

# LogistiCenter at Fairfield MND Addendum

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## INTRODUCTION

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### Background

The project is located east of Interstate 80 and south of California State Route 12. The site is bordered by the Union Pacific Railroad to the north, Ledgewood Creek to the east, Cordelia Road to the south, and Beck Avenue to the west. There are industrial complexes to the north and west, with open ruderal grassland and agricultural land to the east and south. The Shelter, Inc. homeless shelter is located on an adjacent parcel to the west of the project site.

The project is a new industrial campus consisting of five shell buildings ranging in size from 83,268 square feet to 260,086 square feet, totaling 717,504 square feet, on a vacant 59.7-acre site. A Lot Merger has been completed to create a single property for the proposed industrial park. The project scope includes parking, landscaping, stormwater quality treatment areas, and associated improvements to facilitate the development. Construction is proposed in the two phases. Phase I entails the building and site improvements for Buildings 1 and 2. Phase II will complete the project with the construction of the remaining site infrastructure and Buildings 3, 4, and 5. The five buildings will be used for limited industrial uses, including warehouse and office, consistent with the IL (Limited Industrial) zoning district that is applicable to the project location. Specific users are unknown at this time. As proposed and conditioned, the project meets all applicable development regulations of the Zoning Ordinance.

Based on the findings of the Initial Study (IS), potentially significant impacts relative to biological resources, cultural resources, geology and soils, transportation, and tribal cultural resources were identified. All identified impacts can be reduced to less than significant levels with the implementation of mitigation measures recommended in the Mitigated Negative Declaration (MND) to satisfy the requirements of the CEQA.

The project's MND and Notice of Intent were initially published through the State Clearinghouse on September 13, 2021. The document was available for review for 30 days. On October 8, 2021, the California Department of Fish and Wildlife (CDFW) provided comments to the City regarding the MND. City staff has then revised the MND to address CDFW's comments and recirculated the MND for another 30-day review period per California Environmental Quality Act (CEQA) requirements. The Fairfield Planning Commission adopted the final IS and MND on December 8, 2021.

## **Purpose of Addendum**

Section 15164 of the CEQA Guidelines allows a lead agency to prepare an addendum to a previously certified Negative Declaration if some changes or additions are necessary, as long as none of the conditions described in Section 15162 calling for the preparation of a subsequent Negative Declaration have occurred. Section 15162 states that:

- (a) When a Negative Declaration has been certified, no subsequent Negative Declaration shall be prepared for that project unless the Lead Agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
1. Substantial changes are proposed in the project which require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
  2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
  3. New information of substantial importance, which was not know and could not have been known with the exercise of reasonable due diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
    - a. The project will have one or more significant effects not discussed in the previous EIR;
    - b. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
    - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
    - d. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

An agency must prepare an addendum to the previously adopted Negative Declaration if the Lead Agency's role in the project is not complete and some changes or additions are necessary

to the project but none of the conditions triggering a Subsequent EIR, Negative Declaration, or Supplemental EIR have occurred.

The City of Fairfield, acting as Lead Agency for the project, has prepared this addendum to include an analysis of the project with a new proposed phased grading plan. The proposed grading plan establishes two phases of grading. The first phase includes grading the majority of the project site while avoiding all onsite wetland and environmentally sensitive areas. The second phase will fill and grade the remaining portions of the project site, including the wetland areas. The second phase of the grading plan shall not take place until all proper regulatory permits are obtained. Both phases of grading will include rough grading, erosion and sedimentation protection, bioretention facilities, and the installation of storm drain, sewer, water, and dry utility improvements. Based on the following environmental evaluation, the revisions to the project's grading plan, as previously analyzed, does not meet any of the conditions of Section 15162, and an Addendum is appropriate.

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## ENVIRONMENTAL ANALYSIS

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This section includes a discussion of the environmental topics evaluated in the LogistiCenter at Fairfield project MND and the potential effects associated with the revised grading plan. As discussed below, the revisions to the grading plan would not change the conclusions of the LogistiCenter at Fairfield project MND or require the adoption of new mitigation measures.

### **Biological Resources**

Information in the LogistiCenter at Fairfield project IS/MND is based on the Biological Resource Assessment, June 2020, and Update for Biological resource Assessment letter, August 2021, prepared by LSA (collectively known as Biological Assessments). The Biological Assessments were based on a review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Data Base (CNDDDB). In addition, LSA acquired a list of Endangered and Threatened Species that may occur in or be affected by the project from the U.S. Fish and Wildlife Service (USFWS) Species List website. Information on the habitat requirements of native plant species occurring in the Fairfield area was obtained from the USFWS Critical Habitat designation, 2006. Further information was obtained from a Botanical Report, Sheldon Oil Cordelia Road Site, November 2005, prepared by LSA, correspondence from USFWS regarding the Biological Opinion for the project site, August 2021, and correspondence from the U.S. Army Corps of Engineers (USACE) regarding the 404 Nationwide Permit for the project site. During the initial MND 30-day review period, CDFW provided information regarding sensitive species potentially occurring in the project vicinity.

As part of the IS/MND, mitigation measures were adopted by the City in order to protect wetland habitat and species such as vernal pool fairy shrimp, saline clover, alkali milkvetch, and pappose tarplant. Furthermore, mitigations were adopted to protect Contra Costa goldfields, Swainson's hawk, white-tail kite, and burrowing owl. The City determined that all impacts would be mitigated to a level of less than significant with the implementation of the mitigation measures described in the LogistiCenter at Fairfield IS/MND. Mitigation measures include: 1.) coordination with USACE and the San Francisco Bay Regional Water Quality Control Board (RWQCB) to obtain Section 401 and 404 permits, 2.) acquiring mitigation credits for vernal pools, 3.) establishing a saline clover salvage and relocation plan, 4.) coordination with USFWS-approved biologist for construction training, 5.) pre-construction surveys and traffic plan to avoid sensitive habitat, 6.) establishing deed restrictions for two identified wetland areas to remain, 7.) pre-construction surveys for nesting birds, 8.) acquiring mitigation credits for Swainson's hawk foraging habitat, and 9.) pre-construction habitat assessment for burrowing owls.

The proposed phased grading plan would not result in any new or additional significant impacts not already addressed. However, the phased grading plan would alter the timing of when certain mitigation measures must be implemented. As proposed, the first phase of grading would entirely avoid all wetland areas under the jurisdiction of the USACE and RWQCB. The second grading phase would impact wetland areas and therefore not take place until the Section 401 water quality certification from the RWQCB and Section 404 permits from USACE have been issued. Minor amendments to the mitigation measures requiring regulatory agency permits and approval (BIO-1 and BIO-7) are proposed to facilitate the proposed phased grading plan. The remaining mitigation measures are neither affected nor altered by the proposed phased grading and shall be met at the identified required time of compliance.

### **Cultural Resources**

The LogistiCenter at Fairfield project IS/MND analyzed impacts of the project on cultural resources, including historic, prehistoric, and archaeological resources. Mitigation measures were adopted by the City to reduce the potential to damage or disturb archaeological resources or human remains during project construction in compliance with State regulations, in order to address and reduce impacts. The City determined that all impacts would be mitigated to a level of less than significant with the implementation of the mitigation measures described in the IS/MND.

As stated in the IS/MND no previously unrecorded historic, prehistoric, or archaeological resources were identified on the project area. The proposed grading plan would not change the existing project area or disturb any cultural resources that have not already been described and

mitigated in the IS/MND, nor would it necessitate the adoption of additional or amended mitigation measures.

### **Geology and Soils**

The LogistiCenter at Fairfield project IS/MND analyzed impacts on paleontological resources. Mitigation measures were adopted by the City to reduce the potential to damage or disturb paleontological resources during project construction in compliance with State regulations, in order to address and reduce impacts. The City determined that all impacts would be mitigated to a level of less than significant with the implementation of the mitigation measures described in the IS/MND.

As stated in the IS/MND no previously unrecorded paleontological resources were identified on the project area. The proposed grading plan would not change the existing project area or disturb any cultural resources that have not already been described and mitigated in the IS/MND, nor would it necessitate the adoption of additional or amended mitigation measures.

### **Transportation**

The transportation analysis in the LogistiCenter at Fairfield project IS/MND evaluated the operational and construction effects on, intersections, emergency access, parking, transit services, and bicycle facilities. The IS/MND determined transportation impacts to be less than significant with mitigations.

The IS/MND analyzed the project from a Level of Service (LOS) and Vehicle Miles Traveled (VMT) perspective. The LOS analysis indicated that the vehicular/truck traffic generated by the project would not impact any of the studied intersections and that one lane in each direction, with a two-way left turn, will be sufficient on Cordelia Road and Beck Avenue to serve the project. The VMT analysis identified that there would be near-term impacts, but no cumulative impacts at full General Plan buildout. Mitigation measures establishing a Class II bicycle lane and Transportation Demand Management programs were adopted by the City to reduce the impacts to less than significant levels.

The proposed grading plan does not include features different from the plan evaluated in the IS/MND that would result in an increase in employee or visitor trips to the LogistiCenter at Fairfield project over that which was evaluated in the IS/MND. Therefore, no changes or mitigation measures would be required beyond those included in the IS/MND.

### **Tribal Cultural Resources**

The LogistiCenter at Fairfield project IS/MND analyzed impacts of the project on tribal cultural resources, including coordination with the Native American Heritage Commission (NAHC) and

the Yocha Dehe Wintun Nation (YDWN). Mitigation measures were adopted by the City to reduce the potential to damage or disturb tribal cultural resources or human remains during project construction in compliance with NAHC and YDWN protocols, in order to address and reduce impacts. The City determined that all impacts would be mitigated to a level of less than significant with the implementation of the mitigation measures described in the IS/MND.

As stated in the IS/MND no previously unrecorded tribal cultural resources were identified on the project area. The proposed grading plan would not change the existing project area or disturb any tribal cultural resources that have not already been described and mitigated in the IS/MND, nor would it necessitate the adoption of additional or amended mitigation measures.

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## CONCLUSION

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The LogistiCenter at Fairfield project's 2021 MND is to be amended to reflect the new proposed phased grading plan. The grading plan details two phases. The first phase includes most of the project site, avoiding all onsite wetland and environmentally sensitive areas. The second phase will fill and grade the remaining portions of the project site, including the wetland areas. To mitigate wetland impacts a Section 401 water quality certification from the RWQCB and Section 404 permit from the USACE are required prior to the second phase of the grading.

Although the phased grading plan will not create any new or additional significant impacts already addressed in the 2021 MND, two Biological Resources Mitigation Measures (BIO-1 and BIO-7) are to be amended to reflect the grading phases. The amendments expand the timeframe for when mitigation compliance must be met. The amended mitigation execution timing is directly correlated with the grading phases. Regulatory agency permits shall be required prior to grading and construction activities of the second phase of grading. This will allow for the first phase of grading to commence while the developer completes the USACE and RWQCB processes. Attached in Exhibits A and B, amendments are identified with strikethrough text for language to be removed and underline text for the new language.

No other amendments are necessary for the remaining Biological Resource Mitigation Measures. Additionally, no other environmental resource sections of the 2021 MND will be impacted or amended.

### **Attachments:**

1. Exhibit A: MND Addendum
2. Exhibit B: Mitigation Monitoring Report Addendum
3. LSA, Kristin Nurmela. Memorandum, RE: LogistiCenter at Fairfield Phased Grading –Biological Resources, May 12, 2022

**Planning Commission of the City of Fairfield**  
**MITIGATED NEGATIVE DECLARATION ADDENDUM**  
**(ER2021-005)**

**LEAD AGENCY:** City of Fairfield

**NAME OF PROJECT:** LogistiCenter at Fairfield

**FILE NUMBER:** TP2021-001; DR2021-002; ER2021-005

**PROJECT SPONSOR:** George Condon / Dermody Properties

**PROJECT LOCATION:** Northeast corner of Beck Avenue and Cordelia Road in Fairfield, CA 94533 (APN: 032-190-120; -240; -300; -320; -330)

**PROJECT DESCRIPTION:** The LogistiCenter at Fairfield project entails the development of a new industrial campus consisting of five shell buildings ranging in size from 83,268 sq. ft. to 260,088 sq. ft., totaling to 717,504 sq. ft., on a vacant 59.7-acre site at the northeast corner of Beck Avenue and Cordelia Road. ~~A Tentative Parcel Map proposal has been submitted to create five parcels for each building from the existing four legal parcels. Each proposed parcel contains parking, landscaping, stormwater quality treatment areas, and associated infrastructure improvements. Conditioned reciprocal cross access and parking easements will allow the project to operate as a cohesive industrial park. A Lot Merger has been completed to create a single property for the proposed industrial park.~~ The project scope includes parking, landscaping, stormwater quality treatment areas, and associated improvements to facilitate the development. The project is to be constructed in the two phases. Phase I entails the building and site improvements for Buildings 1 and 2. Phase II will complete the project with the construction of the remaining site infrastructure and Buildings 3, 4, and 5. The five buildings will be used for limited industrial uses, including warehouse and office, consistent with the IL (Limited Industrial) zoning district that is applicable to the project location. Specific tenant users are unknown at this time.

**SURROUNDING LAND USES AND SETTING:** The project is located east of Interstate 80 and south of California State Route 12 in the City of Fairfield. The site is bordered by the Union Pacific Railroad to the north, Ledgewood Creek to the east, Cordelia Road to the south, and Beck Avenue to the west. The project site is bordered by industrial complexes to the north and west, with open ruderal grassland and agricultural land to the east and south. The Shelter Inc. homeless shelter is located on the adjacent parcel to the west of the project site.

**ENVIRONMENTAL EFFECTS:** Based upon an initial study prepared for the project, it has been determined that the project may have the following significant environmental impacts, but with the mitigation measures, the potential impacts will be avoided or reduced to insignificant levels.

**Impact BIO-1: Wetlands**

The project will impact 4.1 acres of wetlands.

**Mitigation BIO-1: Wetlands**

Developer/applicant shall coordinate with the United States Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board to obtain the proper permits to fill materials in into wetland areas under Section 404 of the Clean Water Act prior to ~~City's issuance of building permits~~. grading and construction activity within the identified wetland areas.

**Impact BIO-2: Special-status plant species and vernal pool fairy shrimp**

The project has the potential to impact the identified federal Critical Habitat for Contra Costa goldfields and three additional special-status species: saline clover, alkali milkvetch, and pappose tarplant. The project has been designed to avoid the wetlands supporting the pappose tarplant and two of the three recorded locations of saline clover. The hydrology of the avoided area supporting pappose tarplant will be impacted by development which could adversely affect this species. A 0.3 acre wetland, that has been previously documented to support saline clover and alkaline milk vetch, will be filled and impacted by the proposed project. Suitable habitat for vernal pool fairy shrimp will be impacted as well.

**Mitigation BIO-2: Special-status plant species and vernal pool fairy shrimp**

To mitigate for the loss of Contra Costa goldfields critical habitat, special-status plant species, and vernal pool fairy shrimp habitat, the developer/applicant shall 1.) acquire suitable habitat land and record conservation easements or 2.) acquire mitigation credits prior to building permit issuance. Either mitigation option shall be consistent with the mitigation regulations outlined in the Solano HCP. Should the developer/applicant choose to fully mitigate habitat loss through credits, the mitigation credits shall be obtained consistent with the following mitigation ratios:

- Established vernal pools: 2.34 acres (1:1 ratio)
- Preserved vernal pools: 12.32 acres (7:1 ratio)

**Mitigation BIO-3: Special-status plant species and vernal pool fairy shrimp**

For impacts to the 0.3 acre of occupied saline clover and alkali milkvetch habitat, the developer/applicant shall develop a Saline Clover Salvage and Relocation Plan to reestablish and or supplement saline clover populations into avoided onsite wetlands (see Mitigation BIO-7) or other preserved habitat area. The Salvage and Relocation Plan shall be subject to review and approval by the City of Fairfield and the California Department of Fish and Wildlife.

**Mitigation BIO-4: Special-status plant species and vernal pool fairy shrimp**

Prior to building permit issuance, the developer/applicant shall obtain a contract with a USFWS-approved biologist to conduct an environmental education program for all persons working on earthmoving and/or utilities construction activities at the project site before they perform any work. The program shall consist of a presentation from the biologist that includes a discussion of the biology of the impacted special-status plant species and vernal pool fairy shrimp; sensitivity of the species to human activities; the status of the species pursuant to the federal Endangered Species Act, including legal protection; recovery efforts; penalties for violations; and any project-



*specific protective measures required by permits. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing work on the site. The biologist shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry on the site. Upon completion of the program, employees shall sign a form stating they attended the program and understand all the protection measures.*

**Mitigation BIO-5: Special-status plant species and vernal pool fairy shrimp**

*Prior to building permit issuance, the developer/applicant shall obtain a contract with a USFWS-approved biologist to be on the site daily to monitor initial vegetation clearing, installation of Environmentally Sensitive Area (ESA) fencing, and ground-disturbing activities. The qualifications of the biologist(s) shall be submitted to the USFWS for review and written approval at least 30 calendar days prior to the date earthmoving is initiated at the project site. The USFWS approved biologist(s) shall keep a copy of the biological opinion in their possession when on site.*

*The USFWS-approved biologist(s) shall be given the authority to freely communicate verbally, by telephone, electronic mail, or in writing at any time with construction personnel, any other person(s) at the project site otherwise associated with the project, the USFWS, the CDFW, or their designated agents. The USFWS-approved biologist will have oversight over implementation of all the conservation measures in the biological opinion, and, through the applicant, will have the authority and responsibility to stop project activities if they determine any of the associated requirements are not being fulfilled. If the USFWS-approved biologist(s) exercises this authority, the USFWS shall be notified by telephone and electronic mail within 24 hours.*

**Mitigation BIO-6: Special-status plant species and vernal pool fairy shrimp**

*To minimize harassment, injury, death, and harm in the form of temporary habitat disturbances, all project-related vehicle traffic shall be restricted to established roads, construction areas, and equipment staging, storage, parking, and stockpile areas. Prior to building permit issuance, the developer/applicant shall conduct and provide pre-construction surveys to identify vehicle traffic and construction areas and, to the maximum extent possible, establish said areas in locations disturbed by previous activities to prevent further adverse effects. Project-related vehicles shall observe a 20-mile-per-hour speed limit within construction areas. Off-road traffic outside of designated and fenced project work areas shall be prohibited.*

**Mitigation BIO-7: Special-status plant species and vernal pool fairy shrimp**

*The seasonal wetlands in the northwestern corner and the eastern side of the project site, as identified in the LSA Biological Assessment conducted for the project (June 2020), shall be avoided. Prior to building permit issuance, the two seasonal wetland areas shall be protected from future development under a deed restriction (Covenant, Condition, and Restrictions) and shall be managed through funding provided under a Business Park Owners Association for the project. ESA fencing shall be placed along the limits of construction adjacent to the seasonal wetlands to exclude construction activities from avoided wetlands. The fencing can be installed after initial clearing of vegetation but shall be installed prior to any further work on the project site. Vehicles and equipment shall not be operated or parked beyond the fencing. Materials shall not be stored*

or staged beyond the fencing. No vegetation removal or ground-disturbing activities shall be permitted beyond the fencing. BMPs as prescribed by the project's Storm Water Pollution Prevention Plan shall be installed in conjunction with the ESA fencing to prevent pollution of the avoided wetlands.

Additionally, the developer/applicant shall design and prepare a storm water management plan that will maintain adequate hydrology to the avoided wetlands. This plan shall be reviewed and approved by the City of Fairfield and Regional Water Quality Control Board.

**Impact BIO-3: Migratory Bird Treaty Act, burrowing owl, and Swainson's hawk**

Grasslands and large trees near the project site could be used by Swainson's hawk, white-tailed kite, and burrowing owl or other birds that are protected by the Migratory Bird Treaty Act of 1918 and Fish and Game Code of California during their nesting seasons. Additionally, the property provides upland habitat and foraging habitat for Swainson's hawk and burrowing owl.

**Mitigation BIO-8: Migratory Bird Treaty Act, burrowing owl, and Swainson's hawk**

To avoid impacts nesting birds in compliance with State Fish and Game Code regulations and the Migratory Bird Treaty Act:

If construction commences between Feb. 15 – Sept. 15, pre-construction surveys for nesting birds within 500 feet of the project site shall be conducted no more than 7 days prior to any ground disturbing activity.

If no nesting birds, are found during this first survey, a final survey will be conducted within 24 hours prior to ground disturbance. If ground-disturbing activities are delayed or suspended for more than 7 days after the initial survey, the site shall be resurveyed (including the final survey within 24 hours of disturbance).

If active nests are identified, appropriate buffer zones shall be established around the nest. The width of the buffer zone shall be based on a site-specific analysis prepared by a Qualified Biologist indicating that the nesting pair under consideration are not likely to be adversely affected by construction activities. Monitoring by the Qualified Biologist shall be conducted for a sufficient time during all construction activities following the initiation of construction to determine if the nesting pair exhibits adverse reactions to construction activities (e.g., changes in behavioral patterns, reactions to construction noise). If nesting birds exhibit signs of disturbance, the Qualified Biologist shall halt all activities and consult with CDFW prior to commencing Project activities.

**Mitigation BIO-9: Migratory Bird Treaty Act, burrowing owl, and Swainson's hawk**

To mitigate for the loss of burrowing owl and Swainson's hawk foraging habitat, the developer/applicant shall 1.) acquire suitable habitat land permanently preserve foraging habitat through recording conservation easements and implementing and funding a long-term management plan in perpetuity, or 2.) acquire burrowing owl and Swainson's hawk foraging habitat mitigation credits from a mitigation bank approved by CDFW prior to building permit

issuance. Either mitigation option shall minimally be consistent with the mitigation requirements outlined in the draft Solano HCP. However, should the developer/applicant choose to fully mitigate habitat loss through credits, the mitigation credits shall be obtained consistent with a 2:1 mitigation ratio, unless a greater mitigation ratio is required by the draft Solano HCP.

**Mitigation BIO-10: Migratory Bird Treaty Act, burrowing owl, and Swainson's hawk**

Prior to project construction, if activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15) a qualified biologist shall conduct surveys according to the Recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley, as defined by the Swainson's Hawk Technical Advisory Committee. Survey methods should be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest. Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the project site or a larger area if needed to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating project-related construction activities. Surveys shall occur annually for the duration of the project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the project shall implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist. If take of Swainson's hawk cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an ITP.

**Mitigation BIO-11: Migratory Bird Treaty Act, burrowing owl, and Swainson's hawk**

Prior to project activities, a habitat assessment shall be performed following 'Habitat Assessment and Reporting Details' of the CDFW Staff Report on Burrowing Owl Mitigation. The habitat assessment shall extend at least 492 feet from the project site boundary or more where direct or indirect effects could potentially extend offsite (up to 1,640 feet) and include burrows and burrow surrogates. If the habitat assessment identifies potentially suitable burrowing owl habitat, then a qualified biologist shall conduct surveys following the CDFW 2012 Staff Report survey methodology. Surveys shall encompass the project site and a sufficient buffer zone to detect owls nearby that may be impacted commensurate with the type of disturbance anticipated, as outlined in the CDFW 2012 Staff Report, and include burrow surrogates such as culverts, piles of concrete or rubble, and other non-natural features, in addition to burrows and mounds. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. Detected nesting burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report and any passive relocation plan for non-nesting owls shall be subject to CDFW review.

**Mitigation BIO-12: Migratory Bird Treaty Act, burrowing owl, and Swainson's hawk**

If the project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described above), the following habitat mitigation shall be implemented prior to Project construction: Impacts to each nesting site shall be mitigated

*by permanent preservation of two occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites. The project may implement alternative methods for preserving habitat with written acceptance from CDFW.*

**Impact CR-1: Archaeological Resources**

*Archaeological resources could be discovered during grading and potentially significant impacts could result to as-yet-unidentified archaeological resources at the construction stage.*

**Mitigation Measure CR-1: Archaeological Resources**

*If prehistoric archaeological resources are discovered during grading activities, work within 25 feet of the discovery will be redirected and a qualified archaeologist contacted to evaluate the finds and make recommendations for mitigation to be followed by the applicant. It is recommended that adverse effects to such deposits be avoided. If such deposits cannot be avoided, it shall be determined, by a qualified archaeologist or equally qualified professional, whether they qualify as historical or unique archaeological resources under CEQA. If the deposits are not eligible, avoidance is not necessary. If they are eligible, they shall be avoided, or, if avoidance is not feasible, the adverse effects shall be mitigated.*

*Mitigation may include, but is not limited to, thorough recording on Department of Parks and Recreation form 523 records (DPR523) or data recovery excavation. If data recovery excavation is selected, the excavation must be guided by a data recovery plan prepared and adopted prior to beginning the data recovery work, and a report of findings shall be submitted to the City of Fairfield and the Northwest Information Center (NWIC) (CCR Title 14(3) 15126.(b)(3)(C)).*

**Impact CR-2: Archaeological Remains**

*Archaeological remains could be discovered during grading and potentially significant impacts could result to as-yet-unidentified archaeological remains at the construction stage.*

**Mitigation Measure CR-2: Archaeological Remains**

*If archaeological remains are discovered during grading activities, work within 25 feet of the discovery will be redirected and the County Coroner notified immediately. At the same time an Archeologist will be contacted to assess the situation. If human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.*

*Upon completion of the assessment, the archaeologist shall prepare a report documenting the methods and results and provide recommendations for the treatment of the human remains and any associated cultural materials, as appropriate and in coordination with the recommendations of the MLD. The report shall be submitted to the City of Fairfield and the Northwest Information Center.*

**Impact GEO-1: Paleontological Resources**

*Paleontological resources could be discovered during grading and potentially significant impacts could result to as-yet-unidentified paleontological resources at the construction stage.*

**Mitigation Measure GEO-1: Paleontological Resources**

*If paleontological resources are discovered during grading activities, work within 25 feet of the discovery will be redirected until a paleontological monitor can evaluate the resources and make recommendations. If paleontological deposits are identified, it is recommended that such deposits be avoided by construction activities. If such deposits cannot be avoided, or if avoidance is not feasible, the adverse effects shall be mitigated. Mitigation can include data recovery and analysis, preparation of a report and the presentation of fossil material recovered to an accredited paleontological repository, such as the University of California, Museum of Paleontology (UCMP). Monitoring shall continue until, at the paleontologist's judgment, paleontological resources are no longer likely to be encountered. Upon project completion, a report shall be prepared documenting the methods and results of the monitoring. Copies of this report shall be submitted to the City of Fairfield and the repository to which any fossils were presented.*

**Impact TRAN-1: VMT Increase**

*The Project is expected to increase total VMT in the near-term and reduce total VMT under Cumulative conditions. While the Project would mitigate itself over time, mitigation measures are recommended to reduce the project's near-term VMT impacts.*

**Mitigation Measure TRAN-1: VMT Increase**

*The following Transportation Demand Management (TDM) Programs shall be implemented by the developer/applicant prior to Building permit final, subject to the review and approval of the Community Development Department and the Public Works Department:*

1. *Transit Pass Subsidies.*
  - a. *Provide 100% transit pass subsidy to all employees to encourage employees to take transit to work. (1-4% VMT Reduction).*
2. *Commute Marketing Program.*
  - a. *Designate a TDM Coordinator to plan, manage, and implement commute programs. The TDM coordinator shall share information on resources and incentives to encourage employees to use alternative modes of travel to work in the form of regular emails, bulletin postings, challenges, or events. (2-8% VMT Reduction).*
    - i. *TDM Coordinator shall work with City staff to determine on an annual basis the effectiveness of all the TDM strategies identified.*
3. *Pedestrian-Oriented Design.*
  - a. *Provide the following pedestrian facilities: paved sidewalks and pedestrian-scale lighting, along project site frontages and marked crosswalks and pedestrian signals at the Beck Avenue and Cordelia Road intersection as part of the project construction. (3% VMT Reduction).*

**Mitigation Measure TRAN-2: VMT Increase**

*Implement the Fairfield General Plan bicycle facilities along the project frontage. The developer/applicant shall construct a Class II bicycle facility along Cordelia Road as part of the project's development, subject to the review and approval of the Public Works Department.*

**Impact TC-1: Tribal Cultural Resources**

*Tribal cultural resources could be discovered during grading and potentially significant impacts could result to as-yet-unidentified tribal cultural resources at the construction stage. Implementation of Mitigation Measures TC-1 and TC-2 would ensure that potential impacts related to previously undiscovered historic or archaeological resources and human remains would be less than significant.*

**Mitigation Measure TC-1: Tribal Cultural Resources**

*Due to the possibility of archeological resources on the project site, the City of Fairfield shall require a note on any plans that require ground disturbing excavation that there is a potential for exposing buried cultural resources, including prehistoric Native American burials.*

*Prior to groundbreaking, construction personnel associated with earth moving equipment, drilling, grading, and excavating, shall be provided with basic archaeological and cultural sensitivity training conducted by a qualified archaeologist and in consultation with the Yocha Dehe Wintun Nation. Issues that shall be included in the basic training will be geared toward training the applicable construction crews in the identification of archaeological deposits and tribal cultural resources. Training will include written notification of the restrictions regarding disturbance and/or removal of any portion of archaeological deposits and the proper procedures to follow should a resource be identified. The project applicant shall inform the Yocha Dehe Wintun Nation of the project construction schedule and allow for a Yocha Dehe Wintun Nation tribal monitor to be present at the project site during any ground disturbance activities in native soil, to ensure such activities do not negatively impact cultural resources. The tribal monitor will also be provided an opportunity to attend the pre-construction briefing. The construction contractor, or its designee, shall be responsible for implementation of this measure.*

**Mitigation Measure TC-2: Tribal Cultural Resources**

*If archaeological remains or tribal cultural resources are uncovered, all construction activities within a 100-foot radius shall be halted immediately until a qualified archaeologist, in consultation with the tribal monitor, can evaluate whether the resource requires further study. The City shall require that the applicant include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Any previously undiscovered archaeological resources are found during construction shall be recorded on appropriate Department of Parks and Recreation forms and evaluated for significance in terms of California Environmental Quality Act criteria by a qualified archaeologist. Prehistoric archaeological site indicators include but are not limited to: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire-affected stones. Historic period site indicators generally include but are not*

*limited to: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps). If the resource is determined to be significant under CEQA, the City and a qualified archaeologist shall determine whether preservation in place is feasible. Such preservation in place is the preferred mitigation. If such preservation is infeasible, the qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan for the resource. The archaeologist shall also conduct appropriate technical analyses, prepare a comprehensive written report and file it with the appropriate information center (California Historical Resources Information System [CHRIS]), and provide for the permanent curation of the recovered materials. For any tribal cultural resources found during the ground disturbance activities, the Yocha Dehe Wintun Nation shall be immediately notified, and the appropriate treatment method for the uncovered resources shall be determined by the City and archaeologist in consultation with the Yocha Dehe Wintun Nation and its Yocha Dehe Treatment Protocol.*

*The treatment of human remains and any associated or unassociated funerary objects discovered during any soil-disturbing activity within the project site shall comply with applicable State laws. This shall include immediate notification of the Solano County Coroner and the City of Fairfield of the discovery of any human remains.*

*In the event of the Coroner's determination that the human remains are Native American, the coroner must contact the NAHC within 24 hours. The NAHC shall identify a Most Likely Descendant (MLD) of the deceased Native American (PRC Section 5097.98). The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for the means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98. Development activity on the impacted site will halt until the landowner has conferred with the MLD about their recommendations for treatment of the remains, and the coroner has determined that the remains are not subject to investigation under California Government Code Section 27491.*

*The project applicant, archaeological consultant, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The California PRC allows 48 hours to reach agreement on these matters. If the MLD and the other parties do not agree on the reburial method, the project will follow PRC Section 5097.98(b) which states that ". . . the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance."*

**DETERMINATION:** On December 8, 2021, the Planning Commission of the City of Fairfield determined that the proposed project, as submitted, will not have a significant effect on the

environment, including any adverse effect, either individually or cumulatively on wildlife resources.

The Initial Study was prepared by the Community Development Department, City of Fairfield. A copy of the Initial Study is attached. Additional information may be obtained at the Community Development Department, Fairfield City Hall, 1000 Webster Street, Second Floor, Fairfield, California 94533.

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CHRIS MATTHEWS, Chairperson

ATTEST:

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DAVID FEINSTEIN, Secretary



NAME OF PROJECT: LOGISTICENTER AT FAIRFIELD

MITIGATION MONITORING PROGRAM AND COMPLIANCE RECORD ADDENDUM

FILE NO.: TP2021-001; DR2021-002; ER2021-005

INITIAL STUDY PREPARED BY: Meily M. Sheehan

DATE: 06/13/22

APPLICANT: George Condon/Dermody Properties

MITIGATION PLAN			COMPLIANCE RECORD			
MITIGATION MEASURE	DEPARTMENT	ACTION(S) REQUIRED	REQUIRED TIME OF COMPLIANCE	ACTION TAKEN	VERIFIED BY/DEPT.	DATE
BIO-1	Community Development, Public Works	Developer/applicant shall coordinate with the United States Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board to obtain the proper permits to fill materials in into wetland areas under Section 404 of the Clean Water Act prior to City's issuance of building permits.	Prior to <del>building permit issuance.</del> <u>grading and construction activity within identified wetland areas.</u>			
BIO-2	Community Development	Developer/applicant shall 1.) acquire suitable habitat land and record conservation easements or 2.) acquire mitigation credits prior to building permit issuance. Should the developer/applicant choose to fully mitigate habitat loss through credits, the mitigation credits shall be obtained consistent with the following mitigation ratios: <ul style="list-style-type: none"> <li>• Established vernal pools: 2.34 acres (1:1 ratio)</li> <li>• Preserved vernal pools: 12.32 acres (7:1 ratio)</li> </ul>	Prior to building permit issuance.			
BIO-3	Community Development	Developer/applicant shall develop a Saline Clover Salvage and Relocation Plan to reestablish and or supplement saline clover populations into avoided onsite wetlands (see Mitigation BIO-7) or other preserved habitat area. The Plan shall be subject to review and approval by the City of Fairfield and the California Department of Fish and Wildlife.	Prior to building permit issuance.			
BIO-4 & BIO-5	Community Development	Developer/applicant shall obtain a contract with a USFWS-approved biologist to: 1) conduct an environmental education program for all persons working on earthmoving and/or utilities construction activities at the project site before they perform any work; 2) be on the site daily to monitor initial vegetation clearing, installation of Environmentally Sensitive Area (ESA) fencing, and ground-disturbing activities.	Prior to building permit issuance and during construction.			
BIO-6	Community Development	Developer/applicant shall conduct and provide pre-construction surveys to identify vehicle traffic and construction areas and, to the maximum extent possible, establish said areas in locations disturbed by previous activities to prevent further adverse effects. Project-related vehicles will observe a 20-mile-per-hour speed limit within construction areas. Off-road traffic outside of designated and fenced project work areas will be prohibited.	Prior to building permit issuance and during construction.			

MITIGATION MEASURE	DEPARTMENT	ACTION(S) REQUIRED	REQUIRED TIME OF COMPLIANCE	ACTION TAKEN	VERIFIED BY/DEPT.	DATE
BIO-7	Community Development	<p>Developer/applicant shall record a deed restriction to protect the two (LSA Biological Assessment) identified seasonal wetland areas. ESA fencing shall be placed along the limits of construction adjacent to the seasonal wetlands to exclude construction activities from avoided wetlands.</p> <p>Developer/applicant shall design and prepare a storm water management plan that will maintain adequate hydrology to the avoided wetlands. Plan shall be reviewed and approved by the City and RWQCB.</p>	<p>Prior to building permit issuance and during construction.</p> <p><u>Prior to grading and construction activity within identified wetland areas.</u></p>			
BIO-8	Community Development	<p>If construction commences between Feb. 15 – Sept. 15, pre-construction surveys for nesting birds within 500 feet of the project site shall be conducted no more than 7 days prior to any ground disturbing activity.</p> <p>If no nesting birds, are found during this first survey, a final survey will be conducted within 24 hours prior to ground disturbance. If ground-disturbing activities are delayed or suspended for more than 7 days after the initial survey, the site shall be resurveyed (including the final survey within 24 hours of disturbance).</p> <p>If active nests are identified, appropriate buffer zones shall be established around the nest. Monitoring by the Qualified Biologist shall be conducted for a sufficient time during all construction activities following the initiation of construction to determine if the nesting pair exhibits adverse reactions to construction activities. If nesting birds exhibit signs of disturbance, the Qualified Biologist shall halt all activities and consult with CDFW prior to commencing Project activities.</p>	<p>Prior to building permit issuance.</p>			
BIO-9	Community Development	<p>Developer/applicant shall 1.) acquire suitable habitat land permanently preserve foraging habitat through recording conservation easements and implementing and funding a long-term management plan in perpetuity, or 2.) acquire burrowing owl and Swainson’s hawk foraging habitat mitigation credits from a mitigation bank approved by. Mitigation shall minimally be consistent with the mitigation requirements outlined in the draft Solano HCP. Should the developer/applicant choose to fully mitigate habitat loss through credits, the mitigation credits shall be obtained consistent with a 2:1 mitigation ratio, unless a greater mitigation ratio is required by the draft Solano HCP.</p>	<p>Prior to building permit issuance.</p>			
BIO-10	Community Development	<p>If activities are scheduled during the nesting season for Swainson’s hawks (March 1 to September 15) a qualified biologist shall conduct surveys, as defined by the Swainson’s Hawk Technical Advisory Committee. Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the project site or a larger area if needed to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating project-related construction activities. If active Swainson’s hawk</p>	<p>Prior to building permit issuance and during construction.</p>			

MITIGATION MEASURE	DEPARTMENT	ACTION(S) REQUIRED	REQUIRED TIME OF COMPLIANCE	ACTION TAKEN	VERIFIED BY/DEPT.	DATE
		<p>nests are detected, the project shall implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified biologist. If take of Swainson’s hawk cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an ITP.</p>				
BIO-11	Community Development	<p>A habitat assessment shall be performed following ‘Habitat Assessment and Reporting Details’ of the CDFW Staff Report on Burrowing Owl Mitigation. The assessment shall extend at least 492 feet from the project site boundary or more where direct or indirect effects could potentially extend offsite (up to 1,640 feet) and include burrows and burrow surrogates. If the habitat assessment identifies potentially suitable burrowing owl habitat, then a qualified biologist shall conduct surveys. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections.</p>	<p>Prior to building permit issuance and during construction.</p>			
BIO-12	Community Development	<p>If the project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate or an occupied burrow, the following habitat mitigation shall be implemented prior to Project construction: Impacts to each nesting site shall be mitigated by permanent preservation of two occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites.</p>	<p>Prior to building permit issuance and during construction.</p>			
CR-1	Community Development	<p>If prehistoric archeological resources discovered, contact archeologist to evaluate.</p>	<p>During construction</p>			
CR-2	Community Development	<p>If human remains discovered, contact coroner and archeologist to evaluate.</p>	<p>During construction</p>			
GEO-1	Community Development	<p>If paleontological resources discovered, contact monitor to evaluate.</p>	<p>During construction</p>			
TRAN-1	Community Development, Public Works	<p>Developer/applicant shall implement the following Transportation Demand Management (TDM):</p> <ol style="list-style-type: none"> <li>1. Transit Pass Subsidies.</li> <li>2. Commute Marketing Program.</li> <li>3. Pedestrian-Oriented Design.</li> </ol>	<p>Prior to building permit final.</p>			
TRAN-2	Public Works	<p>Developer/applicant shall construct a Class II bicycle facility along Cordelia Road.</p>	<p>During design and construction</p>			

MITIGATION MEASURE	DEPARTMENT	ACTION(S) REQUIRED	REQUIRED TIME OF COMPLIANCE	ACTION TAKEN	VERIFIED BY/DEPT.	DATE
TC-1	Community Development	Developer/application shall basic archaeological and cultural sensitivity training conducted by a qualified archaeologist and in consultation with the Yocha Dehe Wintun Nation. The developer/applicant shall inform the Yocha Dehe Wintun Nation of the project construction schedule and allow for a Yocha Dehe Wintun Nation tribal monitor to be present at the project site during any ground disturbance activities in native soil.	Prior to ground breaking			
TC-2	Community Development	If archaeological remains or tribal cultural resources are uncovered, all construction activities within a 100-foot radius shall be halted immediately until a qualified archaeologist, in consultation with the tribal monitor, can evaluate whether the resource requires further study. The City shall require that the applicant include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. If the resource is determined to be significant under CEQA, the City and a qualified archaeologist shall determine whether preservation in place is feasible. For any tribal cultural resources found during the ground disturbance activities, the Yocha Dehe Wintun Nation shall be immediately notified.	During construction			

## MITIGATION MONITORING AND REPORTING PROGRAM

### INTRODUCTION

AB 3180 (Public Resources Code section 21081.6) requires public agencies to adopt a reporting or monitoring program whenever: a) a Negative Declaration which incorporates mitigation measures is adopted for a project; and b) after certifying an EIR, CEQA findings are adopted which concludes that otherwise significant impacts will be substantially lessened or avoided through the adoption of mitigation measures.

The following procedures shall be followed to ensure compliance with AB 3180. Please note that these procedures are intended to cover all project categories (private or public) and all stages of a project when monitoring or reporting may be required. A typical mitigation or monitoring program will consist of the checklist (Appendix "A"), the General Provisions, and appropriate portions of the section titled "Types of projects and mitigation and their monitoring/reporting procedures." The monitoring or reporting program may be attached to the Mitigated Negative Declaration or EIR findings and made a part of that document.

The CEQA Guidelines require mitigation of "significant impacts", except where findings of overriding significance are made. Unless this threshold of "significant impact" is reached, it is advisable to address project issues as conditions of project approval outside the CEQA process.

Mitigation measures must be written in very clear language, and must specify what, who, when, where, and if possible, the why.

### GENERAL PROVISIONS

- A. Checklist: All mitigation measures for a Negative Declaration or EIR shall be incorporated into the attached checklist for the purpose of monitoring or reporting their implementation.
- B. Disagreement over the interpretation of a mitigation condition: Where staff and the applicant cannot agree on the exact meaning of a mitigation condition, the matter shall be referred to the Community Development Director. The applicant shall have the right to appeal the Director's interpretation to the Planning Commission.
- C. Reporting: All reports submitted by the developer and consultant shall be under the penalty of perjury.
- D. Records: All records pertaining to a Mitigated Negative Declaration shall be kept in the project file at the offices of the Community Development Department.

- E. Fees: For private projects, the applicant shall bear the cost of monitoring and/or reporting. Fees charged for staff time shall be established by City Council Resolution. Where necessary, the applicant will be required to deposit a lump sum with the Community Development Department. Monitoring costs will be debited against said deposit. For public projects where fees are not charged, the cost of monitoring shall be borne by the Department responsible for the project.
- F. Penalties: If an applicant fails to properly implement mitigation measures the Community Development Director, the appropriate City Department, may issue a stop-work order, or deny subsequent approvals necessary to complete and occupy the project. In some cases, the City may require performance bonds or letters of credit to ensure that mitigation conditions are properly implemented. The amount of such bonds or letters of credit shall be determined by the Community Development Director. Failure to implement mitigation measures or to furnish required mitigation reports may be cause for suspension or revocation of a permit or the basis for legal action by the City to enforce compliance with the mitigation measure or reporting requirement.

#### TYPES OF PROJECTS AND MITIGATION AND THEIR MONITORING/REPORTING PROCEDURES:

##### Private Projects

- A. Conditions affecting permanent construction. These conditions affect the permanent design and location of a structure. Examples include limiting building height, requiring a setback, or providing a landscape buffer.
- The department applying the condition signs off on the mitigation condition(s) before the building permit is issued, verifying that the plans conform with the condition(s).
  - The building inspector ensures that construction conforms with approved plans.
  - Affected department signs off on the mitigation condition(s) before final inspection/occupancy, verifying that the project conforms to the mitigation condition(s).
- B. Conditions during construction. These conditions affect the way construction is carried out. Examples will be hours of operation, erosion control plans, preservation of archaeological sites, and preservation and protection of marshes.
- Responsibility for monitoring and reporting shall be placed on the applicant. The City department which imposed the condition will investigate complaints and review reports that are submitted. City inspectors should be informed about mitigation conditions so they can report obvious violations.
  - Reporting by applicant shall be under penalty of perjury.

C. Operational Conditions. These require permanent monitoring/reporting on a regular basis. Examples will include: hours of operation, maximum occupancy, toxic handling and disposal, and limits on nuisances like noise and odors.

- The burden would be placed on the applicant to provide reports to the City as required. The content and frequency of the reports would be specified as part of the conditions. Specialized inspectors may be required.
- Failure to implement an operational mitigation measure or to furnish required mitigation reports may be cause for suspension or revocation of a permit or the basis for legal action by the City to enforce compliance with the mitigation measure or reporting requirement.
- Reporting shall be under penalty of perjury.
- The City may enter into agreement with another agency to monitor compliance (e.g. Fish and Game for creek conditions; County Health for toxins).
- Code enforcement officer, planning staff, appropriate City staff will investigate complaints, and also ensure that reports are submitted as required to the Community Development Department.



## MEMORANDUM

**DATE:** May 12, 2022

**TO:** Shelagh Danna, Vice President, Dermody Properties

**FROM:** Kristin Nurmela, Associate Natural Resources Planner  
Steve Foreman, Principal Biologist

**SUBJECT:** LogistiCenter at Fairfield Project Phased Grading – Biological Resources

This memorandum addresses the City of Fairfield’s request to address the potential for the proposed phased grading for temporary wetland avoidance on the LogistiCenter at Fairfield Project (project) site to result in biological resources impacts. Due to the delay in the issuance of the Section 401 water quality certification from the Regional Water Quality Control Board (RWQCB), the project intends to proceed with a phased grading approach involving the installation of Environmentally Sensitive Area (ESA) fencing around the existing wetlands shown in the attached exhibit. Pending City approval, grading would commence in the areas outside of the ESAs.

In LSA’s opinion, the phased grading approach would not result in any new or additional significant impacts not already addressed in the project’s California Environmental Quality Act (CEQA) Mitigated Negative Declaration (MND), dated November 2021. As previously reported, LSA has addressed, or in the process of addressing, the biological resources mitigation measures for the project, as required by the MND. Based on the analysis presented below, with the implementation of Mitigation Measures BIO-1 through BIO-12, the modified project accommodating a phased grading approach would not result in new or additional significant impacts that were not previously evaluated in the MND.

### Mitigation Measure BIO-1: Wetlands

*Developer/applicant shall coordinate with the United States Army Corps of Engineers and the San Francisco Bay Regional Water Quality Control Board to obtain the proper permits to fill materials in into wetland areas under Section 404 of the Clean Water Act (CWA) prior to City’s issuance of building permits.*

#### *Analysis:*

The Phase grading approach would avoid all wetlands under the jurisdiction of the U.S. Army Corps of Engineers (USACE) and RWQCB until the Section 401 water quality certification from the RWQCB has been issued. All of the wetlands have been fenced as shown on the phased grading plans to avoid impacts to the wetlands.



With the required preconstruction surveys and biological monitoring to ensure wetland areas are avoided (i.e., per Mitigation Measures BIO-4 – 8 and BIO-10 – 11, described below), ground disturbing activities/grading outside of wetlands may be conducted without the need for permits from the USACE or RWQCB.

### **Mitigation Measure BIO-2: Special-Status Plant Species and Vernal Pool Fairy Shrimp**

*To mitigate for the loss of Contra Costa goldfields critical habitat, special-status plant species, and vernal pool fairy shrimp habitat, the developer/applicant shall 1.) acquire suitable habitat land and record conservation easements or 2.) acquire mitigation credits prior to building permit issuance. Either mitigation option shall be consistent with the mitigation regulations outlined in the Solano HCP. Should the developer/applicant choose to fully mitigate habitat loss through credits, the mitigation credits shall be obtained consistent with the following mitigation ratios:*

- *Established vernal pools: 2.34 acres (1:1 ratio)*
- *Preserved vernal pools: 12.32 acres (7:1 ratio)*

#### **Analysis:**

Although the Section 401 water quality certification from the RWQCB has not been issued, Dermody has purchased the required 12.32 acres of preserved vernal pool preservation credits from the North Suisun Mitigation Bank (NSMB), 1.73 acres of established vernal pool credits from the Gridley Mitigation Bank (Gridley MB), and reserved the remaining required 0.61 acre of established vernal pool establishment credits from the Gridley MB. Copies of the bills of sale for these credits have been previously provided to the City. At the request of the RWQCB, Dermody has also agreed to establish an additional minimum 1.17 acres of wetlands on the site within the wetland preservation area in the northeastern portion of the site (i.e., outside of the grading/work area). The wetland establishment and management plan has been prepared by LSA and has been submitted to the RWQCB for review and approval. The applicant has fulfilled the habitat establishment and preservation requirements under Mitigation Measure BIO-2 and compliance with this mitigation measure is not affected by the proposed phased grading approach.

### **Mitigation Measure BIO-3: Special-Status Plant Species and Vernal Pool Fairy Shrimp**

*For impacts to the 0.3 acre of occupied saline clover and alkali milkvetch habitat, the developer/applicant shall develop a Saline Clover Salvage and Relocation Plan to reestablish and/or supplement saline clover populations into avoided onsite wetlands (see Mitigation BIO-7) or other preserved habitat area. The Salvage and Relocation Plan shall be subject to review and approval by the City of Fairfield and the California Department of Fish and Wildlife (CDFW).*

#### **Analysis:**

The salvage and relocation of special-status plant species has been incorporated into the RWQCB's requirement for the 1.17 acres of onsite wetland establishment. Under this revised approach seed and soil from the pool(s) supporting saline clover and other special status plant species will be salvaged and used to inoculate constructed pools onsite. The onsite restoration plan with applicable measures for implementing and monitoring the special status species has been submitted to CDFW

for review. Following CDFW's review and approval, the restoration/salvage and relocation plan will be submitted to the City for concurrence.

The phased grading approach is compatible with and does not adversely affect implementation of the special-status plant species salvage and relocation or implementation of the onsite wetland establishment.

#### **Mitigation Measure BIO-4: Special-Status Plant Species and Vernal Pool Fairy Shrimp**

*Prior to building permit issuance, the developer/applicant shall obtain a contract with a USFWS-approved biologist to conduct an environmental education program for all persons working on earthmoving and/or utilities construction activities at the project site before they perform any work. The program shall consist of a presentation from the biologist that includes a discussion of the biology of the impacted special-status plant species and vernal pool fairy shrimp; sensitivity of the species to human activities; the status of the species pursuant to the federal Endangered Species Act, including legal protection; recovery efforts; penalties for violations; and any project-specific protective measures required by permits. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers before performing work on the site. The biologist shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry on the site. Upon completion of the program, employees shall sign a form stating they attended the program and understand all the protection measures.*

#### **Analysis:**

The USFWS provided designated biologist approval on February 14, 2022, and a copy of this approval has been provided to the City. An approved designated biologist will conduct the training program prior to the phase 1 ground-breaking activities, consistent with this mitigation measure.

#### **Mitigation Measure BIO-5: Special-Status Plant Species and Vernal Pool Fairy Shrimp**

*Prior to building permit issuance, the developer/applicant shall obtain a contract with a USFWS-approved biologist to be on the site daily to monitor initial vegetation clearing, installation of Environmentally Sensitive Area (ESA) fencing, and ground-disturbing activities. The qualifications of the biologist(s) shall be submitted to the USFWS for review and written approval at least 30 calendar days prior to the date earthmoving is initiated at the project site. The USFWS approved biologist(s) shall keep a copy of the biological opinion in their possession when on site.*

*The USFWS-approved biologist(s) shall be given the authority to freely communicate verbally, by telephone, electronic mail, or in writing at any time with construction personnel, any other person(s) at the project site otherwise associated with the project, the USFWS, the CDFW, or their designated agents. The USFWS-approved biologist will have oversight over implementation of all the conservation measures in the biological opinion, and, through the applicant, will have the authority and responsibility to stop project activities if they determine any of the associated requirements are not being fulfilled. If the USFWS-approved biologist(s) exercises this authority, the USFWS shall be notified by telephone and electronic mail within 24 hours.*

**Status:**

The USFWS provided designated biologist approval on February 14, 2022. A USFWS-approved biologist from LSA will be on site daily to monitor initial vegetation clearing, maintenance of the installed ESA fencing, and all ground-disturbing activities including onsite wetland establishment, consistent with this mitigation measure. The phased grading approach does not alter compliance with this measure.

**Mitigation Measure BIO-6: Special-Status Plant Species and Vernal Pool Fairy Shrimp**

*To minimize harassment, injury, death, and harm in the form of temporary habitat disturbances, all project-related vehicle traffic shall be restricted to established roads, construction areas, and equipment staging, storage, parking, and stockpile areas. Prior to building permit issuance, the developer/applicant shall conduct and provide pre-construction surveys to identify vehicle traffic and construction areas and, to the maximum extent possible, establish said areas in locations disturbed by previous activities to prevent further adverse effects. Project-related vehicles shall observe a 20-mile-per-hour speed limit within construction areas. Off-road traffic outside of designated and fenced project work areas shall be prohibited.*

**Analysis:**

The developer/contractor has installed ESA fencing around all wetlands to be avoided in the initial phase 1 grading. LSA biologist Jeremy Foreman confirmed that fencing was established during a preconstruction survey of the project site conducted on February 3, 2022. Once construction activities are ready to commence, the biological monitor will ensure that work exclusion and wetland avoidance areas are adequately delineated and maintained, project-related vehicles observe a 20-mile-per-hour speed limit, and that vehicles remain outside of designated and fenced project work areas. The phased grading approach would not result in any additional or unanticipated impacts to special-status species.

Additional ESA fencing will also be installed in the eastern avoidance area for the construction of the 1.17 acres of onsite wetland mitigation to avoid impacting the avoided preserved wetlands consistent with the requirements of this mitigation measure.

**Mitigation Measure BIO-7: Special-Status Plant Species and Vernal Pool Fairy Shrimp**

*The seasonal wetlands in the northwestern corner and the eastern side of the project site, as identified in the LSA Biological Assessment conducted for the project (June 2020), shall be avoided. Prior to building permit issuance, the two seasonal wetland areas shall be protected from future development under a deed restriction (Covenant, Condition, and Restrictions) and shall be managed through funding provided under a Business Park Owners Association for the project. ESA fencing shall be placed along the limits of construction adjacent to the seasonal wetlands to exclude construction activities from avoided wetlands. The fencing can be installed after initial clearing of vegetation but shall be installed prior to any further work on the project site. Vehicles and equipment shall not be operated or parked beyond the fencing. Materials shall not be stored or staged beyond the fencing. No vegetation removal or ground-disturbing activities shall be permitted beyond the fencing. BMP's as*

*prescribed by the project's Storm Water Pollution Prevention Plan shall be installed in conjunction with the ESA fencing to prevent pollution of the avoided wetlands.*

*Additionally, the developer/applicant shall design and prepare a storm water management plan that will maintain adequate hydrology to the avoided wetlands. This plan shall be reviewed and approved by the City of Fairfield and Regional Water Quality Control Board.*

#### **Analysis:**

Additional ESA fencing will be installed in the eastern avoidance area for the construction of the 1.17 acres of onsite wetland mitigation to avoid impacting the avoided preserved wetlands consistent with the requirements of this mitigation measure. Prior to the initiation of phased project construction activities, the biological monitor will confirm that ESA fencing is maintained along the limits of the avoided wetlands. The biologist will also confirm that BMPs consistent with the project Storm Water Pollution Prevention Plan are implemented in conjunction with the ESA fencing. LSA has provided a draft deed restriction, onsite wetland establishment plan, and the stormwater control plan, as required by this mitigation measure, to the RWQCB for approval in conjunction with their issuance of the 401 water quality certification, which is still pending per the input provided under Mitigation Measure BIO-1 above.

#### **Mitigation Measure BIO-8: Migratory Bird Treaty Act, Burrowing Owl, and Swainson's Hawk**

*To avoid impacts nesting birds in compliance with State Fish and Game Code regulations and the Migratory Bird Treaty Act (MBTA):*

- If construction commences between Feb. 15 – Sept. 15, pre-construction surveys for nesting birds within 500 feet of the project site shall be conducted no more than 7 days prior to any ground disturbing activity.*
- If no nesting birds, are found during this first survey, a final survey will be conducted within 24 hours prior to ground disturbance. If ground-disturbing activities are delayed or suspended for more than 7 days after the initial survey, the site shall be resurveyed (including the final survey within 24 hours of disturbance).*
- If active nests are identified, appropriate buffer zones shall be established around the nest. The width of the buffer zone shall be based on a site-specific analysis prepared by a Qualified Biologist indicating that the nesting pair under consideration are not likely to be adversely affected by construction activities. Monitoring by the Qualified Biologist shall be conducted for a sufficient time during all construction activities following the initiation of construction to determine if the nesting pair exhibits adverse reactions to construction activities (e.g., changes in behavioral patterns, reactions to construction noise). If nesting birds exhibit signs of disturbance, the Qualified Biologist shall halt all activities and consult with CDFW prior to commencing Project activities.*

**Analysis:**

The phased wetland avoidance grading does not alter compliance with this measure or result in any additional significant impacts to nesting birds. Preconstruction bird surveys for birds protected under the MBTA will be scheduled within 7 days of construction start. The qualified biologist will recommend any needed avoidance measures (e.g., work buffers and monitoring) based on the survey results, and a survey results memorandum will be submitted to the City to document compliance with this mitigation measure.

**Mitigation Measure BIO-9: Migratory Bird Treaty Act, Burrowing Owl, and Swainson's Hawk**

*To mitigate for the loss of BUOW and SWHA foraging habitat, the developer/applicant shall 1.) acquire suitable habitat land permanently preserve foraging habitat through recording conservation easements and implementing and funding a long-term management plan in perpetuity, or 2.) acquire burrowing owl and Swainson's hawk foraging habitat mitigation credits from a mitigation bank approved by CDFW prior to building permit issuance. Either mitigation option shall minimally be consistent with the mitigation requirements outlined in the draft Solano HCP. However, should the developer/applicant choose to fully mitigate habitat loss through credits, the mitigation credits shall be obtained consistent with a 2:1 mitigation ratio, unless a greater mitigation ratio is required by the draft Solano HCP.*

**Analysis:**

On February 2, 2022, Ms. Culpepper of CDFW provided verbal approval for the purchase of upland credits from the North Suisun Mitigation Bank to address the mitigation requirements for Swainson's hawk and burrowing owl foraging habitat. On February 10, 2022, City staff (Meily Sheehan, Principal Planner) provided written confirmation to LSA that the purchase of mitigation credits from the North Suisun Mitigation Bank adequately addresses this mitigation requirement. A copy of the completed mitigation credit sale receipt has been previously provided to the City.

This credit purchase satisfies the mitigation requirement for affected Swainson's hawk and burrowing owl habitat prior to any onsite grading.

**Mitigation Measure BIO-10: Migratory Bird Treaty Act, Burrowing Owl, and Swainson's Hawk**

*Prior to project construction, if activities are scheduled during the nesting season for Swainson's hawks (March 1 to September 15) a qualified biologist shall conduct surveys according to the recommended timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley, as defined by the Swainson's Hawk Technical Advisory Committee. Survey methods should be closely followed by starting early in the nesting season (late March to early April) to maximize the likelihood of detecting an active nest. Surveys shall be conducted: 1) within a minimum 0.5-mile radius of the project site or a larger area if needed to identify potentially impacted active nests, and 2) for at least the two survey periods immediately prior to initiating project-related construction activities. Surveys shall occur annually for the duration of the project. The qualified biologist shall have a minimum of two years of experience implementing the survey methodology resulting in detections. If active Swainson's hawk nests are detected, the project shall implement a 0.5-mile construction avoidance buffer around the nest until the nest is no longer active as determined by a qualified*

*biologist. If take of Swainson's hawk cannot be avoided, the project shall consult with CDFW pursuant to CESA and obtain an ITP.*

**Status:**

Preconstruction Swainson's hawk surveys for the project were conducted in March and April 2022 consistent with the timing and methodology for Swainson's Hawk Nesting Surveys in California's Central Valley, as defined by the Swainson's Hawk Technical Advisory Committee. One Swainson's hawk nest territory was identified during these surveys approximately 1.25 miles southwest of the project.

The phase 1 grading would not affect this nest given its distance from the project site. No project specific buffers or avoidance measures are required.

**Mitigation Measure BIO-11: Migratory Bird Treaty Act, Burrowing Owl, and Swainson's Hawk**

*Prior to project activities, a habitat assessment shall be performed following 'Habitat Assessment and Reporting Details' of the CDFW Staff Report on Burrowing Owl Mitigation. The habitat assessment shall extend at least 492 feet from the project site boundary or more where direct or indirect effects could potentially extend offsite (up to 1,640 feet) and include burrows and burrow surrogates. If the habitat assessment identifies potentially suitable burrowing owl habitat, then a qualified biologist shall conduct surveys following the CDFW 2012 Staff Report survey methodology. Surveys shall encompass the project site and a sufficient buffer zone to detect owls nearby that may be impacted commensurate with the type of disturbance anticipated, as outlined in the CDFW 2012 Staff Report, and include burrow surrogates such as culverts, piles of concrete or rubble, and other non-natural features, in addition to burrows and mounds. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. Detected nesting burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report and any passive relocation plan for non-nesting owls shall be subject to CDFW review.*

**Status:**

LSA biologist Jeremy Foreman conducted a habitat assessment for burrowing owl on February 3, 2022. Based on the results of the habitat assessment previously provided to the City, potentially suitable burrowing owl foraging habitat is present on the site but no suitable nesting burrows were identified. Additional surveys conducted consistent with the CDFW 2012 Staff Report will be scheduled a maximum of 7 days in advance of ground disturbance. Subsequent survey results memorandum(s) will be submitted to the City to document compliance with this mitigation measure. Any detected nesting burrowing owls will be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report and based on the recommendation of the qualified biologist.

The phased grading would not result in any additional impacts to this species.

**Mitigation Measure BIO-12: Migratory Bird Treaty Act, Burrowing Owl, and Swainson's Hawk**

*If the project would impact an unoccupied nesting burrowing owl burrow or burrow surrogate (i.e., a burrow known to have been used in the past three years for nesting), or an occupied burrow (where a non-nesting owl would be evicted as described above), the following habitat mitigation shall be implemented prior to Project construction: Impacts to each nesting site shall be mitigated by permanent preservation of two occupied nesting sites with appropriate foraging habitat within Solano County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. The same requirements shall apply for impacts to non-nesting evicted owl sites. The project may implement alternative methods for preserving habitat with written acceptance from CDFW.*

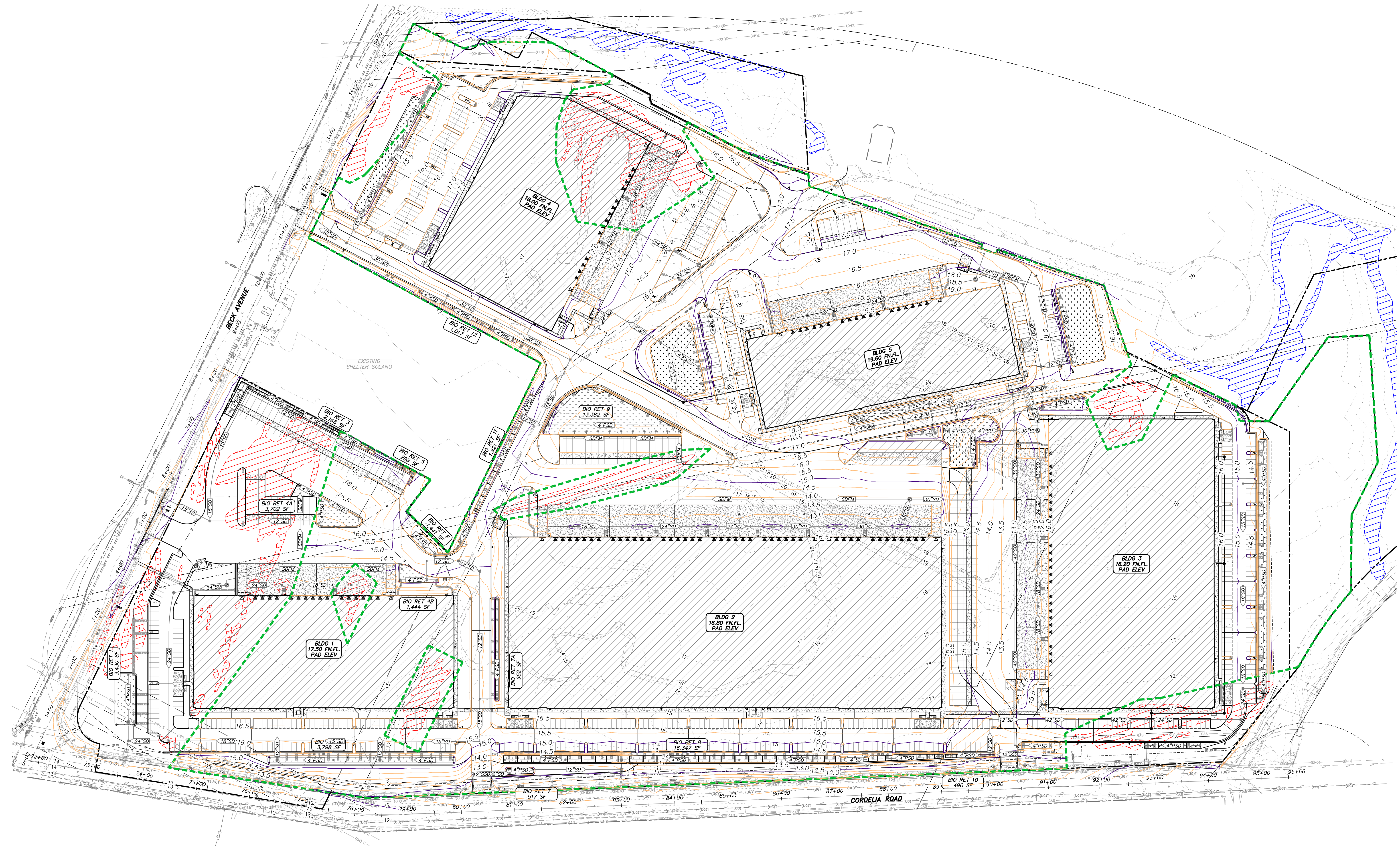
**Analysis:**

While the project site provides suitable foraging habitat for burrowing owls, surveys, as referenced under Mitigation Measure BIO-11, did not find any potential nesting burrows or other suitable cover meeting the criteria described in Mitigation Measure BIO-12 on the site. Should burrows be found during subsequent surveys, conservation measures will be developed and implemented in coordination with CDFW. As referenced under Mitigation Measure BIO-9, the purchase of California tiger salamander upland credits from the North Suisun Mitigation Bank will serve as mitigation for burrowing owl foraging habitat.

The phased grading would not result in any additional impacts to this species.

Attachment:

Wetland Avoidance Exhibit



**GENERAL GRADING NOTES:**

- A. ALL EARTHWORK ACTIVITIES, INCLUDING EXCAVATION, GRADING, SCARIFYING, MOISTURIZING, FILL PLACEMENT, COMPACTION, ETC., SHALL BE PERFORMED IN ACCORDANCE WITH THE RECOMMENDATIONS CONTAINED IN THE PROJECT GEOTECHNICAL ENGINEERING REPORT AND IN CONFORMANCE WITH THE CITY STANDARD SPECIFICATIONS, CALIFORNIA BUILDING CODE (C.B.C.), AND WITH THE GRADING PLAN.
- B. THE GEOTECHNICAL ENGINEER SHALL OBSERVE THE GRADING ACTIVITIES AND PERFORM COMPACTION TESTING FOR THIS PROJECT. THE CONTRACTOR SHALL PROVIDE AT LEAST 24 HOURS NOTICE TO THE GEOTECHNICAL ENGINEER OF THE NEED FOR OBSERVATION AND TESTING SERVICES. THE PROJECT OWNER WILL PAY FOR THE COST OF PROVIDING THESE SERVICES; HOWEVER, IF SAMPLES OF MATERIALS ARE SUBMITTED WHICH FAIL TO PASS THE SPECIFIED TESTS OR IF WORK IS PERFORMED WHICH FAILS TO MEET THESE SPECIFICATIONS, THE CONTRACTOR SHALL PAY FOR ALL SUBSEQUENT RE-TESTS AND RE-INSPECTIONS.
- C. EARTHWORK SHALL INCLUDE ALL LABOR, MATERIALS AND EQUIPMENT NECESSARY TO CONSTRUCT THE SITE TO THE GRADES SHOWN. NO ADDITIONAL COMPENSATION WILL BE ALLOWED FOR THE DISPOSAL OF EXCESS EXCAVATION OR FOR THE IMPORT OF MATERIAL.
- D. TO ACCOMMODATE TRENCH AND FOUNDATION SPOILS, THE CONTRACTOR'S GRADING SHALL INCLUDE UNDERCUTTING OF PAVED AREAS AS APPROPRIATE, OR SOME OTHER METHOD APPROVED BY THE ENGINEER. NO ADDITIONAL COMPENSATION WILL BE ALLOWED FOR THE DISPOSAL OF EXCESS EXCAVATION OR FOR THE IMPORT OF MATERIAL.

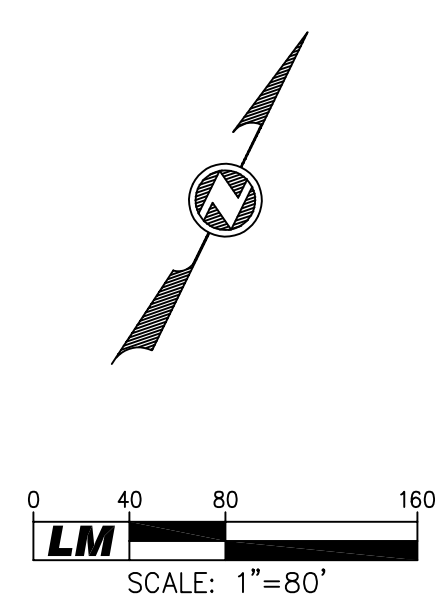
- E. CONTRACTOR SHALL OVEREXCAVATE LANDSCAPE AREAS TO ACCOMMODATE SITE STRIPPINGS. STRIPPINGS ARE NOT ALLOWED IN PAVING OR BUILDING AREAS.
- F. ALL CUT SLOPES SHALL BE ROUNDED AT THE "BREAK" SO THAT THEY BLEND WITH THE NATURAL GROUND CONTOUR.
- G. INSTALL 12" CURB OPENING PER DETAIL 2, SHEET C702 AT LOCATIONS NOTED AS "GAP" ON GRADING PLAN.

**GRADING NOTES:**

- B1. THERE ARE NO PLANNED PERMANENT GRADING SPOILS AREAS PLANNED FOR THE SITE.
- B2. ALL TEMPORARY GRADING SPOILS AREAS REQUIRED FOR THE CONSTRUCTION OF THE SITE SHALL BE MAINTAINED UTILIZING BMP'S WHICH WILL BE REQUIRED WITH THE PROJECT SWPPP.
- B3. PRIOR TO FINISHED GRADING AND LANDSCAPE WORK, CONTRACTOR SHALL SCHEDULE A SITE WALK WITH THE ENGINEER TO VERIFY CRITICAL GRADING ISSUES.

**LEGEND**

- EXISTING WETLANDS TO BE TEMPORARILY PROTECTED
- EXISTING WETLANDS TO BE PERMANENTLY PROTECTED
- LIMITS OF WORK



**LM LAUGENOUR AND MEIKLE**  
 CIVIL ENGINEERING - LAND SURVEYING - PLANNING  
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 BY: **BYRAN P. BONINO**  
 DATE: 02-04-2022 P.E. 41804

**FOR GRADING PERMIT ONLY**

**LOGISTIC CENTER AT FAIRFIELD**  
 1900 CORDELIA ROAD  
 FAIRFIELD, CA

GRADING & DRAINAGE PLAN OUTSIDE OF WETLANDS	
DATE	REMARKS
B 10/03/21	STORM DRAIN REVISIONS & LOWER SITE CUT
C 11/16/21	CONTRACTOR COMMENTS
D 02/04/22	PLAN CHECK COMMENTS #2
E 02/04/22	MISC. COORDINATION
F 4/11/22	

P.A.P.M.:	B. BONINO
DRAWN BY:	A. BAILEY
JOB NO.:	4276-6-1

SHEET  
**EXH**  
 SHEET 1 OF 1