas “continuously” even while turned off.<sup>25</sup>

## **II. Building Electrification is Feasible and Effective Mitigation to Reduce Project GHG, Energy, and Health Impacts.**

A lead agency may not lawfully approve a project where “there are feasible alternatives or feasible mitigation measures available which would substantially lessen [its] significant environmental effects.”<sup>26</sup> Only when feasible mitigation measures have been exhausted may an agency find that overriding considerations exist that outweigh the significant environmental effects.<sup>27</sup> This mandate—to avoid, minimize and mitigate significant adverse effects where feasible—has been described as the “most important” provision of the law.<sup>28</sup>

Eliminating natural gas use in new buildings is feasible mitigation that will substantially lessen the Project’s GHG, energy, and air quality/health impacts. For example, in *Residential*

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<sup>21</sup> CARB Resolution 20-32, *California Indoor Air Quality Program Update*, at 2 (Nov. 19, 2020), <https://ww3.arb.ca.gov/board/res/2020/res20-32.pdf>.

<sup>22</sup> Drew R. Michanowicz et al., *Home is Where the Pipeline Ends: Characterization of Volatile Organic Compounds Present in Natural Gas at the Point of the Residential End User*, *Environ. Sci. Technol.* 2022, 56, 10258–10268 at 10262 (Jun. 2022), <https://pubs.acs.org/doi/pdf/10.1021/acs.est.1c08298>.

<sup>23</sup> See Centers for Disease Control and Prevention, *Facts about Benzene*, [https://emergency.cdc.gov/agent/benzene/basics/facts.asp#:~:text=\(Long%2Dterm%20exposure%20mean%20exposure,increasing%20the%20chance%20for%20infection](https://emergency.cdc.gov/agent/benzene/basics/facts.asp#:~:text=(Long%2Dterm%20exposure%20mean%20exposure,increasing%20the%20chance%20for%20infection).

<sup>24</sup> U.S. Env. Prot. Agency, *Hexane*, <https://www.epa.gov/sites/default/files/2016-09/documents/hexane.pdf>.

<sup>25</sup> Eric D. Lebel, et al., *Methane and NO<sub>x</sub> Emissions from Natural Gas Stoves, Cooktops, and Ovens in Residential Homes*, *Environ. Sci. Technol.* 2022, 56, 4, at 2534 (Jan. 27, 2022), <https://doi.org/10.1021/acs.est.1c04707>.

<sup>26</sup> Pub. Res. Code § 21002.

<sup>27</sup> *Id.* § 21081; see also CEQA Guidelines 15091(a).

<sup>28</sup> *Sierra Club v. Gilroy City Council*, 222 Cal. App. 3d 30, 41 (1990).

*Building Electrification in California*, Energy and Environmental Economics (“E3”) determined that “electrification is found to reduce total greenhouse gas emissions in single family homes by approximately 30 to 60 percent in 2020, relative to a natural gas-fueled home.”<sup>29</sup> Moreover, “[a]s the carbon intensity of the grid decreases over time, these savings are estimated to increase to approximately 80 to 90 percent by 2050, including the impacts of upstream methane leakage and refrigerant gas leakage from air conditioners and heat pumps.”<sup>30</sup> As shown in the graph below, the GHG savings from heat pumps are substantial today and will only increase as California continues to decarbonize its grid as required under SB 100.

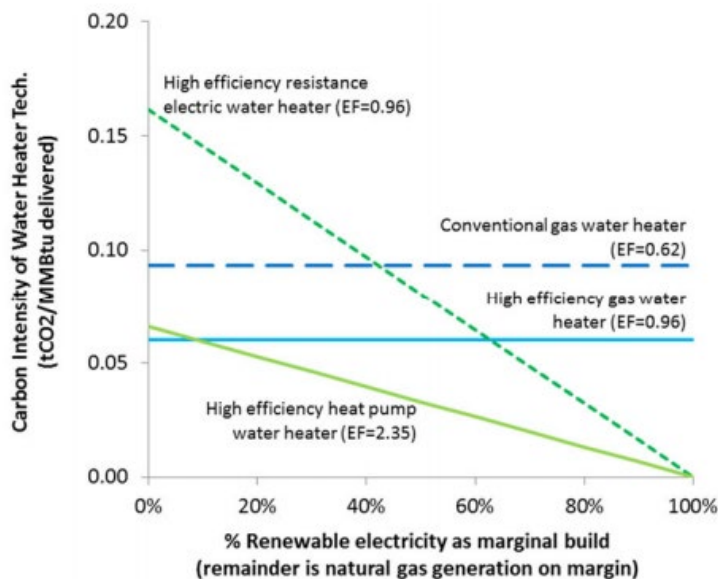


Figure 3. Carbon intensity of water heater technologies, as a function of renewable electricity percentage.  
Source: Author’s calculations

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In contrast, because gas appliances will generate the same level of pollution over their lifetime, their emissions relative to electric alternatives will increase over time and increasingly interfere with achievement of California’s climate objectives.

Numerous local jurisdictions have also adopted all-electric building policies for a variety of building types, demonstrating the feasibility of all-electric new construction. For example, San Francisco adopted an ordinance effective June 2021 prohibiting gas in new construction for all building types, with narrow exceptions.<sup>32</sup> Several other California municipalities have

<sup>29</sup> E3, *Residential Building Electrification in California*, at iv (Apr. 2019), [https://www.ethree.com/wp-content/uploads/2019/04/E3\\_Residential\\_Building\\_Electrification\\_in\\_California\\_April\\_2019.pdf](https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf).

<sup>30</sup> *Id.*

<sup>31</sup> Amber Mahone et al., *What If Efficiency Goals Were Carbon Goals*, at 9-7, American Council for an Energy-Efficient Economy (2016), [https://aceee.org/files/proceedings/2016/data/papers/9\\_284.pdf](https://aceee.org/files/proceedings/2016/data/papers/9_284.pdf).

<sup>32</sup> San Francisco Building Code § 106A.1.17.1, [https://codelibrary.amlegal.com/codes/san\\_francisco/latest/sf\\_building/0-0-0-92027](https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_building/0-0-0-92027).

adopted similar legislation, including Berkeley, San Luis Obispo, Half Moon Bay, and the City of Los Angeles.<sup>33</sup>

All-electric new construction is also a feasible mitigation measure to avoid the health impacts of gas, particularly the indoor air pollution impacts in residential buildings. For example, Marin Clean Energy developed its Low-Income Families and Tenants (“LIFT”) Pilot Program to reduce energy burdens and improve quality of life for residents in income-qualified multifamily properties through energy efficiency, electrification, and health, safety, and comfort upgrades.<sup>34</sup> An evaluation of the LIFT Pilot found that on a per dwelling basis, participants who received heat pump replacements for gas or propane heating equipment saw reductions of greenhouse gases by over one ton of CO<sub>2</sub> per dwelling, NO<sub>x</sub> reductions of close to 1 pound, and carbon monoxide reductions of more than 2 pounds.<sup>35</sup> Notably, because the national health and safety limit for carbon monoxide is 1 pound annually, residents had been living with unsafe carbon monoxide levels. Heat pump installation virtually eliminated this pollution source.<sup>36</sup> In addition to direct health benefits from reduced pollution, tenants reported increased comfort, with “indoor air temperature being just right even on very hot days,” better air quality and reduced noise.<sup>37</sup> Electrifying gas end uses in buildings demonstrably mitigates not only building emissions but their associated health and safety impacts.

All-electric building design is also economically feasible under CEQA. When considering economic feasibility of alternatives under CEQA, courts consider “whether the marginal costs of the alternative as compared to the cost of the proposed project are so great that a reasonably prudent [person] would not proceed with the [altered project].”<sup>38</sup> That is, even if an alternative is *more* expensive than the original plan, “[t]he fact that an alternative may be more

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<sup>33</sup> See, e.g., San Luis Obispo Ordinance No. 1717, <http://opengov.slocity.org/WebLink/DocView.aspx?id=162695&dbid=0&repo=CityClerk>, (prohibiting natural gas in new construction effective January 1, 2023, with narrow commercial availability and viability exceptions); Los Angeles Ordinance No. 187714 (approved Dec. 10, 2022) (requiring all newly constructed buildings to be all-electric with narrow exceptions for certain food service establishments, effective January 23, 2023), [https://clkrep.lacity.org/onlinedocs/2022/22-0151\\_ord\\_187714\\_1-23-23.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-0151_ord_187714_1-23-23.pdf); Half Moon Bay Municipal Code § 14.06.030, <https://www.codepublishing.com/CA/HalfMoonBay/#!/HalfMoonBay14/HalfMoonBay1406.html#14.06.030>, (requiring all-electric construction for all new buildings, effective March 17, 2022). See also Sierra Club, *California’s Cities Lead the Way on Pollution-Free Homes and Buildings*, <https://www.sierraclub.org/articles/2021/07/californias-cities-lead-way-pollution-free-homes-and-buildings>, (running list of California municipalities with gas-free buildings commitments and electrification building codes).

<sup>34</sup> DNV, MCE Low-Income Families and Tenants Pilot Program Evaluation at 1 (Aug 5, 2021), [https://www.mcecleanenergy.org/wp-content/uploads/2022/08/MCE-Low-Income-Families-and-Tenants-Pilot-Program-Evaluation\\_08262022.pdf](https://www.mcecleanenergy.org/wp-content/uploads/2022/08/MCE-Low-Income-Families-and-Tenants-Pilot-Program-Evaluation_08262022.pdf).

<sup>35</sup> *Id.* at 28.

<sup>36</sup> *Id.* at 29.

<sup>37</sup> *Id.* at 4, 35.

<sup>38</sup> *SPRAWLDEF v. San Francisco Bay Conservation and Development Comm’n* (2014) 226 Cal. App. 4th 905, 918 (citing *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587, 600).

expensive or less profitable is not sufficient to show that the alternative is financially infeasible.”<sup>39</sup>

All-electric building design for new construction is financially feasible because it is now cheaper than mixed-fuel construction.<sup>40</sup> The CEC has found that capital costs for all-electric single family homes are “several thousand dollars less expensive than mixed-fuel homes.”<sup>41</sup> For mid-rise multi-family homes, “[a]n average reduction of \$3,300 per unit was found” by avoiding the costs of gas piping, venting, and trenching to connect to the gas system.<sup>42</sup> Indeed, as noted in Redwood Energy’s A Zero Emissions All-Electric Multifamily Construction Guide, “[i]n the downtown of a city like Los Angeles, just trenching and piping gas to an apartment building in a busy street can cost \$140,000.”<sup>43</sup> Moreover, there are additional embedded savings from faster build-out (related to not having to install gas plumbing and piping inside of the home), and by installing one heat pump instead of a separate furnace and air conditioning. As the CPUC is eliminating gas line extension allowances for all customer classes starting in July 2023, the infrastructure buildout to support gas hookups will raise costs of projects connecting to the gas system even more than before, when line extensions were subsidized.<sup>44</sup> Additionally, as discussed above, the 2022 update to the Title 24 Building Code already requires heat pumps as a baseline for space or water heating, and requires panel upgrades and other space modifications in any new mixed-fuel homes to ensure they are electric-ready when they inevitably convert to all-electric.<sup>45</sup> As a result, mixed-fuel design in new construction is likely *less* financially feasible than all-electric design, in addition to imposing significant GHG, energy, and health impacts.

Now is the critical window for the City to jump-start this transition away from gas to clean energy buildings. CEQA is an essential vehicle to take all feasible action to reduce GHGs

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<sup>39</sup> *Id.* (citing *Center for Biological Diversity v. Cty. of San Bernardino* (2010) 185 Cal. App. 4th 866, 833).

<sup>40</sup> See CARB, Draft 2022 Scoping Plan, Appendix F: Building Decarbonization, at 14–15 (May 2022) (finding that “all-electric new construction is one of the most cost-effective near-term applications for building decarbonization efforts,” and that all-electric new construction is crucial in particular because “it is less costly to build, avoids new pipeline costs to ratepayers, and avoids expensive retrofits later.”), <https://ww2.arb.ca.gov/sites/default/files/2022-05/2022-draft-sp-appendix-f-building-decarbonization.pdf>.

<sup>41</sup> See CEC, Final 2021 Integrated Energy Policy Report Volume I: Building Decarbonization at 89 (Feb. 2022), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=241599>, (citing E3, *Residential Building Electrification in California: Consumer Economics, Greenhouse Gases and Grid Impacts*, [https://www.ethree.com/wp-content/uploads/2019/04/E3\\_Residential\\_Building\\_Electrification\\_in\\_California\\_April\\_2019.pdf](https://www.ethree.com/wp-content/uploads/2019/04/E3_Residential_Building_Electrification_in_California_April_2019.pdf)).

<sup>42</sup> CEC, *California Building Decarbonization Assessment*, at 83 (Aug. 13, 2021) (“CEC Building Decarbonization Assessment”), <https://efiling.energy.ca.gov/GetDocument.aspx?tn=239311>.

<sup>43</sup> Redwood Energy, A Zero Emissions All-Electric Multifamily Construction Guide at 2 (2019), <https://fossilfreebuildings.org/ElectricMFGuide.pdf>

<sup>44</sup> R. 19-01-011, Phase III Decision Eliminating Gas Line Extension Allowances, Ten-Year Refundable Payment Option, and Fifty Percent Discount Payment Option Under Gas Line Extension Rules, (Aug. 8, 2022), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M496/K415/496415627.PDF>.

<sup>45</sup> See CEC, 2022 Building Energy Efficiency Standards Summary, at 9 (Aug. 2021), [https://www.energy.ca.gov/sites/default/files/2021-08/CEC\\_2022\\_EnergyCodeUpdateSummary\\_ADA.pdf](https://www.energy.ca.gov/sites/default/files/2021-08/CEC_2022_EnergyCodeUpdateSummary_ADA.pdf).

and limit further expansion of gas infrastructure. To comply with CEQA, we urge incorporation of all-electric building design into the Project.

Please contact Rebecca Barker at [rbarker@earthjustice.org](mailto:rbarker@earthjustice.org), and Matt Vespa at [mvespa@earthjustice.org](mailto:mvespa@earthjustice.org) with any questions or concerns, and please include each of us in future notifications on the Project's development.

Sincerely,

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## NATIVE AMERICAN HERITAGE COMMISSION

March 29, 2023

Albert Enault  
City of Vacaville  
650 Merchant St.  
Vacaville, CA 95688

**Re: 2023030657, The Fields at Alamo Creek Project, Solano County**

Dear Mr. Enault:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

AB 52



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**Reginald Pagaling**  
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AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

**1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:**

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

**2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

**3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

**4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

**5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

**6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
    - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i.** Protecting the cultural character and integrity of the resource.
    - ii.** Protecting the traditional use of the resource.
    - iii.** Protecting the confidentiality of the resource.
  - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
  - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
  - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation**: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation**. There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality**: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation**: Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

### NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([https://ohp.parks.ca.gov/?page\\_id=30331](https://ohp.parks.ca.gov/?page_id=30331)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
  - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
  
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: [Pricilla.Torres-Fuentes@nahc.ca.gov](mailto:Pricilla.Torres-Fuentes@nahc.ca.gov).

Sincerely,

*Pricilla Torres-Fuentes*

Pricilla Torres-Fuentes  
Cultural Resources Analyst

cc: State Clearinghouse



YOCHA DEHE  
CULTURAL RESOURCES

April 5, 2023

City of Vacaville – Community Development Department  
Attn: Albert Enault, Senior Planner  
650 Merchant Street  
Vacaville, CA 95688

RE: Fields At Alamo Creek YD-12022022-05

Dear Mr. Enault:

Thank you for your project notification letter dated, March 23, 2023, regarding cultural information on or near the proposed Fields At Alamo Creek. We appreciate your effort to contact us and wish to respond.

The Cultural Resources Department has reviewed the project and concluded it is within the aboriginal territories of the Yocha Dehe Wintun Nation. Therefore, we have a cultural interest and authority in the proposed project area.

Based on the information provided, the Tribe has concerns that the project could impact known cultural resources. Yocha Dehe Wintun Nation highly recommends including cultural monitors during development and ground disturbance. In addition, we recommend cultural sensitivity training for all project personnel.

To schedule cultural sensitivity training, please contact:

Eric Hernandez, Site Protection Manager  
Yocha Dehe Wintun Nation  
Phone: (530) 723-3313  
Email: [ehernandez@yochadehe.gov](mailto:ehernandez@yochadehe.gov)

Please refer to identification number YD-12022022-05 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,

DocuSigned by:

8DD0BD089ED6438  
Tribal Historic Preservation Officer

Yocha Dehe Wintun Nation

PO Box 18 Brooks, California 95606 p) 530.796.3400 f) 530.796.2143 www.yochadehe.org



## Solano Local Agency Formation Commission

675 Texas St. Ste. 6700 • Fairfield, California 94533  
(707) 439-3897 • FAX: (707) 438-1788

*Original via email*

April 18, 2023

Albert Enault, Senior Planner  
City of Vacaville  
650 Merchant Street  
Vacaville, CA 95688  
[Albert.enault@cityofvacaville.com](mailto:Albert.enault@cityofvacaville.com)

**Subject:** Comments for NOP of an SEIR for Fields at Alamo Creek Project

Dear Mr. Enault:

We received the NOP for the Fields at Alamo Creek SEIR. A full project review will be initiated when we receive the City's annexation application and relevant submittal documents. Until then, the following are comments we have based on the early status of the development project, and for the SEIR. When the City is ready to submit the application, we can schedule a pre-application consultation.

The following are preliminary comments on the NOP for Fields at Alamo Creek, and six highlights related to the future annexation application for LAFCO that might be of particular interest to the project.

### 1. SEIR for Development Project

- LAFCO will be a Responsible Agency for the Project and must be identified as such within the document.
- In addition to annexation to the City of Vacaville, the boundaries of several special districts will be changed. The Project will include reorganization of services provided by the affected districts. Agencies affected by the reorganization include Solano Irrigation District, County Lighting Service Area, Vacaville Fire Protection District, Vacaville Elmira Cemetery District and Solano Resource Conservation District.
  - Any potential impacts should be addressed in the Public Services section of the EIR. Fiscal impacts on the special districts serving the project area may result in environmental impacts. Mitigations to address the potential environmental impacts of detachment from the affected districts should be included.
- Mitigation measures to address the loss of prime agricultural lands in the project area should be included for any land that meets the definition of prime agricultural land as defined by Government Code Section 56064 including:

- 1) Land that qualifies for a class I or class II rating in the USDA Natural Resources Conservation Service classification if irrigated or has potential to be irrigated.
- 2) Land with a Storie Index rating of between 80 and 100.
- 3) Land that supports livestock with a carrying capacity of one animal per acre.
- 4) Land planted with fruit or nut-bearing trees, vines, bushes or crops with a non-bearing period of less than 5 years with a return of at least \$400 per acre.
- 5) Land that has returned from the production of unprocessed agricultural plant products \$400 per acre for three of the last five years.

## **2. Pre-application process**

Prior to any application submittal, the City should consult with other affected agencies – such as Solano Irrigation District, Vacaville Rural Fire District, and Solano County. Consultation with these agencies will be necessary for agreements and actions related to a reorganization – specifically for detachments from the agencies.

Additionally, a comprehensive review and analysis of existing land inventory, development projects, and construction/development rate should be included to complete the findings necessary for approving a reorganization.

## **3. Sphere of Influence (SOI) Update**

A Sphere of Influence is the “plan for the probable physical boundary and service area of a local government agency, as determined by the Commission” (Gov. Code Section 56076). The establishment of this boundary is necessary to determine which governmental agencies can provide services in the most efficient way to the people and property in any given area.

According to LAFCO’s records, Vacaville last updated the Comprehensive Municipal Service Review (MSR) in 2017 and subsequently adopted the current Sphere of Influence. LAFCO law (Govt. Code 56000 et.al) requires that MSR and SOI are reviewed and updated every five years. Therefore, Vacaville must complete the comprehensive update to the MSR/SOI prior to or contemporaneously with any reorganizations (annexations).

Having reviewed the 2017 MSR, page 20 lists applicable General Plan Policies that specifically state that any area that is designated as Urban Reserve is to be identified as a long-term annexation area. For the proposed annexation to be internally consistent with the General Plan and the MSR, then Urban Reserve areas would need to be re-designated with a new General Plan Land Use Designation. Further, according to the 2017 MSR page 25, Urban Reserve designated areas are stated to require comprehensive planning with a General Plan amendment and creation of a specific plan.

According to the Findings and Determinations, the MSR did not analyze any of the six determination factors for areas identified as long-term annexation areas (page 26). The proposal submitted for review will require an MSR and SOI update that includes a comprehensive analysis of the General Plan amendments and changes to the short-term and long-term annexation areas in the SOI.



#### **4. CEQA for MSR/SOI**

Consistent with CEQA regulations, any governmental agency's action is required to conduct a CEQA determination. CEQA determinations are required for MSRs and SOIs, and reorganizations. For LAFCOs, this typically means reaffirming the CEQA determination of the applying agency. Please include Solano LAFCO on any CEQA-related document notices.

The 2017 MSR was based on the 2015 General Plan EIR and land use assumptions, which included a complete analysis of areas identified as "short-term annexation areas" within the MSR, but not the "long-term annexation area." Further, according to the City of Vacaville's Community Development webpage, there have been amendments to the General Plan Land Use Designations that were not considered in the 2017 MSR. As such, new CEQA determinations are also necessary for an updated MSR/SOI.

#### **5. Solano LAFCO Standards 1-11**

LAFCO law also encourages LAFCOs to adopt local policies and standards that address local regional concerns and goals. Solano LAFCO has eleven such standards. Standards 1- 6 are mandatory and require full compliance for a project to be approved. Standards 7- 11 are discretionary where LAFCO may make determinations of less than full compliance with one or more of the discretionary standards and still have the discretion to approve or deny a proposal.

Section IV of the attached Standards and Procedures contains complete explanations and discussions for each standard and defines the necessary documentation.

##### Mandatory:

1. Consistency with Sphere of Influence Boundaries
  - *Area affected must be in the agency's SOI as a "near-term" annexation area or may be considered concurrently with a request to amend/update SOI, such as changing "long-term" to "near-term" annexation areas. Updating the SOI will require a comprehensive MSR update as noted above.*
2. Change of Organization and Reorganization to the limits of the Sphere of Influence Boundaries
  - *Annexation to the limits of the SOI boundary shall not be allowed if the proposal includes land designated for open space use by the affected city's general plan for city change of organization or reorganization.*
3. Consistency with Appropriate City General Plan, Specific Plan, Area-wide Plan, and zoning ordinance.
  - *The determination of consistency shall be the responsibility of the affected agency, and shall be met by a resolution approved by the agency council certifying that the proposed change of organization or reorganization meets all applicable consistency requirements of State Law, including internal consistency between the agency's adopted plans and the zoning ordinance.*

4. Consistency with the County General Plan of the proposed change of organization of reorganization outside of a City's SOI.
  - {not applicable here}
5. Requirement for pre-approval
  - *Prior to approval by LAFCO of a city change or organization or reorganization, the affected agency shall have approved, a specific plan, pre-zoning or an equivalent level of detailed information for the affected area.*
6. Effect on natural resources.
  - *Agency shall take necessary CEQA action and include CEQA documentation with proof of filing fee payment.*

Discretionary:

7. Establishing proposal boundaries, map and geography description requirements, other required maps.
  - *LAFCO actions must assure planned, orderly, and efficient patterns of urban growth by avoiding annexing or detaching portions of parcels, avoiding conditions that would make the annexation of adjacent parcels difficult at a later date, and avoiding excluding parcels that are necessary to promote efficient patterns of urban growth. Inconsistencies with any of these requirements need to be thoroughly explained and justified.*
8. Likelihood of significant growth and effect on other incorporated or unincorporated territory.
  - *Prior to approving an annexation, LAFCO shall make a determination that the proposed conversion of open space lands to urban use is justified by probable urban growth within a 10-year period of time. A determination on the likelihood of significant growth justifying the conversion shall be based on an analysis of local and regional demand for the proposed use. (Open space lands are defined in Govt. Code Section 65560.)*
9. Protection of Prime Agricultural Land
  - *Prime Agricultural land is defined in Govt. Code. Section 56064 as any land that can be irrigated (regardless of current status) and has soil with USDA Natural Resources Conservation Service Land Class I or Class II; or Storie Index Rating of 80-100. (Please note that this is substantially different from CEQA definitions of agricultural land.)*
  - *Cortese-Knox Hertzberg policies call for "infill" on vacant lands within municipal boundaries before extending further out into agricultural areas. Page 23 of the Standards and Policies lists the six factors that must be analyzed in considering existing developable lands within a jurisdiction.*
10. Provision and cost of community services.
  - *Adequate urban services shall be available to areas proposed for a change of organization or reorganization.*

11. The effect of the proposed action on the adjacent, mutual social and economic interests and on local governmental structure.

- *The application shall describe the effect that the annexation could have on adjacent areas and outside the agency. It shall also describe any social and economic benefits, or detriments, which will accrue to the agency and other affected agencies.*

## **6. Vacaville General Plan and Zoning**

Any LAFCO proposal must identify the adopted pre-zoning for the site, and general plan amendments if applicable. Maps identifying the current and pre-approved General Plan Land Use Designation and Zoning Designation are required. Any reorganization requests are required to be consistent with the jurisdiction's general plan and land use regulations.

According to the City of Vacaville website and maps, the site has a General Plan Land Use designation of Urban Reserve. However, the preliminary proposal information shared with LAFCO indicates that it will be annexed for residential development. A careful analysis of consistency with the Vacaville General Plan will be necessary for LAFCO to incorporate in any considerations and determinations.

The 2017 MSR maps also indicate there is an Urban Service Boundary. According to the Vacaville General Plan, this Urban Service Boundary is part of a Master Water Agreement with Solano Irrigation District. Page LU-10 of the Vacaville General Plan states that both parties are supposed to be committed to not supporting urban development outside of this Boundary because SID considers it to be part of their agricultural service area.

## **7. Findings for approval for Re-organizations**

Gov. Code 56668 lists the 17 factors (a-q) that LAFCO Commissioners must consider when reviewing a proposal for reorganization (the complete list is included in the attached Standards and Procedures). Careful analysis of each factor should be included to assist LAFCO review. While all factors are important in the consideration, the following may be of particular interest:

- a. Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years. (Analysis of vacant land inventory, approved developments, construction rate, and market analysis)
- b. The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services controls in the area and adjacent areas.
- c. The effect of the proposed action – and of alternative actions – on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

- h. Consistency with city or county general and specific plans.
- k. The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the boundary change.
- m. The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.
- o. Any information relating to the existing land use designations.
- p. The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
- q. Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

We appreciate the opportunity to comment on the potential reorganization request. We hope you find these comments helpful in preparing your LAFCO application.

Sincerely,



Rich Seithel  
LAFCO Executive Officer  
(707) 439-3897

Attached: Solano LAFCO Standards and Procedures

**SOLANO  
LOCAL AGENCY FORMATION  
COMMISSION**

**STANDARDS AND PROCEDURES,  
GLOSSARY OF TERMS,  
FEES AND FORMS,  
MEETING SCHEDULE  
And  
MAP AND DESCRIPTION REQUIREMENTS**

Adopted by the Solano Local Agency Formation Commission  
March 1, 1999

Amended by the Solano Local Agency Formation Commission:  
December 11, 2000, March 3, 2003, November 10, 2008, December 8, 2008,  
June 11, 2012, August 13, 2012, April 8, 2013, June 10, 2019

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## **SECTION I. INTRODUCTION**

### **BACKGROUND**

The Solano Local Agency Formation Commission (LAFCO) is a state mandated boundary commission responsible for coordinating logical and timely changes in local government boundaries. The Commission, in the consideration of proposals, has to observe four basic statutory purposes: the discouragement of urban sprawl; the preservation of open space and prime agricultural land resources; the efficient provision of government services; and the encouragement of orderly growth boundaries based upon local conditions and circumstances.

LAFCO's powers, procedures, and functions are set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, (Government Code Section 56000 et seq.).

### **THE COMMISSION**

Solano LAFCO consists of five voting members selected as follows: two members of the City Councils, who are chosen by the mayors of all cities in the County; two members of the Board of Supervisors, who are chosen by the entire Board; and a member representing the general public, who is selected by the other four LAFCO members. In addition, there are alternate city, county, and public members who vote whenever a regular member is absent or disqualified.

The Commission meetings are typically held on the second Monday of February, April, June, August, October, and December at 10:00 a.m. in the Board of Supervisors' Chambers, Government Center, 675 Texas Street, Fairfield, CA. If a holiday should fall on the second Monday of a month, the meeting is held on the following non-holiday Monday.

### **CHANGES OF ORGANIZATION AND REORGANIZATION**

It is the role of LAFCO to either: approve, approve with conditions or deny proposals for changes of organization or reorganization after considering a number of factors. Among the issues to be considered are: The Legislature's policies and priorities for LAFCO, the proposal's relationship to the affected agency's Sphere of Influence; the application's compliance with the California Environmental Quality Act (CEQA); and the submitted responses to Solano LAFCO's Standards.

A change of organization includes any one of the following actions:

- 1) A city incorporation.
- 2) A district formation.
- 3) An annexation to or detachment from a city or district.
- 4) A disincorporation of a city.
- 5) A district dissolution.
- 6) A consolidation of cities or special districts
- 7) A merger or establishment of a subsidiary district
- 8) A reorganization which includes two (2) or more changes of organization initiated in a single proposal.

## **SPHERES OF INFLUENCE**

Spheres of Influence are required to be established by LAFCO for each city and special district which must come before the Commission for boundary changes. A Sphere of Influence means “a plan for the probable physical boundary and service area of a local government agency, as determined by the Commission” (56076). Establishment of this boundary is necessary to determine which governmental agencies can provide services in the most efficient way to the people and property in any given area. An annexation proposal must be within the affected agency’s Sphere of Influence in order for LAFCO to act favorably on the application. LAFCO must undertake a review and update, as necessary, of spheres of influence, no less than once every 5 years, and prepare written statements of determinations when adopting spheres.

## **SERVICE REVIEWS**

In order to prepare and update spheres of influence, the commission must conduct a service review of municipal services provided in the county or other appropriate area as designated by the commission. The commission shall prepare a written statement of its determination with respect to each of the following:

1. Growth and population projections for the affected area.
2. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
3. Financial ability of agencies to provide services.
4. Status of, and opportunities for, shared facilities.
5. Accountability for community services needs, including governmental structure and operational efficiencies.
6. Any other matter related to effective or efficient service delivery, as required by commission policy

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Each proposal for a change of organization or reorganization must be reviewed to ensure that it complies with the requirements of CEQA. This involves the preparation of an environmental document which is normally processed by the annexing agency in advance of LAFCO consideration (see discussion in Chapter IV Pre-application considerations).



## **SECTION II. PURPOSE AND INTENT**

The Cortese-Knox-Hertzberg Act Authorizes LAFCO to adopt written procedures for the evaluation of proposals, including definitions consistent with existing State laws. The Commission may adopt standards for any of the factors enumerated in Section 56668, [see Section VI of this manual]. Any Standards adopted by the Commission shall be written. (Section 56375 (g))

This report provides both general and specific standards in meeting the requirements of the Cortese-Knox-Hertzberg Act, and in assuring a rational and consistent process of review by the Solano LAFCO which can be applied to all proposals for reorganization or change of organization within Solano County.

Standards have been developed in light of varying conditions of land use policy among the agencies of the County in recognition that decisions by LAFCO will be judgmental—based on the facts in evidence as they relate to these standards and procedures. No standard can be universally absolute with respect to a given proposal, for the facts and circumstances will necessarily differ among communities and annexation requests. The standards reflect the many circumstances which can affect the process, leaving final decision to objective analysis based on the evidence submitted as a whole in support or in opposition in a given case.

### **FORMAT AND CONTENT**

Chapter III presents an outline of the LAFCO decision making process. The standards are then presented in Chapter IV, with a description of the circumstances which may come into play in reaching a decision. Chapter V presents the requirements for adopting Municipal Service Reviews. Chapter VI sets forth the primary requirements of the Cortese-Knox Act and the factors to be considered under Section 56668.

### **USE AND APPLICATION OF THE STANDARDS**

The Standards adopted by LAFCO are to be seen as guidelines against which to measure that appropriateness and correctness of a proposal. Some Standards are quantitative in that specific information and minimum submittal requirements are stipulated. Other standards are qualitative and require specific documentation by the applicant.

The concept of adopting standards implies an assessment of a proposal to determine conformity. Each standard must have sufficient clarity and specificity so that compliance can be determined with a degree of certainty and reasonableness. And yet, it is not possible or desirable in issues as complex as land use planning and annexation to have standards that are literally absolute; flexibility must be retained if only because no two proposals are alike.

One of the objects of the LAFCO, according to the Cortese-Knox Hertzberg Act, is to make studies and to obtain and furnish information which will contribute to the “logical and reasonable” development of local government. This implies an analytical process that weighs the merits of each proposal on an individual basis. Indeed, the legislative purpose of Cortese-Knox Hertzberg was to vest the LAFCO with substantial “authority and discretion” to review proposals in keeping with specific public purposes. The standards, then, must encourage independent judgment by LAFCO based on a reasoned analysis of required documentation.

For each proposal the LAFCO staff should determine the completeness of the application and provide analysis and recommendation as to the compliance of the proposal with each Standard. For most proposals of a smaller nature, compliance with the Standards will be obvious. For larger projects, including those which are to be phased over a several-year period, full compliance with each Standard may not be as obvious. For example, a project may lead to the conversion of prime agricultural land to urban use; if, however, guiding development away from prime agricultural lands should not promote the planned, orderly, efficient development of the area, such conversion could be approved.

In another instance, a full range of services may not be available based on “will serve” letters from affected agencies. LAFCO, based on its discretion and on analysis of additional information, could determine that adequate alternative services can or will be made available.

In the final analysis, the reasoned judgment of LAFCO will be required to determine compliance with each standard. In deciding on annexation proposals, LAFCO shall make determinations on the degree of compliance or non-compliance for each Standard citing facts to support each determination. Six of the Standards (numbers 1- 6) are mandatory; LAFCO must make determinations of full compliance with the mandatory Standards to approve a proposal. The other five standards (numbers 7- 11) are discretionary; LAFCO may make determinations of less than full compliance with one or more of the discretionary standards and still have the discretion to approve or deny a proposal. In the final analysis, the determinations under each discretionary standard must be weighted against each other and that when taken as a whole, the proposal must meet the purpose and intent of LAFCO in providing for planned, orderly and efficient patterns of urban development. Therefore, in the event that determinations of less than full compliance have been made on one or more of the discretionary Standards, LAFCO must make specific findings of fact identifying overriding considerations that justify the decision to approve the proposal.

## **SECTION III.**

## **THE LAFCO DECISION MAKING PROCESS**

This chapter provides a brief description of the LAFCO decision making process in considering proposals for changes of organization or reorganization.

### **PRE-APPLICATION CONSIDERATION**

Prior to formal submittal of an application to LAFCO, the applicant should first consult with the appropriate city and/or districts that will be affected by the proposal. The purpose of this early consultation is to establish the affected agencies interest in the proposal. Secondly, in those applications proposing annexation, it provides the affected agency the opportunity to prepare environmental documentation associated with pre-approvals. (see Section IV, Standard No. 5). In most instances, the environmental document used for the agency's consideration of the proposal will also be used by LAFCO in its hearing on the application. Accordingly, an applicant and the affected agency should ensure that those issues pertinent to LAFCO's action are discussed in the environmental document. In addition, it is suggested that a proponent consult with LAFCO staff in the early stages of the consideration of a proposal. This is to ensure that the process and application requirements are clearly understood and to establish a line of communication to facilitate the processing of the application.

### **APPLICATION PROCESS**

An application for a change of organization or reorganization may be initiated either by:

- 1) Resolution and application adopted by the legislative body of any affected local agency (Section 56654(a)).
- 2) A petition and application of either landowners or registered voters within the affected territory (Section 56700).

An application to LAFCO would include the following basic components

- 1) A petition or resolution and application for proceedings.
- 2) A map and legal description of the affected territory
- 3) Response to Solano LAFCO standards with supporting documentation
- 4) Application processing fee.

Extensive discussion on the Solano LAFCO Standards and the required documentation is provided in Chapter V.

Upon submittal of an application to LAFCO, the Executive Officer reviews the application to determine if the application is complete. If the application is determined not to be complete, the Executive Officer informs the applicant of the additional necessary material needed to complete the application. The Executive Officer must also determine what environmental documents may be necessary to process the application (See Chapter V, Standard No. 6). After the application is accepted as complete, a Certificate of Filing is issued and the application is scheduled for hearing before the Commission.

The Executive Officer notifies affected agencies of the pending application; reviews the application and prepares a staff report for the Commission based on the provision of the Cortese/Knox Hertzberg Act and the Standards set forth in Section IV.

## **LAFCO PUBLIC HEARING AND DECISION**

The Commission conducts a public hearing on the application during which the applicant, affected agencies, and public may testify. The Commission may amend an application's proposed boundaries and/or recommended conditions, and may either deny, approve, or approve with conditions the application.

After the Commission's action, any person may file a Request for Reconsideration within thirty (30) days. The Commission may approve or deny with or without conditions the Request for Reconsideration after the required public notice and hearing. In the case of denial, an application substantially similar to the original proposed change of organization or reorganization can not be made to LAFCO for a period of one year.

## **CONDUCTING AUTHORITY PROCEEDINGS**

The Commission, in most cases, becomes the conducting authority for the protest hearing after approval of an application. Within 35 days of the adoption of the commission's resolution making determinations, and following the 30 day reconsideration period, the executive officer shall set the proposal for hearing and give proper notice. The date of the protest hearing will be no less than 15 days, or more than 60 days, after the date the notice is given. (Section 57002) If the Commission receives no objection from land owners and registered voters and gains consent from the affected agencies the Commission may choose to waive the protest hearing. (Section 56663)

## **FINAL LAFCO ACTIONS**

If a proposal has not been terminated or brought to an election through the protest hearing phase and unless otherwise conditioned by the Commission, the effective date of the change or organization or reorganization is the date the Certificate of Completion is recorded.

**SECTION IV. STANDARD AND PROCEDURES FOR THE EVALUATION OF PROPOSALS FOR CHANGES OF ORGANIZATION OR REORGANIZATION**

**MANDATORY STANDARDS**

**STANDARD NO. 1: CONSISTENCY WITH SPHERE OF INFLUENCE (SOI) BOUNDARIES**

An area proposed for change of organization or reorganization shall be within the affected agency's Sphere of Influence. An application for change of organization or reorganization for lands outside an adopted Sphere of Influence may be considered concurrently with a request for amendment to the Sphere of Influence, at LAFCO's discretion.

**Explanation and Discussion**

A finding of consistency with adopted Sphere of Influence (SOI) boundaries becomes the first test in evaluating an annexation proposal. Section 56375.5 of the Government Code requires a determination by LAFCO regarding the proposal's consistency with the Spheres of Influence of the affected local agency. In most cases, location within or outside the boundary will determine whether the application should be approved.

The SOI concept provides a rational basis for a determination whether a given agency has the most appropriate interest in providing governmental services to territory in proximity to its boundaries. The SOI boundary is not necessarily intended by law to be coterminous with the area which a given agency may eventually annex and serve. Rather, it should refer to the area which most directly involves the interest of the agency as to future urbanization, the management of resources of concern to the agency, or land use proposals of an essentially non-urban character considered by the County.

LAFCO has adopted separate Guidelines for establishing and amending SOI's. Generally, LAFCO reviews and updates agency SOI's upon completion of city or county general plan updates or amendments separate from specific proposals for change of organization or reorganization. LAFCO retains the discretion as to whether SOI boundary amendments may be heard concurrently with change of organization or reorganization proposals. Minor amendments which have not resulted from general plan amendments may be heard concurrently. LAFCO staff shall advise the Commission at least 60 days in advance of request for such a concurrent hearing; at that time, LAFCO shall make a decision as to the appropriateness of a concurrent hearing.

**Required Documentation**

This Standard requires that the applicant shall demonstrate that the affected territory is within the Sphere of Influence of the affected agency. This is to be shown on the required mapping submittal in response to Standard No. 7. Sphere of Influence boundary information is available from the affected agency or LAFCO Staff.

**STANDARD NO. 2: CHANGE OF ORGANIZATION AND REORGANIZATION TO THE LIMITS OF THE SPHERE OF INFLUENCE (SOI) BOUNDARIES**

Annexation to the limits of the SOI boundary shall not be allowed if the proposal includes land designated for open space use by the affected city's general plan for city change of organization or reorganization or County General Plan for district change or organizations or reorganization unless such open space logically relates to existing or future needs of the agency. Open space uses which may be located within agency limits include but are not limited to community and city-wide parks, recreational facilities, permanently protected open space lands, reservoirs, and storm water detention basins.

**Explanation and Discussion**

The annexation of land by agencies out to their SOI boundaries may be justified under certain circumstances. However, the Sphere of Influence is not necessarily an entitlement to expand jurisdictional limits all the way to the SOI boundary.

In Solano County, cities in conjunction with the County and land trusts have taken on a more active role in permanently protecting open space buffers or green belts around their communities. LAFCO has recognized these efforts in designating "urban open space" lands as part of their SOI. These lands are not intended to be annexed to a city unless the city demonstrates how the open space area is to be protected and maintained by the city and/or other conservation agency as permanent open space or public use.

For the purposes of this Standard, open space is defined as open space per section 56059 of the Cortese-Knox-Hertzberg Act and/or improved recreation lands on adopted plans; it does not include common open space within subdivisions or vacant lands planned for urbanization.

**Required Documentation**

This Standard applies to any application for annexation that extends to the limits of the SOI boundary and contains lands designated for open space use under the applicable general plan. In such cases, the application shall include an analysis, justification, and/or appropriate mapping demonstration that the open-space lands relate to specific needs of the annexation agency or is an integral part of the project's design. This standard will generally not be applicable to district change or organization or reorganization unless it will result in the conversion of open space lands to urban use.

Proposals which contain lands designated as urban open space to be permanently protected must be accompanied by documentation demonstrating how the lands will be permanently protected by the affected agency and/or other conservation agencies.

**STANDARD NO. 3:   CONSISTENCY WITH APPROPRIATE CITY  
GENERAL PLAN, SPECIFIC PLAN, AREA-WIDE  
PLAN AND ZONING ORDINANCE**

An application for a city change of organization or reorganization which involves the conversion of open space lands to urban use shall be denied by LAFCO if the proposed conversion is not consistent with appropriate city plans (general plans, specific plans, area-wide plans and associated zoning ordinance). The determination of consistency shall be the responsibility of the affected agency, and shall be met by a resolution approved by the agency council certifying that the proposed change of organization or reorganization meets all applicable consistency requirements of State Law, including internal consistency between the agency's adopted plans and the zoning ordinance. In the event that plan consistency is contested, LAFCO shall retain the discretion to determine the consistency question and may require additional environmental information.

**Required Documentation**

This standard requires that the applicant submit copies of the resolution approved by the city council of an affected city which certifies that the proposed change of organization or reorganization is consistent with the agency's general plan or specific plans, area-wide plans and zoning ordinance.

**STANDARD NO. 4: CONSISTENCY WITH THE COUNTY GENERAL PLAN OF PROPOSED CHANGE OF ORGANIZATION OR REORGANIZATION OUTSIDE OF A CITY'S SPHERE OF INFLUENCE BOUNDARY**

An application for a change of organization or reorganization for lands outside an adopted city Sphere of Influence boundary in unincorporated territory shall be denied by LAFCO if the land use proposed within the affected territory is not consistent with the Solano County General Plan and Zoning Ordinance. A determination of consistency shall be the responsibility of the County, and shall be met by a resolution of the Board of Supervisors certifying that the proposed change or organization or reorganization meets all applicable consistency requirements of State Law, including internal consistency between the County's General Plan and Zoning Ordinance. This Standard shall also be made to apply to proposals for the formation or the incorporation of new agencies within unincorporated territory which lies outside adopted city Sphere of Influence boundaries.

**Explanation and Discussion**

This Standard is necessary to eliminate potential conflict posed by an agency change of organization or reorganization which is inconsistent with the County General Plan and to provide assurance of General Plan and zoning consistency of proposals for expanding or creating new development areas outside adopted Sphere of Influences.

There no longer is a requirement in State Planning Law that agency and county general plan policies for areas within a city's Sphere of Influence be consistent. Where conflicts exist between an agency and the County, sound planning practices suggest that the agency and County resolve their differences so that the general public is not confused.

**Required Documentation**

This standard requires that for district changes of organization or reorganizations in unincorporated territory outside cities' Sphere of Influence, the applicant submit copies of the resolution approved by the Board of Supervisors which certifies that the proposed change of organization or reorganization is consistent with the Solano County General Plan and Zoning Regulations.



**STANDARD NO. 5: REQUIREMENT FOR PRE-APPROVAL**

Prior to approval by LAFCO of a city change of organization or reorganization, the affected agency shall have approved, a specific plan, pre-zoning or an equivalent providing similar detail of information on the proposed land use for the affected territory and where the change of organization or reorganization process is clearly described. Prior to approval by LAFCO of a district change of organization or reorganization, the affected agency shall pass a resolution supporting the proposal.

**Explanation and Discussion**

Government Code Section 56375(a)(6) prohibits LAFCO from imposing “any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements.” Section 56375(a) (7), however, does require rezoning as a method to determine future land use, and consequently, to gauge the change of organization or reorganization’s impact on service delivery and conversion of open space lands and agency support for the proposal. LAFCO, however, may not specify how or in what manner territory shall be rezoned.

A District change of organization or reorganization does not require pre-zoning. Pre-approval of the proposal shall be demonstrated in a resolution supporting the change of organization or reorganization from the affected agency governing board or a letter of support from the chief administrative officer of the affected agency.

**Required Documentation**

This standard requires that an application for a city change of organization or reorganization shall be accompanied by copies of the agency’s ordinance rezoning the affected territory or a copy of a specific plan or equivalent and resolution of adoption. Applications for district change of organization or reorganization shall be accompanied by a copy of agency’s resolution supporting the proposal.

**STANDARD NO. 6: EFFECT ON NATURAL RESOURCES**

An application for annexation shall describe the amount of land involved, and the land, water, air, and biological resources affected, including topography, slope, geology, soils, natural drainages, vegetative cover, and plant and animal populations. Effects to be covered include those which will be both positive and negative and the means proposed to offset potential negative impact. LAFCO shall certify that provisions of the Solano LAFCO Environmental Guidelines for the Implementation of the California Environmental Quality Act have been complied with.

**Explanation and Discussion**

This Standard may already be reflected in studies provided as part of a city's adoption of a General Plan and is akin to the analysis of impacts and mitigation measures which ordinarily are revealed in an environmental assessment or environmental impact report.

The State of California Local Guidelines for Implementing the California Environmental Quality Act as currently amended has been adopted by Solano LAFCO Resolution and incorporated by reference as the Solano LAFCO Environmental Guidelines.

**Required Documentation**

This Standard requires that the applicant submit copies of the environmental documentation adopted or certified by the lead agency and copies of the resolution making the required environmental findings, adopting the Negative Declaration or Certifying the EIR, and making any Statement of Overriding Considerations.

## **DISCRETIONARY STANDARDS**

### **STANDARD NO. 7: ESTABLISHING PROPOSAL BOUNDARIES, MAP AND GEOGRAPHIC DESCRIPTION REQUIREMENTS, OTHER REQUIRED MAP EXHIBITS**

#### **Explanation and Discussion**

This Standard sets forth guidelines for establishing the boundaries of proposals. The Legislature has delegated the authority to determine the boundary of any proposal to local LAFCOs. The purpose of this Standard is to assure planned, orderly, and efficient patterns of urban growth by when possible, avoid: annexing or detaching portions of parcels, avoid conditions that would make the annexation of adjacent parcels difficult at a later date, and avoid excluding parcels that are necessary to promote efficient patterns of urban growth. Inconsistencies with any of these requirements need to be thoroughly explained and justified.

#### **ESTABLISHING PROPOSAL BOUNDARIES**

##### **City Proposals:**

Solano LAFCO shall consider the following as factors favorable to approval of a city change of organization or reorganization:

- A. The proposal would not: create islands, irregular, or illogical configuration of city limits.
  - 1) Whether unincorporated territory is an “island,” or “entire island,” or “entire unincorporated island,” or “part of a larger island,” or “surrounded,” or “substantially surrounded,” or “irregular,” or “illogical configuration” are determinations to be made by the Commission on a case by case basis, based on the evidence before it at the time those determinations are made.
  - 2) A small island of unincorporated territory that is connected to and an integral or essential part of a large unincorporated island is not an entire island and may not be annexed to a city without a protest proceeding under Government Code section 56375.3(a).
  - 3) A small island of unincorporated territory that is connected to, but not an integral or essential part of a large island, may be determined by the Commission to be an entire island or an entire unincorporated island under Government Code section 56375.3(b).
- B. Cities shall annex entire street sections whenever possible. “Half-width” streets where the city boundary is located on the centerline of the thoroughfare area are not permitted.
  - 1) When streets are used as a boundary for an annexation, the annexation proposal shall be designed to include a continuous section of roadway as far as possible and sufficient in length to provide single-agency jurisdiction for maintenance and law enforcement of the street.
  - 2) When a proposal is adjacent to existing short segments of county road(s), annexation of said short segments will be required to provide single-agency jurisdiction for maintenance and law enforcement of the street.

C. Other favorable factors for city annexations:

- 1) The proposal is consistent with development approvals required under Standard No. 5.
- 2) The area will be urban within ten years consistent with the provisions under Standard No. 8.
- 3) The proposal area is adjacent to the city's boundary, within the city's sphere of influence, and adjacent to existing municipal services resulting in a logical extension of city growth.

**District Proposals:**

Solano LAFCO shall consider the following as factors favorable to approval of a district change of organization or reorganization:

- A. The proposal would not create irregular or illogical configuration of existing district(s) boundaries.
- B. The proposal considers the effect on adjacent incorporated and/or unincorporated communities of interest.
- C. The proposal considers and identifies the financial effects to the subject agency(ies).<sup>1</sup>

**MAP AND GEOGRAPHIC DESCRIPTION REQUIREMENTS:**

LAFCO requires a sound boundary description that is acceptable to the Solano County Surveyor and the California State Board of Equalization. The map and geographic description of the proposal area shall meet the requirements set forth in Attachment A to Standard 7.

**OTHER REQUIRED MAP EXHIBITS:**

1. A map exhibit showing the relationship of the proposal area to an adjacent city and its sphere of influence.
2. A map exhibit showing the relationship of the proposal area to an adjacent affected special district(s) and their sphere of influence(s).
3. A map exhibit of nearby properties showing lands under Williamson Act contracts.
4. A map exhibit of the proposal area identifying soil types using the US Department of Agriculture symbols.

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<sup>1</sup> An example is a proposed detachment from the Solano Irrigation District where the property involved is a party to the indebtedness of Monticello Dam and its irrigation facilities. In such an event, LAFCO shall impose detachment fees in accordance with a formula agreed upon with SID (or other district in a similar situation) to assure equity in meeting financial obligations of the district.

# STANDARD 7 ATTACHMENT A

## SOLANO LAFCO MAP & GEOGRAPHIC DESCRIPTION REQUIREMENTS

**GENERAL:** LAFCO requires a map and geographic description that is acceptable to the Solano County Surveyor and the California State Board of Equalization (BOE).

**WHO CAN PREPARE:** Maps and geographic descriptions may be prepared by any person or firm which holds a current and valid State of California license as a Registered Surveyor or Registered Civil Engineer (with a number 33965 or lower).

**REVIEW REQUIREMENT:** Map and geographic descriptions must be reviewed for form, content, and accuracy. Prior to preparation, please contact LAFCO if the engineer or surveyor has not previously prepared a map and geographic description for LAFCO. All map and geographic descriptions will have to be reviewed and the final must be stamped and signed by the County of Solano Surveyor.

**GUIDELINES:** All proposed city annexation boundaries should tie into existing city boundary. For district proposals, proposed boundaries should tie into an existing district boundary whenever possible. LAFCO staff can provide information on existing boundaries. The map and geographic description should be in agreement with each other and should independently convey the intended action(s).

### COVER SHEET REQUIREMENTS:

- Title
  - "Exhibit A"
  - Project No. (as designated by LAFCO)
  - Project Name (as named by LAFCO)
  - Number of pages by exhibit identified.
- Wet signature and seal: The cover sheet, map, and geographic description must be signed and stamped by either a licensed surveyor or a registered civil engineer holding a license number 33965 or lower.
- Area for County Surveyor's signature, seal, and date.
- Area for LAFCO Executive Officer signature and date approved.
- Include the following statement: "This description and exhibit of the (insert name of project) boundary, it is not a legal property description as defined in the Subdivision Map Act and may not be used as a basis for an offer for sale of the land described. It is for assessment purposes only."

### GEOGRAPHICAL DESCRIPTION REQUIREMENTS:

- Heading with "Exhibit A," project number, project name, number of pages.
- Include township and range, section number(s), or rancho(s).
- The point of beginning must reference a known major geographic position (for city annexations to an existing city boundary, for district proposals to an existing district when possible or to section corners or street centerline intersections when necessary)
- Do not write descriptions in one endless paragraph.
- Do not write descriptions in all capitals.
- Courses called from, along, and to the annexation boundary.
- State all courses required to close the traverse of the project area.
- Express specific parcel description in sectionalized land (e.g., "The SW ¼ of Section 22, T1N, R1W") or by metes and bounds. If by metes and bounds, all courses shall be numbered and listed individually in a consistent clockwise direction.

- For curves, list delta, arc length, chord, and radius, include radial bearings for all points of non-tangency. All elements required.
- Wet signature and seal

MAP REQUIREMENTS:

- Heading with "Exhibit A," project number, project name, number of pages.
- Property description (A portion of the \_\_\_<sup>1</sup>/<sub>4</sub> of Section\_\_\_, T. \_\_\_N., R. \_\_\_E., M.D.M., and/or rancho, and optional: Lot, Tract, Map Name and Recorded Book, and Page)
- City, County, and State
- Month and Year
- No un-necessary data shown on map.
- All data on 8½"x11" Exhibit readable (½" border all around)
- Include a vicinity map and show the location of the project area in relationship to a larger geographic area that includes major streets and highways and other physical features.
- Include a scale and north arrow.
- Show and identify any portion of an existing district boundary in close proximity to the project area.
- Clearly show the point of beginning and it must match the geographic description.
- Line Type (New-solid and most predominant line, road/easements-dashed, others-broken) (all lines in black ink and cannot exceed 1.5 millimeter in width)
- Clearly show all existing streets, roads, and highways with their current names that are within and adjacent to the project area.
- Indicate each township and range, section lines and numbers, or ranchos that are in proximity of the project area.
- All dimensions needed to plot the boundaries must be given on the map of the project area. Each map shall have numbered courses matching the written geographic description. Index tables may be utilized.
- All parcels within the project area that touch the new boundary shall be clearly labeled with the assessor's parcel number. Interior parcels that do not touch the boundary need not be identified on the map.
- If more than one map sheet is needed, provide a key map giving the relationship of all sheets. Match lines between adjoining sheets must be used. The geography on adjoining sheets may overlap, the project boundaries must stop at the match lines.
- Wet signature and seal

**STANDARD NO. 8: LIKELIHOOD OF SIGNIFICANT GROWTH AND AFFECT ON OTHER INCORPORATED OR UNINCORPORATED TERRITORY**

Prior to approving an annexation, LAFCO shall make a determination that the proposed conversion of open space lands to urban use is justified by probable urban growth within a 10 year-period of time. A determination on the likelihood of significant growth justifying the conversion shall be based on analysis of local and regional demand for the proposed use.

**Explanation and Discussion**

To satisfy this standard an applicant is to provide data that supports a determination of the likelihood of significant growth within a 10-year period of time, justifying the conversion of the affected open space lands as defined under the Cortese-Knox-Hertzberg Act as an urban use, and that such conversion will not be detrimental to the development of existing open space lands already within the affected agency's jurisdiction. This Standard in conjunction with the other standards is designed to discourage urban sprawl, to preserve agricultural land resources and to encourage orderly growth boundaries based upon local conditions and circumstances. Under this Standard, the applicant is required.

- a) To provide data supporting the proposed conversion of open space to urban use by analyzing appropriate factors of supply and demand, and the Municipal Service Review where applicable;
- b) To discuss all lands currently within the city's jurisdiction which are intended for, or committed to similar land uses and how the proposal relates to them.
- c) To submit data to explain how the annexation will not significantly inhibit the timely development of existing vacant land currently within the city limits or inhibit the city's ability to meet its infill goals.
- d) To submit data that supports a determination that the conversion of the land to urban use within a 10-year period of time.

In reviewing the demand analysis for a proposed use, the Commission recognizes that it is more difficult to make determinations on long term market absorption rates for multi-family residential, commercial, industrial and mix use (high density residential, commercial and industrial) land use projects than for residential land use projects.

Another basis for analyzing an annexation's compliance with this standard will be the proposal's relationship to the annexing agency's Municipal Service Review (MSR). LAFCO accepted MSRs are required prior to the consideration of annexations to agencies.

Compliance with the annexing agency's Municipal Service Review (MSR) will be based on an analysis of the proposal and its relation to the goals and policies of

the agency's MSR including the growth strategy, projected growth and infill goals. LAFCO will consider its resolution of review and comment on the MSR in reviewing a proposal's consistency with the MSR.

Where large-scale and long-term projects are proposed through annexation, LAFCO may consider the likelihood of significant growth over a 10 – 20 year period of time if the project applicant and the city have entered into a development agreement. With respect to the purpose of Cortese-Knox Hertzberg, key provisions and a development agreement would include:

1. Phasing of development over a 10-20 year period in keeping with reasonable analysis of the market for new housing or other urban use consistent with policies of the General Plan.
2. Reasonable phasing to avoid premature conversion of prime agricultural lands to urban use, particularly those prime lands of greatest importance in Solano County as identified under Standard No. 9.
3. Reasonable phasing which will assure agency capability to provide urban services required without negative financial impact upon existing property owners and residents of the agency.

Finally, consideration will also be given to ABAG projections and to the preceding 10 years or more of building permit activity. Consideration will be given to the market conditions in analyzing past building permit activity.

It is on comparative analysis of the market study, the Municipal Service Review, ABAG projections and past building permit activity that a judgment as to the likelihood of significant growth with a ten-year period will be made.

### **Required Documentation**

This standard requires for any applications for a change of organization or reorganization which will convert open space lands to urban use, each application shall include the following documentation.

1. For a change of organization or reorganization where 40 acres or more of commercial or industrial land use is proposed or where 100 acres or more of residential land use is proposed, a market study is required to document this analysis. Substantial inhabited annexations are excluded from the requirement for a market analysis. The market study should:
  - a) Clearly define the market area for the project. The level of detail provided in the market analysis shall be commensurate with the scale and complexity of the proposed development project.
  - b) Identify anticipated demand over the next ten years within the market area and document the assumptions in preparing the demand projections;
  - c) Identify the supply of land which can be put to the same use within the market area that is anticipated to be available within the next



- ten years; including existing vacant land currently within the city limits; and
- d) Consistency of the proposal with the city's growth strategy and infill goals contained within the City's Municipal Service Review.
2. For a change or organization or reorganization where less than 40 acres of commercial or industrial land use is proposed or where less than 100 acres of residential land use is proposed, the proponent shall provide an analysis of likelihood of significant growth based on available information in responding to this standard.
  3. An analysis of consistency of the proposed project with the city's Municipal Service Review.
  4. Documentation of the city's building permit activity over the past 10 years.
  5. A copy of the development agreement (if applicable).

## **STANDARD NO. 9: PROTECTION OF PRIME AGRICULTURAL LAND**

Urban growth shall be guided away from prime agricultural land unless such action would not promote planned, orderly, and efficient development for the agency. Development of existing vacant or non-prime agricultural lands within the agency limits should be encouraged before any proposal is approved for urbanization outside of the agency limits.

### **Explanation and Discussion**

This Standard goes to the heart of the major objective of Cortese-Knox Hertzberg. To make the first sentence of the Standard operative, there has to be a finding as to what “planned, orderly, and effective development” means for each agency.

The second part of the Standard is permissive, in that it encourages rather than mandates the development of vacant or nonprime land already within the agency limits before pushing outward into unincorporated territory.

### **Maintaining the Integrity of Agricultural Lands**

Maintaining the integrity of agricultural lands can only be construed as furthering the purpose of Cortese-Knox Hertzberg to avoid the premature conversion of commercial agricultural lands to urban purposes. LAFCO must evaluate the potential effect of a proposed annexation on neighboring lands in commercial agricultural use to avoid premature pressure for the conversion of such lands to urban use.

Lands included within agricultural preserves under the Williamson Act are to be protected except where land is proposed by the General Plan for eventual urbanization and where the owner had already filed a notice of non-renewal, or where an agency officially protested inclusion of the land under the Williamson Act. In the former situation, the filing of a notice of non-renewal by a landowner starts a ten-year period until the removal is completed, unless findings for cancellation of an agricultural preserve contract are made and penalty tax payments and other requirements for contract cancellation are met. In cases where cancellation of a contract will be required, evidence supporting the cancellation shall be provided to demonstrate that the findings can reasonably be made. In cases where lands were protested for inclusion in an agricultural preserve by an agency, the agency may choose not to succeed to the contract, in which case the agricultural preserve contract will terminate upon annexation.

## **Encouraging Infill Development**

This Cortese-Knox Hertzberg policy calls for “infill” on vacant lands within municipal boundaries before extending further out into agricultural areas. A reasoned assessment of this policy is needed when one or more of the following conditions exist.

1. Where owners of infill property are not willing to sell at a fair market rate.
2. Where too many recorded lots for single-family housing exists in relation to realistic market demands for all housing types.
3. Where available property is too small in an area to accommodate long-term building objectives of the developer.
4. Where surrounding land use may be incompatible.
5. Where surrounding older housing reflects a deteriorating environment.
6. Where established single-family areas object to higher densities often necessary to justify infill investment.

An absolute requirement for infill could have a negative impact through increases in land value and, in effect can retard growth. Conversely, where adequate lands exist to meet reasonable demands of the housing market for the range of housing types required, infill can be achieved.

## **Evaluation Criteria**

In reviewing and evaluating proposals under this Standard, LAFCO will consider the following five criteria:

1. An annexation may be considered to guide development away from prime agricultural land or other productive lands if one of the following two conditions exists.
  - a. It does not contain prime agricultural land as defined under the Cortese-Knox Hertzberg (Government code Section 56064). In determining whether or to what extent land is prime or productive a hierarchy of land classification shall be used based on the following criteria in descending order of importance.
    - 1) Land that qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
    - 2) Land that qualifies for rating 80 through 100 in the Storie Index Rating.
    - 3) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will

return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

- 4) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous given calendar years.
- 5) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July 1967, developed pursuant to Public Law 46, December 1935.

Lands which are defined under 1 and 2 above are considered prime agricultural lands and have the greatest importance within Solano County. In reviewing lands identified as prime agriculture, consideration will be given to the economic viability of the property and whether the land can be economically and productively farmed.

- b. The area is wholly or largely surrounded by urban development.
2. If an annexation includes prime agricultural land, the annexation is considered to promote the planned orderly and efficient development of an area if:
- a. The proposed annexation meets the requirements of Standard No. 8; and
  - b. The proposed annexation either abuts a developed portion of the agency or abuts properties which already are committed to urban development by the extension of streets and other public facilities where service extensions were predicted on adjacent lands within the proposed annexation area being developed to assist in meeting bond obligations or other financial instruments against the property; and
  - c. It can be demonstrated that there are insufficient vacant non-prime lands within the Sphere of Influence planned for the same general purpose because of one or more of the following.
    - (1) Where land is unavailable at a reasonable market rate as determined by competent market analysis.
    - (2) Where insufficient land is currently available for the type of land used proposed, as determined by competent market analysis.
    - (3) Where surrounding land use clearly is incompatible because of the age and condition of structures or mixture of land uses.

3. Notwithstanding the factors listed above, it is the responsibility of an agency to undertake substantial actions to facilitate and encourage the infill of land within a city's limit so to minimize the need for further annexation. Such actions include, but are not limited to, the following:
  - a. Redevelopment plans and action programs.
  - b. Capital improvement programs.
  - c. Changes in land use policies and regulations.
  - d. Housing programs, including rehabilitations.
4. Consistency with the city's Municipal Service Review and provisions for guiding future growth away from prime agricultural lands.
5. Annexation shall be prohibited on land under an agricultural preserve contract unless an agency protested the establishment of the contract and the protest was upheld by LAFCO, and/or unless a notice of non-renewal has been filed; evidence that findings supporting cancellation have been made; and the adverse effects of the annexation on the economic integrity of lands in adjoining preserves are can be reasonably mitigated.

#### **Required Documentation**

This Standard requires that any application for a change of organization or reorganization containing open-space lands to be converted to an urban use shall provide the following documentation on its impact to prime agricultural land.

1. Documentation as to whether the affected territory contains prime agricultural land as defined under Government Code Section 56064 (evaluation criteria No. 1 above) and/or whether the affected territory is under an agricultural preserve contract.
2. If the affected territory contains prime agricultural land, provide demonstrate compliance with evaluation criteria 2, 3, and 4 above.
3. If the affected territory contains lands under agricultural preserve contract, provide documentation in compliance with evaluation criteria 5 above including a copy of the notice of non-renewal.

**STANDARD NO. 10:           PROVISION AND COST OF COMMUNITY SERVICES**

Adequate urban services shall be available to areas proposed for a change of organization or reorganization

**Explanation and Discussion**

This standard requires that the applicant obtain verifications from the affected agency(ies) that the full range of services required to serve the affected territory can be provided. For city annexations that propose to convert open space lands to urban uses, the proposal shall be consistent with the city’s Municipal Service Review.

A “will serve” letter from the manager/director of the affected agency is required for all changes of organization and reorganizations initiated by petition by registered voters or landowners. Where more than one agency is to provide services, a “will serve” letter, the manager/director of the agency shall provide LAFCO with a statement explaining why the agency is unable to do so.

Where open space lands are proposed to be converted to uses other than open space, LAFCO may “initiate and make studies of existing government agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities. In conducting those studies, the commission may ask for land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, and regional agencies and state agencies and departments” (56378)

The Municipal Service Review and if applicable, “will serve” letters(s) are intended to resolve any potential service problems related to an application prior to its submittal to LAFCO. LAFCO will consider both the Municipal Service Review , environmental documentation, other studies (as previously noted) , and “will serve” letters(s) (if applicable)in reviewing this standard.

**Required Documentation**

For proposals initiated by petition, this standard requires that an application of a change of organization or reorganization shall be accompanied by a “will serve” letter or a statement from the affected agency(ies) as follows:

1. If a district change of organization or reorganization, a “will serve” letter from the affected district’s director.
2. If a city change of organization or reorganization, a “will serve” letter from the city manager of the affected city and a “will serve” letter from the director of each special district providing services to the affected territory. (i.e. water agencies, sewer districts, recreation district).
3. If a city change of organization or reorganization that includes conversion of open space land to uses other than open space, LAFCO may “initiate and make studies of existing government agencies. Those studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service area and service capacities. In conducting those studies, the commission may ask for land use information, studies, and plans of cities, counties, districts, including school districts, community college districts, and regional agencies and state agencies and departments” (56378)

4. When an agency will not issue a “will serve” letter, the agency manager/director shall provide a statement explaining why it is unable to do so.

**STANDARD NO. 11: THE AFFECT OF THE PROPOSED ACTION ON ADJACENT AREAS, MUTUAL SOCIAL AND ECONOMIC INTERESTS, AND ON LOCAL GOVERNMENTAL STRUCTURE**

The application shall describe the effect which the annexation could have on adjacent areas and outside the agency. It shall also describe any social and economic benefits, or detriments, which will accrue to the agency and other affected agencies. The proposal should not be motivated by inter city rivalry, land speculation, or other motivates not in the public interest, and should create no significant negative social or economic effects on the County or neighboring agencies.

**Explanation and Discussion**

This Standard responds to the Cortese-Knox-Hertzberg factor listed under Section 56668(c). As worded in the law, the factor is somewhat vague and tends to overlap with the purpose of several other Standards, including those pertaining to the protection of agricultural land, meeting needs of the housing market, orderly growth, and the provision of urban services. Consequently, meeting this Standard requires placing in perspective the overall beneficial consequences of a proposal as compared to potential negative impacts, through qualitative analysis.

Examples of mutual social and economic benefits include achieving a balanced housing supply within the community, the provision of commercial areas where existing commercial development does not meet the needs residents, the creation of new employment opportunities to meet the needs of the unemployed or under-employed, protecting sensitive resources, advancing the time when public improvements needed by the larger community may be provided, improvement of levels of service within the community without incurring additional costs or harming other public service providers and protection of communities of regional/national economic and social importance, such as Travis Air Force Base, through the utilization of permanent open space and reserve areas.

These types of benefits may, in a given case, argue for a project as off-setting negative consequences or negative determinations identified in responding to other Discretionary Standards. The written response to this standard provides the opportunity to make a case for a proposal which, based on other standards, might appear to be questionable.

Potential negative impacts upon the County and neighboring agencies will also be considered. Examples include proposals that negatively impact Special District budgets or service provision or proposals that demand Special District services without the provision of adequate funding, threaten major employers, alter current/future military missions or otherwise cause hardship to communities of regional/national economic and social importance.



## **Required Documentation**

In cases where Special Districts might be harmed, either through detachment or annexation, the applicant should work with the Executive Director to identify the affected agencies and work with those agencies to identify and mitigate the impacts. *LAFCO will not normally approve detachments from special districts or annexations that fail to provide for adequate mitigation of the adverse impacts on the district. Where the adverse impact is fiscal, adequate mitigation will normally include a permanent, funding source for lost revenues or increased costs to the affected Special District.* Where potential impacts on other agencies have been identified, the application may be deemed incomplete or the LAFCo hearing continued, until the applicant has met with the affected agencies and made a good faith effort to reach agreement with those agencies on appropriate mitigation.

This standard requires that an application for a change of organization or reorganization show the inter-relationship and effect of the proposed project on adjacent areas, both within and outside the boundaries of the affected agency, and to weigh the overall beneficial aspects of a proposal as compared to the potential negative impacts. The application shall provide a written response to this standard and all supporting documentation regarding mitigation.

## **LAFCO Action**

If the applicant and the affected agencies have reached agreement on *permanent, annual* mitigation for the impacts to affected agencies, LAFCo will normally include the mitigation measures in its terms and conditions approving the change of organization. If the parties have failed to reach agreement, LAFCo shall hear from both sides and determine an appropriate mitigation, if any, and impose that mitigation to the extent it is within its powers. If the needed mitigation is not within LAFCo's authority and approval would, in the determination of the Commission, seriously impair the District's operation, the Commission may choose to deny the application.

## **SECTION V. MUNICIPAL SERVICE REVIEW**

### **I. PURPOSE**

To provide guidance to Solano LAFCO and agencies within its purview in preparing and conducting municipal service reviews (MSR).

### **II. BACKGROUND**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) requires LAFCO to review municipal services. The service review provides LAFCO and agencies within its purview with a tool to comprehensively study existing and future public service conditions and to evaluate organizational options for accommodating growth, preventing urban sprawl while supporting California's anticipated growth, and ensuring that critical services are efficiently and cost-effectively provided. CKH requires all LAFCOs to conduct the MSR prior to updating the spheres of influence (SOI) of the various cities and special districts in the County (Government Code Section 56430). CKH requires an MSR and SOI update every 5 years.

### **III. FUNCTION OF MUNICIPAL SERVICE REVIEW**

Government Code Section 56430 requires LAFCo to conduct MSRs and prepare a written statement of determination with respect to each of the following:

1. **Growth and Population Projections for the Affected Area.** This section reviews projected growth within the existing service boundaries of the city or district and analyzes the city's or district's plans to accommodate future growth.
2. **The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.** A disadvantaged community is defined as one with a median household income of 80 percent or less of the statewide median income.
3. **Present and Planned Capacity of Public Facilities and Adequacy of Public Services Including Infrastructure Needs or Deficiencies.** This section discusses the services provided including the quality and the ability of the city or district to provide those services, and it will include a discussion of capital improvement projects currently underway and projects planned for the future where applicable.
4. **Financial Ability of Agencies to Provide Services.** This section reviews the city's or district's fiscal data and rate structure to determine viability and ability to meet service demands. It also addresses funding for capital improvement projects.

5. **Status of and Opportunities for Shared Facilities.** This section examines efficiencies in service delivery that could include sharing facilities with other agencies to reduce costs by avoiding duplication.
6. **Accountability for Community Service Needs, including Government Structure and Operational Efficiencies.** This section examines the city's or district's current government structure, and considers the overall managerial practices. It also examines how well the city or district makes its processes transparent to the public and invites and encourages public participation.
7. **Matters Related to Effective or Efficient Service Delivery Required by Commission Policy.** This section includes a discussion of any Solano LAFCO policies that may affect the ability of a city or district to provide efficient services.

The MSR process does not require LAFCO to initiate changes of organization based on service reviews; it only requires that LAFCO make determinations regarding the provision of public services per the provisions of Government Code Section 56430. However, LAFCO, local agencies, and the public may subsequently use the determinations to pursue changes to services, local jurisdictions, or spheres of influence. Service Reviews are intended to provide a broad analysis of service provision.

#### **IV. WHEN PREPARED**

LAFCO will determine when municipal service reviews are necessary. Generally, reviews will be prepared prior to SOI studies or updates. Service reviews may also be conducted independent of the SOI update based on a number of factors, including but not limited to, concerns of affected agencies, the public or LAFCO; public demand for a service review; public health, safety, or welfare issues; service provision issues associated with areas of growth and/or development.

Minor amendments to SOI, as determined by LAFCO, will not require a municipal service review. An amendment to the SOI of any agency may be processed and acted upon by the Commission if all of the following are met:

- The requested amendment, considered along with all other amendments approved in the last 12 months for the agency in aggregate, are less than 40 acres.
- There are no objections from other agencies that are authorized to provide the services the subject agency provides and whose SOI underlies or is adjacent to the subject territory.
- The Commission finds that the proposed amendment would not significantly interfere with the development of the updated SOI of the agency.

## VI. LAFCO REVIEW OF MSR PROCESS

It is LAFCO’s policy that cities prepare their MSR absent determinations. Upon review of the data LAFCO may request additional information and will add the determinations.

The MSR should be produced in the following format. A sample Table of Contents is shown below along with the sections that LAFCO will complete.

### Table of Contents

<b>Acronyms and Abbreviations</b> .....	
<b>1: Introduction- (Provided by LAFCO)</b> .....	
1.1 – Role and Responsibility of LAFCO .....	
1.2 – Purpose of the Municipal Service Review .....	
1.3 – Uses of the Municipal Service Review.....	
1.4 – Sphere of Influence.....	
1.5 – California Environmental Quality Act (CEQA).....	
<b>2: Executive Summary</b> .....	
2.1 – The Municipal Service Review (Provided by LAFCO) .....	
2.2 – City Profile .....	
2.3 – Growth and Population Projections .....	
2.4 – Disadvantaged Unincorporated Communities .....	
2.5 – Present and Planned Capacity of Public Facilities .....	
2.6 – Financial Ability to Provide Services.....	
2.7 – Status and Opportunities for Shared Facilities .....	
2.8 – Government Structure and Accountability .....	
2.9 – LAFCO Policies Affecting Service Delivery .....	
<b>3: City Profile</b> .....	
<b>4: Growth and Population Projections</b> .....	
<b>5: Disadvantaged Unincorporated Communities</b> .....	
<b>6: Present and Planned Capacity of Public Facilities</b> .....	
6.1 – Airport (If appropriate).....	
6.2 – Animal Control .....	
6.3 – Fire.....	
6.4 – Law Enforcement.....	
6.5 – Parks and Recreation .....	
6.6 – Public Works.....	
6.7 – Solid Waste.....	
6.8 – Stormwater .....	
6.9 – Wastewater.....	
6.10 – Water .....	
<b>7: Financial Ability to Provide Services</b> .....	
7.1 – General Fund.....	

7.2 – Enterprise Funds .....	
7.3 – Capital Improvements.....	
<b>8: Status and Opportunities for Shared Facilities .....</b>	
8.1 – Shared Facilities and Regional Cooperation .....	
8.2 – Management Efficiencies.....	
<b>9: Government Structure and Accountability .....</b>	
<b>10: LAFCO Policies Affecting Service Delivery .....</b>	
<b>11: Summary of Determinations - (Provided by LAFCO).....</b>	
Growth and Population Projections .....	
Disadvantaged Unincorporated Communities .....	
Present and Planned Capacity of Public Facilities .....	
Financial Ability to Provide Services.....	
Status and Opportunities for Shared Facilities .....	
Government Structure and Accountability .....	
LAFCO Policies Affecting Service Delivery .....	
<b>12: References</b>	

**SECTION VI. ESSENTIAL REQUIREMENTS OF THE  
CORTESE-KNOX-HERTZBERG ACT**

**THE LEGISLATURE’S POLICY AND INTENT FOR LAFCO**

The State Legislature has set forth specific policy direction to LAFCO in carrying out its duties and responsibilities under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Specifically LAFCO is directed to:

- 1) *“Encourage orderly growth and development ...logical formation and determination of local agency boundaries” (Gov. Code Section 56001)*
- 2) *Encourage and provide for “Planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands” (Section 56300).*
- 3) *“Discouragement of urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances” (Section 56301.)*

In reviewing and approving or disapproving proposals, the legislature has established two priorities for LAFCO (Section 56377):

- 1) *“Development or use of land for other than open-space uses shall be guided away from existing prime agricultural lands in open-space use toward areas containing nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.”*
2. *“Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency shall be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.”*

These policies and priorities are fundamental in their impact on LAFCO’s decision process. They give critical dimension to the manner in which individual standards are applied to the factors prescribed by the Cortese-Knox Hertzberg Act.

In addition to the basic policies and priorities discussed above, the Cortese-Knox Hertzberg Act has identified the following factors to be considered in the review of a proposal under Section 56668:

- “a. Population, population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.*
- b. The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services controls in the area and adjacent areas.*
- c. The effect of the proposed action – and of alternative actions – on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.*
- d. The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377 of this code.*
- e. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.*
- f. The definiteness and certainty of the boundaries of the territory, the non-conformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.*
- g. Consistency with city or county general and specific plans.*
- h. The “sphere of influence” of any local agency which may be applicable to the proposal being reviewed.*
- i. The comments of any affected local agency.*
- j. The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the boundary change.*
- k. Timely availability of water supplies adequate for projected needs as specified in Section 65352.5*
- l. The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.*
- m. Any information or comments from the landowner or owners, voters, or residents of the affected territory.*
- n. Any information relating to the existing land use designations.*
- o. The extent to which the proposal will promote environmental justice. As used in*

*this subdivision, “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.*





April 19, 2023

Albert Enault  
City of Vacaville  
650 Merchant Street  
Vacaville, CA 95688  
[Albert.Enault@cityofvacaville.com](mailto:Albert.Enault@cityofvacaville.com)

Subject: The Fields at Alamo Creek Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2023030657, City of Vacaville, Solano County

Dear Mr. Enault:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) from the City of Vacaville (City) for The Fields at Alamo Creek Project (Project).

CDFW is providing the City, as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

### **CDFW ROLE**

CDFW is a **Trustee Agency** with responsibility under the California Environmental Quality Act (CEQA) for commenting on projects that could impact fish, plant, and wildlife resources (Pub. Resources Code, § 21000 et seq.; Cal. Code Regs., tit. 14, § 15386). CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as a permit pursuant to the California Endangered Species Act (CESA) or Native Plant Protection Act (NPPA), the Lake and Streambed Alteration (LSA) Agreement, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our authority, CDFW has the following concerns, comments, and recommendations regarding the Project.

### **PROJECT DESCRIPTION AND LOCATION**

The Project would create a tentative subdivision map for the development of up to 223 detached single-family residential units, a 0.52-acre park, and 6.71 acres of open space agricultural buffer on a 33.6-acre parcel of land located immediately adjacent to the eastern boundary of The Farm at Alamo Creek Specific Plan. Development of the Project would require annexation of the Project site to the City to access municipal services.

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The Project would also amend the General Plan Land Use designation from Urban Reserve to Residential Medium Density where the residential units are proposed and Agricultural Buffer or Public Facilities where the open space agricultural buffer is proposed. Additional text amendments to the General Plan are proposed, related to lot counts and size requirements for lots adjacent to an agricultural buffer, as well as a Specific Plan Amendment which would incorporate the Project within The Farm at Alamo Creek Specific Plan. The Project is located in unincorporated Solano County just east of the City of Vacaville on Hawkins Road, 0.5-mile east of Leisure Town Road, at approximately 38.356809°N, -121.922571°W.

The CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) require that the EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, that contains sufficient information to evaluate and review the Project's environmental impact (CEQA Guidelines, §§ 15124 & 15378). Please include a complete description of the following Project components in the Project description:

- Land use changes resulting from, for example, rezoning certain areas;
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes;
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems;
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features; and
- Construction schedule, activities, equipment, and crew sizes.

## **REGULATORY REQUIREMENTS**

### **California Endangered Species Act and Native Plant Protection Act**

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" (Fish & G. Code, § 86). If the Project will impact CESA listed species, such as those identified in **Attachment 1**, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA ITP. CDFW's issuance of an ITP is subject to CEQA and to facilitate Permit

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issuance, any such project modifications and mitigation measures must be incorporated into the EIR's analysis, discussion, and mitigation monitoring and reporting program.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species (Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064, & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA; however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

### **Lake and Streambed Alteration**

An LSA Notification, pursuant to Fish and Game Code sections 1600 et. seq., is required for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland habitat; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW may not execute the final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a Responsible Agency under CEQA.

### **ENVIRONMENTAL SETTING**

The EIR should provide sufficient information regarding the environmental setting ("baseline") to understand the Project's, and its alternative's (if applicable), potentially significant impacts on the environment (CEQA Guidelines, §§ 15125 & 15360).

CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plants, fish and wildlife species located and potentially located within the Project area and surrounding lands, including, but not limited to, all rare, threatened, or endangered species (CEQA Guidelines, § 15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to, those listed in **Attachment 1**.

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City of Vacaville  
April 19, 2023  
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Habitat descriptions and the potential for species occurrence included in the EIR should include robust information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System, California Aquatic Resources Inventory, *draft* Solano Multispecies Habitat Conservation Plan (see: <https://www.scwa2.com/solano-multispecies-habitat-conservation-plan/>), and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Only with sufficient data and information from the habitat assessment, can the City adequately assess which special-status species are likely to occur on or near the Project site, and whether they could be impacted by the Project.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>)<sup>1</sup>, must be conducted during the blooming period within the Project area and adjacent habitats that may be indirectly impacted by, for example, changes to hydrological conditions, and require the identification of reference populations. More than one year of surveys may be necessary based on environmental conditions. Please refer to CDFW protocols for surveying and evaluating impacts to special-status-plants available at: <https://www.wildlife.ca.gov/Conservation/Plants>.

## **IMPACT ANALYSIS AND MITIGATION MEASURES**

The EIR should discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

- Land use changes that would reduce open space or agricultural land uses and increase residential or other land use involving increased development;
- Encroachments into riparian habitats, wetlands or other sensitive areas;
- Potential for impacts to special-status species;

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<sup>1</sup> California Rare Plant Rank (CRPR) 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR ranks is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>) and on the California Native Plant Society website (<https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>).

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- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g., snags, roosts, vegetation overhanging banks);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The EIR should also identify existing and reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to each impact (CEQA Guidelines, §15355). Although a project's impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact (e.g., reduction of available habitat for a special-status species) should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

The CEQA Guidelines direct the City, as the Lead Agency, to consider and describe in the EIR all feasible mitigation measures to avoid and/or mitigate potentially significant impacts of the Project on the environment based on comprehensive analysis of the direct, indirect, and cumulative impacts of the Project (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This should include a discussion of impact avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with CDFW, USFWS, and the National Marine Fisheries Service. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in EIRs and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported

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to CNDDDB can be found at the following link:  
<https://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

## FILING FEES

CDFW anticipates that the proposed Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary to defray the costs of CDFW's review under CEQA (Fish & G. Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency.

If you have any questions, please contact Alexander Single, Environmental Scientist, at (707) 980-5154 or [Alexander.Single@wildlife.ca.gov](mailto:Alexander.Single@wildlife.ca.gov); or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
*Erin Chappell*  
B77E9A6211EF486...  
Erin Chappell  
Regional Manager  
Bay Delta Region

Attachment 1: Special-Status Species

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2023030657)

Albert Enault  
 City of Vacaville  
 April 19, 2023  
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### Attachment 1: Special-Status Species

Species Name	Common Name	Status
<i>Ambystoma californiense</i>	California tiger salamander, Central California Distinct Population Segment	ST, FT
<i>Buteo swainsoni</i>	Swainson's hawk	ST
<i>Agelaius tricolor</i>	Tricolored blackbird	ST
<i>Ahene cunicularia</i>	Burrowing owl	SSC
<i>Elanus leucurus</i>	White-tailed kite	FP
<i>Taxidea taxus</i>	American badger	SSC
<i>Ammodramus savannarum</i>	grasshopper sparrow	SSC
<i>Lanius ludovicianus</i>	Loggerhead shrike	SSC
<i>Circus hudsonius</i>	Northern harrier	SSC
<i>Emys marmorata</i>	western pond turtle	SSC
<i>Navarretia leucocephala</i> ssp. <i>bakeri</i>	Baker's navarretia	CRPR 1B.1
<i>Trifolium amoenum</i>	two-fork clover	CRPR 1B.1
<i>Astragalus tener</i> var. <i>tener</i>	alkali milk-vetch	CRPR 1B.2
<i>Atriplex cordulata</i> var. <i>cordulata</i>	heartscale	CRPR 1B.2
<i>Delphinium recurvatum</i>	recurved larkspur	CRPR 1B.2
<i>Extriplex joaquinana</i>	San Joaquin spearscale	CRPR 1B.2
<i>Fritillaria pluriflora</i>	adobe-lily	CRPR 1B.2

FT = federally listed as threatened under the Endangered Species Act (ESA); FP = state fully protected under Fish and Game Code; ST = state listed as threatened under CESA; SSC = state Species of Special Concern; CRPR = California Rare Plant Rank



**Yana Garcia**  
Secretary for  
Environmental Protection



## Department of Toxic Substances Control

Meredith Williams, Ph.D.  
Director  
8800 Cal Center Drive  
Sacramento, California 95826-3200



**Gavin Newsom**  
Governor

### SENT VIA ELECTRONIC MAIL

April 21, 2023

Mr. Albert Enault  
City of Vacaville  
650 Merchant Street  
Vacaville, CA 95688  
[Albert.Enault@cityofvacaville.com](mailto:Albert.Enault@cityofvacaville.com)

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT FOR THE FIELDS AT ALAMO CREEK – DATED MARCH 24, 2023 (STATE CLEARINGHOUSE NUMBER: 2023030657)

Dear Mr. Enault:

The Department of Toxic Substances Control (DTSC) received a Notice of Preparation of an Environmental Impact Report (EIR) for the Fields at Alamo Creek Project (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, importation of backfill soil, and/or work on or in close proximity to an agricultural or former agricultural site.

DTSC recommends that the following issues be evaluated in the Hazards and Hazardous Materials section of the EIR:

1. California Environmental Quality Act documents frequently reference the listing compiled in accordance with California Government Code Section 65962.5, commonly known as the Cortese List. Not all sites impacted by hazardous waste or hazardous substances will be found on the Cortese List. DTSC recommends that the Hazards and Hazardous Materials section of the EIR address actions to be taken for any sites impacted by hazardous waste or hazardous substances within the Project area, not just those found on the Cortese List. DTSC recommends consulting with other agencies that may provide oversight to hazardous waste facilities or sites impacted with hazardous substances in order to determine a comprehensive listing of all sites impacted by hazardous waste or



substances within the Project area. DTSC hazardous waste facilities and sites with known or suspected contamination issues can be found on DTSC's [EnviroStor](#) data management system. The [EnviroStor Map](#) feature can be used to locate hazardous waste facilities and sites with known or suspected contamination issues for a county, city, or a specific address

2. A State of California environmental regulatory agency such as DTSC, a Regional Water Quality Control Board (RWQCB), or a local agency that meets the requirements of [Health and Safety Code section 101480](#) should provide regulatory concurrence that the Project site is safe for construction and the proposed use.
3. The EIR should acknowledge the potential for historic or future activities on or near the Project site to result in the release of hazardous wastes/substances on the Project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The EIR should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight.
4. Refiners in the United States started adding lead compounds to gasoline in the 1920s in order to boost octane levels and improve engine performance. This practice did not officially end until 1992 when lead was banned as a fuel additive in California. Tailpipe emissions from automobiles using leaded gasoline contained lead and resulted in aerially deposited lead (ADL) being deposited in and along roadways throughout the state. ADL-contaminated soils still exist along roadsides and medians and can also be found underneath some existing road surfaces due to past construction activities. Due to the potential for ADL-contaminated soil, DTSC recommends collecting soil samples for lead analysis prior to performing any intrusive activities for the Project described in the EIR.
5. If any projects initiated as part of the proposed Project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to DTSC's 2001 [Information Advisory Clean Imported Fill Material](#).
6. If any sites included as part of the proposed Project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EIR. DTSC

Mr. Albert Enault  
April 21, 2023  
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recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\)](#).

DTSC appreciates the opportunity to comment on the EIR. Should you need any assistance with an environmental investigation, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website](#).

If you have any questions, please contact me at (916) 255-3710 or via email at [Gavin.McCreary@dtsc.ca.gov](mailto:Gavin.McCreary@dtsc.ca.gov).

Sincerely,

A handwritten signature in blue ink that reads "Gavin McCreary". The signature is fluid and cursive, with the first name "Gavin" being more prominent than the last name "McCreary".

Gavin McCreary, M.S.  
Project Manager  
Site Evaluation and Remediation Unit  
Site Mitigation and Restoration Program  
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning and Research  
State Clearinghouse  
[State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

Mr. Dave Kereazis  
Office of Planning & Environmental Analysis  
Department of Toxic Substances Control  
[Dave.Kereazis@dtsc.ca.gov](mailto:Dave.Kereazis@dtsc.ca.gov)

---

## Central Valley Regional Water Quality Control Board

24 April 2023

Albert Enault  
City of Vacaville  
650 Merchant Street  
Vacaville, CA 95688  
[albert.enault@cityofvacaville.com](mailto:albert.enault@cityofvacaville.com)

### **COMMENTS TO REQUEST FOR REVIEW FOR THE NOTICE OF PREPARATION FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, FIELDS AT ALAMO CREEK PROJECT, SCH#2023030657, SOLANO COUNTY**

Pursuant to the State Clearinghouse's 24 March 2023 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Notice of Preparation for the Draft Environmental Impact Report* for the Fields at Alamo Creek Project, located in Solano County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore, our comments will address concerns surrounding those issues.

#### **I. Regulatory Setting**

##### **Basin Plan**

The Central Valley Water Board is required to formulate and adopt Basin Plans for all areas within the Central Valley region under Section 13240 of the Porter-Cologne Water Quality Control Act. Each Basin Plan must contain water quality objectives to ensure the reasonable protection of beneficial uses, as well as a program of implementation for achieving water quality objectives with the Basin Plans. Federal regulations require each state to adopt water quality standards to protect the public health or welfare, enhance the quality of water and serve the purposes of the Clean Water Act. In California, the beneficial uses, water quality objectives, and the Antidegradation Policy are the State's water quality standards. Water quality standards are also contained in the National Toxics Rule, 40 CFR Section 131.36, and the California Toxics Rule, 40 CFR Section 131.38.

The Basin Plan is subject to modification as necessary, considering applicable laws, policies, technologies, water quality conditions and priorities. The original Basin Plans were adopted in 1975, and have been updated and revised periodically as required, using Basin Plan amendments. Once the Central Valley Water Board has adopted a Basin Plan amendment in noticed public hearings, it must be approved by the State Water Resources Control Board (State Water Board), Office of

Administrative Law (OAL) and in some cases, the United States Environmental Protection Agency (USEPA). Basin Plan amendments only become effective after they have been approved by the OAL and in some cases, the USEPA. Every three (3) years, a review of the Basin Plan is completed that assesses the appropriateness of existing standards and evaluates and prioritizes Basin Planning issues. For more information on the *Water Quality Control Plan for the Sacramento and San Joaquin River Basins*, please visit our website:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/)

### **Antidegradation Considerations**

All wastewater discharges must comply with the Antidegradation Policy (State Water Board Resolution 68-16) and the Antidegradation Implementation Policy contained in the Basin Plan. The Antidegradation Implementation Policy is available on page 74 at:

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/sacsjr\\_2018\\_05.pdf](https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/sacsjr_2018_05.pdf)

In part it states:

*Any discharge of waste to high quality waters must apply best practicable treatment or control not only to prevent a condition of pollution or nuisance from occurring, but also to maintain the highest water quality possible consistent with the maximum benefit to the people of the State.*

*This information must be presented as an analysis of the impacts and potential impacts of the discharge on water quality, as measured by background concentrations and applicable water quality objectives.*

The antidegradation analysis is a mandatory element in the National Pollutant Discharge Elimination System and land discharge Waste Discharge Requirements (WDRs) permitting processes. The environmental review document should evaluate potential impacts to both surface and groundwater quality.

## **II. Permitting Requirements**

### **Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit), Construction General Permit Order No. 2009-0009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml)

### **Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>**

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/municipal\\_permits/](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/)

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/phase\\_ii\\_municipal.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml)

### **Clean Water Act Section 404 Permit**

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACE). If a Section 404 permit is required by the USACE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements. If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACE at (916) 557-5250.

### **Clean Water Act Section 401 Permit – Water Quality Certification**

If an USACE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 10 of the Rivers and Harbors Act or Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications. For more information on the Water Quality Certification, visit the Central Valley Water Board website at:

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<sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

[https://www.waterboards.ca.gov/centralvalley/water\\_issues/water\\_quality\\_certification/](https://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/)

### **Waste Discharge Requirements – Discharges to Waters of the State**

If USACE determines that only non-jurisdictional waters of the State (i.e., “non-federal” waters of the State) are present in the proposed project area, the proposed project may require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation. For more information on the Waste Discharges to Surface Water NPDES Program and WDR processes, visit the Central Valley Water Board website at: [https://www.waterboards.ca.gov/centralvalley/water\\_issues/waste to surface water/](https://www.waterboards.ca.gov/centralvalley/water_issues/waste_to_surface_water/)

Projects involving excavation or fill activities impacting less than 0.2 acre or 400 linear feet of non-jurisdictional waters of the state and projects involving dredging activities impacting less than 50 cubic yards of non-jurisdictional waters of the state may be eligible for coverage under the State Water Resources Control Board Water Quality Order No. 2004-0004-DWQ (General Order 2004-0004). For more information on the General Order 2004-0004, visit the State Water Resources Control Board website at:

[https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2004/wqo/wqo2004-0004.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf)

### **Dewatering Permit**

If the proposed project includes construction or groundwater dewatering to be discharged to land, the proponent may apply for coverage under State Water Board General Water Quality Order (Low Threat General Order) 2003-0003 or the Central Valley Water Board’s Waiver of Report of Waste Discharge and Waste Discharge Requirements (Low Threat Waiver) R5-2018-0085. Small temporary construction dewatering projects are projects that discharge groundwater to land from excavation activities or dewatering of underground utility vaults. Dischargers seeking coverage under the General Order or Waiver must file a Notice of Intent with the Central Valley Water Board prior to beginning discharge.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0003.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0003.pdf)

For more information regarding the Low Threat Waiver and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/waivers/r5-2018-0085.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/waivers/r5-2018-0085.pdf)

### **Limited Threat General NPDES Permit**

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will

require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Limited Threat Discharges to Surface Water* (Limited Threat General Order). A complete Notice of Intent must be submitted to the Central Valley Water Board to obtain coverage under the Limited Threat General Order. For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:

[https://www.waterboards.ca.gov/centralvalley/board\\_decisions/adopted\\_orders/general\\_orders/r5-2016-0076-01.pdf](https://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2016-0076-01.pdf)

### **NPDES Permit**

If the proposed project discharges waste that could affect the quality of surface waters of the State, other than into a community sewer system, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. A complete Report of Waste Discharge must be submitted with the Central Valley Water Board to obtain a NPDES Permit. For more information regarding the NPDES Permit and the application process, visit the Central Valley Water Board website at: <https://www.waterboards.ca.gov/centralvalley/help/permit/>

If you have questions regarding these comments, please contact me at (916) 464-4684 or Peter.Minkel2@waterboards.ca.gov.

*Peter Minkel*

Peter Minkel  
Engineering Geologist

cc: State Clearinghouse unit, Governor's Office of Planning and Research,  
Sacramento





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# **NOP and Comments Received**

Revised NOP Date: July 27, 2023



# CITY OF VACAVILLE

## COMMUNITY DEVELOPMENT DEPARTMENT

650 Merchant Street • Vacaville, CA 95688 • CityofVacaville.gov • 707.449.5140

# NOTICE OF PREPARATION (REVISED)

## SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT

### THE FIELDS AT ALAMO CREEK PROJECT

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<b>DATE OF NOTICE:</b>	Thursday, July 27, 2023
<b>SUBJECT:</b>	REVISED NOTICE OF PREPARATION (NOP) OF AN INITIAL STUDY AND SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) FOR THE FIELDS AT ALAMO CREEK PROJECT
<b>LEAD AGENCY:</b>	City of Vacaville, Community Development Department
<b>PROJECT TITLE:</b>	The Fields at Alamo Creek
<b>PROJECT LOCATION:</b>	South of Hawkins Road, approximately 2,600 feet east of Leisure Town Road, City of Vacaville, Solano County (APN: 0138-010-040)
<b>COMMENT PERIOD:</b>	July 27, 2023 through August 25, 2023

Notice is hereby given that the City of Vacaville (City) will be the lead agency and will prepare a Supplemental Environmental Impact Report (SEIR) for the proposed Fields at Alamo Creek Project (Project). An initial Notice of Preparation (NOP) was issued by the City on March 23, 2023. However, the project has been revised, and a revised NOP has been issued to notify responsible and trustee agencies and other interested parties that the City will be preparing an SEIR to The Farm at Alamo Creek Specific Plan EIR, which is a larger development project that was previously approved in 2019 and adjoins The Fields at Alamo Creek project site to the west. The Project will be relying on future improvements from the Farm at Alamo Creek. The purpose of this NOP is to request feedback on the scope and content of the analysis to be evaluated in the SEIR.

Written comments on the scope of the SEIR may be sent to:

**Albert Enault**  
Senior Planner  
City of Vacaville  
650 Merchant Street  
Vacaville, CA 95688  
Phone: (707) 449-5364  
[albert.enault@cityofvacaville.com](mailto:albert.enault@cityofvacaville.com)

The 30-day comment period for the NOP is from **July 27, 2023** through **August 25, 2023**. Comments on the NOP are due no later than 5:30 PM on Friday, August 25, 2023. Public agencies that provide comments are asked to include a contact person for the agency.

#### MAJOR PROJECT CHANGES:

- Increased residential unit count from 223 units to 241 units
- Change in product type from detached single-family to a mix of detached and attached single-family
- Increased pocket park size from 0.52 acres to 0.6 acres
- Increased open space/agricultural buffer size from 6.71 acres to 7.2 acres
- Changed proposed agricultural buffer zoning from Public Facilities to Public Facilities with Agricultural Buffer overlay



**PROJECT LOCATION AND EXISTING CONDITIONS:** The proposed project site is located within unincorporated Solano County immediately adjacent to the eastern City limits bordered by Hawkins Road to the north, the adopted The Farm at Alamo Creek Specific Plan to the west and to the south, and PG&E overhead transmission lines and undeveloped agricultural lands to the east. The project site is currently undeveloped agricultural land designated by the Department of Conservation as Prime Farmland that does not contain any trees or buildings. A Solano Irrigation District canal runs adjacent to Hawkins Road along the north side of the property. The project site is located within the City's Sphere of Influence and Urban Growth boundary.

**REVISED PROJECT DESCRIPTION:** The revised Fields at Alamo Creek proposal includes a tentative subdivision map for the development of up to 241 residential lots which include 153 detached single-family residential lots and 88 half-plex lots for attached homes, as well as a 0.6-acre park, and 7.2 acres of open space/agricultural buffer on a 33.6-acre parcel of land located immediately adjacent to the eastern boundary of The Farm at Alamo Creek Specific Plan area. The half-plex lots would provide an attached housing option matching the "duet" units in the Farm at Alamo Creek Specific Plan. The proposed park would be centrally located on the site, and the 300-foot-wide open space agricultural buffer would border the eastern project boundary.

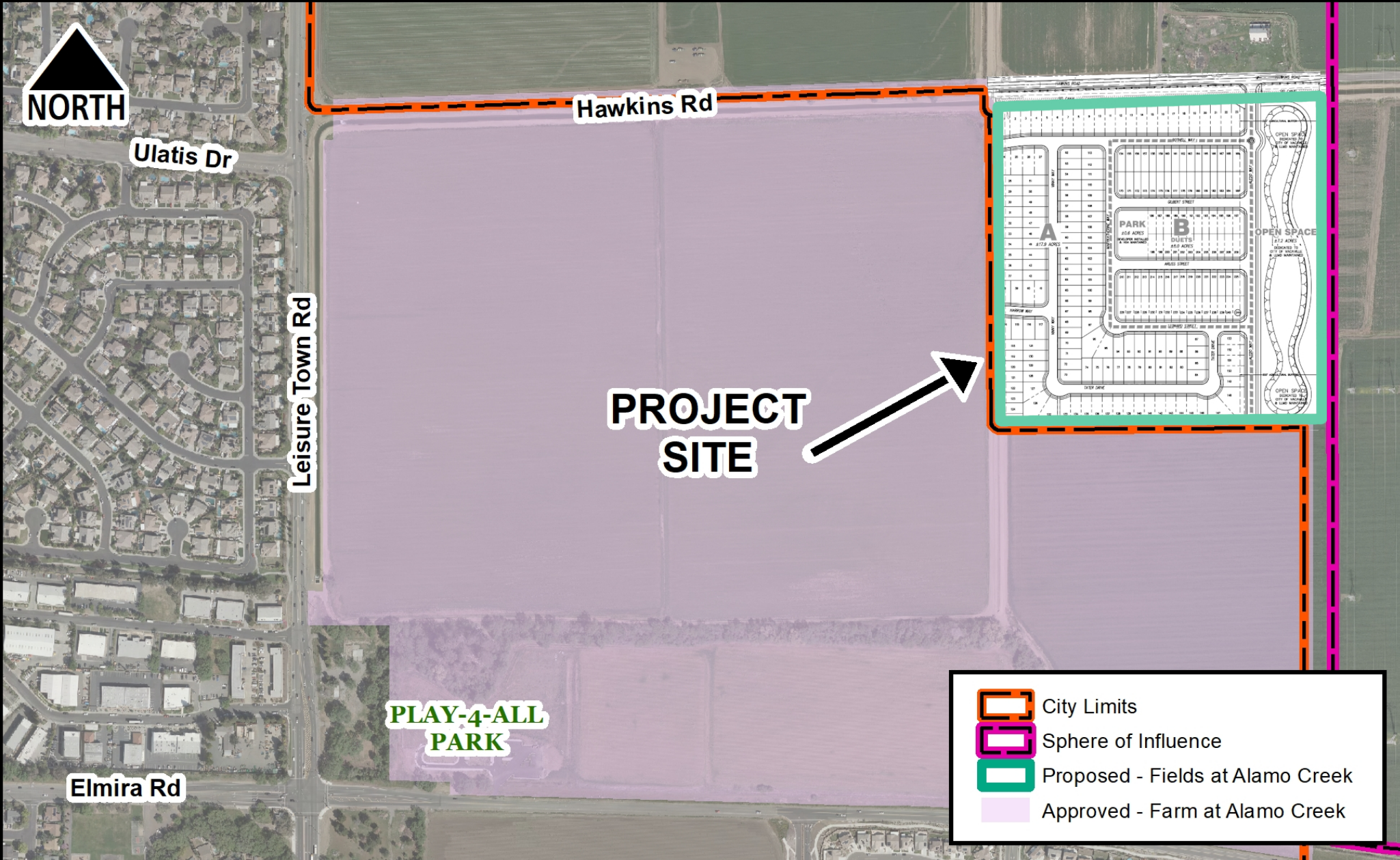
Development of the proposed project would require annexation to the City to access municipal services, such as water, sewer, and storm drainage. The project applicant is requesting to amend the General Plan Land Use designation from Urban Reserve to Residential Medium Density where the residential units are proposed and Agricultural Buffer where the open space agricultural buffer is proposed. Additional text amendments to the General Plan are proposed, related to lot counts and size requirements for lots adjacent to an agricultural buffer. The project site is zoned A-40, Exclusive Agricultural 40 acres in the Solano County General Plan (Solano County 2008). The project is requesting the site be zoned Residential Medium Density for the residential area and Public Facilities with the Agricultural Buffer overlay for the open space area. Because the project site is designated as Prime Farmland, the project would be required to purchase conservation easements or fund the creation of new irrigated Prime Farmland, pursuant to the General Plan. The project also requests a Specific Plan Amendment which would incorporate the proposed project within The Farm at Alamo Creek Specific Plan. The Farm at Alamo Creek Specific Plan assumed future development would occur at the project site and provided for road and utility connections. The proposed project would integrate the planned connections into the project design, as well as land use patterns and design characteristics that are included in The Farm at Alamo Creek Specific Plan.

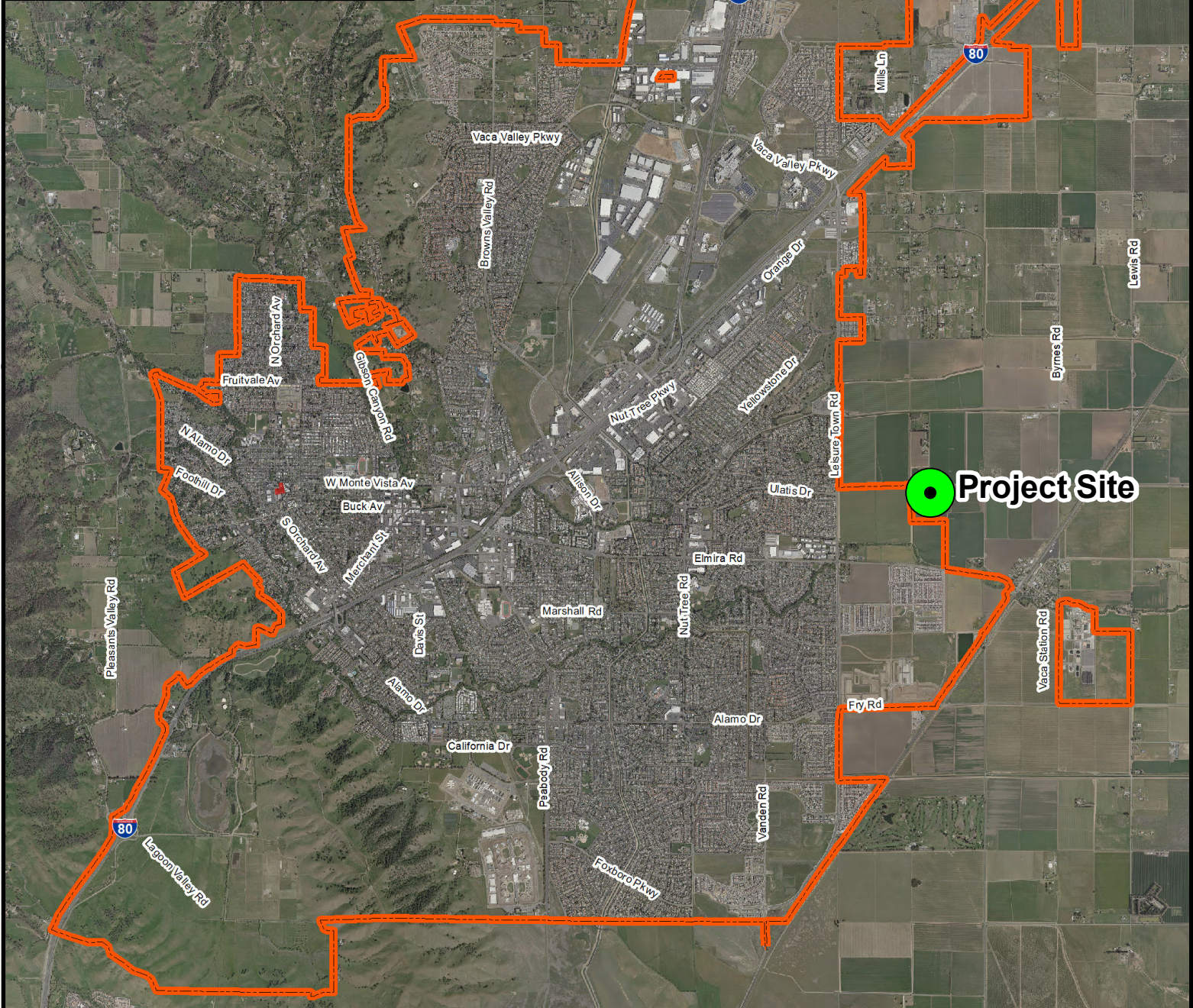
**WEBSITE INFORMATION:** <https://bit.ly/FieldsAtAlamoCreek>

**POTENTIAL ENVIRONMENTAL EFFECTS:** The SEIR will evaluate changes in the physical environment that could occur as a result of the approval of the proposed project and whether these issues would result in new or substantially more severe significant impacts than identified in The Farm at Alamo Creek Specific Plan EIR. It is anticipated that the preparation of an SEIR, per CEQA Guidelines Section 15163 would address, at a minimum, the following environmental topics: Air Quality, Biological Resources, Land Use, Utilities and Service Systems, and Transportation.

For the following environmental topics, it is anticipated that the proposed project would not involve new or more severe environmental impacts that were not evaluated in The Farm at Alamo Creek Specific Plan EIR, and therefore would not be evaluated in the SEIR. These environmental topics not evaluated in the SEIR would be described and an explanation would be provided describing why the analysis in The Farm at Alamo Creek Specific Plan EIR adequately addresses the proposed project.

- Aesthetics
- Agriculture and Forestry Resources
- Cultural Resources
- Geology, Soils, Seismicity
- Greenhouse Gases
- Mineral Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Population and Housing
- Public Services and Recreation
- Wildfire





**CITY OF VACAVILLE**  
 COMMUNITY DEVELOPMENT DEPT.  
 PLANNING DIVISION



**LOCATION MAP**

**THE FIELDS AT ALAMO CREEK**  
 SOUTH OF HAWKINS ROAD & KATLEBA LANE  
 (APN 0138-010-040)

## NATIVE AMERICAN HERITAGE COMMISSION

August 2, 2023

Albert Enault  
City of Vacaville  
650 Merchant St.  
Vacaville, CA 95688

**Re: 2023030657, The Fields at Alamo Creek Project, Solano County**

Dear Mr. Enault:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

[AB 52](#)



CHAIRPERSON  
**Reginald Pagaling**  
Chumash

VICE-CHAIRPERSON  
**Buffy McQuillen**  
Yokayo Pomo, Yuki,  
Nomlaki

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**Vacant**

COMMISSIONER  
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EXECUTIVE SECRETARY  
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California 95691  
(916) 373-3710  
[nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)  
[NAHC.ca.gov](http://NAHC.ca.gov)



AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

**1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:**

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

**2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

**3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

**4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

**5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

**6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
    - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i.** Protecting the cultural character and integrity of the resource.
    - ii.** Protecting the traditional use of the resource.
    - iii.** Protecting the confidentiality of the resource.
  - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
  - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
  - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)



## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation**: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation**. There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality**: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation**: Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

### NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([https://ohp.parks.ca.gov/?page\\_id=30331](https://ohp.parks.ca.gov/?page_id=30331)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
  - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
  
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: [Pricilla.Torres-Fuentes@nahc.ca.gov](mailto:Pricilla.Torres-Fuentes@nahc.ca.gov)

Sincerely,

*Pricilla Torres-Fuentes*

Pricilla Torres-Fuentes  
Cultural Resources Analyst

cc: State Clearinghouse



AUGUST 25, 2023

VIA EMAIL: [ALBERT.ENAULT@CITYOFVACAVILLE.COM](mailto:ALBERT.ENAULT@CITYOFVACAVILLE.COM)

ALBERT ENAULT  
SENIOR PLANNER  
CITY OF VACAVILLE  
650 MERCHANT STREET  
VACAVILLE, CA 95688

Dear Mr. Enault:

REVISED NOTICE OF PREPARATION OF A SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT FOR THE FIELDS AT ALAMO CREEK PROJECT, SCH# 2023030657

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Revised Notice of Preparation of a Supplemental Environmental Impact Report for the Fields at Alamo Creek Project (Project).

The Division monitors and maps farmland conversion on a statewide basis, provides technical assistance regarding the Williamson Act, and administers various agricultural land conservation programs. Public Resources Code, section 614, subdivision (b) authorizes the Department to provide soil conservation advisory services to local governments, including review of CEQA documents.

Protection of the state's agricultural land resources is part of the Department's mission and central to many of its programs. The CEQA process gives the Department an opportunity to acknowledge the value of the resource, identify areas of Department interest, and offer information on how to assess potential impacts or mitigation opportunities.

The Department respects local decision-making by informing the CEQA process, and is not taking a position or providing legal or policy interpretation.

We offer the following comments for consideration with respect to the project's potential impacts on agricultural land and resources within the Department's purview.

#### PROJECT ATTRIBUTES

The revised Fields at Alamo Creek proposal includes a tentative subdivision map for the development of up to 241 residential lots which include 153 detached single-family residential lots and 88 half-plex lots for attached homes, as well as a 0.6-acre park, and 7.2 acres of open space/agricultural buffer on a 33.6-acre parcel of land located immediately adjacent to the eastern boundary of The Farm at Alamo Creek Specific

Plan area. Development of the proposed project would require annexation to the City to access municipal services, such as water, sewer, and storm drainage. The project site is designated as Prime Farmland by DOC's Farmland Mapping and Monitoring Program. The Department is not aware of any Williamson Act contracts on the proposed project site.

### PROJECT CONSIDERATIONS

The conversion of agricultural land represents a permanent reduction and impact to California's agricultural land resources. The Department generally advises discussion of the following in any environmental review for the loss or conversion of agricultural land:

- Type, amount, and location of farmland conversion resulting directly and indirectly from implementation of the proposed project.
- Impacts on any current and future agricultural operations in the vicinity; e.g., land-use conflicts, increases in land values and taxes, loss of agricultural support infrastructure such as processing facilities, etc.
- Incremental impacts leading to cumulative impacts on agricultural land. This would include impacts from the proposed project, as well as impacts from past, current, and likely future projects.
- Proposed mitigation measures for impacted agricultural lands within the proposed project area.

### MITIGATING AGRICULTURAL LAND LOSS OR CONVERSION

Consistent with CEQA Guidelines, the Department advises that the environmental review address mitigation for the loss or conversion of agricultural land. An agricultural conservation easement is one potential method for mitigating loss or conversion of agricultural land. (See Cal. Code Regs., tit. 14, § 15370 [mitigation includes "compensating for the impact by replacing or providing substitute resources or environments, including through permanent protection of such resources in the form of conservation easements."]; see also *King and Gardiner Farms, LLC v. County of Kern* (2020) 45 Cal.App.5th 814.)

Mitigation through agricultural conservation easements can take at least two forms: the outright purchase of easements or the donation of mitigation fees to a local, regional, or statewide organization or agency whose purpose includes the acquisition and stewardship of agricultural easements. The conversion of agricultural land may be viewed as an impact of at least regional significance. Hence, the search for replacement lands may not need to be limited strictly to lands within the project's surrounding area.

A helpful source for regional and statewide agricultural mitigation banks is the California Council of Land Trusts. They provide helpful insight into farmland mitigation policies and implementation strategies, including a guidebook with model policies and a model local ordinance. The guidebook can be found at:

[California Council of Land Trusts](#)

Of course, the use of conservation easements is only one form of mitigation, and the Department urges consideration of any other feasible measures necessary to mitigate project impacts.

Thank you for giving us the opportunity to comment on the Revised Notice of Preparation of a Supplemental Environmental Impact Report for the Fields at Alamo Creek Project. Please provide the Department with notices of any future hearing dates as well as any staff reports pertaining to this project. If you have any questions regarding our comments, please contact Farl Grundy, Associate Environmental Planner via email at [Farl.Grundy@conservation.ca.gov](mailto:Farl.Grundy@conservation.ca.gov).

Sincerely,

*Kealii Bright*

Keali'i Bright  
Division Director



YOCHA DEHE  
CULTURAL RESOURCES

August 29, 2023

City of Vacaville  
Attn: Albert Enault, Senior Planner  
650 Merchant Street  
Vacaville, CA 95688

RE: Fields At Alamo Creek YD-12022022-05

Dear Mr. Enault:

Thank you for your project notification letter dated July 24, 2023, regarding cultural information on or near the proposed Fields At Alamo Creek. We appreciate your effort to contact us and wish to respond.

The Cultural Resources Department has reviewed the project and concluded that it is within the aboriginal territories of the Yocha Dehe Wintun Nation. Therefore, we have a cultural interest and authority in the proposed project area and would like to continue to receive updates on the project.

Should you have any questions, please contact:

CRD Administrative Staff  
Yocha Dehe Wintun Nation  
Office: (530) 796-3400  
Email: [THPO@yochadehe.gov](mailto:THPO@yochadehe.gov)

Please refer to identification number YD – 12022022-05 in any correspondence concerning this project.

Thank you for providing us the opportunity to comment.

Sincerely,

DocuSigned by:

*Yvonne Perkins*

8DD08BD089ED6438  
Tribal Historic Preservation Officer