

EXHIBIT A

BOGUE STEWART MASTER PLAN

Final Environmental Impact Report
SCH No. 2017012009

Prepared for
Yuba City Development Services Department

November 2019



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Prepared for
Yuba City Development Services
Department
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November 2019

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CHAPTER 1

Introduction and List of Commenters

1.1 Purpose of this Document

This document includes all agency and public written comments received on the Draft Environmental Impact Report (Draft EIR, SCH # 2017012009) for the Bogue Stewart Master Plan (BSMP). Also included are changes in the text of the Draft EIR either in response to written comments or initiated by staff.

Written comments were received by the City of Yuba City, Development Services Department during the public comment period from May 3, 2019 through June 17, 2019. This document includes written responses to each comment received on the Draft EIR. This Final EIR document has been prepared in accordance with the California Environmental Quality Act (CEQA) and together with the Draft EIR (and Appendices) constitutes the EIR for the proposed projects that will be used by the decision-makers during project hearings. The responses and text changes correct, clarify, and amplify text in the Draft EIR, as appropriate. These changes do not alter the conclusions of the Draft EIR.

1.2 Summary of Proposed Project

Project Location

The plan area is located along State Route 99 (both the east and west sides) in unincorporated Sutter County and is generally bounded by Bogue Road to the north, the Feather River West Levee to the east, Stewart Road to the south, and South Walton Avenue to the west. The BSMP Area is bordered by urban and agricultural uses to the north, west, and south, and the Feather River West Levee to the east.

Existing land uses within the BSMP Area include agricultural and rural residential uses. The Sutter County General Plan land use designations for the BSMP Area are Agricultural (AG-20), Estates Residential (ER), and Low Density Residential (LDR). The existing Sutter County zoning designations for the plan area are AG (Agriculture), ER (Estate Residential), and R-1 (Single-Family).

1.3 Project Actions

Bogue-Stewart Master Plan

The purpose of the proposed BSMP is to provide guidance for an orderly and cohesive planned community consistent with the Yuba City General Plan and Yuba City zoning regulations for future annexation into the City. The proposed BSMP combines elements from the Yuba City General Plan and zoning regulations in a comprehensive manner that establishes the regulatory structure to guide development directly adjacent to the southern edge of the City. The proposed plan would provide for the future development of 741 acres as a planned community with a mix of residential, commercial, office/business, park and recreational sites, and public facilities.

The proposed BSMP would provide direction for land use and community design, mobility, utilities, public services, and implementation. It would also function as the BSMP area's zoning mechanism, regulating allowed uses, development standards, design expectations, and guidance on roadway alignment and right-of-way to correspond with the neighborhood pattern in existing residential neighborhoods adjacent to the plan area.

The proposed BSMP would be the primary land use, policy, and regulatory document used to guide the overall development of the plan area. It would establish a development framework for land use, mobility, utilities and services, resource protection, and implementation to promote the systematic and orderly development of the plan area. All subsequent development projects and related activities proposed within the plan area would be required to be consistent with the proposed BSMP. With adoption of the BSMP, approximately 255 acres of the site are proposed for immediate subdivision; tentative subdivision maps for Phase 1 (Newkom Ranch) and Phase 2 (Kells East Ranch) are included as part of this project.

Sphere of Influence Amendment

The entirety of the 741-acre plan area is proposed to be included in the City of Yuba City's SOI using a SOI amendment (SOIA). Consistent with the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the Sutter County Local Agency Formation Commission (Sutter LAFCo) is the agency that will consider and approve any SOIA within the county. This document is meant to provide the environmental analysis needed so that Sutter LAFCo can make an appropriate determination regarding this action.

Annexation

The proposed project includes annexation of 304 acres to the City of Yuba City (Phase 1 and Phase 2 as shown on Figure 2-5 in Draft EIR Chapter 2, Project Description). Annexation can only occur if and once Sutter LAFCo has approved an SOIA, however, this may happen shortly after the SOIA is approved. Sutter LAFCo is the agency that will consider the annexation request. It is anticipated that the Sutter LAFCo would use this EIR in its decision making process, as required under CEQA. Sutter LAFCo policies and procedures are discussed in Section 3.11, Land Use and Planning.

General Plan Map Amendments

The plan area is currently located in the unincorporated area of Sutter County. The Yuba City General Plan designates the plan area as an Agricultural/Rural area outside of the City limits and the Yuba City SOI, subject to Sutter County General Plan land use designation and zoning.

Assuming Sutter LAFCo approval of Phase 1 and 2 annexations to the City of Yuba City, all subsequent development within these areas would need to be consistent with the proposed BSMP, as well as the City's General Plan, and Yuba City Municipal Code, policies, and design guidelines, as applicable. Part of the application to Sutter LAFCo includes a land use plan of the entire plan area. Thus, the City would amend its General Plan map to include the plan area, and to reflect the General Plan land use assigned to parcels within the plan area in the proposed BSMP.

Zoning Amendments

The plan area is currently zoned by Sutter County for Agriculture, Estate Residential, Commercial-Industrial, and Single-Family Residential. Assuming Sutter LAFCo approval of the SOIA, the entire plan area would be pre-zoned by the City of Yuba City.

1.4 Organization of the Final EIR

The Final EIR is organized as follows:

Chapter 1 – Introduction and List of Commenters: This chapter summarizes the project under consideration and describes the contents of the Final EIR. This chapter also contains a list of all of the agencies or persons who submitted comments on the Draft EIR during the public review period, presented for agencies, organizations, and individuals by the date received.

Chapter 2 – Revisions to the Draft EIR: This chapter describes changes and refinements made to the proposed project since publication of the Draft EIR. These refinements, clarifications, amplifications, and corrections, which are described as a narrative in the beginning of the chapter, would not change the environmental analysis and conclusions presented in the Draft EIR for the reasons discussed in Chapter 2. This chapter also summarizes text changes made to the Draft EIR in response to comments made on the Draft EIR and staff-initiated text changes. Changes to the text of the Draft EIR are shown by either ~~strike through~~ where text has been deleted, or double underline where new text has been inserted.

Chapter 3 – Responses to Comments on the Draft EIR: This chapter contains the comment letters received on the Draft EIR followed by responses to individual comments. Each comment letter is presented with brackets indicating how the letter has been divided into individual comments. Each comment is provided a comment number using the letter's number and comment. For example, comments in Letter 1 are numbered 1-1, 1-2, 1-3, and so on. Immediately following the letter are responses, each with numbers that correspond to the bracketed comments.

If the subject matter of one letter overlaps that of another letter, the reader may be referred to more than one group of comments and responses to review all information on a given subject. Where this occurs, cross-references to other comments are provided.

Some comments that were submitted to the City of Yuba City do not pertain to substantial environmental issues or do not address the adequacy of the analysis contained in the Draft EIR. Responses to such comments, though not required, are included to provide additional information. When a comment does not directly pertain to environmental issues analyzed in the Draft EIR, does not ask a question about the adequacy of the analysis contained in the Draft EIR, expresses an opinion related to the merits of the proposed projects, or does not question an element of or conclusion of the Draft EIR, the response notes the comment and may provide additional information where appropriate. Many comments express opinions about the merits or specific aspects of the proposed projects and these are included in the Final EIR for consideration by the decision-makers.

Chapter 4 – Mitigation Monitoring and Reporting Program: This chapter contains the Mitigation Monitoring and Reporting Program (MMRP) to guide the City in its implementation and monitoring of measures adopted in the EIR, and to comply with the requirements of Public Resources Code Section 21081.6(a).

1.5 Public Participation and Review

The City of Yuba City has complied with all noticing and public review requirements of CEQA. This compliance included notification of all responsible and trustee agencies and interested groups, organizations, and individuals that the Draft EIR was available for review. The following list of actions took place during the preparation, distribution, and review of the Draft EIR:

- A Notice of Preparation (NOP) for the EIR was filed with the State Clearinghouse on January 4, 2017. The official 30-day public review comment period for the NOP ended on February 2, 2017 (SCH#2017012009). The NOP was distributed in particular to governmental agencies, organizations, and persons interested in the proposed projects. The City sent the NOP to agencies with statutory responsibilities in connection with the proposed project with the request for their input on the scope and content of the environmental information that should be addressed in the EIR. The NOP was also published on the City's website and filed at the County Clerk's office.
- A Notice of Completion (NOC) and copies of the Draft EIR were filed with the State Clearinghouse on May 03, 2019. An official 45-day public review period for the Draft EIR was established by the State Clearinghouse, ending on June 17, 2019. A Notice of Availability (NOA) for the Draft EIR was published in the Appeal-Democrat on May 3, 2019.
- This Draft EIR and all documents referenced herein are available for public review at the City of Yuba City, Development Services Department, 1201 Civic Center Boulevard, Yuba City, California, 95993. The Draft EIR is also available at the Sutter County Library, 750 Forbes

Avenue, Yuba City, California, 95991. The Draft EIR is also available from the City on compact disc and is posted on the City’s website: www.yubacity.net/BSMP.

1.6 List of Commenters

The Department of General Services received five comment letters during the comment period on the Draft EIR for the proposed project. **Table 1-1** below indicates the numerical designation for each comment letter, the author of the comment letter, and the date of the comment letter.

**TABLE 1-1
COMMENT LETTERS REGARDING THE DRAFT EIR**

Letter #	Entity	Author(s) of Comment Letter/e-mail	Date of Comment Letter/e-mail
Agencies, Organizations, and Individuals			
1	Individual	Angelicia Obregon	5/11/2019
2	Sutter County Development Services	Doug Libby	5/15/2019
3	Sutter County Development Services	Doug Libby	6/17/2019
4	Sutter County Local Agency Formation Commission	John Benoit	6/17/2019
5	Caltrans	Susan Zanchi	6/27/2019

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CHAPTER 2

Revisions to the Draft EIR

2.1 Introduction

This chapter describes changes made to the proposed project since the publication of the Draft EIR as well as text changes made to the Draft EIR either in response to a comment letter or initiated by the City of Yuba City (City) staff or in response to modifications to the proposed project.

Under CEQA, recirculation of all or part of an EIR may be required if significant new information is added after public review and prior to certification. According to State CEQA Guidelines section 15088.5(a), new information is not considered significant “unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project’s proponents have declined to implement.” More specifically, the Guidelines define significant new information as including:

- A new significant environmental impact resulting from the project or from a new mitigation measure;
- A substantial increase in the severity of an environmental impact that would not be reduced to insignificance by adopted mitigation measures;
- A feasible project alternative or mitigation measure considerably different from those analyzed in the Draft EIR that would clearly lessen the environmental impacts of the project and which the project proponents decline to adopt; and
- A Draft EIR that is so fundamentally and basically inadequate and conclusory that meaningful public review and comment were precluded.

The changes to the proposed project and text changes described below update, refine, clarify, and amplify the project information and analyses presented in the Draft EIR. No new significant impacts are identified, and no information is provided that would involve a substantial increase in severity of a significant impact that would not be mitigated by measures agreed to by the City. In addition, no new or considerably different alternatives or mitigation measures have been identified. Finally, there are no changes or set of changes that would reflect fundamental inadequacies in the Draft EIR. Recirculation of any part of the EIR therefore is not required.

2.2 Changes to the Proposed Project

No changes to the proposed project have been made.

2.3 Text Changes to the Draft EIR

This section summarizes text changes made to the Draft EIR either in response to a comment letter, initiated by City staff, or in response to a modification to the proposed project. New text is indicated in double underline and text to be deleted is reflected by a ~~strike-through~~. Text changes are presented in the page order in which they appear in the Draft EIR.

The text revisions provide clarification, amplification, and corrections that have been identified since publication of the Draft EIR. The text changes do not result in a change in the analysis or conclusions of the Draft EIR.

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The name of the project have been changed from “~~Bogue Stewart Master Plan~~” to “Bogue-Stewart Specific Plan” throughout the document.

Executive Summary

Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-11, Impact 3.3-1, and Mitigation Measure 3.3-1(a) are revised to read:

<p>Impact 3.3-1: Construction of land uses under the <u>proposed</u> BSMP could generate criteria pollutant emissions that could substantially contribute to a potential violation of applicable air quality standards or to nonattainment conditions.</p>	S	<p>Mitigation Measure 3.3-1(a): Fugitive Dust Control Plan (BSMP/NR/KER) During the construction of the BSMP, individual project applicants <u>The applicant</u> shall submit to FRAQMD a Fugitive Dust Control Plan with the following mitigation measures to be implemented:</p> <ul style="list-style-type: none"> a) All grading operations on a project shall be suspended when sustained winds exceed 20 miles per hour (mph) or when winds carry dust beyond the property line despite implementation of all feasible dust control measures; b) Construction sites shall be watered as directed by the FRAQMD and as necessary to prevent fugitive dust violations. c) An operational water truck shall be on-site at all times. Water shall be applied to control dust as needed to prevent visible emissions violations and off-site dust impacts. d) On-site dirt piles or other stockpiled particulate matter shall be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind-blow dust emissions. The use of approved nontoxic soil stabilizers shall be incorporated according to manufacturers' specifications to all inactive construction areas. e) All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions. f) Approved chemical soil stabilizers shall be applied according to the manufacturers' specifications to all inactive construction areas (previously graded areas that remain inactive for 96 hours), including unpaved roads and employee/equipment parking areas. g) To prevent track-out, wheel washers shall be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed before each trip. Alternatively, a gravel bed may be installed as appropriate at 	SU
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- vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks and prevent/diminish track-out.
- h) Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom permitted) if soil material has been carried onto adjacent paved, public thoroughfares from the project site.
 - i) Temporary traffic control shall be provided as needed during all phases of construction to improve traffic flow, as deemed appropriate by the appropriate department of public works and/or California Department of Transportation (Caltrans), and to reduce vehicle dust emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph.
 - j) Traffic speeds on all unpaved surfaces shall be reduced to 15 mph or less, and unnecessary vehicle traffic shall be reduced by restricting access. Appropriate training to truck and equipment drivers, on-site enforcement, and signage shall be provided.
 - k) Ground cover shall be reestablished on the construction site as soon as possible and before final occupancy through seeding and watering; and
 - l) Open burning shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (e.g., trash, demolition debris) may be conducted at the project site. Vegetative wastes shall be chipped or delivered to waste-to-energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials off-site for disposal by open burning.

Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-11, Mitigation Measure 3.3-1(c) is revised to read:

<p>Impact 3.3-1: Construction of land uses under the <u>proposed</u> BSMP could generate criteria pollutant emissions that could substantially contribute to a potential violation of applicable air quality standards or to nonattainment conditions.</p>	S	<p>Mitigation Measure 3.3-1(c): Limit Equipment Idling (BSMP/NR/KER) <u>Construction contracts within the BSMP shall limit idling time</u> Idling time shall be minimized to 5 minutes in accordance with ARB airborne air toxic control measure 13 (CCR Chapter 10 Section 2485) unless more time is required per engine manufacturers' specifications or for safety reasons.</p>	SU
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Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-12, Mitigation Measure 3.3-1(c) is revised to read:

<p>Impact 3.3-1: Construction of land uses under the <u>proposed</u> BSMP could generate criteria pollutant emissions that could substantially contribute to a potential violation of applicable air quality standards or to nonattainment conditions.</p>	S	<p>Mitigation Measure 3.3-1(d): Equipment Registration (BSMP/NR/KER) Portable engines and portable engine-driven equipment units used <u>by construction contractors within the BSMP site on the project site</u>, with the exception of on-road and off-road motor vehicles, may require ARB Portable Equipment Registration with the state or a local district permit. The owner/operator of the equipment shall be responsible for arranging appropriate consultations with ARB or the FRAQMD to determine registration and permitting requirements before the equipment is operated at the site.</p>	SU
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Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-13, Impact 3.3-2 is revised to read:

<p>Impact 3.3-2: Operational activities associated with development under the <u>proposed</u> BSMP would result in emissions of criteria air pollutants at levels that could substantially contribute to a potential violation of applicable air quality standards or to nonattainment conditions.</p>	S	<p>Mitigation Measure 3.3-2: Implement Operational Mitigation Measures (BSMP/NR/KER)</p>	SU
		<p>The project applicant(s) for tentative subdivision maps and development projects proposed under the BSMP shall implement the mitigation measures, as applicable to the proposed subdivision map or development project. At the time entitlements are sought, the City will evaluate measures below, determine which measures are applicable, and include those measures as conditions of approval or some other enforceable mechanism. All feasible measures listed below shall be incorporated into subdivision maps and development projects within the BSMP.</p>	
		<ul style="list-style-type: none"> a) Subdivision maps and development projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park shall be developed in coordination with local transit providers to ensure proper placement and design of transit stops and accommodate public transit for both employees and patrons. b) Subdivision maps and improvement plans shall be designed to provide convenient and safe bicycle, pedestrian, and transit access between neighborhoods and areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park, as well as parks, trails, and other destinations. c) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall distribute proposed parking and not concentrate parking exclusively between the front building façade and the primary abutting street where feasible. d) Cul-de-sacs are allowed only where they would not create a barrier for pedestrian and bicycle access or circulation between homes and destinations. e) Employment generating projects that anticipate more than 50 full-time equivalent employees shall participate in the Yuba-Sutter Transportation Management Association. f) Subdivision maps and improvement plans shall be designed to accommodate safe and frequent pedestrian crosswalks, with more frequent crossings in areas expected to have higher pedestrian traffic, such as schools, parks, trail connections, higher-density residential areas, and areas with retail, services, office uses, and other non-residential uses. g) Subdivision maps and improvement plans shall be designed to discourage concentration of traffic at a few intersections. Multiple points of access shall be provided whenever feasible. Roads shall be arranged in an interconnected block pattern. The maximum average block length in subdivisions is 600 feet unless unusual existing physical conditions warrant an exception to this standard, but shorter block lengths should be used around areas designated Community Commercial and Neighborhood Commercial. h) Subdivision maps and improvement plans shall be designed to connect with adjacent roadways and stubbed roads and shall provide frequent stubbed roadways in coordination with future planned development areas. i) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to minimize the amount of on-site land required to meet parking, internal circulation, and delivery/loading needs. j) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to break up any proposed surface parking with landscaping and provide pedestrian routes from parking areas to building entrances. k) The City will reduce the amount of off-street parking required or eliminate off-street parking requirements for projects that propose housing units restricted to lower-, very low-, or extremely low-income households. 	

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- l) Residential subdivision maps shall orient the majority of buildings so that the longer axis of the building, also known as the ridge line, is oriented east-to-west, in order to maximize the potential for passive solar heating in the winter and to minimize heat gain from the afternoon summer sun.
 - m) Subdivision maps and development projects proposing off-street surface parking lots shall incorporate shade trees or shade structures to provide a minimum of 50 percent shading (at maturity, where trees are used).
 - n) Subdivision maps and development projects shall use climate-appropriate landscaping in parks and open space, landscaping within new rights of way, yards, and other appropriate spaces.
 - o) Provide secure, covered bicycle parking for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may consist of a separate secure, covered bicycle parking area at each employment location or larger shared bicycle parking area/s located and designed to serve multiple locations.
 - p) Shower and locker facilities shall be provided for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may be achieved by incorporating a shower and locker facility into the design of each proposed use, or facilities located and designed to serve multiple locations.
 - q) Residential development that proposes fireplaces shall use the lowest emitting commercially available fireplace.
 - r) Provide electric vehicle charging facilities and priority parking at non-residential uses for electric and carpool/vanpool vehicles.
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Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-14, Impact 3.3-5 is revised to read:

Impact 3.3-5: Construction <u>and operation</u> of the proposed BSMP could result in short-term <u>and long-term</u> exposure to Toxic Air Contaminants (TACs).	PS	Mitigation Measure 3.3-5: Equipment Emissions Plan (BSMP/NR/KER) Mitigation Measure 3.3-1(e)	LS
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Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-15, Impact 3.3-6 is revised to read:

Impact 3.3-6: Land uses to be developed under the <u>proposed</u> BSMP could result in exposure of substantial persons to objectionable odors.	LS	None required.	NA
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Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-21, Mitigation Measure 3.4-9 is revised to read:

Impact 3.4-9: Implementation of the proposed project, in combination with other development in the Central Sacramento Valley, could result in cumulative impacts to heritage oaks and street trees.	LTS	Mitigation Measure 3.4-9: <u>Protection of Special Status Species</u> None required. <u>Implement Mitigation Measures 3.4-5a through 3.4-5h.</u>	NA
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Table S-1, Summary of Impacts and Mitigation Measures Evaluated in the Draft EIR, on page S-36, Mitigation Measure 3.14-1(b) is included as such:

Impact 3.14-1: Implementation of the proposed BSMP would cause significant impacts at intersections in the City of Yuba City.	S	Mitigation Measure 3.14-1(a): Yuba City Intersections (BSMP) The project applicant(s) shall construct the following improvements. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation. <ul style="list-style-type: none"> i. Install a traffic signal and widen the eastbound and southbound approaches to provide dedicated left-turn pockets at the Bogue Road/South Walton Avenue intersection (in conjunction with lane configurations planned under existing plus BSMP conditions). ii. Install a traffic signal at the Railroad Avenue/Lincoln Road intersection (in conjunction with existing lane configurations). iii. Install a traffic signal at the Bogue Road/Phillips Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions). iv. Install a traffic signal at the Bogue Road/Railroad Avenue intersection and widen/restripe the northbound and southbound approaches to provide dedicated left-turn pockets (in conjunction with lane configurations planned under existing plus BSMP conditions). v. Install a traffic signal at the Gilsizer Ranch Way/Bogue Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions). 	LS
		<u>Mitigation Measure 3.14-1(b): Yuba City Intersections (NR/KER)</u> <u>The project applicant(s) shall construct the following improvements. Improvement shall be required at such time that the retail center in the southwest quadrant of the Bogue Road/Phillips Road intersection is constructed. It shall also be required at such time that two-thirds of the total dwelling units within Newkom Ranch and Kells East Ranch are developed. Improvement ii shall be required at such time that two-thirds of the total dwelling units within Newkom Ranch and Kells East Ranch are developed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.</u> <ul style="list-style-type: none"> i. <u>Install a traffic signal at the Bogue Road/Phillips Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions); and</u> ii. <u>Install a traffic signal at the Bogue Road/Railroad Avenue intersection and widen/restripe the northbound and southbound</u> 	

approaches to provide dedicated left-turn pockets (in conjunction with lane configurations planned under existing plus BSMP conditions).

3.2 Agricultural and Forestry Resources

Page 3.2-11, the discussion on Sutter County LAFCo under Section 3.2.1, Environmental Setting, is revised to read:

Sutter County LAFCo

Sutter County LAFCo is responsible for consideration of the proposed sphere of influence amendment (SOIA) and annexation for the BSMP area and will use this EIR during its review of the proposed action. Sutter County LAFCo has adopted a comprehensive list of guidelines and policies to implement its stated objectives; some policies are intended to provide guidance to the Commission and are not directly applicable to actions by local jurisdictions.

As required by Government Code 56668, one of the factors Sutter LAFCo must consider when reviewing petitions for a change in governmental boundary or status is the effect of the proposal on maintaining the physical and economic integrity of agricultural lands.¹⁵ ~~While there are no specific LAFCo policies relating to agricultural and/or forestry resources, LAFCo consideration~~ will include the above-referenced considerations for maintaining the integrity of agricultural lands and all other impacts disclosed in this EIR.

On May 9, 2019, LAFCo updated its Policies, Standards and Procedures and included a discussion on “Agricultural and Open Space Land Conservation” under Section 2.14, including how to consider effects to Williamson Act land, prime agricultural land, and other agricultural land.

3.7 Greenhouse Gas Emissions and Energy

Page 3.7-21, footnotes have been added to the conclusion of Impact 3.7-1:

Significance after Mitigation: As previously discussed, to be consistent with the REP, mixed-used projects must achieve a score of 19.5 for residential uses and 18.0 for commercial uses in the REP Consistency Screening Table. According to the REP Consistency Screening Table, implementation of **Mitigation Measure 3.7-1(a)** would achieve a score of 24 points,¹ which would exceed the required 19.5 points for residential developments. Implementation of **Mitigation Measure 3.7-1(b)** would achieve a score of 18 points,² which would meet the required 18 points for commercial developments in the

¹ (Spray foam wall insulated walls R-15 or greater, roof/attic R-38 or higher = 18 points) + (Modestly Enhanced Window Insulation [0.4 U-Factor, 0.32 SHGC] = 6 points) = 24 points; see Yuba City Resource Efficiency Plan, Appendix E, Table 1: Screening Table for Implementation of GHG Reduction Measures for Residential Development.

² Enhanced Insulation (rigid wall insulation R-13, roof/attic R-38) = 18 points; see Yuba City Resource Efficiency Plan, Appendix E, Table 2: Screening Table for Implementation of GHG Reduction Measures for Commercial Development.

REP Consistency Screening Table. Therefore, implementation of **Mitigation Measure 3.7-1(a)** and **Mitigation Measure 3.7-1(b)** demonstrate that the mixed-used development proposed under the proposed BSMP is consistent with the REP. As established in CEQA Guidelines section 15183.5(b), because the City has determined that these measures would create consistency with the City's REP, the proposed BSMP contribution to cumulative GHG emissions is considered less than considerable, and the impact would be mitigated to a **less-than-significant** level.

Page 3.7-28, the following text has been added to the conclusion of Impact 3.7-3:

Significance After Mitigation: Implementation of **Mitigation Measure 3.7-1** would insure that development under the proposed BSMP, including the Newkom Ranch and Kells East Ranch projects, would be consistent with City's REP Measure 2.1 and Measure 4.1, which encourage or require energy standards to exceed state requirements for new residential and commercial developments. The applicant would be required to use enhanced building insulation materials during construction of commercial and residential buildings (e.g., rigid wall installation, roof/attic R-38, 0.4 U-Factor or 0.32 SHGC windows), which would exceed what is required under current state requirements. By demonstrating consistency with the City's REP, the project would not result in a wasteful or unnecessary use of energy. Therefore, after mitigation this impact would be **less than significant**.

3.10 Land Use and Planning

Page 3.10-1, the following text has been added to the bottom of the page:

Development under the BSMP would not physically divide an established community as the BSMP area is located along the periphery of the City and only undeveloped portions on the area would be developed; no developed portions would be affected. Development under the BSMP would also not conflict with any applicable habitat conservation plan or natural community conservation plan as there are currently no adopted plans within the City limits or the City's Sphere of Influence.

3.14 Transportation and Traffic

Page 3.14-25, an additional significance threshold has been added to Section 3.14.3, Analysis, Impacts, and Mitigation, under Significance Criteria:

Design Feature/Incompatible Use

Impacts due to a design feature or incompatible use are considered significant if the proposed BSMP project would:

- Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).

Page 3.14-54, a discussion of issues not discussed in Section 3.14.3, Analysis, Impacts, and Mitigation, under Methodology is added:

Issues Not Discussed in Impacts

The proposed BSMP would have no impact on the following significance criteria, as discussed below, and are not analyzed further.

- **Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).** The existing roadway network that provides access to the BSMP area would be modified to adequately serve development proposed under the BSMP. The design of the proposed project would not cause a permanent alteration to the local vehicular circulation routes and patterns, or impede public access or travel on any public rights-of-way. Further, the final design of the proposed project, including curb cuts, ingress, and egress, would be subject to review by the City of Yuba City. Finally, the residential and commercial uses proposed as part of the BSMP would be compatible with adjacent residential and commercial uses to the north. As a result, no impact would occur.
- **Adversely affect emergency response times during either construction or project operation.** As discussed in Section 4.8, Hazards, a traffic control plan will be prepared to ensure that emergency vehicle access would be provided during buildout of the BSMP. As a result, no impact would occur.

Changes to Appendices

Appendix B, NOP Comments, is revised to include the following letter.

Sutter Local Agency Formation Commission
John Benoit, Executive Officer
P.O Box 2694 Granite Bay, Ca. 95746
(530) 458-0593

February 2, 2016

Arnoldo Rodriquez, Director
City of Yuba City Development Services
1201 Civic Center Blvd
Yuba City, Ca. 95993

Attn: Arnoldo Rodriquez

**SUBJECT: Response for the Notice of Preparation (NOP) for the Bogue
Stewart Master Plan VIA EMAIL ONLY**

Dear Arnoldo,

Thank you for providing Sutter LAFCO a copy of the Notice of Preparation for the EIR the City is undertaking. It is the policy of Sutter LAFCO to actively participate in the development of Environmental Documents where LAFCO is a Responsible Agency as required in Section 15096 of the CEQA guidelines or in this case, when the City is preparing a Master Plan. LAFCO is concerned with the orderly provision of urban services in the City and surrounding area, the services required for any subsequent development be provided by an established service provider, where feasible, and that the service provider has and maintains adequate funding for the services provided.

As you are aware LAFCO, as a responsible agency, intends to use this EIR in all subsequent annexation(s) and Sphere of Influence amendments (updates) in the area rather than preparing a second EIR for these entitlements. Please provide language in the "Purposes and Intent" section of the EIR the City acknowledges LAFCO will be using this EIR for an amendment (update) of its Sphere of Influence and perhaps all subsequent annexations within the territory included in the Master Plan Area as a responsible agency.

The environmental documentation needs to disclose all potential environmental impacts associated with a larger or updated Sphere of Influence. Of particular importance to LAFCO has been the City's ability to provide water and wastewater services. These areas should be thoroughly discussed to the extent feasible in the EIR.

Comments regarding this NOP do not include any specific comments relating to policies the City currently has in its General Plan or Specific Policies in the Bogue Stewart Master Plan Area. We believe the environmental impacts related to city policies need to be analyzed in the environmental document to the extent feasible.

A thorough analysis of the impacts upon prime agricultural lands needs to be addressed in the EIR as well as acceptable mitigation measures for the loss and (or) conversion of prime agricultural lands. Be aware LAFCo has a specific definition of

agricultural lands that need to be considered and analyzed in the EIR. This definition is included in Government Code Section 56064 and are included as follows:

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, 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.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) 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 Range and Pasture Handbook, Revision 1, December 2003.

(d) 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.

(e) 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 five calendar years.

Please be aware LAFCo, as part of its transition process, will be updating its Policies and Procedures with respect to the contents of Spheres of Influence in general. Hopefully updates will be available within the next few months. Of importance here is the Commission must be able to make a positive determination that the city's sphere is consistent with its historical and expected growth rates, and that the territory within the sphere is likely to be annexed within a reasonable timeframe. The Commission's determination will be based on information provided by the city, including 1) a vacant land inventory, 2) an analysis of the vacant lands to determine their suitability for development, and 3) a market study to determine the absorption rate of the usable vacant lands.

Please be aware the LAFCO Act requires a meeting between the City and County regarding Sphere of Influence update applications. Gov. Code Section 56425(b) establishes the requirement and criteria to be addressed, for example development standards and zoning requirements within the proposed City Sphere of Influence. If the City and County agree, then LAFCO shall give great weight to any such agreement.

LAFCO becomes concerned about the cumulative service impacts subsequent development may have on various local service providers within and around the City. We assume subsequent development will undergo additional environmental review on a project-by-project basis, which may later be used by LAFCO in considering individual future annexations. If not, cumulative service impacts need to be addressed at this time.

Thank you for providing LAFCO with the opportunity to comment on the NOP for the City's Bogue Stewart Master Plan. LAFCO would request a copy of the DEIR when released (as well as the FEIR and Statement of Overriding Considerations, as applicable) as well as the City's Master Plan Policy Document, development agreements and rezoning ordinances as soon as these documents become available. My email address is johnbenoit@surewest.net .

Sincerely,

A handwritten signature in blue ink that reads "John Benoit". The signature is written in a cursive style with a large initial 'J'.

John Benoit
Executive Officer, Sutter Local Agency Formation Commission

cc: Doug Libby, Sutter County Development Services

CHAPTER 3

Responses to Comments on the Draft EIR

3.1 Introduction

This section contains the comment letters that were received on the Bogue-Stewart Master Plan (BSMP) Draft Environmental Impact Report (EIR). Following each comment letter is a response by the City of Yuba City (the City) intended to supplement, clarify, or amend information provided in the Draft EIR or refer the reader to the appropriate place in the document where the requested information can be found. Comments that are not directly related to environmental issues may be discussed or noted for the record. Where text changes in the Draft EIR are warranted based upon comments on the Draft EIR, the reader is referred to Chapter 2, Revisions to the Draft EIR, where all text changes can be found.

Occasionally, a response to a comment provides a cross-reference to another response to comment. This occurs when the same, or very similar, comment was made or question asked, and an appropriate response was included elsewhere.

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From: Angelicia Obregon <amo190@humboldt.edu>
Sent: Saturday, May 11, 2019 7:12 PM
To: Permits <permits@yubacity.net>
Subject: Comment on BSMP to Darin Gale, Deputy City Manager

Public Comment on the Bogue Stewart Master Plan project draft EIR:

Hello, I am a former resident of Yuba City and my immediate family still resides there. My name is Angelicia Obregon. I am about to graduate at Humboldt State University with a B.A. in Biological Anthropology and hopefully begin a Masters Program focused in biological conservation. (That will come into play later)

1-1

As a former resident I understand that this area is already developed and is no longer holding a significant amount of natural landscape, therefore it is a reasonable area to continue to develop since it has already been impacted. My main concerns are the lack of findings in need for a school (2-28), need to investigate social and economic impacts(3-4), nighttime light pollution(3.1-23), noise pollution (3.11), air quality mitigation(3.3), and emergency plans.

Personally I understand the need for housing, not just due to the growing population of Yuba City but to help with displaced persons from the multiple fires in California. However to move in 2,588 new dwellings and have no current plan for building a school is irresponsible. A plot of land is set aside for a future project of a k-8 but with River Valley High being a closed campus and Yuba City High being surrounded by residential area there is not much room for expansion of high schools. If a school is not going to be developed before residency there will be need for agreements of flexibility to current school zones to meet the students needs. I understand the EIR is not to address socio-economic impacts but I feel this will become an issue that needs to be addressed. Earlier I mentioned the possibility of grad school and the reason why it is not a sure decision is that the elders in my family are struggling. As with most of California there are many people who's needs are not being met by current available programs and facilities. I have an aging grandmother who lives alone, as of recent, and she is struggling to find help with her daily needs and I feel the need to leave school prematurely to support her. I am concerned that the influx of residents will only further strain resources for seniors in the area. As discussed in the EIR there are many sensitive floral and faunal species in the APE. Although I am not against the project as a whole I believe more mitigation needs to take place for displaced species. The current plan is for aversion of nesting avian species but I believe proper mitigation should include relocation efforts that also address long-term, cumulative effects that include noise and light pollution. As per Yuba City policy 8.6-I-3 the use of trees is required in urban areas as mitigation for air quality effects but there is not specific mitigation measure or plan to address this. Personally I would like to see this in a form of trees/foilage per acre as this project will heavily deplete the area of trees. As a former resident I understand the low air quality of the region and it does require a quantitative plan to place into effect. Lastly I would like to see a contingency plan for evacuation. With an influx of 2,588 residences there needs to be an open discussion on emergency evacuation plans. During the last flood-based evacuation it took my family over an hour to leave the city limits due to high traffic and panic. The influx of residence will only increase traffic which is only peripherally addressed in relation to emergency evacuations, that are not uncommon for the area.

1-2

1-3

1-4

1-5

1-6

1-7

Thank you for your time.

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Letter 1 Angelicia Obregon, Individual - Resident
Response May 11, 2019

- 1-1 The comment provides a general overview of the commenter's background and topics to be addressed in the rest of the letter. No response is necessary.
- 1-2 The comment states a concern regarding providing a school for development associated with the BSMP. Analysis regarding impacts to public services such as schools can be found in the Draft EIR, Chapter 3.13, Public Services and Recreation. Impact 3.13-5, Schools, addresses the potential for the future development associated with BSMP to adversely impact schools. The Draft EIR found that, with annexation into Community Financing District 1, which funds improvements to schools, the impact to schools would be less than significant. Impact 3.13-6 addresses cumulative impacts to schools. With the growth of the City at large, together with buildout of the BSMP, the analysis in the Draft EIR indicated that the existing schools could not accommodate all of the elementary students associated with this growth. However, the Draft EIR found that development of Lot 1 as a K-8 school site could accommodate those additional students. The environmental effects of developing Lot 1 as a school are discussed throughout the Draft EIR. The analysis on page 3.13-23 of the Draft EIR shows that there is enough capacity in the various high schools to accommodate growth in the City, including in the BSMP area.
- The comment also expresses a concern that the high school zones need to be flexible in order to accommodate additional growth. Changes to school catchment areas are within the jurisdiction of Yuba City Unified School District and the district is responsible for adjusting catchment areas when needed. No further response is necessary.
- 1-3 The comment expresses concern that an influx of residents will strain resources for seniors in the area. This comment does not address the adequacy of the environmental analysis presented in the Draft EIR; however, it will be forwarded to the City Council for consideration. No further response is necessary.
- 1-4 The comment states a desire for more mitigation related to floral and faunal species; however, the comment does not provide sufficient detail to guide the creation of mitigation beyond what is already in the Draft EIR. Analysis regarding impacts to biological resources and mitigation measures can be found in the Draft EIR, Chapter 3.4, Biological Resources. The commenter also requests that more mitigation be taken for displaced animals. As identified in the Draft EIR, no defined project specific development proposals are proposed in the BSMP area. It is assumed that a more detailed biological resources assessment would be prepared for each phase area prior to issuance of a grading permit that would include a comprehensive survey of each project site, including appropriate protocol level surveys and a survey for potential wetlands and other

waters of the U.S. In addition, the commenter states that relocation efforts need to be identified for nesting avian species. Relocation of a nesting bird is against the law. Nesting birds and raptors are protected under California Fish and Game Code Section 2080 (i.e., killing of a listed species), Sections 3503, 3503.5, and 3800 (i.e., take, possession, or destruction of birds, their nests or eggs), and Section 3513 of the MBTA (16 USC, Section 703 Supp. I 1989). As stated in the Draft EIR, Mitigation Measure 3.4-3 would ensure that the individual project avoids or reduces the magnitude of impacts to migratory birds and birds of prey through clearing vegetation outside of the nesting season or conducting preconstruction surveys if vegetation clearing is anticipated during the nesting season, and establishing a no-work buffer if birds are observed nesting in the vicinity of the construction footprint. The commenter requests additional discussion on noise and light pollution. Several species of birds are less attracted to urbanized areas that may experience noise and light pollution. As such, it is anticipated that birds will nest in areas with less noise and light pollution. The comment also does not provide specific detail as to what additional noise or light analysis or mitigation is warranted for discussion in the Draft EIR. No further response is necessary.

- 1-5 The comment references Yuba City Policy 8.6-I-3 and asks that there should be a specific mitigation to require more trees/foliage to reduce impacts from air quality effects due to the project depleting the area of trees.

As discussed in the analysis regarding impacts to biological resources in the Draft EIR, Chapter 3.4, Biological Resources, specific mitigation measures are identified to avoid the potential loss of protected trees and street trees to ensure that there would be an overall increase in the number of trees in the Plan Area.

While the analysis of air quality impacts in the Draft EIR, Chapter 3.3, Air Quality identified significant and unavoidable impact related to the emission of regional air pollutants for which the air basin is designated as non-attainment, the analysis identifies 19 measures to address these regional air pollutant emissions. Measure (m) on page 3.3-32 requires that subdivision maps and development projects proposing off-street surface parking lots shall incorporate shade trees or shade structures to provide a minimum of 50 percent shading. Consequently, the Draft EIR provides a mitigation measure that establishes a quantitative requirement for the planting of shade trees. Therefore, the Draft EIR contains mitigation measures to protect trees and to provide additional trees, thereby addressing the concerns of the commenter and Policy 8-6.I.3 of the Yuba City General Plan.

- 1-6 The comment states that the low air quality of the region requires a quantitative plan. Analysis regarding impacts to air quality and mitigation measures can be found in the Draft EIR, Chapter 3.3, Air Quality. A total of five mitigation measures were identified on pages 3.3-27 through 3.3-29 to address regional pollutant emissions and localized dust emissions associated with construction of the Plan. Of note, Mitigation Measure 3.3-1(e):

Equipment Emissions Plan establishes quantitative standards such that off-road equipment used for construction will achieve a project-wide fleet average 20 percent NO_x reduction and 45 percent particulate reduction compared to the most recent ARB fleet average at the time of construction.

Additionally, a number of measures were identified in Mitigation Measure 3.3-2 to address regional air pollutant emissions associated with project operation (see pages 3.3-31 and 3.3-32). As mentioned above in response to comment 1-5, the Draft EIR provides a mitigation measure that establishes a quantitative requirement for the planting of shade trees. Therefore, the Draft EIR contains a quantitative measure to address air quality impacts of Plan implementation. The comment does not provide specific detail on what additional quantitative analysis and/or mitigation is warranted for discussion in the Draft EIR.

- 1-7 The comment expresses concern that traffic generated by the project will negatively affect emergency evacuations. Section 3.14, Transportation and Traffic, addresses traffic flow in and around the project site. Analysis regarding impacts to emergency response plans can be found in the Draft EIR, Section 3.8, Hazards and Hazardous Materials. Impacts 3.8-7 and 3.8-11 addresses whether the construction of the project could interfere with emergency response or evacuation plans. With the implementation of Mitigation Measure 3.8-7, this impact would be reduced to less than significant. The comment did not address the adequacy of this measure. No further response is necessary.

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From: Doug Libby <dglibby@co.sutter.ca.us>
Sent: Wednesday, May 15, 2019 8:59 AM
To: Darin Gale <dgale@yubacity.net>
Subject: BSMP

Good morning Darin,

It would be helpful to me, when discussing the BSMP with folks on my side, if you could clarify the City intends to annex the full street widths of all pertinent roads involved with the project. Specifically, I believe our Engineering side of the house don't know this and I'm not seeing specific language to this effect in the documents. As a former LAFCo person, I understand this would be the approach. I believe the question if Stewart Road and Walton Avenue will remain in the County. I would like to confirm with them that as part of future annexations, these roads will be included and the City will oversee road improvements to be completed in the public right-of-way. Please let me know.

2-1

Thanks,
Doug



*Doug Libby, AICP
Principal Planner
Sutter County Development Services
1130 Civic Center Blvd., Suite A
Yuba City CA 95993
(530)822-7400 (Ext. 242)
(530)822-7109 (fax)
dglibby@co.sutter.ca.us
www.suttercounty.org*

*Please note: Our Department is operating on a 9/80 work schedule and our office is closed every other Friday. Our schedule can be found [here](#).

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**Letter 2
Response**

**Doug Libby, Principal Planner (Sutter County Development
Services)**
May 15, 2019

- 2-1 The comment provides a request for clarification regarding the potential annexation of the full street widths of all pertinent roads involved with the project. Specifically, the commenter is looking for information on if Stewart Road and Walton Avenue will remain in the County, or if these are to be part of future annexations. Consistent with Sutter County Local Agency Formation Commission (Sutter LAFCo) policy, the City plans to annex the entirety of streets at the time of annexation approval. This comment does not address the adequacy of the environmental analysis presented in the Draft EIR. No further response is necessary.

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SUTTER COUNTY DEVELOPMENT SERVICES DEPARTMENT

Building Inspection
Code Enforcement

Planning
Environmental Health

Fire Services
Engineering

Road Maintenance
Water Resources

June 17, 2019

Darin Gale,
Deputy City Manager
1201 Civic Center Blvd.
Yuba City CA 95993

Re: Bogue-Stewart Master Plan and Draft Environmental Impact Report

Dear Mr. Gale,

Sutter County thanks you for the opportunity to review and comment on the proposed Bogue-Stewart Master Plan (BSMP) and Draft Environmental Impact Report. This is an exciting project for our community. The Sutter County Development Services Department provides the following comments:

1. In 2011, Yuba City and Sutter County cooperatively worked together, with SACOG participation, to develop an Urban Rural Edge Strategy that was ultimately adopted by the Yuba City Council (Resolution No. 2011-102). It appears select areas of this project will be subject to this document and its design elements. The County anticipates subsequent projects will adhere to the buffering requirements from productive agricultural lands in the County pursuant to this document. 3-1

2. The boundaries of this proposed project are consistent with the boundaries of the Possible Future Sphere of Influence Boundary identified in Sutter County's General Plan. The City of Yuba City has applied to Sutter County for a General Plan Amendment requesting to clarify certain County General Plan policies, specifically Policies LU 5.2, LU 5.3 and LU5.4, pertaining to growth within these potential growth areas (County Planning Project #U-19-007). This application is scheduled for the June 19, 2019, County Planning Commission meeting where a recommendation is required, and this application is anticipated to be considered by the County Board of Supervisors at a later date. Approval of this application is necessary, from the County's perspective, to establish clear policy direction for future City growth within these potential future growth areas. 3-2

3. This application is subject to County General Plan Policy LU5.7 which states:

LU 5.7 Impacts and Outcomes. Ensure that fiscal and environmental impacts to the County from proposed development within the cities and their spheres of influence are mitigated to less than significant levels, support the County's General Plan policies, and achieve mutually beneficial outcomes relating to affordable housing, protection of agricultural lands and natural resources, public services, flood protection, water resources, transportation, and other issues. 3-3

Although the City and County must still negotiate either an amendment to the current Master Property Tax Exchange Agreement or an alternative, addressing the items outlined in this letter will assist in demonstrating compliance with this policy.

↑
3-3
cont.

4. County General Plan Policy LU 5.10 (Orderly Progression) states in part the County will not support projects resulting in the creation of unincorporated islands. This was reiterated in the Memorandum of Understanding (MOU) entered into in 2018 between Sutter County and Yuba City. This project, as currently proposed, will create an unincorporated island of territory, specifically the unincorporated lands located along State Highway 99 between Franklin Road and Bogue Road. County staff understands the City has in good faith twice attempted in the last 18 years to annex the lands located north of Bogue Road without success. Two potential alternatives, although not ideal solutions, is for the City to reduce the size of the plan so as not to completely create an island of unincorporated territory. A second option could be to proceed with the plan as-is but commit to not annexing the full plan area until the circumstances exist where an island will not be created. County staff looks forward to cooperatively working with the City to achieve a mutually beneficial outcome on this point.

3-4

5. Mobility - The BSMP has an area of territory that is not included in the Newkom Ranch Phase along Stewart Road, East of State Route 99 and another area in the Kells East Ranch Phase on Bogue Road West, of State Route 99 which requires road improvements in order for traffic to efficiently access the state route. The need for improvements is addressed in the documents; however, the timing of when improvements will be made is unclear. The County requests that necessary road improvements be timed to effectively convey anticipated traffic volumes so-as not to create an adverse impact.

3-5

6. Mobility - Proposed roadway Section F along a segment of Bogue Road proposes three travel lanes; however, adjacent Sections D and G each propose four travel lanes. This will result in a bottle neck for traffic trying to access State Route 99. This road segment is currently located in an area that sees high traffic volumes and the proposed project will increase traffic and result in an unnecessary bottleneck that could result in increased accident rates as vehicle lanes are reduced at this location. County staff recommends this segment be revised to be four lanes in size also.

3-6

7. Mobility/Drainage - The BSMP does not appear to address needed improvements to the Gilsizer drainage canal. There are two existing road crossings; one located along Bogue Road and a second on Stewart Road. Each of these is required to be upgraded to handle the enlarged roadways. These crossings may need replacement depending on the age and condition of the structures. Needed improvements at these crossings needs to be clearly addressed and impacts fully mitigated as part of this project.

3-7

8. Floodplain Management - DEIR page 3.9-6. Sutter County does not allow the simplified method for determining Base Flood Elevations (BFE). Although FEMA has not performed a detailed hydraulic analysis, SBFCA (Peterson Brustad Inc.) has performed a detailed hydraulic analysis that determined Base Flood Elevations for the Yuba City Basin. The County currently uses these best available BFE maps from that analysis for floodplain management in the area of Kells East and Newkom Ranch that show a BFE of 52.5 ft (NAVD 1988). The DEIR should at a minimum acknowledge either the BFE elevation determined by SBFCA for Yuba City Basin or a BFE elevation determined by MBK Engineers for Yuba City.

3-8

● Page 3

9. Floodplain Management – DEIR page 3.9-8. Completion of the Feather River West Levee Project will not provide 200-year flood protection to the area of Kells East and Newkom Ranch. Levee breaches along the Sutter Bypass could inundate the area to a 200-year flood elevation of 51.5 ft (NAVD 1988) as determined by the 2015 MBK study.

3-9

10. GILSIZER DRAINAGE DISTRICT – Sutter County staff functions as Gilsizer County Drainage District staff. Prior to development commencing: 1) The area is required to be annexed to the Gilsizer County Drainage District to legally allow the District to serve the project area. 2) Future drainage studies are required to be reviewed and approved by the Gilsizer Drainage District Engineer prior to future map recordation. 3) If this project is approved, future subdivision improvement plans are required to be approved and signed by the Gilsizer Drainage District Engineer. 4) All adopted Gilsizer Drainage Fees are required to be paid or provision made for their payment in an acceptable agreement with the Gilsizer Board.

3-10

In summary, the above items are important concerns to Sutter County and we look forward to cooperatively working with the City on these issues to assist in advancing this project. If you have any questions, please don't hesitate to contact me by phone at (530) 822-7400 Ext. 242 or by email at dglabby@co.sutter.ca.us.

3-11

Sincerely,



Doug Libby, AICP
Principal Planner

- Cc: David Tomm, Associate Civil Engineer
- Scott Riddle, Associate Civil Engineer
- Neal Hay, Director
- Steve Smith, Interim County Administrator

DL;km

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**Letter 3
Response****Doug Libby, Principal Planner (Sutter County Development
Services)**

June 17, 2019

- 3-1 The comment references the Urban Rural Edge Strategy and states the County anticipates that subsequent projects will adhere to the buffering requirements. Page 3.2-13 of the Draft EIR acknowledges the County requirement for permanent agricultural buffers. Impact 3.2-2 confirms that the City is requiring the inclusion of the agricultural buffer for the project. Page 3.10-11 of the Draft EIR includes the BSMP policies which address the edge treatment, including the agricultural buffer as shown in Figure 3.10-1, Agricultural Buffers. The City will require subsequent projects to adhere to the buffering requirements as they will be part of the BSMP, if adopted.
- 3-2 The comment provides some information regarding a Sutter County General Plan Amendment and is not a comment on the adequacy of the environmental analysis in the Draft EIR. No response is necessary.
- 3-3 The comment references the need for an amendment to the Master Property Tax Exchange Agreement or alternative. The comment states that the application would be subject to Sutter County General Plan Policy LU 5.7 which requires that fiscal and environmental impacts be mitigated to less-than-significant levels and that the development must support County General Plan policies and achieve mutually beneficial outcomes. The analysis throughout the Draft EIR addresses the potential environmental impacts of the BSMP and provides mitigation to reduce impacts to less than significant, if mitigation is available and feasible. The City will continue to negotiate with the County regarding the Master Property Tax Exchange Agreement or alternative and work with the County to clarify how the proposed development would address potential impacts that are not required to be addressed by CEQA (such as fiscal impacts).
- 3-4 The comment references Sutter County General Plan Policy LU 5.10 which states that the County does not support projects which would result in the creation of an unincorporated island. As acknowledged in the comment, the City of Yuba City has attempted to annex the area in question, known as the South Yuba City area, twice in the last 18 years. In 1988, the City of Yuba City applied pre-annexation zoning to the South Yuba City area. In 2004, the City held a vote (Measure H) to annex the area, but the measure did not pass. In 2016, the City of Yuba City revised the existing pre-annexation zoning for the South Yuba City area as the City amended its General Plan in 2004 which resulted in inconsistencies and requested that Sutter LAFCo again begin proceedings to annex to area into the City. In June 2018, the City of Yuba City held a vote among property owners to annex the South Yuba City area into the City, and not enough votes in favor of annexation were cast. Sutter LAFCo policy 4.1(g) states that:

An annexation will not normally be approved if it will result in the creation of islands of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries, as determined by the Commission. The Commission may nevertheless approve the annexation where it finds that annexation as proposed is necessary for orderly growth and that reasonable effort has been made to include the island in the annexation but that inclusion is not feasible at this time.

As discussed above, the City has twice made reasonable efforts to annex and incorporate the South Yuba City area. As the last election to approve incorporation of the area occurred over a year ago it is not feasible to make another attempt at annexation as not enough time has passed since the last election. As a result, the annexation of the BSMP area would not conflict with LAFCo policy 4.1(g) as reasonable efforts have been made to annex the South Yuba City area but inclusion of the area is not feasible at this time.

- 3-5 The comment requests information from the City regarding the timing of future roadway improvements. The timing of the roadway improvements will be accomplished using the conditions on the tentative maps or other discretionary permits. This comment does not address the adequacy of the environmental analysis presented in the Draft EIR. No further response is required; however, this concern will be forwarded to the City for consideration during project deliberation.
- 3-6 The comment also expresses a concern that a segment of Bogue Road is too narrow and asks the City to consider expanding all of Bogue Road to include four travel lanes. As described on page 3.14-28 of the Draft EIR, the roadway improvements would be phased and traffic analysis analyzed the roadway to ultimately become four travel lanes. Due to existing homes and limited right-of-way, City staff determined that three lanes with a middle turn lane at this location will be initially adequate. With each phase of construction, the area will be evaluated as to the need to convert the middle turn lane into a through traffic lane. This approach is preferred to provide a designated left turn lane for the residences located on the south side of Bogue Road.
- 3-7 The comment requests the City address possible improvements to the Gilsizer drainage canal; however, the comment does not specify what those improvements would be. The comment also asks that the Draft EIR address replacement of crossings across the canal. The comment is correct that the improved roadways could result in upgrades to the crossings. Roadway improvements crossing the slough would be designed based on City standards. The Draft EIR analyzes impacts related to the project, which includes widened roadways. The Draft EIR contains mitigation to address the full range of potential environmental impacts, such as addressing potential impacts to Gilsizer Slough in Mitigation Measure 3.4-1. In addition, as described in Section 3.9, Hydrology and Water Quality, of the Draft EIR and shown in Table 3.9-3, the project would be designed in such a way as to reduce the flows to Gilsizer Slough under developed conditions. The detention ponds that will be developed as part of the subdivisions are intended to meter

- the water into Gilsizer Canal so the need to enlarge capacity of the Gilsizer Canal is minimized. The City will continue to monitor the hydrology of proposed subdivisions and include conditions during the tentative map stage to ensure that the flows post-development match what was analyzed.
- 3-8 The comment states that Sutter County does not allow the simplified method for determining Base Flood Elevation (BFE) and asks that the Draft EIR acknowledge the BFE determined by Sutter Butte Flood Control Agency or a BFE determined by MBK Engineers for Yuba City. As stated on page 3.9-6 of the Draft EIR, detailed hydraulic analyses have not yet been performed; therefore, BFEs are not shown in the Draft EIR. At the present time there are varying BFEs with changing best available information. As stated on page 3.9-32 of the Draft EIR, The City ordinances require that a urban level of protection (ULOP), or 200-year flood protection, be provided across portions of the City containing flood depths greater than three feet for the 200-year storm event for areas protected by the levee system. About a third of development within the BSMP site would be required to demonstrate consistency with ULOP criteria and adhere to all standards set forth in Chapter 9, Article 6 of the Yuba City Municipal Code, Flood Damage Prevention. The proposed BSMP project would use on-site soil and imported fill to raise building pad elevations to be one foot above the 100-year flood elevation to meet the FEMA standards for NFIP, as well as meet the ULOP criteria set forth by the City. Prior to finalizing any tentative map, the most recent criteria will be used to establish a BFE for development requirements.3-9 See response to comment 3-4.
- 3-10 The comment provides information on the required process to annex development into the Gilsizer County Drainage District. The required annexation is acknowledged in the Draft EIR on pages 2-40 and 2-41. It is standard practice for the City to coordinate the subdivision improvements with the Gilsizer County Drainage District and require fees to be paid to the District. This comment does not address the adequacy of the environmental analysis presented in the Draft EIR. No further response is necessary.
- 3-11 The comment is a closing statement and provides contact information for the agency. This comment does not address the adequacy of the environmental analysis presented in the Draft EIR. No further response is required.

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Sutter Local Agency Formation Commission
John Benoit, Executive Officer
P.O Box 2694 Granite Bay, Ca. 95746
(530) 458-0593 or (707) 592-7528
j.benoit4@icloud.com

June 17, 2019

Darin Gale
City of Yuba City Development Services
1201 Civic Center Blvd
Yuba City, Ca. 95993

Attn: Darin Gale

SUBJECT: Response for the Notice of Notice of Completion for the Bogue Stewart Master Plan (BSMP)

Dear Darin,

Unfortunately, the City failed to include the comment letter provided by LAFCO in Appendix B of the DEIR for the Board Street Master Plan. Many but all of the comments in this letter are similar to those provided in LAFCO's original February 2, 2016 response to the NOP (see attached letter- Attachment A), nevertheless the comments in LAFCO's NOP letter remain applicable and need to be included in the FEIR.

4-1

Sutter LAFCO received a copy of the Notice of Completion from Sutter County regarding the Bogue Street Master Plan EIR the City is undertaking. It is the policy of Sutter LAFCO to actively participate in the development of Environmental Documents where LAFCO is a Responsible Agency as required in Section 15096 of the CEQA guidelines or in this case, when the City is preparing a Master Plan. LAFCO is concerned with the orderly provision of urban services in the City and surrounding area, the services required for any subsequent development be provided by an established service provider, where feasible, and that the service provider has and maintains adequate funding for the services provided.

As you are aware LAFCO, as a responsible agency, intends to use this EIR in all subsequent annexation(s) and as either a responsible or lead agency with respect to any Sphere of Influence amendments (or updates if determined necessary by LAFCO) in the BSMP area rather than preparing a second EIR for the sphere amendment(s). Language was included in the "Purposes and Intent" section of the EIR thereby acknowledging LAFCO will be using the EIR for an amendment (update) for all subsequent annexations within the territory included in the Master Plan Area as a responsible agency and as a lead agency for Sphere of Influence amendments. There needs to be further clarification as to whether or not LAFCO is a responsible agency or a lead agency regarding the Sphere of Influence Amendment. Clearly, LAFCO is the lead agency when it comes to a Sphere of Influence Update, which may be the case here. As previously stated, LAFCO intends to use the EIR to the extent feasible should LAFCO assume the lead agency role or act as a responsible agency.

4-2

A thorough analysis of the impacts upon prime agricultural lands needs to be addressed in the EIR as well as acceptable mitigation measures for the loss and (or) conversion of prime agricultural lands. This analysis is not included in the DEIR and concludes there are no feasible mitigation measures in Section 3.2 of the DEIR. Be aware LAFCo has a specific definition of agricultural lands that need to be considered and analyzed in the EIR. This definition is included in Government Code Section 56064 and are included as follows:

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, 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.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) 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 Range and Pasture Handbook, Revision 1, December 2003.

(d) 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.

(e) 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 five calendar years.

4-3

Please be aware LAFCO, has recently adopted updated Policies and Procedures with respect to the contents of Spheres of Influence and changes of organization. Of importance here is the Commission must be able to make a positive determination that the city's sphere is consistent with its historical and expected growth rates, and that the territory within the sphere is likely to be annexed within a reasonable timeframe. The Commission's determination will be based on information provided by the city, including the City's General Plan and the Bogue Street Master Plan DEIR and FEIR. The DEIR states "LAFCO does not have specific policies relating to agricultural and forestry resources" (page 3.2-11). This is no longer the case since LAFCO adopted a revised set of Policies, Standards and Procedures on May 9th, 2019 (see Section 2.14-Agricultural and Open Space Land Conservation) LAFCO's Revised Policies, Standards and Procedures are included as Attachment B.

4-4

Please be aware the LAFCO Act requires a meeting between the City and County regarding Sphere of Influence update applications. Gov. Code Section 56425(b) establishes the requirement and criteria to be addressed, for example development

4-5

standards and zoning requirements within the proposed City Sphere of Influence. If the City and County agree, then LAFCO shall give great weight to any such agreement.

↑ 4-5
| cont.

LAFCO is concerned about the cumulative service impacts subsequent development may have on various local service providers within and around the City. We assume subsequent development will undergo additional environmental review on a project-by-project basis, which may later be used by LAFCO in considering individual future annexations. If not, cumulative service impacts need to be addressed at this time.

| 4-6

Since the NOP was released in 2016 the South Yuba City Highway 99 Reorganization #337 failed at the ballot box and therefore was not annexed to the City. Therefore, annexation of the BSMP area has this potential to create an island (See Gov. Code Section 56744 and 56375(m)). LAFCO's recently adopted policies include statements regarding the elimination and creation of islands in Section 4.1 f & g. The FEIR needs to analyze the impacts of the creation of an island.

| 4-7


Thank you for providing LAFCO with the opportunity to comment on the DEIR for the City's Bogue Stewart Master Plan. LAFCO would requests a copy of the FEIR when released (as well the Statement of Overriding Considerations, the City's Master Plan Policy Document, development agreements and prezoning ordinances as soon as these documents become available.

| 4-8

Please feel free to contact me regarding this letter and should the City wish to meet with me regarding the BSMP, please do not hesitate to ask.

My email address has changed and is now j.benoit4@icloud.com

Sincerely,



John Benoit
Executive Officer, Sutter Local Agency Formation Commission

cc: Doug Libby, Sutter County Development Services

LAFCO COMMENTS - Attachment A

Sutter Local Agency Formation Commission
John Benoit, Executive Officer
P.O Box 2694 Granite Bay, Ca. 95746
(530) 458-0593

February 2, 2016

Arnoldo Rodriquez, Director
City of Yuba City Development Services
1201 Civic Center Blvd
Yuba City, Ca. 95993

Attn: Arnoldo Rodriquez

**SUBJECT: Response for the Notice of Preparation (NOP) for the Bogue
Stewart Master Plan VIA EMAIL ONLY**

Dear Arnoldo,

Thank you for providing Sutter LAFCO a copy of the Notice of Preparation for the EIR the City is undertaking. It is the policy of Sutter LAFCO to actively participate in the development of Environmental Documents where LAFCO is a Responsible Agency as required in Section 15096 of the CEQA guidelines or in this case, when the City is preparing a Master Plan. LAFCO is concerned with the orderly provision of urban services in the City and surrounding area, the services required for any subsequent development be provided by an established service provider, where feasible, and that the service provider has and maintains adequate funding for the services provided.

As you are aware LAFCO, as a responsible agency, intends to use this EIR in all subsequent annexation(s) and Sphere of Influence amendments (updates) in the area rather than preparing a second EIR for these entitlements. Please provide language in the "Purposes and Intent" section of the EIR the City acknowledges LAFCO will be using this EIR for an amendment (update) of its Sphere of Influence and perhaps all subsequent annexations within the territory included in the Master Plan Area as a responsible agency.

The environmental documentation needs to disclose all potential environmental impacts associated with a larger or updated Sphere of Influence. Of particular importance to LAFCO has been the City's ability to provide water and wastewater services. These areas should be thoroughly discussed to the extent feasible in the EIR.

Comments regarding this NOP do not include any specific comments relating to policies the City currently has in its General Plan or Specific Policies in the Bogue Stewart Master Plan Area. We believe the environmental impacts related to city policies need to be analyzed in the environmental document to the extent feasible.

A thorough analysis of the impacts upon prime agricultural lands needs to be addressed in the EIR as well as acceptable mitigation measures for the loss and (or) conversion of prime agricultural lands. Be aware LAFCo has a specific definition of

agricultural lands that need to be considered and analyzed in the EIR. This definition is included in Government Code Section 56064 and are included as follows:

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

(a) Land that qualifies, if irrigated, 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.

(b) Land that qualifies for rating 80 through 100 Storie Index Rating.

(c) 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 Range and Pasture Handbook, Revision 1, December 2003.

(d) 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.

(e) 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 five calendar years.

Please be aware LAFCo, as part of its transition process, will be updating its Policies and Procedures with respect to the contents of Spheres of Influence in general. Hopefully updates will be available within the next few months. Of importance here is the Commission must be able to make a positive determination that the city's sphere is consistent with its historical and expected growth rates, and that the territory within the sphere is likely to be annexed within a reasonable timeframe. The Commission's determination will be based on information provided by the city, including 1) a vacant land inventory, 2) an analysis of the vacant lands to determine their suitability for development, and 3) a market study to determine the absorption rate of the usable vacant lands.

Please be aware the LAFCO Act requires a meeting between the City and County regarding Sphere of Influence update applications. Gov. Code Section 56425(b) establishes the requirement and criteria to be addressed, for example development standards and zoning requirements within the proposed City Sphere of Influence. If the City and County agree, then LAFCO shall give great weight to any such agreement.

LAFCO becomes concerned about the cumulative service impacts subsequent development may have on various local service providers within and around the City. We assume subsequent development will undergo additional environmental review on a project-by-project basis, which may later be used by LAFCO in considering individual future annexations. If not, cumulative service impacts need to be addressed at this time.

Thank you for providing LAFCO with the opportunity to comment on the NOP for the City's Bogue Stewart Master Plan. LAFCO would requests a copy of the DEIR when released (as well as the FEIR and Statement of Overriding Considerations, as applicable) as well as the City's Master Plan Policy Document, development agreements and rezoning ordinances as soon as these documents become available. My email address is johnbenoit@surewest.net .

Sincerely,

A handwritten signature in blue ink that reads "John Benoit". The signature is written in a cursive style with a large initial 'J'.

John Benoit
Executive Officer, Sutter Local Agency Formation Commission

cc: Doug Libby, Sutter County Development Services

LAFCO COMMENTS - Attachment B

Sutter Local Agency Formation Commission (LAFCO)

Adopted May 9, 2019

Policies, Standards and Procedures

1. PURPOSE, JURISDICTION, AUTHORITY, AND COMPOSITION

1.1. Purpose of these Policies, Standards, and Procedures

LAFCO is charged with applying the policies and provisions of the Cortese-Knox-Hertzberg Act to its decisions regarding annexations, incorporations, reorganizations, and other changes of government. LAFCO is required to adopt written policies and procedures and to exercise its powers in a manner consistent with those policies and procedures and with the policy directives of the Act. Specifically, the policies and standards set forth in this chapter are designed to:

- a) Provide Information. Give applicants for changes of organization guidance as to the information LAFCO needs to make appropriate determinations concerning their applications and provide information and notice to elected officials, governmental staff, and members of the general public as to the standards and procedures that LAFCO will use in evaluating applications.
- b) Set Criteria. Provide applicants for changes of organization with explicit guidance as to the criteria LAFCO will use in approving, disapproving, amending, or conditionally approving applications for changes of organization.
- c) Ensure Greater Consistency in LAFCO's decision-making process.
- d) Facilitate Communication among local agencies in the region.
- e) Minimize Adverse Impacts of the social, economic and environmental results of growth.
- f) Provide for Planned, Well-Ordered Efficient Urban Development Patterns with appropriate consideration of preserving open space lands within those patterns.

1.2. The Legislature's Creation of LAFCO

- a) LAFCO is an intra-local agency that was created by state legislation to ensure that changes in governmental organization occur in a manner, which provides efficient and quality services and preserves open space land resources.
- b) The creation of LAFCO was a legislative response to actions by local jurisdictions in the 1940's and 1950's. These agencies incorporated or annexed large, irregular portions of land in a

manner, which resulted in irrational urban boundaries and isolated populations without efficient services or with no services at all. In 1963, the Legislature established a Local Agency Formation Commission in each county and delegated to them its regulatory authority over local agency boundary changes.

- c) Additional legislation in the 1960's extended LAFCO authority. In the 1970's the Legislature recognized the connection between decisions concerning governmental organization and the issues of urban sprawl and loss of prime agricultural land. In response to these concerns, LAFCOs were charged with implementing changes in governmental organization in a manner, which would preserve agricultural and open space land resources and provide for efficient delivery of services. Concerned that LAFCOs were responding reactively without considering long-term regional issues, in 1972 the Legislature began requiring LAFCO to adopt a sphere of influence for each agency in its jurisdiction. The sphere is the physical boundary and service area each local government agency is expected to serve and each proposal the Commission considers must be consistent with the sphere plan. The Legislature and the courts require LAFCOs to implement the California Environmental Quality Act (CEQA) as it applies to LAFCO actions.
- d) In 1985, the Cortese-Knox Local Government Reorganization Act consolidated all statutes relative to local government changes of organization. Later, in 1997, the Legislature assembled a Commission on Local Governance in the 21st Century to examine governance issues with special attention to the Local Government Reorganization Act. "Growth Within Bounds," is the Commission's report, and is based on four major findings: (1) The future will be marked by continued phenomenal growth, (2) California lacks a plan to accommodate growth, (3) local government is plagued by fiscal insecurity, and (4) the public is not engaged. The Commission made eight recommendations:

- i) LAFCO policies and procedures should be streamlined and clarified.**
- ii) LAFCOs must be neutral, independent, and balanced in representation of counties, cities, and special districts.**
- iii) LAFCO's powers must be strengthened to prevent sprawl and ensure the orderly extension of government services.**
- iv) The Legislature must strengthen LAFCOs' policies to protect agricultural and open-space lands.**
- v) The Legislature must comprehensively revise the state-local fiscal relationship.**
- vi) The Legislature must develop incentives to encourage coordination of local plans within each region.**

vii) **The Legislature must enhance communication, coordination, and procedures of LAFCOs and local governments.**

viii) **The Legislature must increase opportunities for public involvement, active participation, and information regarding government decision-making.**

Most of these recommendations were incorporated into the Cortese Knox Hertzberg Act, which was adopted by the Legislature in 2000, and became effective in 2001, or subsequently amended.

1.3. The Legislature's Policy Direction to LAFCO

The Legislature has charged LAFCO with carrying out changes in governmental organization to promote specified legislative policies now codified in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The Cortese-Knox-Hertzberg Act commences with Government Code Section 56000, and the reader is referred especially to Government Code Sections 56001, 56300, 56301, 56375, 56377, and 56668. These sections contain the following major policy elements:

- a) Orderly Growth. LAFCO is charged with encouraging orderly growth and development. Providing housing for persons and families of all incomes is an important factor in promoting orderly development.
- b) Logical Boundaries. LAFCO is responsible for encouraging the logical formation and determination of boundaries.
- c) Efficient Services. LAFCO must exercise its authority to ensure that affected populations receive adequate, efficient and effective governmental services.
- d) Preserve Agricultural and Open Spaces. LAFCO is required to exercise its authority to guide development away from open space and prime agricultural land uses unless such actions would not promote planned, orderly, and efficient development.
- e) LAFCO is required to exercise its function in a manner, which promotes environmental justice.

1.4 LAFCO Jurisdiction

- a) Specific Authority. LAFCO has the specific authority to review and approve or disapprove:
 - i) Annexations to, or detachments from, cities or districts.
 - ii) Formation or dissolution of districts.

- iii) Incorporation or disincorporation of cities.
 - iv) Consolidation or reorganization of cities or districts.
 - v) The establishment of a subsidiary district(s).
 - vi) The development of, and amendments to, Spheres of Influence.
 - vii) Extensions of service beyond an agency's jurisdictional boundaries.
 - viii) Provision of new or different services by districts.
 - ix) Pursuant to Government Code Section 56434, the Commission may review and approve proposals that extend service into previously unserved territory in unincorporated areas.
- b) Limited Authority to Initiate Proposals. Under specific circumstances, LAFCO may initiate proposals resulting in consolidation of districts, dissolution, merger, or establishment of subsidiary districts, formations, or reorganizations that include any of those changes of organization.
- c) Limitation of Authority Relating to Land Use Conditions.
In order to carry out the legislative policies identified above, LAFCO has the power to approve or disapprove applications, or to impose reasonable conditions on approval. However, while LAFCO is charged with consideration of the impacts of land use in its determination, it is specifically prohibited from directing specific land use or zoning actions. LAFCO may deny an application where the land use that would result violates the statutory policies of the Cortese-Knox-Hertzberg Act.

The California Supreme Court has explained this unusual combination of power to deny coupled with no power to impose conditions to solve the same policy issue. It said the prohibition on imposing conditions regarding land use:

"merely insures that final zoning decisions are made by the local agencies concerned. It certainly does nothing to detract from the power of a LAFCO to disapprove an annexation if it finds that it violates the detailed criteria which a LAFCO must consider."
Bozung v. LAFCO (1975) 13 Cal. 3d 263, 284.

Thus, for example, LAFCO may disapprove an application for an annexation to a city if it would create an area of urban development that is difficult to serve, or because it would cause the premature development of agricultural land. However, LAFCO could not carry out the same policies by requiring land to be rezoned from residential to agricultural use, or by other direct

exercise of land use authority through the zoning or subdivision process.

1.5 LAFCO Composition and Legislative Charge

- a) General Statutory Requirements. LAFCO is an independent, intra-local agency created by the Legislature to implement policies, which the Legislature determined, must be addressed with a regional perspective.
- b) Independent Agency. LAFCO is, by statute, a separate public agency from the County, Districts and the cities that provide funding and appoint members to the Commission.
- c) Intra-Local Representation. The legislative body of LAFCO is the Commission. The Legislature established the composition of the Commission to be representative of the local governmental agencies in the County by providing for city, county, special district, and public membership.
- d) Public Interest. While the Commission is largely composed of members appointed by individual local agencies, the Legislature requires the Commissioners to exercise their independent judgment in carrying out the provisions of the Act and to make their decisions impartially, on behalf of the public as a whole. Decisions required of LAFCO relating to the most efficient form of local government and the preservation of agricultural and open space land inherently involve the balancing of potentially competing interests of cities, counties, and special districts. In addition, such determinations usually affect the public at large because of various options for the delivery of services.

The legislative charge to LAFCO Commissioners is to bring their experience and perspectives to bear in a manner, which carries out the best policy from the perspective of the public as a whole. Commissioners are not selected to represent or to cast the vote of their appointing agencies. While Commissioners' decisions may be informed by their experience at their agency, those decisions must not be dictated by the interests of that agency.

Since Commission members are appointed by law to impartially carry out objective policies concerning public policy issues, it is presumed that they will do so. It is for this reason that the Legislature determined that it is not an automatic conflict of interest for a Commissioner to vote on issues which may affect their appointing agency. Each LAFCO Commissioner is charged with representing the County as a whole and not merely his or her

appointing authority. Nevertheless, if a Commissioner feels that he or she is unable to act impartially, and then the Commissioner should voluntarily disqualify him or herself.

e) Commission Composition. Sutter LAFCO Commissioners are selected from the groups most affected by its decisions: Yuba City and Live Oak, the county, and the public. Sutter LAFCO is composed of seven regular members. The members of Sutter LAFCO are:

- i) Two City Council members and one alternate who are appointed by a committee made up of the mayor of each incorporated cities within Sutter County.
- ii) Two Sutter County Supervisors and one alternate appointed by the Sutter County Board of Supervisors.
- iii) Two Independent Special District Member and one Special District Alternate from Special Districts in Sutter County.
- iv) One Public Member and one Public Member Alternate appointed by the Commission with at least one affirmative vote from each of the other three categories.

2. LAFCO GENERAL POLICIES AND STANDARDS

The following are the general policies and substantive standards that will apply to LAFCO's consideration of any type of proposal. In certain situations, the application of one policy may conflict with the application of another; in that case, the LAFCO will exercise its discretion to balance policies in a manner consistent with the Cortese-Knox-Hertzberg Act and the standards contained in this document.

2.1. Communication Between Local Agencies

LAFCO considers that an important part of its role is to encourage communication and collaborative planning and studies between public agencies (such as the county, cities and special districts), members of the public, and service-providing members of the private sector.

2.2. Urban Development

LAFCO will encourage proposals that result in urban development to include annexation to a city or to an existing municipal service provider wherever reasonably possible, and discourage proposals for urban development without annexation to a city or a district. LAFCO will also encourage cities to annex lands that have been developed to urban levels, particularly areas that receive city services.

Urban Development includes development that utilizes either public water or sewer, and which involves industrial or commercial use, or residential use with density of at least one unit per acre.

2.2.1 New Communities

Notwithstanding section 2.2, if the County has finally adopted a specific or community Plan for a new community with full environmental review and compliance with other laws and the planned community is of a size to make future incorporation possible or otherwise allow for efficient provision of services, then LAFCO will 1) not apply the preference for annexation to an existing service provider in considering proposals necessary to the development of the planned community; and 2) in evaluating the impact on prime Agricultural Land, consider the regional needs for additional housing and urban development.

2.3. Discouraging Urban Sprawl

LAFCO has been directed by the State Legislature to discourage urban sprawl, and the Commission will normally deny proposals that can reasonably be expected to result in sprawl. Sprawl is characterized by irregular, dispersed, and/or disorganized urban or suburban growth

patterns occurring at relatively low density and in a manner that precludes or hinders efficient delivery of municipal services, especially roads, public sewer and public water.

LAFCO will encourage planned urban development consistent with the General Plan (Specific Plans or Master or related Community Plans) which provide for adequate public services and concentrations of urban development, and which have been approved by the applicable land use authority after public comment and environmental review.

2.4. Environmental Review

LAFCO shall operate in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Sections 21000 and the Guidelines for implementation of the California Environmental Quality Act. Like other public agencies, LAFCO is required to comply with the California Environmental Quality Act and consider the environmental consequences of its actions. Each proposal must receive the appropriate environmental review for consideration by the Commission in making its decisions. LAFCO is frequently a “responsible agency” and reviews and considers the environmental document prepared for the project by another agency (a city, the county, or a special district). LAFCO is a Responsible Agency since it has permitting authority over a specific project, which requires a LAFCO process. Lead agencies must circulate environmental documents to LAFCO prior to project approval. If environmental documents are not circulated to LAFCO, LAFCO may assume the role and act as Lead Agency. As lead agency, LAFCO may require additional environmental review to ensure there is sufficient information to meet LAFCO’s needs. Likewise, even as a responsible agency, LAFCO may require additional environmental review if there is a change in a project.

It is the policy of Sutter LAFCO to actively participate in the Lead Agency's development of the environmental documents where LAFCO is a responsible agency. In the case of General Plans, Specific Plans, Community Plans, and Habitat Conservation Plans, LAFCO shall address any concerns regarding consistency with LAFCO policy at the earliest opportunity. Only through such early and active participation can LAFCO assure that the environmental documents shall provide adequate information to meet LAFCO's needs.

Occasionally LAFCO will be the “lead agency” and may be required to prepare and certify a Negative Declaration or Environmental Impact Report (EIR) for a proposal. If a city, the county, or a special district is the proponent, it is usually the lead agency. One of the following determinations must be made by the lead agency after the appropriate environmental review:

- a) The project is exempt and a Notice of Exemption is prepared.
- b) A Negative Declaration is prepared, circulated for public review and certified by the **lead agency** after an initial study finds that no significant impact to the environment will occur. The lead agency is required to consult with LAFCO staff during the review process.
- c) An EIR is prepared, circulated, and certified by the governing body if a project may have significant impacts on the environment. The lead agency must consult with LAFCO staff during the process.

Any and all CEQA related costs shall be paid by project proponents or a requesting party. Any and all CEQA related costs regarding amendments, deletions or additions to a Sphere of Influence area or sphere policy and (or) additional Service Review content shall be paid by the requesting party and LAFCo shall not have the responsibility to pay CEQA costs. As applicable, this policy shall apply to Service Reviews and Sphere of Influence updates and amendments.

2.5. **Balancing Jobs and Housing**

LAFCO will normally encourage those applications, which improve the regional balance between jobs and housing. LAFCO will consider the impact of a proposal on the regional supply of housing for all income levels. The applicable agency must demonstrate to LAFCO that the proposal is consistent with the jurisdiction's adopted Housing Element, and other state certified housing plans such that any adverse impacts of the proposal on the regional affordable housing supply have either been mitigated or full mitigation is not feasible. Adverse impacts on the regional affordable housing supply shall mean proposals that eliminate or displace existing affordable housing, or eliminate opportunities for affordable housing.

2.6. **Compact Urban Form and Infill Development Encouraged**

When reviewing proposals that result in urban development, LAFCO will consider whether the proposed development is timely, compact in form and contiguous to existing urbanized areas. LAFCO will favor, to the extent practicable, development **of unconstrained** vacant or under-utilized parcels already within a city or other urbanized area prior to annexation of new territory.

2.7. **Public Accessibility and Accountability**

All LAFCo meetings are open to the public and must meet the requirements of the Cortese-Knox-Hertzberg Act and the Brown Act.

LAFCO recognizes the public's ability to participate in the local governance.

2.8. Ability to Provide Adequate Services

LAFCO will consider an agency's ability to deliver adequate, reliable and sustainable services, and will not approve a proposal that may significantly reduce service levels in an agency's current jurisdiction, service zone or service within another affected agency. An agency must demonstrate its ability to meet level of service needs within a reasonable amount of time.

2.9. Efficient Services

Community needs are normally met most efficiently and effectively by proposals that:

- a. Utilize Existing Public Agencies rather than create new ones.
- b. Consolidate the Activities and Services of public agencies in order to obtain economies from the provision of consolidated services.
- c. Restructure Agency Boundaries and service areas to provide more logical, effective, and efficient local government services.

2.10. Community Impacts

LAFCO will consider the impacts of a proposal and any alternative proposals on adjacent areas, on mutual social and economic interests, and on the local government structure including affected independent special districts. The **Commission will** deny a proposal if adverse impacts are not mitigated to an acceptable level **unless mitigation is determined to be infeasible and LAFCO affirms the Lead Agency's adopted Statement of Overriding Considerations.**

2.11. Conformance With General and Specific Plans

- a) Consistency with General and Specific Plans (General and (or) Specific plans shall mean through this document applicable area plans, specific plans, policies, adopted urban-rural interface areas, Agricultural preservation strategies, all relevant city and county guidelines and policies, utility master plans and habitat conservation plans, and any other plans adopted by the applicable jurisdiction). LAFCO will approve changes of organization or reorganization only if the proposal is consistent with the General

Plan and relevant Specific Plans of the applicable planning jurisdiction.

- b) Planning Jurisdiction. The applicable planning jurisdiction is as follows:
 - i) For areas within a city's sphere of influence, the city is the applicable planning jurisdiction.
 - ii) For areas outside a city's sphere of influence, Sutter County is the applicable planning jurisdiction.
- c) Notification of Consistency. Prior to consideration of the proposal by LAFCO, the applicable planning jurisdiction shall advise LAFCO in writing whether the proposal meets all applicable consistency requirements of state law, including internal consistency. If the applicable planning jurisdiction is also applying to LAFCO by Resolution of Application, such finding may be included in the Resolution. LAFCO shall retain discretion to independently verify and determine consistency and may require additional information if necessary.
- d) Consistency Found Adequate. For purposes of this standard, the proposal shall be deemed consistent if the proposed use is consistent with the applicable City or County General Plan designation and text, the applicable general plan is legally adequate, factors in Gov. Code 56668 are adequately considered, and the anticipated types of services to be provided are appropriate to the land use designated for the area.
- e) Rezoning or Planning. All territory proposed for annexation to a city must be specifically planned and/or rezoned by the planning agency. Rezoning or zoning of the territory must be consistent with its general plan and sufficiently specific to determine the likely intended use of the property. No subsequent change to the zoning by a city is permitted by state law for a period of two years under most circumstances.

2.12. Boundaries

- a) Definite Boundaries Required. LAFCO will not accept as complete any application for a proposal unless it includes boundaries that are definite, certain, and fully described.
- b) Boundary Criteria. LAFCO will normally favor applications with boundaries that do the following:
 - i) Create logical boundaries within the affected agency's Sphere of Influence, and where possible, eliminate previously existing islands or other illogical boundaries.

- ii) Follow parcel lines, natural or man-made features and include logical service areas, where appropriate.
- c) Boundary Adjustments. LAFCO will normally amend applications with boundaries which:
 - i) Split neighborhoods or divide an existing identifiable community, commercial district, or other area having a social or economic identity.
 - ii) Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries, **unless infeasible.**
 - iii) Are drawn for the primary purpose of encompassing revenue-producing territories.
 - iv) Create areas where it is difficult to provide services.
- d) Boundary Disapprovals. If LAFCO cannot suitably adjust the boundaries of a proposal to meet the criteria established in item 2.12 (b) above, it will normally deny the proposal.

2.13. Revenue Impacts

- a) Revenue Sharing Agreements. Paragraphs b, c, and d of this section will be considered to be complied with if:
 - i) The affected agencies have agreed to a specific revenue split for the proposal and have filed a copy of that agreement with the Executive Officer with a statement that the agreement adequately provides for a balance of revenue and costs, or
 - ii) A master tax exchange agreement or agreed-upon formula is in effect between the affected agencies and the agencies confirm in writing that such agreement is applicable to this proposal and that it provides for a balanced exchange of service costs and revenues.
 - iii. Where i. and ii. do not apply then b, c and d below will be considered by LAFCO.
- b) A balanced exchange of service costs and revenues is applicable to all proposals. LAFCO will approve a proposal for a change of organization or reorganization only if the Commission finds that the proposal will result in a similar exchange of both revenues and service responsibilities among all affected agencies. A proposal is

deemed to have met this standard if the amount of revenue that will be transferred from an agency or agencies currently providing service in the subject territory to the proposed service-providing agency is substantially equal to the expense the current service provider bears in providing the services to be transferred.

- c) In the event the expense to the new service provider is substantially greater than or less than that amount of revenue transferred from the current service provider, the current service provider and new service-providing agency must agree to revenue transfer provisions to compensate for the imbalance. Such provisions may include, but are not limited to, tax sharing, lump-sum payments, and payments over a fixed period of time.
- d) When failure to achieve a balanced exchange of service costs and revenues is not possible because of the limitations of state law, the Commission shall impose all feasible conditions available to reduce any revenue imbalance, or it may deny the proposal. The Commission recognizes that strict compliance with this standard may be infeasible for certain proposals and that the need for service may sometimes outweigh the requirement to attain a complete balance. Where the failure to achieve a balance is primarily due to the disagreement of the affected agencies, the Commission shall normally deny the application.

2.14 Agricultural and Open Space Land Conservation

Among LAFCO's core purposes is preservation of open space and prime agricultural lands. The Commission will exercise its powers to conserve prime agricultural ("ag") land as defined in Government Code Section 56064, and open space land as defined in Government Code Section 65560 pursuant to the following standards. In order to more effectively carry out this mandate, the Commission may develop local standards to define and identify prime agricultural and open space lands.

2.14 a) Conditions for Approval of Prime Ag/Open Space Land Conversion. LAFCO will approve proposals for changes of organization or reorganization which are likely to result in the conversion of prime ag/open space land use to other uses only when the Commission finds that the proposal will lead to planned, orderly, and efficient development

For proposals that are not associated with implementation of an approved Specific Plan or Community Plan, a proposal leads to planned, orderly, and efficient development only if all of the following criteria are met:

- i) The land subject to the change of organization or reorganization is contiguous to either lands developed with an

urban use or lands which have received all discretionary approvals for urban development.

ii) The proposed development of the subject lands is consistent with the Sphere of Influence Plan, including the Service Review of the affected agency or agencies.

iii) The land subject to the change of organization is likely to be developed. In the case of very large developments, annexation should be phased wherever feasible or provisions made to insure that the undeveloped portion of the project remains in productive agriculture until developed.

iv) Insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable Sphere of Influence that is planned and developable for the same general type of use.

v) The proposal will have no significant adverse effects upon the physical and economic integrity of ag/open space lands outside the boundaries of the proposed reorganization territory.

vi. As applicable, LAFCO will encourage development that is consistent with Habitat Conservation Plans adopted by the applicable planning and wildlife agencies to promote a regional conservation strategy to accommodate growth in a manner that protects agricultural lands, open space, and habitat values.

2.14(b) Approved Sphere of Influence Plan Required. The Commission will not make the affirmative findings that the proposed development of the subject lands is consistent with the Spheres of Influence in the absence of an approved Spheres of Influence Plan, containing all of the elements required by Section 3.2 below.

2.14(c) Findings with Respect to Alternative Sites.

For proposals that are not associated with implementation of an approved Specific Plan or Community Plan, The Commission will make a finding that insufficient vacant nonprime agricultural or open space land exists within the city (county) of its Sphere when it determines:

i. The Agency has accurately identified (a) all vacant economically developable land within its boundaries and (b) all vacant developable non-prime and non-open space land within its Sphere.

ii. Has prepared an objective absorption analysis that demonstrates that insufficient developable non-prime land

exists within the existing boundaries or sphere to meet the City's (County's) needs for the type of development proposed.

iii. In making this determination, the commission may take into consideration city (county) planning goals, policies and objectives and zoning regulations that (a) Encourage preservation of prime Ag/Open space land identified in the City and Sphere until needed for orderly growth and (b) Encourage and facilitate in-fill development as an alternative to development of prime Ag/open space lands.

2.14(d) Determining Impact on Adjacent Ag/Open Space Lands. As practicable, LAFCo will encourage agricultural uses to remain within the interior of an adopted Sphere of Influence until development occurs while not prohibiting the efficient extension of public services within these areas. LAFCo's focus in determining impact upon adjacent Ag/Open Space lands will be lands outside LAFCo's adopted Sphere of Influence and adjacent to a proposal for a change of organization.

In making a determination for lands outside a Sphere of Influence boundary that are adjacent to a change of organization proposal, LAFCO will consider the following factors:

- i) The prime ag/open space significance of adjacent areas outside the Sphere of Influence relative to other ag/open space lands in the region.
 - ii) The use of the subject and adjacent area outside LAFCo's adopted Sphere of Influence.
 - iii) Whether natural or human-created barriers serve to buffer adjacent or nearby prime ag/open space land, which is outside the Sphere of Influence from the effects of the proposal.
 - iv) Applicable provisions of the General Plan open space and land use elements, applicable growth-management policies, or other statutory provisions designed to protect agriculture or open space.
 - v) Whether the proposal is associated with an approved Specific Plan, Community Plan, or Habitat Conservation Plan that was subject to environmental review which analyzed impacts to agricultural and open space lands and if LAFCo's comments were adequately addressed.
 - vi) Notwithstanding the above factors LAFCo will work with the principal jurisdiction to ensure sound planning is in place for the extension of public services within an existing Sphere of Influence boundary so as to promote good and efficient planning.

2.14(e) Comments On Prime Ag/Open Space Projects. Whenever feasible LAFCO will review and comment upon, Notices of Preparation for Environmental Impact Reports or other environmental documents for projects, which involve the development of, open space or agricultural land. LAFCO shall address any concerns regarding consistency with LAFCO policy at the earliest opportunity in order to encourage communication between governmental agencies and facilitate planned, orderly, and efficient development.

2.14(f) Land Subject to Farmland Conservation Restrictions.

i. Sphere of Influence Changes

Williamson Act Contract Lands. The Commission will not normally approve a change to the Sphere of Influence of a local government agency of land that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (the Williamson Act) if that local government agency provides or would provide facilities and services related to sewers, nonagricultural water, or streets and roads to the land unless these facilities or services benefit land uses that are allowed under the contract and the landowner consents to the change to the Sphere of Influence. LAFCO will make specific findings considering the criteria and applicability of Government Code Section 56426.5 prior to approval of a change to the Sphere of Influence.

ii. Annexations.

Williamson Act Contract Lands. LAFCO will not normally approve or conditionally approve a change of organization or reorganization that would result in an annexation to a city or a special district of land that is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (the Williamson Act), if that city or special district provides or would provide facilities or services related to sewers, nonagricultural water, or streets and roads to the territory, unless these facilities or services benefit land uses that are allowed under the contract. LAFCO shall consider the criteria and applicability of annexing land pursuant to Government Code Section 56856.6.

2.14(h) Agricultural Buffer Policy for territory adjacent and outside the exterior boundary of an agency's Sphere of Influence. LAFCO will normally disapprove an annexation of territory to a City or District or the formation of a district that will facilitate urban development where the territory to be

annexed or formed is adjacent to agricultural lands lying outside the jurisdictions applicable adopted Sphere of Influence unless adequate protections are included in the proposal to protect agricultural activities on nearby agricultural lands using the criteria in Section 2.14 (d) above. Adequate protection shall normally be provided for an open space buffer of adequate width along the exterior boundary of a Sphere of Influence so as to protect adjacent agricultural lands and activities. The Commission will consider other methods after making a finding, based on thorough environmental analysis and substantial evidence in the record, or that a buffer of reduced width and (or) an alternative are equally effective in protecting adjacent agricultural land and activities. Any protections shall be in the form of long-term legally enforceable restrictions such as a restrictive covenant or open space easement enforceable by the public as well as the annexing or forming agency. In the case of Yuba City, Edge Buffer Design Guidelines, Agricultural Preservation Strategies adopted along the Urban Rural Edge Strategy as adopted in December 2011 shall be also be considered by LAFCO.

2.15. Need for Services

A need for the services that will be made available must be established. LAFCO will normally determine that a need for service exists if any of the following situations is present at the time an application comes forward:

- a) Public Health and Safety Threat. If the lack of the service creates a demonstrated threat to the public health and safety.
- b) Community Needs. If a proposal includes the extension or provision of community services that are not considered growth inducing, such as fire protection, recreation, or road maintenance, and the residents of the area have indicated a desire for the service. A positive indication from the residents may be established by a city or district being requested by residents to initiate annexation on their behalf.
- c) Specific Plan or Community Plan. If a proposal is consistent with implementation of an approved Specific Plan or Community Plan of the applicable land use jurisdiction.
- d) If a proposal will result in the extension of services that may reasonably be expected to result in urbanization of the subject territory, the area growth patterns should indicate that the subject area is likely to be developed for urban use in the foreseeable future, if permitted and feasible, and local planning regulations provide:
 - i) It is designated for urban uses in the appropriate land use authority's General Plan;

- ii) If the proposal includes annexation to a city, the subject territory has been pre-zoned for urban uses; and
- iii) Development at the site is consistent with the policies of the General Plan, and the Cortese-Knox-Hertzberg Act.

2.16. Exceptions

LAFCO may make exceptions to any of the standards in this Chapter if it determines that such exceptions can be justified under one or more of the following grounds:

- a) Unique. The project has a unique physical constraint, which is so unusual and inconsistent with other similar locations that granting an exception would not be a grant of a special privilege.
- b) Policy Conflicts. Where there is a conflict between standards, the Commission may choose to give priority to one over the other or compromise between them in order to promote orderly development.
- c) Quality/Cost. Result in significantly improved quality or substantially lower cost of service available.
- d) No Alternative. Are required because no feasible or logical alternative exists.

2.17 Tribal Lands

If a proposal involves a change of organization or an amendment or establishment of a Sphere of Influence, which could ultimately lead to the provision of services to tribal lands, the proper tribal authority shall be informed of LAFCO's intention to seek a partial waiver of sovereign immunity prior to its approval of a change of organization.

Prior to issuance of a certificate of filing for an application involving a change of organization to provide public services on tribal lands, LAFCO will normally require a partial waiver of sovereign immunity whereby the proper tribal authority and LAFCO agree in writing to mitigate the effects of the proposed change of organization on adjacent areas and on the local government structure of the county or city in accordance with the LAFCO Act, in exchange for the authority to provide the service.

LAFCO will incorporate the agreed upon provisions into its terms and conditions of approval.

2.18 Updated Municipal Service Review Required

At the time LAFCO receives an application for a change of organization, information contained in the applicable Municipal Service Review (MSR) shall be reviewed and updated, as necessary. Revised determinations within an applicable MSR **that is relevant to the proposal** will be required when significant changes in the MSR baseline result in inconsistencies with existing MSR determinations.

2.19 Disadvantaged Unincorporated Communities

The Commission will identify Disadvantaged Unincorporated Communities, as defined below, for the purpose of:

1. Municipal Service Reviews. Water, Wastewater, and Fire Protection Municipal Service Reviews will discuss and identify opportunities for the provision of those services to Disadvantaged Unincorporated Communities located within or contiguous to the Sphere of Influence of an agency.
2. City Annexations. Disadvantaged Unincorporated Communities that are located contiguous to areas proposed for annexation to a city shall normally be included in the annexation or reorganization proposal or be separately proposed for annexation, unless the Commission has determined that the disadvantaged community would not be benefited by annexation, or if at least 50% the registered voters have indicated opposition to annexation.
3. Definition of Disadvantaged Unincorporated Community. A Disadvantaged Unincorporated Community is defined as a developed area that has been identified as such by LAFCO, the County or applicable city, or one that meets all the following standards:
 - a) Substantially developed with primarily residential uses
 - b) Contains at least 25 parcels in close proximity to each other that do not exceed 1.5 acres in size
 - c) Does not have reliable public water, sewer or structural fire protection service available
 - d) Contains at least 12 registered voters
 - e) Has a median household income level of less than 80% of the statewide median household income

Request for Determination. In addition to those Disadvantaged Unincorporated Communities identified by LAFCO or other agencies, residents or property owners may request that LAFCO determine whether a specific area meets the criteria listed in Item 3, to be treated as a Disadvantaged Unincorporated Community. Such request must be submitted by at least twelve registered voters of the area. The review shall be conducted by LAFCO staff and shall, if appropriate, be submitted for consideration and approval by the Commission.

3. SPHERES OF INFLUENCE

3.1. General Policies

- a. LAFCO must adopt a sphere of influence for each city and each district in its jurisdiction, and must review and, if necessary, update each sphere of influence at least every five years. All LAFCO actions must be consistent with a sphere plan. A Sphere of Influence is defined in Section **56076** of the Government Code as “a plan for the probable physical boundary and service area of a local agency or municipality as determined by the commission.”

The establishment of Sphere of Influence Plans is perhaps the most important planning function given to LAFCOs by the state legislature. Spheres of Influence are described by the Cortese Knox Hertzberg Act as an important tool for “planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities.” Spheres serve a similar function in LAFCO determinations as general plans do for cities and counties. Consistency with the adopted sphere plan is mandatory, and changes to the plan require careful review.

While LAFCO encourages the participation and cooperation of the subject agency, the sphere of influence plan is a LAFCO responsibility, and the Commission is the sole authority as to the sufficiency of the documentation and the plan’s consistency with law and LAFCO policy. Staff of LAFCO will work closely with agencies in developing sphere of influence plans. In determining the sphere of influence of each agency, LAFCO must consider and prepare a written statement of its determinations with respect to the following five factors as stated in Government Code Section 56425 (e):

1. The present and planned land use in the area, including agricultural and open-space lands.
2. The present and probable need for public facilities and services in the area.
3. The present capacity of public facilities and adequacy of public services provided by the agency.
4. Any social or economic communities of interest in the area that the Commission determines is relevant to the agency.

5. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.
- b) In order to prepare and update spheres of influence, LAFCO is required to conduct a review of the municipal services provided in the county, region, sub-region, or other appropriate designated area. The policies, standards and procedures of Sutter LAFCO applying to Municipal Service Reviews are set forth in Section 3.3 below.
 - i) Consistency Requirement. Every sphere of influence plan must be consistent with LAFCO's Policies and Procedures, the state legislature's policy direction to LAFCO, the sphere plans of all other agencies in the area, the Commission's statement of written determinations with respect to its review of municipal services in the applicable area, and with the long range planning goals for the area.
 - ii) Sphere Boundaries. In establishing the boundaries of a sphere of influence plan for an agency, LAFCO will consider the factors listed in Section 56425 (e) of the Government Code as noted above.
 - c) With respect to Factor 3.1(b) above, LAFCO will not include lands that are unlikely to require the services provided by the agency, for example, lands not designated for development by the applicable General Plan, territory where development is constrained by topographical factors, or areas where the projected and historical growth rates do not indicate a need for service within the timeframe of the sphere plan.
 - d) With respect to Factor 3.1(c) above, LAFCO will not include areas in an agency's sphere of influence, which cannot feasibly be served by the agency within a time frame consistent with both the sphere plan and applicable general plan.
 - e) Time Factor. Sphere of Influence amendments will ordinarily take longer to process than applications for a change of organization or reorganization and will generally require more detailed information.
 - f) Updated Plans Encouraged. Agencies are encouraged to keep the supporting documentation for their Sphere of Influence plans up to date so that individual applications for changes of organization or reorganization are not burdened with time delays.

- g) Areas of Concern. LAFCO may, at its discretion, designate a geographic area beyond the Sphere of Influence as an area of Concern to any local agency.
- i) An Area of Concern is a geographic area beyond the Sphere of Influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency ("the Concerned Agency"). For example, approval of a housing project developed to urban densities on septic tanks outside the city limits of a city and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city in such situation would be the Concerned Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the City.
 - ii) LAFCO will notify any Concerned Agency when LAFCO receives notice of a proposal of another agency in the Area of Concern to the Concerned Agency, and will give great weight to its comments.
 - iii) If requested, LAFCO will seek to obtain a Joint Powers Agreement or other commitment between the agencies so that the Acting Agency provides advance notice to the Concerned Agency of any actions, or projects being considered within the area of concern, and commits to considering any comments made by the Concerned Agency.
- h) Zero and Minus Spheres. The Commission may adopt a "zero" sphere of influence (encompassing no territory) for an agency when the Commission has determined that the public service functions of the agency are either non-existent, no longer needed, or should be reallocated to some other agency of government. Adoption of a "zero" sphere indicates the agency should ultimately be dissolved. The Commission may initiate dissolution of an agency when it deems such action appropriate. The Commission may adopt a "minus" sphere (excluding territory currently within that agency's boundaries) when it has determined that territory within the agency's boundaries is not in need of the agency's services, or when the agency has no feasible plans to provide efficient and adequate service to the territory in question.

3.2. Contents of the Sphere of Influence Plan

- a) General Requirements. The Sphere of Influence Plans for all governmental agencies within LAFCO's jurisdiction shall contain the following:

i) A sphere map and plan for annexation of the depicted territory defining the probable boundary of the agency's service area defining the agency's logical boundary for lands likely to be annexed prior to the next sphere review or update. The sphere map and annexation plan may include specific conditions for particular areas that must be satisfied before annexations may occur.

ii) Documentation to support the Commission's determinations regarding the factors stated in §56425(e). Generally this information will be provided in the applicable Municipal Service Review(s), supplemented and updated as necessary to assure the information and analysis satisfy LAFCO policy requirements and are complete, current, and accurate.

b) Specific Requirements for City Sphere Plans

i) City/County Agreement. When required by Government Code §56425(b), a city and the county shall meet and confer regarding the boundaries of the city's sphere prior to the Commission's final determination. If a city and the county have reached agreement regarding the boundaries, development standards, and zoning requirements within a proposed city sphere, the Commission shall give great weight to the agreement in the Commission's final determination of the city's sphere.

ii) Parcel Inventory Analysis. The Commission must be able to make a positive determination that the city's sphere is consistent with its historical and expected growth rates, and that the territory within the sphere is likely to be annexed within the timeframe specified within the applicable jurisdiction's General Plan. The Commission's determination will be based on information provided by the city, including a review of the jurisdiction's most recently adopted and HCD certified housing element and specific information required by LAFCo at the time of the change of organization or Sphere update. If the city is unable to supply such information, or such information is not available LAFCO will make a sphere determination after considering the city's historical growth rates for each land use designation, pertinent city land use and zoning regulations, and the physical characteristics of the property intended to be included in the sphere.

iii) Spheres for New Cities. The Commission will adopt a Sphere of Influence Plan for a newly incorporated city within a year of the date of incorporation.

c) Specific Requirements for District Sphere Plans

i) A district's sphere plan must document that the territory within the district's sphere is likely to require the district's services and that the district has or will have the capacity to serve the area at the appropriate level.

ii) Multi-service Districts. LAFCO shall adopt a sphere of influence plan for each distinct function or class of service provided by a district. These sphere plans may or may not be coterminous. Each sphere shall establish the nature, location, and extent of the functions or classes of services provided by the district.

iii) Spheres for New Districts. LAFCO will adopt a Sphere of Influence Plan for a newly formed district within one year of the completion of formation proceedings, as practicable.

3.3 Municipal Service Reviews

In order to establish an appropriate sphere for an agency, LAFCO must have adequate information on present and future service needs in the area and the capabilities of the agency to meet those needs. To this purpose, the Cortese-Knox-Hertzberg Act requires LAFCO to conduct service reviews prior to establishing or updating spheres of influence. A service review is a comprehensive review of provision of specified services within a designated geographic area. Its purpose is to evaluate the provision of services on a regional basis and to recommend actions, when necessary, to promote the efficient provision of those services. The service reviews are intended to help LAFCO, the public and other agencies better understand the public service structure and evaluate options for the provision of efficient and effective public services. LAFCO uses the information and analysis provided by the Municipal Service Review (MSR) to ascertain whether an agency can provide adequate and efficient services to the areas in the agency's sphere within the applicable time frame.

LAFCO will prepare or update the appropriate Municipal Service Reviews prior to or in conjunction with the adoption or update of an agency's sphere of influence plan. In general, LAFCO will conduct such reviews on a service-by-service basis for designated geographic areas. The Commission will periodically develop and implement a multi-year coordinated schedule for preparing MSRs and updating spheres of influence, in accordance with the legislature's direction to review each agency's sphere of influence every five years and update as necessary and provided for in LAFCO's budget.

a) General Standards. LAFCO shall prepare Municipal Service Reviews in conformance with the provisions of Government Code §56430. A Municipal Service Review must provide information specific to each

agency to support the Commission's written determinations with respect to the following:

Growth and population projections for the affected area.

The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence

Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

Financial ability of agencies to provide service.

Status of, and opportunities for, shared facilities.

Accountability for community service needs, including governmental structure and operational efficiencies.

Any other matter related to effective or efficient service delivery.

b) Municipal Service Reviews Must Support Spheres of Influence. In addition to the requirements discussed above, Municipal Service Reviews shall contain information on which the Commission can base its determination of the appropriate sphere of influence for an agency, including:

- i) Identification of existing land uses and a reasonable projection of land uses, which would occur if services were provided consistent with each agency's sphere of influence plan. This analysis should include maps and explanatory text detailing the following:
- ii) Present designated and actual land uses in the area, improved and unimproved properties, and agricultural and open space lands, as defined by Government Code Sections 56064 and 56059.
- iii) Proposed future land uses in the area.
- iv) Discussion of present and probable future needs for public facilities and services in the sphere area. The discussion should include consideration of the need for all types of major facilities, not just those provided by the agency.
- v) A determination of the present and future capacity of facilities and adequacy of services the agency provides or has plans to provide. The review must include specific information and analysis of how the agency will meet anticipated growth in demand within its current boundaries and within the area included in its sphere. This information will guide the Commission's designation of appropriate sphere horizons or timelines in the Sphere of Influence Plan if determined applicable by the Commission. The required information should include the following:

- 1) Maps and explanatory text that indicate the location and capacity of existing and proposed facilities, including a plan for timing and location of new or expanded facilities.
 - 2) An estimate of projected revenue and expense over the territory within the sphere or sphere horizons (if applicable) specifically identifying the cost of planned new facilities or services and projected source(s) of revenue to fund those new facilities or services.
 - 3) Actual and projected costs of services to consumers in current dollars. A statement of actual and projected allocations of the cost of services between existing and new residents shall be included.
 - 4) Identification of any relevant social or economic communities of interest in the area. For example, an area, which is completely within one subdivision governed by a single homeowner's association, should be noted, in order to avoid unnecessary division of the territory between service agencies.
- c) Uses of the Municipal Service Review. Upon approval of the Municipal Service Review, it will be utilized by LAFCO both in establishing the agency's sphere of influence and in the consideration of all proposals affecting that agency.
 - d) Changes of Organization- revisions required. At the time LAFCO receives an application for a Change of Organization, information contained in the applicable Municipal Service Review (MSR) shall be reviewed and updated as required by Policy 2.18 above.

3.4. Amendments and Updates of Spheres of Influence

- a) Adoption and Revision. LAFCO will adopt, amend, or update a Sphere of Influence Plan after a public hearing and pursuant to the procedures set forth in Government Code Section 56427. Sphere actions are subject to the provisions of the California Environmental Quality Act. Sphere of Influence Plans shall be reviewed and updated, if necessary, every five years, or as deemed necessary by the Commission. Whenever possible, city sphere updates shall be scheduled to coincide with a city comprehensive General Plan update.
- b) Updates and Amendments Defined. Updates generally involve comprehensive review of the entire Sphere of Influence Plan, including the map and the information provided in the Municipal Service Review for the agency.

Amendments generally involve limited changes to a Sphere of Influence Map or Plan that are proposed by an agency or individual to accommodate a specific proposal. An amendment may or may not involve changes to the Municipal Service Review information.

- c) Amendments Required. An amendment to the Sphere of Influence Plan will be required in the following circumstances:
 - To modify a sphere by adding or removing territory.
 - To move territory from one development horizon to another.
 - When a district seeks to provide a new or different function or class of service.
 - When a significant change in an agency's plans for service makes the current sphere plan impractical.
- d) Updates Required. LAFCO will review the adopted sphere plan of each agency at least every five years or as necessary and will update it in accordance with the budget and as the Commission deems necessary. In order to conduct a sphere review, LAFCO will request the agency to provide updated information for its Sphere of Influence Plan and Municipal Service Review. Such information is necessary to inform the Commission's determination of appropriate area within the sphere of influence. In the absence of adequate information, the Commission will complete the sphere update by identifying the territories that currently receive the agency's services and excluding unserved territories from the sphere.
- e) General Requirements. LAFCO will generally treat an update or a proposed amendment to an agency's sphere of influence similarly to an application for approval of a sphere of influence. Each of the following sets of policies apply to sphere of influence amendments and updates:
 - i) General policies as specified in Section 2 above.
 - ii) Specific policies and standards for spheres of influence and for updates and amendments thereto as specified in Section 3.

LAFCO will not approve a sphere plan that would result in a sphere that is inconsistent with other LAFCO policies or standards unless the Commission makes a specific finding.

- f) Precedence of Amendments over Annexations. Sphere of influence amendments must precede consideration of proposals for changes of organization or reorganization.

- g) Demonstrated Need Required. An applicant for amendment to a sphere of influence must demonstrate a projected need or (in the case of reduction of the sphere) lack of need for service.
- h) Open Space and Prime Agricultural Land. Amendment proposals involving sphere expansion to include open space or prime agricultural land may not be approved by LAFCO if there is sufficient alternative land available to feasibly be annexed within the existing sphere of influence.

3.5 Districts and services, which are not growth inducing

The Commission may prepare abbreviated Municipal Service Reviews and Sphere of Influence Updates for agencies not providing growth-inducing services and districts providing non-growth inducing services, and where appropriate determine Sphere of Influence affirmations to be exempt from the provisions of the California Environmental Quality Act.

Non-growth-inducing services are defined as all public services except water conveyance, treatment, extraction and use of ground and (or) surface water for domestic services or to facilitate urban development; and domestic wastewater collection, treatment and disposal to facilitate urban development; and fire protection and road construction and maintenance services. Districts providing non-growth inducing services normally would serve finite geographical areas, surrounded by public lands, provide limited specified services to residents or landowners, have coterminous district/sphere of influence boundaries and are not generally or routinely considered for expansion through annexations or sphere amendments for the purpose of providing services for existing or future urban development.

Sphere of Influence Plan reviews and affirmations for districts providing non-growth inducing services would normally not generate environmental impacts that would make them subject to heightened level of review California Environmental Quality Act (CEQA), namely a Negative Declaration or Environmental Impact Report. Pursuant to CEQA Guideline Section 15320 the following may be applied, as appropriate. This section provides for an exemption (class 20) where changes in organization or reorganization of local governmental agencies (i.e. in the case of a Sphere of Influence affirmation for districts providing non-growth inducing services) where the changes do not change the geographical area in which previously existing powers are exercised. This exemption may also be applicable where the changes will not result in any substantive changes to the functions, operations or purposes of the districts; are not predicated on, or will result in, any land use changes that may be subject to CEQA review; and will not cause any reasonable foreseeable environmental consequences in that the Sphere of Influence affirmation will not directly create or cause any significant land use changes or other actions that could be detrimental to the environment.

4. ANNEXATIONS, DETACHMENTS, AND ACTION

4.1. General Standards for Annexation

These standards govern LAFCO determination regarding annexations to or from all agencies.

- a) Consistency With LAFCO Policies. The annexation and (or) detachment (reorganization) must be consistent with the General Policies set forth in Section 2 of these Policies and Procedures.
- b) Consistency with Spheres and Services Reviews (MSR).
 - i) The annexation must be consistent with the Sphere of Influence, The land subject to annexation is land expected to be annexed before the next sphere update.
 - ii) The annexation must also be consistent with the applicable Service Review. An annexation shall be approved only if the Service Review and any update completed as part of the annexation process demonstrate that adequate services will be provided within the time frame needed by the inhabitants of the annexed area.
 - iii) Proposed annexations of territory that shall lie within the mapped area of the Sphere of Influence and shall be consistent with the specific Sphere and MSR determinations adopted by LAFCo. If not, the agency or proponent must first request LAFCO consider a sphere amendment to bring the territory consistent with the adopted Sphere and MSR determinations. Only if the amendment is approved can LAFCO proceed with the annexation proposal.
- c) Plan for Services Required. Every proposal must include a Plan for Services that addresses the items identified in Government Code Section 56653. This Plan for Services must be consistent with the adopted Service Review and Sphere of Influence of the agency.
- d) Contiguity. If required by statute, or if necessary to ensure efficient service provision, territory proposed to be annexed must normally be contiguous to the annexing city or district. Territory is not contiguous if its only connection is a strip of land more than 300 feet long and less than 200 feet wide, exclusive of public roads. (Government Code Section §56031)
- e) Piecemeal Annexation Discouraged LAFCO requires annexations to be consistent with the Sphere of Influence and any annexation plan, if adopted. Where feasible, LAFCO will modify, piece-meal

- annexation proposals to include additional territory in order to promote orderly annexation and logical boundaries.
- f) Annexations to Eliminate Islands. Proposals to annex islands and to otherwise correct illogical distortion of boundaries will normally be approved unless they would violate another provision of these standards.
 - g) Annexations that Create Islands. An annexation will not normally be approved if it will result in the creation of islands of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries, as determined by the Commission. The Commission may nevertheless approve the annexation where it finds that annexation as proposed is necessary for orderly growth and that reasonable effort has been made to include the island in the annexation but that inclusion is not feasible at this time.
 - h) Service Requirements. An annexation shall not be approved merely to facilitate the delivery of one or a few services to the detriment of either existing or future delivery of a larger number of services or services more basic to public health and welfare.
 - i) Adverse Impact of Annexation on other Agencies or Service Recipients. LAFCO will deny annexation proposals that would result in significant adverse effects upon other service recipients or other agencies unless the approval is conditioned to avoid such impacts.
 - j) Need for Services. An annexation will normally not be approved unless an agency can demonstrate there is a demand and need for services in the short-term and that the annexation will not be premature meeting the criteria in Section 2.15.
 - k) Action Options. LAFCO shall take one of the following three actions on an application for annexation:
 - i) Approve the proposal if it has found the change to result in the most efficient delivery of services for the affected population and to comply with other applicable standards.
 - ii) Modify or conditionally approve the proposal to ensure efficient service delivery and meet other policy objectives. These may include, but are not limited to:
 - (1) Waiver of detachment from an existing service provider or, in the alternative, appropriate mitigation.
 - (2) Entering into a Joint Powers Agreement with another service provider.

- (3) Requiring the inclusion of additional territory or exclusion of territory in order to achieve more logical boundaries.
- (4) Such other conditions as authorized by Government Code Section 56886.

iii) Deny the annexation. In the event of such a denial, LAFCO may, where appropriate, provide direction as to changes in the proposal that could cause the commission to consider approving a revised application.

4.2. Determination of the Best Service Provider

LAFCO will normally approve an annexation and (or) detachment only if the Commission determines that the annexing agency possesses the capability to provide better services for the affected population.

- a) Best Combination of Service and Cost. For purposes of this standard, the best service provider is the agency that provides the best combination of service cost and service level. In the case of providers with similar service costs, the provider with higher service levels shall normally be preferred. In the case of providers of similar service levels, the provider at the lowest cost shall normally be preferred. In comparing the providers of adequate but low-cost services, with high-quality, high-cost services, the Commission shall make the decision based on the facts of the specific situation, compliance with other LAFCO policies and the preferences of the affected population.
- b) In the case of a city annexation and detachment from a special district, LAFCO may consider the broader service issues in making the determination whether to approve the detachment and shift of services from the special district to the city. Even though looked at in isolation, the service provided by the special district may be the superior if evaluated under subsection a) above, LAFCO may consider the overall efficiency advantages of a single multi-purpose agency and determine that these advantages justify the detachment from the special district and shift of service to the city.
- c) “Affected Population” Defined. For purposes of this standard, “affected population,” means any of the following:
 - i) The population, which inhabits or will inhabit the area to be annexed.

- ii) The population already being served by the annexing agency.
 - iii) The population of existing or potential alternative service providers.
- d) Factors to Be Considered. In evaluating the capability of an annexing agency or of alternative agencies to provide the required service, LAFCO shall utilize information from the applicable municipal service reviews. In addition, LAFCO shall take into account all of the following factors:
- i) Physical accessibility of the territory to the agency's service provision resources -- for example, is the agency the provider of sewer service whose plant can most easily gravity-feed from the subject territory?
 - ii) The agency's possession of or ability to acquire resources necessary to provide the needed service -- for example, an agency may be judged unable to acquire water rights necessary to provide the water services needed by a territory proposed for annexation.
 - iii) The agency's historic service provision effectiveness and efficiency -- for example, an agency may be judged an inefficient service provider if it has a previously documented history of service interruptions, accidents, safety hazards, excessive complaints, non-compliance with CEQA, illegal activities or excess costs/charges.
 - iv) The appropriateness of the agency's organizational structure to meet service needs. For example, LAFCO may question whether a dependent district of a city is an appropriate provider of services outside the city boundaries, where the population will have no ability to vote for the board of directors of that district.
 - v) The legislative policy established in Cortese-Knox-Hertzberg to favor consolidation of services in a single multi-service provider over allowing the proliferation of single-purpose service agencies.
 - vi) The effect on alternative service providers and those who use their services.
 - vii) Or other information supplied by the agencies and (or) developed by LAFCO.
 - viii) The factors listed in Government Code Section 56668.
- e) LAFCO Responsibility for Determination. LAFCO shall determine the best overall service provider or combination of providers, not the affected agencies.

4.3. City Annexations

- a) Annexations of Streets. Annexations shall reflect logical allocation of streets and rights-of-way. Specifically:
- i) LAFCO may require inclusion of additional territory within an annexation in order to assure that the city reasonably assumes the burden of providing adequate roads to the property to be annexed. Where adjacent lands that are in the City will generate **significant** additional traffic, LAFCO will **normally** require the city to annex the streets that serve those lands.
 - ii) LAFCO may also require annexation of county roads where the annexation will leave isolated sections (difficult to maintain sections) of County roads.
 - iii) LAFCO will favorably consider annexations with boundary lines located so that all streets and rights-of-ways will be placed within the same jurisdiction as the properties which either abut thereon or use the streets and rights-of-way for access. Except in extraordinary circumstances, cities shall annex an entire roadway portion when 50% or more of the frontage will be within the city after completion of the annexation.
- b) Urban Boundaries. LAFCO will normally adjust annexation boundaries to include adjacent urbanized areas in order to minimize piece-meal annexations and to ensure the provision of urban services to the urbanized area. As used herein, “urbanized areas” are areas that are developed for industrial, commercial or residential use with a density of at least one residential unit per acre and which receive either public water or public sewer.
- c) Pre-zoning Required. The Cortese-Knox-Hertzberg Act requires the City to prezone territory to be annexed, and prohibits subsequent changes to the general plan and or pre-zoning designations for a period of two years after completion of the annexation, unless the city council makes a finding at a public hearing consistent with the provisions of GC 56375 (e). The City’s pre-zoning must take into account the likely intended development of the specific property.

In instances where LAFCO amends a proposal to include additional territory, the Commission’s approval of the annexation will be conditional upon completion of pre-zoning of the new territory.

- d) LAFCO will not normally approve an annexation to a city unless the city demonstrates to LAFCO there is a need for the city to annex additional land to accommodate reasonable growth consistent with the adopted Service Review and Sphere of Influence. Constraints identified in the most recently certified and adopted housing element as well as the City's General Plan shall be considered in LAFCO's review.

4.4. Detachment with an Annexation to a City

- a) General Requirements. LAFCO shall normally disfavor the detachment of territory from a service provider unless the following can be demonstrated:
 - i) The detachment is necessary to ensure delivery of services essential to the public health and safety; or
 - ii) The successor provider will be the best services provider to the area as determined pursuant to Section 4.2 above and the detachment will not significantly reduce the efficiency of service delivery to the remaining inhabitants of the current service provider's territory; or
 - iii) The agency is not providing service and is not likely to provide service in the foreseeable future.
- b) Service Plan Considerations. The service plans of special districts, which lie within a city's Sphere of Influence should provide for orderly detachment of territory from the district or merger of the district as district territory is annexed to the city. However, LAFCO may determine during the updating of the spheres of the two agencies, that the district should continue to provide service within certain areas even after annexation to the city.
- c) Bonded Indebtedness. Detachment from a city or special district shall not relieve the landowners within the detaching territory from existing obligations for bonded indebtedness or other indebtedness incurred previously by the city or district to provide service to the detaching property unless the following apply:
 - i) The relief from indebtedness is part of a revenue exchange agreement applying to the detachment.
 - ii) The agency is legally authorized to and agrees to assume the cost and spread it over the remaining property within the agency.

4.5. Extension of Services by Contract

This section applies only to contracts to extend services beyond a local agency's jurisdictional boundaries as provided in Government Code Section 56133 of the Government Code.

a) General Standards.

i) Applicable Policies:

When considering requests to extend services by contract beyond an agency's jurisdiction boundaries, LAFCO will apply the same general substantive policies as for annexation requests.

ii) The application must be made in anticipation of annexation. As used in this section, the term "in anticipation of annexation" means that the area shall be annexed within as stated in iii below.

iii) Subsequent Annexation Application Required

For all contract service extensions, the requesting agency must either:

- 1) File a concurrent application with LAFCO for annexation of the property and pay all fees, or
- 2) Carry out at least one of the following:
 - (a) The agency provides a written binding commitment to LAFCO to annex the property within a specific period of time, not more than 5 years; or
 - (b) The Agency and property owner record a notice against title to the property specifying that in the event that the agency does not proceed with annexation, the property owner must make application to LAFCO for annexation of the territory within two years of LAFCO's approval of the request or.
 - (c) If (a) or (b) are not feasible, record a notice in title to the property signed by the property owner and binding all future owners consenting to annexation of the property and provide proof to LAFCO of such recording prior to connecting the property to service.

- b) Review of Contracts. The LAFCO Executive Officer will conduct periodic reviews of agencies and contracts established since January 1, 2001, for compliance with the requirements of this section.
- c) Unapproved Contracts Null & Void. If an agency enters into a contract without LAFCO approval, the contract shall be null and void. If the Executive Officer receives notice of a violation of these provisions, he or she shall place the item on the Commission's agenda for consideration of appropriate action.
- d) Urgency Approvals In a case that **involves** an imminent peril to public health and safety, applicants may submit an abbreviated application, along with the applicable deposit as specified in the LAFCO fee schedule, to be considered for temporary urgency approval by the Executive Officer. The Executive Officer shall present the matter to the Commission at the next available meeting for final consideration.
- e) Delegation of Executive Officer to Review and Approve Out of Area Service Agreements (OASA). The Commission hereby directs the Executive Officer to be empowered and authorized by these Policies to perform the administrative task of reviewing and approving Out-Of-Agency Service Agreements submitted to LAFCO by applicants consistent with these policies and Government Code §56133, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and the Commission documents the delegation of said authority to the Executive Officer by and through this resolution. This delegation does not apply to OASA's for new development projects, which will require Commission approval.
- e) Exemptions from LAFCO approval for certain contracts.
 - i) Pursuant to Government Code Section 56133 (e) no LAFCO approval is required for contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
 - 1) For the purposes of this exemption, "the level of service contemplated by a public service provider" shall mean that the existing public service provider is presently authorized to provide the service and has the capability to provide the service to the area at the level proposed to be provided by the other public agency subject to the contract.

ii) Also Pursuant to Government Code Section 56133 (e) no LAFCO approval is required for “ contracts or the transfer of nonpotable or nontreated water”. However, this exemption does not apply where the transfer of nonpotable or nontreated water will support or induce development or growth to urban levels as defined in Section 2.2 above. For purposes of this exemption nonpotable or nontreated water shall not include wastewater.

5. INCORPORATIONS, FORMATIONS, PROVISION OF NEW SERVICES BY DISTRICTS, CONSOLIDATIONS, DISSOLUTIONS, & DISINCORPORATIONS

5.1. Incorporation Of Cities

- a) Consistency with LAFCO Policies. A proposal for incorporation of a new city must be consistent with the General Policies set forth in Section 2 of these Policies, Standards and Procedures, as well as the following specific policies for incorporations in Section 5.1.
- b) Need for Incorporation. LAFCO will normally only favor a proposal for incorporation if the Commission finds that there is a significant unmet need for urban services or need for improved urban services within the territory for which incorporation is proposed. In determining whether such a need for urban services exists, the Commission will base its determination on:
 - i) Current levels of service in the area to be incorporated.
 - ii) Whether the area proposed for incorporation is already substantially urbanized or applicable general plans, specific plans, or area plans and/or realistic population and growth projections demonstrate the need for urbanization of the affected area within the next five years.
 - iii) The Sphere of Influence Plans for the jurisdictions currently providing services to the area.
 - iv) The preferences of the community proposing to incorporate.
- c) Better Combination of Services. LAFCO shall approve a proposal for incorporation only if it finds that a new city on the whole will provide the best combination of urban services to the affected population.
- d) Public Benefit Considered. LAFCO will consider whether the proposed incorporation will benefit the affected population as a whole, or only a select group. Absent other considerations, LAFCO will not approve an incorporation proposal that amounts to a grant of governmental powers to a special interest group.
- e) Balancing Adverse Impacts. In making its decision on the incorporation, LAFCO shall weigh the benefits of the incorporation against its adverse impacts on:
 - i) Particular communities or groups in the incorporating area or affected unincorporated area.
 - ii) Other service providers within the area of the proposed incorporation, including the County.

- iii) Prime agricultural and open space lands and the prevention of urban sprawl.
- f) Plan for Services Required. A proposal for incorporation must include a Plan for Services that addresses the items identified in Government Code Section 56653.
- g) Prime Agricultural and Open Space Land that is not designated for urbanization within the next five years of the date of the receipt of the application shall not be included within the boundaries of a proposed city unless the Commission determines that inclusion is necessary for logical boundaries and orderly growth and the proposal is structured to ensure the long-term preservation of the open space or agricultural lands.
- h) Comprehensive Fiscal Analysis Required. Government Code Section 56800 requires the Executive Officer to prepare or cause to be prepared a comprehensive fiscal analysis (CFA) of the projected fiscal condition of the new city. Normally, LAFCO will contract with an independent consultant for this analysis, and the charge for this study will be included with the other project-related charges paid by the applicant. The CFA shall project income and expense for a period of seven years after incorporation. The Commission will approve the CFA after a public hearing.
- i) Substantial Revenue Neutrality and Fiscal Solvency Required. LAFCO will only approve a proposal for incorporation if the proposed city will be able to fund municipal services, and remain financially solvent, after making adjustments to attain substantial revenue neutrality. As used herein, the term “substantial revenue neutrality” shall mean an exchange of revenue and service delivery costs between the new city and the various affected agencies, as more specifically required by Government Code Section 56815. The determination of whether the proposed incorporation meets this standard will be the objective of the Comprehensive Fiscal Analysis described above. In determining revenue neutrality, LAFCO will consider the overall impact on all agency funds and will not necessarily require revenue neutrality in each separate fund.
- j) The Commission shall encourage the County and incorporation proponents to reach an agreement with respect to revenue neutrality and shall actively facilitate such negotiations. However, if the parties are unable to reach an agreement within a reasonable period of time, the Commission shall make such determination.
- k) Financial Review Request. In accordance with the provisions outlined in Government Code Section 56801, any interested person or agency may request a review of the CFA by the Office of the State Controller within 30 days of the Commission’s approval of the document. The requesting party will be responsible for the State Controller’s charges to conduct the review, and is required to deposit the estimated cost before the review will be initiated. If the

requesting party fails to deposit the estimated cost and execute a payment agreement for the balance within 7 days of being notified of the amount, the request will be deemed withdrawn.

- l) Competing Applications Relative to the Proposed Incorporation. Where LAFCO receives more than one application affecting an area proposed for incorporation, and such competing application(s) is received within 60 days of the initial application for incorporation, the Commission shall consider such competing application(s) prior to approval of the incorporation proposal. (Government Code Section 56657)
- m) Cost of Processing the Application. The incorporation proponents shall normally be responsible for the costs of preparation of all necessary reports and staff time associated with the proposal as with any other application to LAFCO.

5.2. District Formation

- a) Consistency with LAFCO Policies. The formation of a special district must be consistent with the General Policies set forth in Section 2 of these Policies and Procedures, as well as specific policies for formations in Section 5.2.
- b) Need for a New District Required. LAFCO will only approve special district formations in areas that demonstrate a need for the proposed services and where no existing agency can adequately or efficiently provide such services, in an accountable manner as required by Government Code Section 56886.5.
- c) Plan for Services Required. Every proposal for formation of a new special district must include a Plan for Services that addresses the items identified in Government Code Section 56653.
- d) LAFCO Will Establish Service Pattern. LAFCO's approval of a district formation will designate the nature, location, and extent of any functions or classes of services for the new district. This designation will be based upon the Plan for Services.
- e) Consistency Required. LAFCO will only approve district formation applications that accommodate development that is consistent with the General, Master and Specific Plans of the applicable land use authority.
- f) Conflicts Not Allowed. LAFCO will not approve a district formation proposal if the Plan for Services conflicts with the sphere of influence and/or municipal service review of another agency unless better service provision will occur as determined under Section 4.2 above. In such event, the sphere of the other agency shall be amended to remove the area from the agency sphere to avoid overlapping spheres.
- g) Public Benefit Considered. LAFCO will consider whether the proposed district formation will benefit the affected public as a

whole, or only a select group. Absent other considerations, LAFCO will not approve a formation proposal that amounts, to a grant of governmental powers to a special interest group. LAFCO will also consider the impacts on other service providers, including the County.

- h) Fiscal Solvency. LAFCO will prepare a fiscal analysis for the proposed district which projects services to be provided, costs to service recipients, and revenue and expenses for a period of at least 5 years. LAFCO will not approve an application for district formation unless the fiscal analysis demonstrates the district can provide the needed services and remain fiscally solvent. If the financing element of the Plan for Services requires voter or landowner approval (for instance, a special tax or benefit assessment), LAFCO's approval of the proposal will require voter approval of the funding mechanism as a condition for completion of the formation.

5.3. Provision of New Services by Districts

- a) Policies Applicable to New Service Proposals. LAFCO will evaluate a proposal for a district to provide new services using the policies and standards applicable to the formation of a new district.
- b) Plan for Services Required. A proposal must include a Plan for Services that addresses the items identified in Government Code Section 56653. The Plan for service must include a fiscal feasibility analysis for the new service containing the elements set forth in 5.2 (h).
- c) New Services not subsidized. LAFCO will not approve a proposal for the provision of a new service where it is reasonably likely that existing ratepayers and/or taxpayers will have to subsidize the new service.

5.4. Consolidations and Merger of Districts into Cities

- a) Policies Applicable to Consolidations and Mergers. As stated in General Policies 2.9, LAFCO generally supports consolidation of agencies to obtain economies from the provision of consolidated services. For the purposes of LAFCO's policies and standards, a consolidation of cities or districts will be treated as incorporation or a district formation. The merger of a district into a city will be treated as if it were an annexation of the district's territory combined with a detachment or dissolution.
- b) General Requirements. Based upon the submitted Plan for Services and any other data provided, LAFCO will determine whether the cities' or districts' organizations and operations can

feasibly be combined. LAFCO will give particular attention to the following:

- i) Service plans and safeguards to ensure uniform and consistent service quality throughout the newly consolidated or merged jurisdiction.
 - ii) Staffing levels, personnel costs, and employment contracts.
 - iii) Potential for cost efficiencies and economies of scale.
 - iv) Potential for improved governance and accountability.
 - v) Plans for restructuring agency debt.
 - vi) Provisions for combining capital reserves and improvement plans.
 - vii) Provisions for establishing zones of benefit, if necessary.
- c) Special Consolidation Procedures. (Government Code Section 56853). If two or more local agencies file an application to consolidate that meets the standards established in Government Code Section 56853, the Commission will either approve the proposal or require conditions that will ensure the proposal is consistent with LAFCO policy. The Commission will notify the agencies of change in the material proposed conditions in the application, in accordance with the provisions established in Government Code Section 56853.
- d) Procedure for Formation of Subsidiary Districts
Proposals for the merger of a district into a city or establishment of the district as a subsidiary district of the city shall follow the special procedure set forth in Government Code Sections 56861-56863.

5.5 LAFCO Initiated Changes of Organization (Government Code Section 56375 (a))

- a) General. LAFCO may initiate proceedings for consolidation of districts, district formation and the dissolution, merger, or establishment of subsidiary districts; or reorganizations that include any of these changes of organization in accordance with all relevant provisions of the Cortese-Knox-Hertzberg Act. Such changes of organization shall hereinafter be referred to as LAFCO-initiated proposals for the purposes of this section.
- b) Initiation of a proposal must be consistent with the recommendation of a study prepared pursuant to Government Code Sections 56378 (studies of governmental agencies) or 56425 (Spheres of Influence) or 56430 (Municipal Service Reviews), which evaluates the factors listed in Section 5.4 above, and 5.4(d) below. The Commission will publicly consider a request

from any interested person or agency to conduct such a study, or may initiate such as study on its own.

- c) Procedure for Initiation of Proposals by the Commission.
 - i) The Commission may initiate a proposal for any combination of change of organization or reorganization consistent with the recommendation of a study conducted pursuant to this section.
 - ii) The Commission shall adopt a resolution of initiating the proposal at a public meeting. The resolution shall contain all the information normally included in a Resolution of Application. The Executive Officer shall provide each affected agency with notice of the meeting at least 21 days in advance.
 - iii) The Commission may decide to refer the matter to a reorganization committee constituted pursuant to Section Government Code Section 56826.
 - iv) A proposal initiated by the Commission will be processed in accordance with all normal and specific procedural requirements of the Cortese-Knox-Hertzberg Act and these Policies.

- d) Policy Considerations. The Commission's general and applicable specific policies and standards will be used to evaluate LAFCO-initiated proposals. Additionally, the Commission must make specific determinations pursuant to Government Code Section 56881 if it approves a LAFCO initiated proposal:
 - i) Public service costs of the proposal are likely to be less than or substantially similar to the costs of alternative means of providing the service.
 - ii) The change of organization or reorganization promotes public access and accountability for community service needs and financial resources.

5.6 Disincorporations and Districts Dissolutions

- a) Grounds for Disincorporation and District Dissolutions.
 - i) LAFCO will approve a proposal for disincorporation/dissolution only if it determines that the services offered or authorized are no longer necessary; or
 - ii) The services can better be provided by another agency or provider and that agency agrees to provide the services; or
 - iii) The agency is insolvent and unable to provide the services.

- iv) The agency meets the conditions for non-use of corporate powers set forth in Government Code Section 56871.
- b) Bonded Indebtedness. Where possible, LAFCO shall condition any dissolution to provide for the repayment of any bonded indebtedness or other obligations of the dissolved agency.
- c) Disposition of Remaining Funds. A disincorporated city must turn its treasury over to the County Treasurer within thirty (30) days of disincorporation. A dissolved district shall turn over its funds to its successor as determined under Government Code Section 57451.

5.7 Reorganizations

- a) Evaluation Process. LAFCO will independently evaluate each component organizational change, which makes up a reorganization proposal following the standards contained in these Policies, Standards and Procedures applicable to that component of the reorganization. LAFCO will then balance the overall benefits against the costs and adverse impacts, in deciding on the reorganization as a whole.
- b) Mitigation Requirements. The service quality, efficiency, and effectiveness available prior to reorganization shall constitute a benchmark for determining significant adverse effects upon an interested party. LAFCO will approve a proposal for reorganization, which results in significant adverse effects only if effective mitigating measures are included in the proposal.

6. GENERAL PROCEDURES

6.1. Applicant Responsible for Cost of Service

Applicants are expected to pay all costs associated with processing a proposal through LAFCO, including, without limitation, staff time at approved charge-out rates, consultant charges, county and state charges, and other expenses. LAFCO has adopted a deposit schedule depending on the nature of the proposal, requiring the payment of an initial deposit and subsequent deposits as necessary. LAFCO will periodically apply monies from the deposit to reimburse for costs incurred. The Executive Officer may require an additional deposit when the initial deposit runs low or where necessary to cover an anticipated additional expense. If the deposit is not timely made, processing of the proposal will be suspended until it is submitted. LAFCO will periodically provide the applicant with an expenditure report detailing the application of the deposit monies.

6.2. Notice and Public Participation

- a) Public Participation Encouraged. LAFCO encourages participation in its decision-making process. The Cortese-Knox-Hertzberg Act provides for a wide dissemination of notice. LAFCO shall not necessarily be limited to the minimums required by law and policy. The Commission will provide opportunity to the public to be heard at LAFCO meetings in accordance with the procedures set forth in the By-Laws.
- b) Unnecessary Public Hearings Eliminated. Where LAFCO is authorized by Cortese-Knox-Hertzberg to consider a proposal without public hearing, the proposal will be considered by the Commission without a public hearing, unless the Executive Officer or the Commission determines that the matter is of sufficient public interest or controversy to warrant a public hearing.

6.3. Application by Resolution Preferred

- a) While Cortese-Knox-Hertzberg permits initiation of applications to LAFCO either by resolution of an affected agency or by direct landowner/voter petition, LAFCO prefers that the resolution procedure be utilized wherever feasible. Use of the resolution of application procedure is preferable because: 1) it involves the affected public agency early in the process to assure that the agency's concerns are considered, and 2) better integrates CEQA processing by the affected public agency as lead agency. Each applicant shall be advised of this policy at the earliest possible time.

- b) Prior to accepting a petition initiated application, LAFCo will require the proponents to demonstrate that they have attempted to initiate proceedings by a resolution of application but that the agency has refused to adopt such a resolution

6.4. Application Requirements

- a) LAFCO encourages a pre-application discussion between the proponent and LAFCO staff, which can save the prospective applicant substantial time once the process has begun. LAFCO staff will review procedures, information requirements, processing fees and provide application forms.
- b) Applications to the Commission must contain all the information and materials required by Government Code Sections 56652 and 56653 as well as the applicable fees or deposit toward fees as specified by the LAFCO Fee Schedule. Except when the Commission is the Lead Agency pursuant to the California Environmental Quality Act (as defined in Public Resources Code Section 21067), an application must also contain complete documentation of the Lead Agency's environmental determination. No application for a change of organization or reorganization will be deemed complete and scheduled for hearing unless the requirements of Section 99 regarding tax apportionment agreements of the Revenue and Taxation Code have been satisfied.
- c) The application shall also include an agreement to pay costs and indemnification. The agreement to pay costs and indemnification must be signed by the applicant for the application to be deemed complete.
- d) Where the application is by resolution of application from an agency, the application and related agreements must be signed by an authorized officer of the agency.

6.5. Reconsideration of LAFCO Decisions

- a) Request and Fees. The request for reconsideration shall be made consistent with the provisions of Government Code Section 56895, and shall be accompanied by the appropriate reconsideration fee deposit as established in the LAFCO deposit schedule. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the Commission making determinations.
- b) Grounds for Reconsideration. LAFCO will normally only change its previous determination where one or more of the following circumstances are shown to exist:

- i) Compelling new evidence exists about the proposal, that was previously unavailable, that might alter the Commission decision.
- ii) Factors significant to the Commission decision were overlooked, or have changed, such as a change in an applicable federal, state, or local law that might alter the Commission's decision.
- iii) A significant, prejudicial error in procedure is found.
- iv) The Executive Officer shall **initially** review the reconsideration request **with respect to compliance** with i, ii, or iii above, **and shall advise the party seeking reconsideration about the need to satisfy one or more of the grounds for change in the decision.**

6.6. Conducting Authority Proceedings (Government Code Section 57000)

For proposals for which the Commission acts as Conducting Authority, the following applies:

- a) Waiver of Conducting Authority Proceedings. The Commission may waive final Conducting Authority proceedings and authorize the Executive Officer to file a Certificate of Completion upon approval of a change of organization or reorganization and satisfaction of all terms and conditions pursuant to Government Code Sections 56663 and 57200.
- b) Setting the Matter for Hearing. The Commission shall include in the terms and conditions of its approval for a proposal a stipulation of a period, not less than 21 nor more than 60 days, to be allowed for the collection and filing of written protests. Within 35 days of final LAFCO action, the Executive Officer shall set the matter for hearing according to the schedule stipulated by the Commission and cause a notice thereof to be published in compliance with Government Code Section 56150 et seq.
- c) Delegation of Authority to Conduct Protest Hearing. The Commission shall delegate to the Executive Officer the authority to conduct a protest hearing unless it specifies otherwise. Such delegation may include making the finding regarding the value of written protests and appropriate order as authorized by Government Code Section 57075 et. seq. Such delegation shall be stated in the terms and conditions for approval of the subject proposal.

7. ADOPTION AND AMENDMENT

7.1. Amendments

Amendments to Sutter LAFCO's Policies and Procedures shall be made in compliance with the LAFCO Commission's Bylaws or when significant changes in state legislation occurs or when a city or county adopts a new general plan.

**Letter 4 John Benoit, Executive Officer (Sutter County Local Agency
Response Formation Commission)
June 17, 2019**

- 4-1 The comment states that previous Sutter LAFCo comments, dated February 2, 2016, on the NOP were not included in the Draft EIR. As shown in Chapter 2, Revisions to the Draft EIR, this letter has been included in Appendix B.
- 4-2 The comment states that there needs to be clarification on whether Sutter LAFCo is the Lead or Responsible Agency for the Sphere of Influence Amendment. As stated in the Draft EIR on page 2-40, the City acknowledges that Sutter LAFCo is a Responsible Agency for the Sphere of Influence Amendment. As stated in CEQA Guidelines Section 15050(a), “Where a project is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparing an EIR or Negative Declaration for the project. This agency shall be called the Lead Agency.” The City of Yuba City has assumed the role of Lead Agency. As defined in the CEQA Statute Section 21069, “‘Responsible agency’ means a public agency, other than the lead agency, which has responsibility for carrying out or approving a project.”
- 4-3 The comment requests that the Draft EIR analyze the impacts on prime agricultural lands, as defined by Government Code Section 56064. An analysis of the loss of agricultural land is provided in pages 3.2-1 to 3.2-23 of the Draft EIR in Section 3.2, Agriculture and Forestry Resources. As described in Impact 3.2-1, the project would result in the loss of 581 acres of Important Farmland. The EIR concludes that the loss of this important agricultural land is significant for both the project itself and on a larger cumulative basis. The BSMP EIR determined that the loss of important agricultural land would be a significant and unavoidable adverse environmental impact.

Mitigation to compensate for the loss of important agricultural land under the BSMP is not economically feasible. According to the financing plan for the BSMP project, given the amount of infrastructure required by development proposed under the BSMP, and the fact that all of this infrastructure must be funded by the development internally without sharing it with other existing or future areas of the City, there are concerns about financial feasibility of the BSMP project. The total fee burden of development proposed under the BSMP is estimated to significantly exceed 20 percent of the current residential sale prices, which is higher than what is considered typical for a financially-feasible project. In addition, the fees associated with the BSMP are significantly higher than those in other similar areas in the region. As a result, the additional costs associated with mitigation for important agricultural land, such as agricultural easements, land bank, etc. would likely result in development under the BSMP becoming financially infeasible.

In addition, development of the BSMP area under the County’s current zoning designation would result in more consumption of land per capita. Portions of the BSMP

- are currently zoned Estate Residential, which allows for a density of between 0.3 and 2 dwelling units per acre (du/ac), and Low Density Residential, which allows for a density of between 2 and 8 du/ac. Proposed residential designations under the BSMP include Low Density Residential, which allows for a density of between 2 and 8 du/ac, Low-Medium Density Residential, which allows for a density of between 6 and 14 du/ac, and Medium/High Density Residential, which allows for a density of between 13 and 36 du/ac. As a result, the higher densities associated with the BSMP would result in less agricultural land consumption per capita as compared to the residential densities that would occur under the County's current zoning ordinance.
- 4-4 The comment states that Sutter LAFCo adopted updated Policies and Procedures on May 9, 2019, with respect to the contents of Spheres of Influence and changes of organization. The comment references a comment from the Draft EIR which indicated that, at the time of the Draft EIR's publication, Sutter LAFCo did not have policies relating to agricultural resources. The City has reviewed the updated Policies, Standards and Procedures (Letter 4, Appendix B). In regards to Section 2.14 of Sutter LAFCo's updated Policies, Standards and Procedures, the City acknowledges Sutter LAFCo's need to make findings regarding the conversion of agricultural land and will work with Sutter LAFCo to provide the information needed at the time of application. As shown in Chapter 2, Revisions to the Draft EIR, the statement regarding Sutter LAFCo's policies regarding agricultural land has been amended. As consistent with the requirements of CEQA, analysis of agricultural land is included in the Draft EIR, as described in response to comment 4-3.
- 4-5 The comment states that prior to a Sphere of Influence update application, the City and County must meet to discuss the application, development standards, and zoning requirements within the proposed City Sphere of Influence. The City and County have been meeting as part of this ongoing process and will continue to meet throughout the process to come to agreement, the results of which will be shared with Sutter LAFCo.
- 4-6 The comment expresses concern about cumulative service impacts related to subsequent development. An analysis of the project's impacts to public services under a cumulative scenario, is provided in Section 3.13, Public Services and Recreation. In addition, the comment is correct to assume that subsequent development will undergo environmental review on a project-by-project basis. This environmental review may later be used by Sutter LAFCo at its discretion in considering individual future annexations.
- 4-7 The comment states that the EIR needs to address the creation of an unincorporated island. See response to comment 3-4.
- 4-8 The comment requests that any additional information on the project be provided to the commenting agency. While the comment does not directly address an environmental issue the comment is acknowledged and will forwarded to the City. As the City proceeds

through the Sphere of Influence Amendment and annexation process, additional information will be provided to Sutter LAFCo.

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DEPARTMENT OF TRANSPORTATION

DISTRICT 3
703 B STREET
MARYSVILLE, CA 95901
PHONE (530) 741-4286
FAX (530) 741-5346
TTY 711
www.dot.ca.gov



*Serious drought.
Help save water!*

June 27, 2019

GTS# 03-SUT-2017-00019
03-SUT-99 PM 27.639
SCH# 2017012009

Darin Gale
Development Services Director
Yuba City
1201 Civic Center Boulevard
Yuba City, CA 95993

Bogue Stewart Master Plan Environmental Impact Report (EIR)

Dear Darin Gale:

Thank you for including the California Department of Transportation (Caltrans) in the EIR review process for the project referenced above. The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. The Local Development-Intergovernmental Review (LD-IGR) Program reviews land use projects and plans through the lenses of our mission and state planning priorities of infill, conservation, and travel-efficient development. To ensure a safe and efficient transportation system, we encourage early consultation and coordination with local jurisdictions and project proponents on all development projects that utilize the multimodal transportation network. Caltrans provides the following comments for the EIR.

5-1

The Bogue Stewart Master Plan is located in Yuba City south of Bogue Road (Rd), and consists of 741 acres that contains low and medium residential uses along with community commercial, neighborhood commercial, office, business, park, and public uses. At buildout, the master plan will accommodate 2,565 dwelling units and 1,288,723 square feet of non-residential uses. The following comments are based on the EIR received.

Traffic Operations

The below comments are made by Caltrans Highway Operations to provide additional information and/or clarification on the proposed project:

5-2

- The proposed development could have significant traffic impacts at the existing location. Therefore, Caltrans is requesting to receive a copy of the synchro file(s) for review.

Mr. Darin Gale, Sutter County
June 27, 2019
Page 2

- The written report and tables submitted have many inconsistencies, please fix the inconsistencies. The following is only one example of said inconsistencies.
 - Example: Table 3.14-27 indicates an available southbound (SB) left storage length of 450 feet (ft) at SR 99/Bogue Rd; however, the text above Table 3.14-27 mentions a 500 ft storage length.
- More detail is need on the proposed expansion of Bogue Rd between SR 99 and south Walton.
 - How will Bogue Rd west of SR 99 be widened? Will it be widened in the north or south direction?
 - If in the south direction, per Google street view, there is a gas station in the southwest quadrant, how does it fit into the site plan?
- According to the volumes provided, an additional northbound and SB right turn lane on SR 99 is recommended at Bogue Rd.
- The intersection at SR 99/Stewart Rd meets the existing AM Peak Hour Warrant. It is our recommendation to install the signal during Phase 1 of the project.
- Page 3.14-28 mentions right-turn only driveways on Bogue Rd. It is recommended to align Romana Ave with the proposed driveway on Bogue Rd.
- Caltrans does not recommend a transit shelter along SR 99.

5-3

5-4

5-5

5-6

5-7

5-8

Deferred Mitigation for Cumulative Impacts

Sutter County, the Lead Agency and applicant are responsible for all project mitigation and monitoring to determine future needed improvements to the State Highway System.

The project's contribution to cumulative impacts to the State Highway System may be addressed by paying the project's proportional share for the cost of the improvements identified. As no transportation mitigation fee program with a nexus to this project is in place within Sutter County, the Lead Agency and Applicant may execute a Cooperative Agreement or a Transportation Mitigation Agreement with Caltrans. When mitigation is needed at Stewart Rd the Intersection Control Evaluation (ICE) process should be considered to mitigate the additional traffic from the proposed project. Here is a URL for the ICE process: <http://www.dot.ca.gov/trafficops/ice.html>. Through these mechanisms, it would be possible to defer the mitigation project for a future date in which the total cost of the improvements has been accumulated, or to defer payment until it must be encumbered to implement the mitigation measures.

5-9

Mr. Darin Gale, Sutter County
June 27, 2019
Page 3

Encroachment Permit

Any project along or within the State's Right-of-Way (ROW), including above and below, requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five sets of plans clearly indicating State ROW must be submitted to:

Hikmat Bsaibess
California Department of Transportation
District 3, Office of Permits
703 B Street
Marysville, CA 95901

5-10

Please provide our office with copies of any further actions regarding this project. We would appreciate the opportunity to review and comment on any changes related to this development.

If you have any questions regarding these comments or require additional information, please contact Dianira Soto, Intergovernmental Review Coordinator for Sutter County, by phone (530) 740-4905 or via email at dianira.soto@dot.ca.gov.

5-11

Sincerely,

Susan Zanchi
Susan Zanchi, Branch Chief
Office of Transportation Planning
Regional Planning Branch—North

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Letter 5 **Susan Zanchi, Branch Chief Office of Transportation Planning**
Response **Branch - North (Caltrans)**
 June 27, 2019

- 5-1 The comment includes an opening statement and does not address the adequacy of the environmental analysis presented in the Draft EIR. No response is necessary.
- 5-2 The comment requests a copy of the synchro files. The City will provide a copy of the synchro files to Caltrans.
- 5-3 The comment states that there are several inconsistencies within the Draft EIR and provides an example, using information shown in Mitigation Measure 3.14-4(a). The comment references the difference between a 500-foot queue storage length discussed under the paragraph on page 3.14-87 of the Draft EIR which states “Significance After Mitigation: Table 3.14-27 displays the predicted effectiveness of this mitigation measure under existing plus BSMP conditions. As shown, the maximum queue in the southbound left-turn lane would be 300 feet, which is less than the 500 feet per lane that would be provided with this mitigation.”

Table 3.14-27 contains a 450-foot queue storage amount that differs from the 500 feet referenced in the above text. As described on page 3.14-86, Impact 3.14-4 states that the project would result in significant queuing-related impacts at State Route 99 and Bogue Road and provides an available storage length of 450 feet. Mitigation Measure 3.14-4(a) would include adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane (increasing the existing 450-foot storage length to 500 feet). As described in the Draft EIR, Table 3.14-27 “displays the effectiveness of this mitigation measure” by showing the existing storage on the left portion of the table and the maximum queue length under existing plus BSMP conditions with mitigation measures on the right side of the table. There is no inconsistency in this instance.

While the comment states that there are “many inconsistencies”, the comment does not provide sufficient evidence of other errors and inconsistencies. No further response is possible.

- 5-4 This comment requests additional information regarding the proposed expansion of Bogue Road. As stated in the Draft EIR (page 3.14-28), the BSMP identifies Bogue Road right-of-way and improvements. There are no plans to move the gas station at the intersection of State Route 99 and Bogue Road. Page 3.14-28 states that “the widening of Bogue Road would require movements at the two driveways into gas station/convenience center on Bogue Road to continue to be restricted to right-turns only.” During project review, the City will work with the developer to determine how the roadway expansion will be accomplished.

- 5-5 The comment states that an additional northbound and southbound right turn lane is recommended on State Route 99 at Bogue Road. The State Route 99/Bogue Road intersection currently consists of a 250-foot southbound right-turn lane and a 300-foot northbound right-turn lane.

The recommended lane configurations from Draft EIR Mitigation Measure 3.14-3(a)(i) would result in a cumulative plus BSMP LOS D at this intersection, which is considered an acceptable LOS. The recommended lane configurations do not include dual northbound and southbound right-turn lanes for two reasons. First, they are not necessary to achieve the LOS goal. Second, these lanes would carry less than 300 vehicles per hour under cumulative plus project buildout conditions (per Figure 3.14-14). According to Page 400-26 of the Highway Design Manual (Caltrans, 2018), 300 vehicles per hour is a threshold at which dual left-turn lanes should be considered. While an equivalent vehicular threshold is not provided for right-turns, it stands to reason that this standard would be at least 300 vehicles per hour since right-turns may be made on red (whereas lefts cannot). Additionally, pages 789-791 of the Highway Design Manual display the maximum queue lengths for these turn lanes. As shown, the southbound right-turn lane would have a maximum queue of 200 feet, which is less than the 250 feet that is provided. The northbound left-turn lane would have a maximum queue of 325 feet, which exceeds the available storage by 25 feet.

Therefore, it would seem reasonable that the City, Caltrans, and applicant, when coordinating on the specific improvements to be constructed at this intersection should consider lengthening the northbound and southbound right-turn lanes such that they provide both adequate storage and deceleration. Consideration may also be given to adding a right-turn overlap phase. Dual northbound and southbound right-turns do not appear warranted to accommodate the projected volume of traffic and LOS goal for this intersection. The developer and City will coordinate with Caltrans on final project design to ensure that Caltrans concerns are addressed regarding the State Route.

- 5-6 The comment recommends that a signal be installed at the intersection of State Route 99 and Stewart Road during Phase 1. As discussed under Impact 3.14-3, Phase I and II would not cause any Caltrans intersections to worsen from acceptable to unacceptable, or exacerbate to a significant degree currently unacceptable operations. Therefore, the installation of a signal at the intersection of State Route 99 and Stewart Road during Phase 1 is not required. The City agrees that the intersection needs to be improved and will be working with the applicant and Caltrans to determine exact timing of intersection improvements during the final phase. This will be a requirement placed on the tentative subdivision maps.
- 5-7 The comment recommends that Ramona Avenue be aligned with the proposed driveway on Bogue Road. The City will require the developer to meet City and Caltrans requirements; however, until there is a proposed development project for the area

- specified, this specific detail cannot be determined. This comment is noted and will be considered during future project review.
- 5-8 The comment states that Caltrans does not recommend a transit shelter along State Route 99. Comment noted. As described in Impact 3.14-6, transit stops have been identified on key roadways throughout the BSMP area and do not include any stops on State Route 99. The City will not require a bus shelter be located on State Route 99. No further response is necessary.
- 5-9 The comment states that a clear mechanism needs to be in place to provide for mitigation for transportation-related impacts. As stated under Mitigation Measure 3.14-9(a), the project is required to contribute fair share costs for making transportation-related improvements under cumulative conditions. The City will establish a BSMP impact fee prior to approval of any development projects which would pay for needed road improvements. The City acknowledges the receipt of the Intersection Control Evaluation process and will continue to comply, and require future developers to comply, with Caltrans requirements.
- 5-10 The comment states that any project along or within Caltrans right-of-way requires an encroachment permit and accompanying documentation. The City is aware of this requirement and process and will continue to comply, and require future developers to comply, with Caltrans requirements.
- 5-11 The comment is a closing statement and provides contact information for the agency. This comment does not address the adequacy of the environmental analysis presented in the Draft EIR. No further response is necessary.

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CHAPTER 4

Mitigation Monitoring and Reporting Program

4.1 Introduction

Public Resources Code section 21081.6 and section 15097 of the California Environmental Quality Act (CEQA) Guidelines require public agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a mitigated negative declaration or specified environmental findings related to environmental impact reports.

The following is the Mitigation Monitoring and Reporting Program (MMRP) for the Bogue Stewart Master Plan (BSMP). The intent of the MMRP is to track and successfully implement the mitigation measures identified within the Draft Environmental Impact Report (Draft EIR) for the proposed project.

4.2 Mitigation Measures

The mitigation measures are taken from the BSMP Draft EIR and are assigned the same number as in the Draft EIR. The MMRP describes the actions that must take place to implement each mitigation measure, the timing of those actions, and the entities responsible for implementing and monitoring the actions.

4.3 MMRP Components

The components of the attached tables, which contain applicable mitigation measures, are addressed briefly, below.

Impact: This column summarizes the impact stated in the Draft EIR.

Mitigation Measure: All mitigation measures identified in the Bogue Stewart Master Plan Draft EIR will be presented, as revised in the Final EIR, and numbered accordingly.

Action(s): For every mitigation measure, one or more actions are described. The actions delineate the means by which the mitigation measures will be implemented, and, in some instances, the criteria for determining whether a measure has been successfully implemented. Where mitigation measures are particularly detailed, the action may refer back to the measure.

Implementing Party: This item identifies the entity that will undertake the required action.

Timing: Implementation of the action must occur prior to or during some part of project approval, project design or construction or on an ongoing basis. The timing for each measure is identified.

Monitoring Party: The City of Yuba City is primarily responsible for ensuring that mitigation measures are successfully implemented. Within the City, a number of departments and divisions would have responsibility for monitoring some aspect of the overall project. Other agencies, such as the Feather River Air Quality Management District, may also be responsible for monitoring the implementation of mitigation measures. As a result, more than one monitoring party may be identified.

**TABLE 4-1
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Responsible Party for Implementation	Verification of Implementation (Responsible Party)		Timing of Compliance				Verification of Compliance				Comments
		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature	Date	
3.3 Air Quality												
3.3-1(a) Fugitive Dust Control Plan (BSMP/NR/KER)												
During the construction of the BSMP, individual project applicants shall submit to FRAQMD a Fugitive Dust Control Plan with the following mitigation measures to be implemented:												
a) All grading operations on a project shall be suspended when sustained winds exceed 20 miles per hour (mph) or when winds carry dust beyond the property line despite implementation of all feasible dust control measures;												
b) Construction sites shall be watered as directed by the FRAQMD and as necessary to prevent fugitive dust violations.												
c) An operational water truck shall be on-site at all times. Water shall be applied to control dust as needed to prevent visible emissions violations and off-site dust impacts.												
d) On-site dirt piles or other stockpiled particulate matter shall be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind-blow dust emissions. The use of approved nontoxic soil stabilizers shall be incorporated according to manufacturers' specifications to all inactive construction areas.												
e) All transfer processes involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions.												
f) Approved chemical soil stabilizers shall be applied according to the manufacturers' specifications to all inactive construction areas (previously graded areas that remain inactive for 96 hours), including unpaved roads and employee/equipment parking areas.												
g) To prevent track-out, wheel washers shall be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed before each trip. Alternatively, a gravel bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks and prevent/diminish track-out.	Contractor to implement measures. City of Yuba City to confirm compliance with FRAQMD.				X				As needed during construction.			
h) Paved streets shall be swept frequently (water sweeper with reclaimed water recommended; wet broom permitted) if soil material has been carried onto adjacent paved, public thoroughfares from the project site.												
i) Temporary traffic control shall be provided as needed during all phases of construction to improve traffic flow, as deemed appropriate by the appropriate department of public works and/or California Department of Transportation (Caltrans), and to reduce vehicle dust emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph.												
j) Traffic speeds on all unpaved surfaces shall be reduced to 15 mph or less, and unnecessary vehicle traffic shall be reduced by restricting access. Appropriate training to truck and equipment drivers, on-site enforcement, and signage shall be provided.												
k) Ground cover shall be reestablished on the construction site as soon as possible and before final occupancy through seeding and watering.												
l) Open burning shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (e.g., trash, demolition debris) may be conducted at the project site. Vegetative wastes shall be chipped or delivered to waste-to-energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials off-site for disposal by open burning.												

**TABLE 4-1
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Responsible Party for Implementation	Verification of Implementation (Responsible Party)		Timing of Compliance				Verification of Compliance				Comments
		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature	Date	
3.3-1(b) Control Exhaust Emissions (BSMP/NR/KER) Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0, Visible Emissions Limitations (40 percent opacity or Ringelmann 2.0). Operators of vehicles and equipment found to exceed opacity limits shall take action to repair the equipment within 72 hours or remove the equipment from service. Failure to comply may result in a notice of violation from FRAQMD.	Contractor to implement measures. City of Yuba City to confirm compliance with FRAQMD.				X		As needed during construction.					
3.3-1(c) Limit Equipment Idling (BSMP/NR/KER) Construction contracts within the BSMP shall limit idling time to 5 minutes in accordance with ARB airborne air toxic control measure 13 (CCR Chapter 10 Section 2485) unless more time is required per engine manufacturers' specifications or for safety reasons.	Contractor to implement measures. City of Yuba City to confirm compliance with FRAQMD.				X		As needed during construction.					
3.3-1(d) Equipment Registration (BSMP/NR/KER) Portable engines and portable engine-driven equipment units used on the project site, with the exception of on-road and off-road motor vehicles, may require ARB Portable Equipment Registration with the state or a local district permit. The owner/operator of the equipment shall be responsible for arranging appropriate consultations with ARB or the FRAQMD to determine registration and permitting requirements before the equipment is operated at the site.	Contractor to implement measures. City of Yuba City to confirm compliance with FRAQMD.				X		As needed during construction.					
3.3-1(e) Equipment Emissions Plan (BSMP/NR/KER) During the construction of the BSMP, individual project applicants shall assemble a comprehensive inventory list (i.e., make, model, engine year, horsepower, emission rates) of all heavy-duty off-road (portable and mobile) equipment (50 horsepower and greater) that will be used an aggregate of 40 or more hours for a construction project. Applicants shall provide a plan for approval by FRAQMD demonstrating that the heavy-duty (equal to or greater than 50 horsepower) off-road equipment to be used for construction, including owned, leased, and subcontractor vehicles, will achieve a project-wide fleet-average 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent ARB fleet average at the time of construction. These equipment emission reductions can be demonstrated using the most recent version of the Construction Mitigation Calculator developed by the SMAQMD. Acceptable options for reducing emissions may include use of late-model engines, low emission diesel products, alternative fuels, engine retrofit technology (Carl Moyer Guidelines), after-treatment products, voluntary off-site mitigation projects, the provision of funds for air district off-site mitigation projects, and/or other options as they become available. In addition, implementation of these measures would also result in a 5 percent reduction in ROG emissions from heavy-duty diesel equipment. FRAQMD shall be contacted to discuss alternative measures.	Contractor to implement measures. City of Yuba City to confirm compliance with FRAQMD				X		As needed during construction.					
3.3-2 Implement Operational Mitigation Measures (BSMP/NR/KER) The project applicant(s) for tentative subdivision maps and development projects proposed under the BSMP shall implement the mitigation measures, as applicable to the proposed subdivision map or development project. At the time entitlements are sought, the City will evaluate measures below, determine which measures are applicable, and include those measures as conditions of approval or some other enforceable mechanism. All feasible measures listed below shall be incorporated into subdivision maps and development projects within the BSMP.	Individual project applicants. City of Yuba City to confirm compliance with FRAQMD				X		As needed during construction.					

**TABLE 4-1
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Responsible Party for Implementation	Verification of Implementation (Responsible Party)		Timing of Compliance				Verification of Compliance			Comments	
		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature		Date
3.3-2 (cont.)												
a) Subdivision maps and development projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park shall be developed in coordination with local transit providers to ensure proper placement and design of transit stops and accommodate public transit for both employees and patrons.												
b) Subdivision maps and improvement plans shall be designed to provide convenient and safe bicycle, pedestrian, and transit access between neighborhoods and areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park, as well as parks, trails, and other destinations.												
c) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall distribute proposed parking and not concentrate parking exclusively between the front building façade and the primary abutting street where feasible.												
d) Cul-de-sacs are allowed only where they would not create a barrier for pedestrian and bicycle access or circulation between homes and destinations.												
e) Employment generating projects that anticipate more than 50 full-time equivalent employees shall participate in the Yuba-Sutter Transportation Management Association.												
f) Subdivision maps and improvement plans shall be designed to accommodate safe and frequent pedestrian crosswalks, with more frequent crossings in areas expected to have higher pedestrian traffic, such as schools, parks, trail connections, higher-density residential areas, and areas with retail, services, office uses, and other non-residential uses.	Individual project applicants. City of Yuba City to confirm compliance with FRAQMD				X				As needed during construction.			
g) Subdivision maps and improvement plans shall be designed to discourage concentration of traffic at a few intersections. Multiple points of access shall be provided whenever feasible. Roads shall be arranged in an interconnected block pattern. The maximum average block length in subdivisions is 600 feet unless unusual existing physical conditions warrant an exception to this standard, but shorter block lengths should be used around areas designated Community Commercial and Neighborhood Commercial.												
h) Subdivision maps and improvement plans shall be designed to connect with adjacent roadways and stubbed roads and shall provide frequent stubbed roadways in coordination with future planned development areas.												
i) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to minimize the amount of on-site land required to meet parking, internal circulation, and delivery/loading needs.												
j) Subdivision maps and development projects within Community Commercial and Neighborhood Commercial areas shall be designed to break up any proposed surface parking with landscaping and provide pedestrian routes from parking areas to building entrances.												
k) The City will reduce the amount of off-street parking required or eliminate off-street parking requirements for projects that propose housing units restricted to lower-, very low-, or extremely low-income households.												

**TABLE 4-1
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Responsible Party for Implementation	Verification of Implementation (Responsible Party)		Timing of Compliance				Verification of Compliance			Comments	
		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature		Date
3.3-2 (cont.)												
l) Residential subdivision maps shall orient the majority of buildings so that the longer axis of the building, also known as the ridge line, is oriented east-to-west, in order to maximize the potential for passive solar heating in the winter and to minimize heat gain from the afternoon summer sun.												
m) Subdivision maps and development projects proposing off-street surface parking lots shall incorporate shade trees or shade structures to provide a minimum of 50 percent shading (at maturity, where trees are used).												
n) Subdivision maps and development projects shall use climate-appropriate landscaping in parks and open space, landscaping within new rights of way, yards, and other appropriate spaces.	Individual project applicants											
o) Provide secure, covered bicycle parking for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may consist of a separate secure, covered bicycle parking area at each employment location or larger shared bicycle parking area/s located and designed to serve multiple locations.	City of Yuba City to confirm compliance with FRAQMD				X			As needed during construction.				
p) Shower and locker facilities shall be provided for employees of projects located in areas designated Community Commercial, Neighborhood Commercial, Office Park, and Business Park. This may be achieved by incorporating a shower and locker facility into the design of each proposed use, or facilities located and designed to serve multiple locations.												
q) Residential development that proposes fireplaces shall use the lowest emitting commercially available fireplace.												
r) Provide electric vehicle charging facilities and priority parking at non-residential uses for electric and carpool/vanpool vehicles.												
3.3-3 Consistency with the Triennial Air Quality Attainment Program (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(a) through Mitigation Measure 3.3-1(e) and Mitigation Measure 3.3-2	Individual project applicants				X			As needed during construction.				
3.3-5 Equipment Emissions Plan (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(e)	Individual project applicants				X			As needed during construction.				
3.3-7(a) Fugitive Dust Control Plan (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(a)	Individual project applicants				X			As needed during construction.				
3.3-7(b) Control Exhaust Emissions (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(b)	Individual project applicants				X			As needed during construction.				
3.3-7(c) Limit Equipment Idling (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(c)	Individual project applicants				X			As needed during construction.				
3.3-7(d) Equipment Registration (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(d)	Individual project applicants				X			As needed during construction.				
3.3-7(e) Equipment Emissions Plan (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(e)	Individual project applicants				X			As needed during construction.				
3.3-8 FRAQMD Best Available Mitigation Measures (BSMP/NR/KER) Implement Mitigation Measure 3.3-2.	Individual project applicants				X			As needed during construction.				
3.3-10 Equipment Emissions Plan (BSMP/NR/KER) Implement Mitigation Measure 3.3-1(e).	Individual project applicants				X			As needed during construction.				

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3.4 Biological Resources												
3.4-1 Protection of Jurisdictional Waters and Wetlands (BSMP/NR/KER)												
a) Prior to grading activities, the City shall require the project applicant [for an individual project pursuant to the BSMP] to prepare a formal aquatic resources delineation in accordance with the USACE Minimum Standards for Acceptance of Aquatic Resources Delineation Reports for all areas of the individual development project site to determine if any wetlands or other waters of the U.S. potentially subject to Sections 401 and 404 of the CWA exist on that site. If no potential wetlands or other waters of the U.S. are identified, a report shall be submitted to the City for its records and no additional measures are required. If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual project site, then measure 3.4-1(b) shall be implemented (below). If potential canals, streams, or lakes are identified that may be impacted by project activities, mitigation 3.4-1(c) shall also be implemented.	Individual project applicants. City of Yuba City and USACE to confirm compliance.			X					As needed during construction.			
b) If the formal aquatic resources delineation identifies potentially jurisdictional features on an individual development project site, then the report shall be submitted to the USACE for verification and issuance of a jurisdictional determination. If any wetlands or waters are determined to be under the jurisdiction of the USACE or the RWQCB and may be impacted by project development, then the individual project applicant shall obtain Section 404/401 permits based on the jurisdictional determination with the appropriate regulatory agency for the potentially impacted features. During the permitting process, mitigation measures shall be developed as necessary to reduce impacts on wetlands through avoidance, minimization and/or compensatory mitigation. Permanent losses to potentially jurisdictional wetlands and other waters of the U.S. shall be compensated at a minimum 1:1 ratio (or otherwise agreed upon ratio with the USACE and RWQCB) to achieve a no net loss of wetlands.	Individual project applicants. City of Yuba City and USACE or RWQCB to confirm compliance.			X					As needed prior to construction.			
c) If the individual development project would result in impacts to the bed and banks of Gilsizer Slough, or other jurisdictional water courses with a defined bed and bank as identified in an aquatic resources delineation or jurisdictional determination, the City shall notify, or require the project applicant to notify, the CDFW. The CDFW will determine whether a Section 1600 Lake and Streambed Alteration Agreement (LSAA) is required. If required, the individual project applicant shall apply for and adhere to the conditions of the LSAA. This action shall be completed prior to issuance of a grading permit or initiation of other project activities that may impact the canal or other jurisdictional water courses.	Biologist to conduct monitoring. Contractor to implement measures City of Yuba City and CDFW to confirm compliance.			X					As needed prior to construction.			
3.4-2 Protection of Valley Elderberry Longhorn Beetle (BSMP/NR/KER)												
a) The individual project applicant shall engage a qualified biologist to conduct a survey of the construction footprint and 165-foot buffer around the proposed construction footprint to determine whether any elderberry shrubs with stems at least one inch dgl are present. If no such elderberry shrubs are present within 165 feet of construction activities, a report shall be submitted to the City for its records and no additional measures are required.	Contractor to implement measures. Biologist to conduct monitoring. City of Yuba City to confirm compliance.				X		X		Consultation to occur prior to construction if needed. Prior to work within 165 feet of elderberry shrubs.			

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3.4-2 (cont.)												
b) If elderberry shrubs with stems at least one inch dgl are present within 165 feet of construction activities, the following avoidance measures shall be implemented, at minimum, in accordance with the VELB Impact Assessment.												
1. Fencing shall be installed as close to the construction limits as feasible for shrubs occurring within 165 feet.	Individual project applicants.											
2. In areas where work would occur within near proximity to elderberry shrub, exclusion fencing shall be established a minimum of a 20-foot radius around the shrubs.	Biologist to conduct monitoring.				X				Weekly during work within 165 feet of elderberry shrubs.			
3. An individual project applicant shall engage a qualified biologist to provide worker awareness training for all contractors, work crews, and any onsite personnel, on the status of the VELB, its host plant and habitat, the need to avoid damaging the shrubs, and the possible penalties for non-compliance.	City of Yuba City to confirm compliance.											
4. Mechanical weed removal within the drip-line of the shrub shall be limited to the season when adults are not active (August - February) and shall avoid damaging the elderberry.												
c) If elderberry shrubs cannot be avoided or if indirect effects will result in the death of stems or entire shrubs, the elderberry shrubs with stems greater than one inch dgl shall be transplanted.	Individual project applicants.											
1. The individual project applicant shall engage a qualified biologist to monitor the transplanting activities.	Biologist to conduct monitoring.				X				As needed during construction.			
2. Elderberry shrubs shall be transplanted when the shrubs are dormant (November through February 14) and after they have lost their leaves.	City of Yuba City to confirm compliance.											
d) For shrubs that cannot be avoided, the individual project applicant shall purchase compensatory mitigation for impacts to elderberry shrubs. The appropriate type and amount of compensatory mitigation shall be determined through coordination with the USFWS. Appropriate compensatory mitigation may include purchasing credits at a USFWS-approved conservation bank at a minimum 1:1 ratio, providing onsite mitigation, and/or establishing and/or protecting habitat for the valley elderberry longhorn beetle.	Individual project applicants.								Consultation to occur prior to construction if needed.			
	Biologist to conduct monitoring.			X	X							
	City of Yuba City and USFWS to confirm compliance.								Avoidance to occur throughout construction.			
3.4-3 Protection of Migratory Birds and Raptors (BSMP/NR/KER)												
a) Building demolition and vegetation clearing operations, including initial grading and tree removal, shall occur outside of the nesting season (September 1 through January 31) to the extent feasible. If vegetation removal or building demolition begins during the nesting season (February 1 to August 31), the individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for active nests within a 500-foot buffer around the individual project footprint. The pre-construction survey shall be conducted within 14 days prior to commencement of ground disturbing activities. If the pre-construction survey shows that there is no evidence of active nests, then a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence within 14 days of a pre-construction survey, or halts for more than 14 days, an additional pre-construction survey is required for each period of delay.	Individual project applicants.											
	Biologist to conduct survey.				X				Within 14 days prior to commencement of ground disturbing activities, and after a lapse in construction of 14 days or more.			
	City of Yuba City to confirm compliance.											

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3.4-3 (cont.)												
b) If any active nests are located within the construction footprint – including, but not limited to individual project site, staging areas, spoils sites, construction access – an appropriate buffer zone shall be established around the nests, as determined by the qualified biologist based on applicable regulatory requirements in force at the time of construction activity. The biologist shall mark the buffer zone with construction tape or pin flags and maintain the buffer zone until the end of breeding season or until the young have successfully fledged or the nest is determined to no longer be active. Buffer zones are typically 50-100 feet for migratory bird nests and 250-500 feet for raptor nests (excluding Swainson’s hawk). If active nests are found within the vicinity of the construction areas, the qualified biologist shall monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. If establishing the typical buffer zone is impractical, the qualified biologist shall adjust the buffer depending on the species and daily monitoring would be required to ensure that the nest is not disturbed and no forced fledging occurs. This daily monitoring shall occur until the qualified biologist determines that the nest is no longer occupied.	Individual project applicants. Biologist to determine buffer distance. Contractor to avoid buffer zone. City of Yuba City to confirm compliance.				X				As needed during construction.			
Additional Measures for Burrowing Owl												
c) Prior to any individual project construction, the project applicant shall engage a qualified biologist to conduct a habitat assessment to determine if potential nesting habitat is present with an individual project area. If potential nesting habitat is present, nesting and wintering season surveys for burrowing owl shall be conducted to determine if potential habitat within 500 feet of ground disturbance is used by this species. As described in Table 3.4.2, suitable burrowing owl habitat includes the annual grassland and agricultural land. The timing and methodology for the surveys shall be conducted in accordance with the current CDFW Staff Report on Burrowing Owl Mitigation (Appendix D-3). A minimum of three survey visits should be conducted at least three weeks apart during the peak breeding season between April 15 and July 15. One of these surveys could be conducted at the same time as the nesting bird survey (Mitigation Measure 3.4-3a) should work be anticipated to commence within 14 days and between April 15 and July 15. A winter survey shall be conducted between December 1 and January 31, during the period when wintering owls are most likely to be present.	Individual project applicants. Biologist to conduct survey. City of Yuba City and CDFW to confirm compliance.				X				First survey to be conducted no less than 14 days prior to initiation of ground disturbance. Second to survey to be conducted within 24 hours prior to ground disturbance.			
d) If an active burrowing owl nest site/active burrow is discovered in the vicinity of an individual project construction footprint – including, but not limited to individual project site, staging areas, spoils sites, construction access – the project applicant shall notify the City and CDFW. A qualified biologist shall monitor the owls and establish a fenced exclusion zone around each occupied burrow. No construction activities shall be allowed within the exclusion buffer zone until such time that the burrows are determined by a qualified biologist to be unoccupied. The buffer zones shall be a minimum of 150 feet from an occupied burrow during the non-breeding season (September 1 through January 31) and a minimum of 250 feet from an occupied burrow during the breeding season (February 1 through August 31).	Individual project applicants. Biologist to establish exclusion zone and conduct monitoring. Contractor to avoid exclusion zone. City of Yuba City to confirm compliance.				X				Buffers to be established as needed during construction. Monitoring to occur daily during work within buffer zones.			

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3.4-3 (cont.)												
e) If avoidance is not feasible, the CDFW shall be consulted to develop and the implement avoidance or passive relocation methods. All activities that will result in a disturbance to burrows shall be approved by the CDFW prior to implementation.	Individual project applicants. City of Yuba City to coordinate consultation with the CDFW.				X							Prior to disturbance to burrowing owls (as applicable).
Additional Measures for Swainson's Hawk												
f) If construction activities are anticipated to commence during the Swainson's hawk nesting season (March 1 to September 15), the individual project applicant shall engage a qualified biologist to conduct a minimum of two pre-construction surveys during the recommended survey periods in accordance with the Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley (Appendix D-4). All potential nest trees within 0.25 mile of the proposed project footprint shall be visually examined for potential Swainson's hawk nests, as accessible. If no active Swainson's hawk nests are identified on or within 0.25 mile of the proposed project, a report documenting the survey methodology and findings should be submitted to the City for its files and no additional mitigation measures are required.	Individual project applicants. Biologist to conduct survey. City of Yuba City to confirm compliance.				X							At least twice during the recommended survey periods for Swainson's hawk prior to construction initiation.
g) If active Swainson's hawk nests are found within 0.25 mile of construction activities, a survey report shall be submitted to the CDFW and the CNDDDB, and an avoidance and minimization plan shall be provided to and approved by the CDFW prior to the start of construction of the given development proposal. The avoidance plan shall identify measures to avoid or minimize impacts to the active Swainson's hawk nest. These measures may include, but are not limited to:	Individual project applicants.											
1. Conducting a Worker Awareness Training Program prior to the start of construction;	Biologist to conduct training.				X							Training to be conducted prior to the start of construction (as applicable).
2. Establishing a buffer zone and work schedule to avoid impacting the nest during critical periods. If practicably feasible, no work will occur within 200 yards of the nest while it is in active use. If work will occur within 200 yards of the nest, then construction shall be monitored by a qualified biologist to ensure that no work occurs within 50 yards of the nest during incubation or within ten days after hatching;	City of Yuba City and CDFW to confirm compliance.											
3. Having a qualified biological monitor conduct regular monitoring of the nest during construction activities; and												
4. Allowing the qualified biologist to halt construction activities until CDFW determines that the construction activities are disturbing the nest.												
3.4-4 Protection of Bat Species (BSMP/NR/KER)												
a) The individual project applicant shall engage a qualified biologist to conduct a pre-construction survey for special-status bat species within 14 days prior to the start of tree or building removal within the BSMP project site. If no special-status bats are observed roosting, a report shall be submitted to the City for its records and no additional measures are required. If construction does not commence or if any trees or buildings anticipated for removal are not removed within 14 days of the pre-construction survey or halts for more than 14 days, a new survey and reporting shall be conducted.	Individual project applicants. Biologist to conduct survey. City of Yuba City to confirm compliance.				X							First survey to be conducted no less than 14 days prior to initiation of ground disturbance. Second to survey to be conducted within 24 hours prior to ground disturbance.

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3.4-4 (cont.)												
b) If bats including pallid bats are found, the qualified biologist shall consult with the CDFW to determine and implement avoidance measures. Avoidance measures may include, but are not limited to, establishing a buffer around the roost tree or building until it is no longer occupied or installing exclusion material around the tree/opening of the building after dusk, once the qualified biologist has determined that the bat has left the roost to forage. The tree or building shall not be removed until a biologist has determined that the tree or building is no longer occupied by the bats.	City of Yuba City to coordinate consultation with the CDFW.				X							Prior to disturbance to bats, including pallid bats (as applicable).
3.4-5 Protection of Heritage and Street Trees (BSMP/NR/KER)												
a) The individual project applicant shall engage a certified arborist to conduct a tree survey and prepare an arborist report. The arborist report shall include the species, diameter at breast height, location, condition of each street tree and native oak tree, and identify whether the native oak tree should be considered for preservation. The arborist report shall also recommend whether oak trees and heritage oak trees should be preserved. The arborist report shall include compensatory mitigation for impacts to native and heritage oak trees at a minimum 1:1 ratio based on diameter at breast height (DBH) for each tree.	Arborist to conduct survey. City of Yuba City to confirm compliance.			X								Prior to ground disturbance.
b) The individual project applicant shall submit an application to the Director of the City of Yuba City for any street tree proposed for removal. If authorized by the Director, the street tree may be removed at the expense of the applicant.	Individual project applicants. City of Yuba City to confirm compliance.			X	X							Prior to ground disturbance or tree removal (as applicable).
c) During any construction activities, construction shall be avoided within the critical root zones of preserved/protected trees, unless the area has been previously paved. Encroachments shall be held to no more than 20 percent of the critical root zone area. Avoidance areas shall be fenced prior to any activities onsite or offsite.	Contractor to avoid critical root zones. City of Yuba City to confirm compliance.					X						As needed during construction.
d) During project construction, the individual project applicant shall retain an arborist to supervise all grade cuts in the critical root zone of protected trees, and properly treat all roots subject to damage as soon as possible after excavation. Cut-faces exposed for more than two to three days shall be covered with a dense burlap fabric and watered to maintain soil moisture at least on a daily basis until the area is permanently covered.	Contractor/Arborist to monitor critical root zones. City of Yuba City to confirm compliance.					X						As needed during construction.
e) Avoid placement of fill exceeding one foot in depth within the critical root zone of all preserved/protected trees. If unavoidable, either design drainage away from the critical root zone of the tree or consider tree removal. Placement of fill material less than one foot in depth and encroachment of less than 20 percent into the critical root zone area shall not require such additional mitigation measures.	Contractor/Arborist to monitor critical root zones. City of Yuba City to confirm compliance.					X						As needed during construction.
f) Any proposed structures shall not encroach more than 20 percent into the critical root zone area of a preserved/protected tree. If unavoidable, tree removal shall be considered.	Contractor to avoid critical root zones. City of Yuba City to confirm compliance.					X						As needed during construction.

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3.4-5 (cont.)												
g) Onsite and offsite utilities shall be designed to avoid the critical root zone of preserved/protected trees. In some circumstances, hand digging of utilities through the critical root zone areas would be an option. Boring beneath the critical root zone area would also be an option.	Contractor to avoid critical root zones. City of Yuba City to confirm compliance.				X				As needed during construction.			
h) Branches and limbs that have been torn, broken, or spilt during construction shall be removed. In addition, any dead, diseased, or rubbing limbs shall be removed.	Contractor/Individual project applicants.				X				As needed during construction.			
3.4-6 Rare Plant Protection (BSMP only; not NR or KER)												
a) The individual project applicant shall retain a qualified biologist to conduct focused botanical protocol-level surveys in the nonnative annual grassland for dwarf downingia (blooms March through May) and Ferris' mile-vetch (blooms April through May) and in the non-native grassland and oak woodland for Baker's navarretia (blooms April through July) and Hartweg's golden sunburst (blooms March through April). Surveys shall be conducted during blooming periods for all special-status species. (It is noted that the blooming periods for these plant species overlap in the month of April.) If no special-status plants are observed within the survey area, then a report shall be submitted to the City and no additional mitigation is required so long as construction commences within two years of the survey.	Individual project applicants. Biologist to conduct survey. City of Yuba City to confirm compliance.			X					Prior to ground disturbance (as applicable).			
b) If Baker's navarretia, dwarf downingia, or Ferris' milk-vetch are observed within the project site, the plants should be avoided with a minimum 10-foot avoidance buffer with exclusion fencing, to the extent feasible. If these special-status plants cannot be avoided, a mitigation plan shall be prepared by a qualified botanist. At minimum, the mitigation plan shall include locations where the plants will be transplanted, success criteria, and monitoring activities for the transplanted populations. The mitigation plan shall be finalized prior to transplanted and commencement of construction activities.	Biologist to conduct survey. City of Yuba City to confirm compliance.				X				First survey to be conducted no less than 14 days prior to initiation of ground disturbance. Second to survey to be conducted within 24 hours prior to ground disturbance.			
c) If the federal and state endangered Hartweg's golden sunburst is observed, the plants shall be avoided to the extent feasible. 1. If the plants cannot be avoided, the individual project applicant shall obtain a CESA Section 2081(b) Incidental Take Permit. Measures to minimize the take and to mitigate the impacts caused by the take shall be set forth in one or more conditions of the permit. Potential conservation measures include, but are not limited to, purchasing credits from a mitigation bank, establishing a preserve, and/or preparing a mitigation plan. 2. If the plants cannot be avoided and if the project requires USFWS Section 7 consultation (i.e., would impact a jurisdictional wetland or water of the U.S. requiring a Section 404 CWA permit), consultation with the USFWS through the Section 7 process shall occur to determine any additional avoidance, conservation, and mitigation measures that may be needed for the species, if any. The individual project applicant is not required to consult for impacts to federally listed plants without a federal nexus.	Biologist to conduct survey. City of Yuba City to coordinate consultation with the USFWS.				X				First survey to be conducted no less than 14 days prior to initiation of ground disturbance. Second to survey to be conducted within 24 hours prior to ground disturbance.			

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3.4-7 Protection of Swainson's Hawk Foraging Habitat (BSMP only; not NR or KER) a) Prior to disturbance of a minimum of five acres of non-native annual grassland, the individual project applicant shall engage a qualified biologist to conduct a CNDDDB search for active Swainson's hawk nests occurring within 10 miles of the individual project footprint and documented within five years of commencement of ground disturbance. The CNDDDB search shall be conducted within one year prior to commencement of construction activities. If no nests are documented within 10 miles within the last five years, then a report shall be submitted to the City documenting the results. No additional mitigation is required. b) If an active nest is documented within 10 miles of the individual project footprint and within five years prior to the anticipated start of ground disturbance, the individual project applicant shall mitigate at ratios that correspond to the distance of the nest or shall establish a conservation easement, in accordance with the Staff Report (Appendix D-5). These ratios are identified below: 1. Projects within one mile of an active nest tree shall provide: i. One acre of Habitat Management (HM) land (at least 10 percent of the HM Land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90 percent of the HM lands protected by a conservation easement (acceptable to the CDFW) on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk) for each acre of development authorized (1:1 ratio); or ii. One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement (acceptable to the CDFW) which allows for the active management of the habitat for prey production on-the HM lands) for each acre of development authorized (0.5:1 ratio). 2. Projects within five miles of an active nest tree but greater than one mile from the nest tree shall provide 0.75 acres of HM land for each acre of urban development authorized (0-75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the CDFW) on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk. 3. Projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree shall provide 0.5 acres of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands- protected under this requirement may be protected through fee title acquisition or a conservation easement (acceptable to the CDFW) on agricultural lands or other suitable habitats which provide foraging habitat for Swainson's hawk. c) Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at the rate of 400 dollars per HM land acre (adjusted annually for inflation and varying interest rates).	Biologist to conduct survey. City of Yuba City to confirm compliance.			X	X						At least twice during the recommended survey periods for Swainson's hawk prior to construction initiation.	
	Biologist to conduct survey. City of Yuba City to confirm compliance.			X	X							At least twice during the recommended survey periods for Swainson's hawk prior to construction initiation.
	Biologist to conduct survey. City of Yuba City to coordinate consultation with the CDFW.			X	X							At least twice during the recommended survey periods for Swainson's hawk prior to construction initiation.
	Biologist to conduct survey. City of Yuba City to coordinate consultation with the CDFW.			X	X							At least twice during the recommended survey periods for Swainson's hawk prior to construction initiation.
	Individual project applicants. City of Yuba City to confirm compliance.			X	X	X		As needed				

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3.4-7 (cont.) d) Implement Mitigation Measures 3.4-3(f) and 3.4-3(g).	Biologist to conduct survey and training. City of Yuba City to confirm compliance.				X		Survey to occur at least twice during the recommended survey periods for Swainson's hawk prior to construction initiation. Training to be conducted prior to the start of construction (as applicable).					
3.4-8 Protection of Special Status Species Implement Mitigation Measures 3.4-5a through 3.4-5h.	Contractor/Arborist to monitor and avoid critical root zones. City of Yuba City to confirm compliance.				X		As needed during construction.					
3.4-9 Protection of Special Status Species Implement Mitigation Measures 3.4-5a through 3.4-5h.	Contractor/Arborist to monitor and avoid critical root zones. City of Yuba City to confirm compliance.				X		As needed during construction.					
3.5 Cultural Resources												
3.5-1 Protection of Historic Architectural Resources (BSMP project site outside NR/KER) a) Concurrent with submittal of project-level development plans, the project applicant shall submit a built-environment resource investigation, for review and approval by the City, that includes, at a minimum: <ul style="list-style-type: none"> - An updated records search at the Northeast Information Center; - An intensive built-environment resources survey, documenting buildings and structures 45 years or older within and adjacent to the project footprint for listing in the National, California, or local registers; - A report that documents the results of the investigation; and - Recommendations for mitigation to resolve adverse impacts to significant historic architectural resources. The survey shall be carried out by a qualified historian or architectural historian meeting the Secretary of the Interior's Standards for Architectural History.	Individual project applicants. City of Yuba City to confirm compliance.			X	X		Once prior to construction. Monitoring as needed during construction.					
b) Demolition or substantial alteration of all previously recorded historic resources, including significant historic resources encountered during the survey and evaluation efforts, shall be avoided, if feasible.	Contractor/Individual project applicants.											
c) Any alterations to historic buildings or structures, including relocation, shall conform to the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.	City of Yuba City to confirm compliance.				X		As needed during construction.					

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3.5-1 (cont.) d) If avoidance of identified historic resources is deemed infeasible, the project applicant shall prepare a treatment plan, subject to City review and approval, to include, but not limited to, adaptive reuse, photo-documentation and public interpretation of the resource. The treatment plan shall include retention of a qualified architectural historian to document the affected historic resource in accordance with the National Park Service’s Historic American Buildings Survey (HABS) and/or Historic American Engineering Record (HAER) standards. Such standards typically include large format photography using (4x5) negatives, written data, and copies of original plans if available. The HABS/HAER documentation packages shall be archived at local libraries and historical repositories, as well as the Northeast Information Center of the California Historical Resources Information System. Public interpretation of historic resources at their original site shall occur in the form of a plaque, kiosk, or other method of describing the building’s historic or architectural importance to the general public.	Contractor/Individual project applicants. Architectural historian to conduct survey. City of Yuba City to confirm compliance.				X				Monitoring as needed during construction. Once prior to construction. As needed during construction.			
3.5-2(a) Protection of Archaeological Resources (NR/KER) Archaeological Monitoring Plan. Prior to issuance of grading permits or ground-disturbing construction activity in the Newkom Ranch and Kells East Ranch properties, the project applicant shall prepare and submit an Archaeological Monitoring Plan to the City of Yuba City for review and approval. Monitoring shall be required for all surface alteration and subsurface excavation work, including trenching, boring, grading, use of staging areas and access roads, and driving vehicles and equipment. A Secretary of the Interior-qualified professional archaeologist (project archaeologist) shall prepare the plan. The plan shall address (but not be limited to) the following issues:	Contractor/Individual project applicants. Project archaeologist to prepare plan and conduct and training. City of Yuba City to confirm compliance.			X	X				Once prior to construction. Monitoring and training as needed during construction. Compliance review as needed during construction.			
<ul style="list-style-type: none"> • Training program for all construction and field workers involved in site disturbance; • Person(s) responsible for conducting monitoring activities, including both archaeological and Native American monitors; • How the monitoring shall be conducted and the required format and content of monitoring reports, including the need to conduct trenching, shovel-test units or auger samples to identify archaeological deposits in advance of construction, assessment, designation and mapping of the sensitive cultural resource areas on final project maps, assessment and survey of any previously unsurveyed areas; • Person(s) responsible for overseeing and directing the monitors; • Schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports; • Procedures and construction methods to avoid sensitive cultural resource areas (i.e., planning construction to avoid the resource, incorporating the resource within open space, capping and covering the resource, or deeding the site into a permanent conservation easement); • Clear delineation and fencing of sensitive cultural resource areas; • Physical monitoring boundaries; • Protocol for notifications in case of encountering of cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, curation); • Methods to ensure security of cultural resources; • Protocol for notifying local authorities (i.e. Sheriff, Police) should site looting and other illegal activities occur during construction. 												

**TABLE 4-1
MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Responsible Party for Implementation	Verification of Implementation (Responsible Party)		Timing of Compliance				Verification of Compliance				Comments
		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature	Date	
<p>3.5-2(a) (cont.)</p> <p>Archaeological and Native American Monitoring. If an intact archaeological resource is encountered, all soil disturbing activities in the vicinity of the resource shall cease until it is evaluated. The project archaeologist shall immediately notify the City of Yuba City of an encountered archaeological resource. The project archaeologist and Native American monitor shall, after making a reasonable effort to assess the identity, integrity, and significance of the encountered archaeological resource, present the findings of this assessment to the City.</p> <p>During the course of the monitoring, the project archaeologist and Native American monitor may adjust the frequency—from continuous to intermittent—of the monitoring based on the conditions and professional judgment regarding the potential to impact resources.</p> <p>If the City, in consultation with the project archaeologist and Native American monitor, determines that a significant archaeological resource is present and that the resource could be adversely impacted by the project, the City shall:</p> <ul style="list-style-type: none"> Determine whether preservation in place is feasible. Consistent with CEQA Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, prepare and implement a detailed Archaeological Research Design and Treatment Plan. Treatment of archaeological resources will follow the applicable requirements of Public Resources Code Section 21083.2. Treatment for most resources would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals. If potential human remains are encountered, all work will halt in the vicinity of the find and the City will contact the county coroner in accordance with Public Resources Code Section 5097.98 and Health and Safety Code Section 7050.5. If the coroner determines the remains are Native American, the coroner shall contact the Native American Heritage Commission. As provided in Public Resources Code Section 5097.98, the Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98. 												
<p>3.5-2(b) Protection of Historic Archaeological Resources (Full BSMP project site except NR/KER)</p> <p>When BSMP-level development plans outside the Newkom Ranch and Kells East Ranch properties are submitted to the City of Yuba City for approval, the project applicant shall be required to complete a cultural resources investigation for review and approval by the City that includes, at a minimum:</p> <ul style="list-style-type: none"> An updated records search at the Northeast Information Center; Updated Native American consultation in coordination with the Native American Heritage Commission. An intensive archaeological survey of the development area; 	<p>Contractor/Individual project applicants.</p> <p>Project archaeologist and Native American monitor to conduct and survey monitoring.</p> <p>City of Yuba City to confirm compliance.</p>			X	X				Monitoring as needed during construction.			Compliance review as needed during construction.

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Mitigation Measure	Responsible Party for Implementation	Verification of Implementation (Responsible Party)		Timing of Compliance				Verification of Compliance				Comments	
		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature	Date		
3.5-2(b) (cont.) <ul style="list-style-type: none"> A geoarchaeological assessment for the potential for buried archaeological resources; A report that documents the results of the investigation; and Recommendations for mitigation to resolve adverse impacts to significant archaeological resources or human remains. The survey shall be carried out by a qualified archaeologist meeting the Secretary of the Interior's Standards for Archaeology, and can be documented in the same document as required in Mitigation Measure 3.5-1(a).	Contractor/Individual project applicants.											Survey to occur once prior to construction.	
	Project archaeologist and Native American monitor to conduct survey and monitoring.			X	X							Monitoring as needed during construction.	
	City of Yuba City to confirm compliance.											Compliance review as needed during construction.	
3.5-3 Protection of Historic Architectural Resources (BSMP project site outside NR/KER) Implement Mitigation Measure 3.5-1.	Individual project applicants.											Once prior to construction.	
	City of Yuba City to confirm compliance.			X	X							Monitoring as needed during construction.	
3.5-4(a) Protection of Archaeological Resources (NR/KER) Implement Mitigation Measure 3.5-2(a).	Contractor/Individual project applicants.											Survey to occur once prior to construction.	
	Project archaeologist to prepare plan and Native American monitor to conduct survey and monitoring.			X	X							Monitoring as needed during construction.	
	City of Yuba City to confirm compliance.											Compliance review as needed during construction.	
3.5-4(b) Protection of Historic Archaeological Resources (Full BSMP project site except the Newkom Ranch and Kells East Ranch properties) Implement Mitigation Measure 3.5-2(b).	Contractor/Individual project applicants.											Survey to occur once prior to construction.	
	Project archaeologist to prepare plan and Native American monitor to conduct survey, and monitoring.			X	X							Monitoring as needed during construction.	
	City of Yuba City to confirm compliance.											Compliance review as needed during construction.	
3.7 Green House Gas Emissions and Energy													
3.7-1(a) Residential Building Insulation (BSMP/NR/KER) Prior to building construction, individual project applicants shall submit to the City building plans demonstrating how all proposed residential buildings include greatly enhanced building insulation materials such as spray foam wall insulated walls R-15 or greater, roof/attic R-38 or higher. The individual project applicants shall also demonstrate how all proposed residential buildings include modestly enhanced window insulation such as 0.4 U-Factor or 0.32 SHGC.	Contractor/Individual project applicants.												Compliance review as needed prior to construction.
	City of Yuba City to confirm compliance.			X									

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		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature		Date
3.7-1(b) Commercial Building Insulation (BSMP/NR/KER) Prior to building construction, individual project applicants shall submit to the City building plans demonstrating how all proposed commercial buildings include enhanced building insulation materials (e.g., rigid wall installation, roof/attic R-38).	Contractor/Individual project applicants.			X								Compliance review as needed prior to construction.
	City of Yuba City to confirm compliance.											
3.7-3 Compliance with Yuba City REP (BSMP/NR/KER) Implement Mitigation Measure 3.7-1(a) and Mitigation Measure 3.7-1(b).	Contractor/Individual project applicants.			X								Compliance review as needed prior to construction.
	City of Yuba City to confirm compliance.											
3.8 Hazards and Hazardous Materials												
3.8-2 Conduct Phase I Environmental Site Assessments (BSMP/NR/KER) a) Prior to final project design of any individual project pursuant to the BSMP that includes any earth-disturbing activities, the applicant shall submit to the City a Phase I Environmental Site Assessment (Phase I ESA). The Phase I ESA shall be prepared in general accordance with ASTM Standard E1527-13, Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process (or most current edition that is in force at the time of final project design), which is the current industry standard. The Phase I ESA shall include a records review of appropriate federal, State, and local databases within ASTM-listed search distances regarding hazardous materials use, storage, or disposal at the given site, a review of historical topographic maps and aerial photographs, a site reconnaissance, interviews with persons knowledgeable about the sites historical uses, and review of other relevant existing information that could identify the potential existence of Recognized Environmental Conditions, including hazardous materials, or contaminated soil or groundwater. If no Recognized Environmental Conditions are identified, then no further action would be required.	Contractor/Individual project applicants.			X								Compliance review as needed prior to construction.
	City of Yuba City to confirm compliance.											
b) If Recognized Environmental Conditions are identified and the Phase I ESA recommends further action, the applicant shall conduct the appropriate follow-up actions, which may include further records review, sampling of potentially hazardous materials, and possibly site cleanup. In the event that site cleanup is required, the project shall not proceed until the site has been cleaned up to the satisfaction of the appropriate regulatory agency (e.g., DTSC, RWQCB, or SC EHD) such that the regulatory agency issues a No Further Action letter or equivalent.	Contractor/Individual project applicants.			X								Compliance review as needed prior to construction.
	City of Yuba City to confirm compliance.											
3.8-5 Conduct Phase I Environmental Site Assessment (BSMP) Implement Mitigation Measure 3.8-2.	Contractor/Individual project applicants.			X								Compliance review as needed prior to construction.
	City of Yuba City to confirm compliance.											
3.8-7 Traffic Control Plan (BSMP/NR/KER) Prior to construction, the applicant for an individual project, or its construction contractor(s), shall prepare and implement a traffic control plan to minimize traffic impacts on all roadways at and near the work site affected by construction activities. The traffic control plan shall reduce potential traffic safety hazards and ensure adequate access for emergency responders. The applicant and construction contractor(s) shall coordinate preparation and implementation of this traffic control plan with the City of Yuba City Fire Department and Police Department, the CHP, and/or CAL FIRE, as appropriate. To the extent applicable, this traffic control plan shall	Contractor/Individual project applicants.			X								Compliance review as needed prior to construction.
	City of Yuba City to confirm compliance.											

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		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature	Date		
3.8-7 (cont.)													
conform to the 2014 California Manual on Uniform Traffic Control Devices (MUTCD), Part 6 (Temporary Traffic Control). The traffic control plan shall provide, but not be limited to, the following elements:													
<ul style="list-style-type: none"> • Circulation and detour plans to minimize impacts on local road circulation during road and lane closures. Flaggers and/or signage shall be used to guide vehicles through and/or around the construction zone; • Identifying truck routes designated by Sutter County, where applicable. Haul routes that minimize truck traffic on local roadways shall be utilized to the extent possible; • Sufficient staging areas for trucks accessing construction zones to minimize the disruption of access to adjacent existing public rights-of-way; • Controlling and monitoring construction vehicle movement through the enforcement of standard construction specifications by onsite inspectors; • Scheduling truck trips outside the peak morning and evening commute hours to the extent possible; • Limiting the duration of road and lane closures to the extent possible; • Storing all equipment and materials in designated contractor staging areas on or adjacent to the worksite, such that traffic obstruction is minimized; • Implementing roadside safety protocols. Advance "Road Work Ahead" warning and speed control signs (including those informing drivers of State legislated double fines for speed infractions in a construction zone) shall be posted to reduce speeds and provide safe traffic flow through the work zone; • Coordinating construction administrators of police and fire stations (including all fire protection agencies). Operators shall be notified in advance of the timing, location, and duration of construction activities and the locations of detours and lane closures, where applicable; and • Repairing and restoring affected roadway rights-of way to their original condition after construction is completed. 	Contractor/Individual project applicants.												
	City of Yuba City to confirm compliance.			X					Compliance review as needed prior to construction.				
3.8-11 Traffic Control Plan (BSMP/NR/KER)	Contractor/Individual project applicants.												
Implement Mitigation Measure 3.8-7.	City of Yuba City to confirm compliance.			X					Compliance review as needed prior to construction.				
3.11 Noise and Vibration													
3.11-1 Construction Noise Measures (BSMP/NR/KER)													
Individual project applicants of new development (excluding renovation of existing buildings) shall require construction contractors to implement the following measures during all phases of project construction:													
a) Whenever stationary noise sources – such as generators and compressors – are used within line of sight to occupied residences (on or offsite), temporary barriers shall be constructed around the source to shield the ground floor of the noise-sensitive uses. These barriers shall be of ¾-inch Medium Density Overlay (MDO) plywood sheathing, or other material of equivalent utility and appearance to achieve a Sound Transmission Class of STC-30, or greater, based on certified sound transmission loss data taken according to ASTM Test Method E90 or as approved by the City of Yuba City Building Official.	Contractor/Individual project applicants.												
	City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction.				

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3.11-1 (cont.)												
b) Construction equipment staging areas shall be located as far as feasible from residential areas while still serving the needs of construction contractors.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction.			
c) Equipment and trucks used for construction will use the industry standard noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically-attenuating shields or shrouds, wherever feasible).	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction.			
d) Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically- or electrically-powered where feasible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dB. External jackets on the tools themselves shall be used where feasible; this could achieve a reduction of 5 dB. Quieter procedures, such as use of drills rather than impact tools, shall be used whenever feasible.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction.			
3.11-2 Transportation Source Mitigation (BSMP) Prior to approval of a map, an acoustical study shall be submitted to the City demonstrating that the project would include noise attenuation to reduce noise levels at the existing residences adjacent to Stewart Road, between SR 99 and Phillips Road, to below the noise standard specified in the City's general plan Policy 9.1-1-3. If sound walls are proposed, they must be constructed of a material and at a height sufficient to reduce traffic noise to either 4 dB below existing conditions or below 60 dBA Ldn.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X					Compliance review as needed prior to construction.			
3.11-3 Stationary Source Mitigation (BSMP/NR/KER) The project sponsor shall ensure that the following measures are implemented for all development under the proposed BSMP:												
a) Prior to the issuance of building permits, individual project applicants shall submit engineering and acoustical specification for project mechanical HVAC equipment and the proposed locations of onsite loading docks to the Planning Director demonstrating that the HVAC equipment and loading dock design (types, location, enclosure, specification) will control noise from the equipment to not exceed 55 dBA during the daytime and 45 dBA during nighttime hours.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X					Compliance review as needed prior to construction.			
b) Noise-generating stationary equipment associated with proposed commercial and/or office uses, such as portable generators, compressors, and compactors, within line-of-sight of adjacent noise-sensitive uses shall be enclosed or acoustically shielded to reduce noise-related impacts.												
3.11-6 Construction Noise Measures (BSMP/NR/KER) Implement Mitigation Measure 3.11-1.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction.			
3.11-9 Stationary Source Mitigation (BSMP/NR/KER) Implement Mitigation Measure 3.11-3.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X					Compliance review as needed prior to construction.			

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		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature	Date	
3.14 Transportation and Circulation												
3.14-1(a) Yuba City Intersections (BSMP)												
The project applicant(s) shall construct the following improvements. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.												
i. Install a traffic signal and widen the eastbound and southbound approaches to provide dedicated left-turn pockets at the Bogue Road/South Walton Avenue intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).	Contractor/Individual project applicants.			X	X							Compliance review as needed prior to construction and during construction (As needed).
ii. Install a traffic signal at the Railroad Avenue/Lincoln Road intersection (in conjunction with existing lane configurations).	City of Yuba City to confirm compliance.											
iii. Install a traffic signal at the Bogue Road/Phillips Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).												
iv. Install a traffic signal at the Bogue Road/Railroad Avenue intersection and widen/restripe the northbound and southbound approaches to provide dedicated left-turn pockets (in conjunction with lane configurations planned under existing plus BSMP conditions).												
v. Install a traffic signal at the Gilsizer Ranch Way/Bogue Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions).												
3.14-1(b) Yuba City Intersections (NR/KER)												
The project applicant(s) shall construct the following improvements. Improvement shall be required at such time that the retail center in the southwest quadrant of the Bogue Road/Phillips Road intersection is constructed. It shall also be required at such time that two-thirds of the total dwelling units within Newkom Ranch and Kells East Ranch are developed. Improvement ii shall be required at such time that two-thirds of the total dwelling units within Newkom Ranch and Kells East Ranch are developed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.												
i. Install a traffic signal at the Bogue Road/Phillips Road intersection (in conjunction with lane configurations planned under existing plus BSMP conditions); and	Contractor/Individual project applicants.				X	X						Compliance review as needed prior to construction and during construction (As needed).
ii. Install a traffic signal at the Bogue Road/Railroad Avenue intersection and widen/restripe the northbound and southbound approaches to provide dedicated left-turn pockets (in conjunction with lane configurations planned under existing plus BSMP conditions).	City of Yuba City to confirm compliance.											
3.14-3 Caltrans Intersections LOS (BSMP)												
The project applicant(s) shall construct the improvements described below. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff and Caltrans regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.												
	Contractor/Individual project applicants.				X	X						Compliance review as needed prior to construction and during construction (As needed).
	City of Yuba City to confirm compliance.											

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3.14-3 (cont.)												
i. Widen the SR 99/Bogue Road intersection to provide a second southbound left-turn lane that provides 500 feet of storage in each lane. Widen Bogue Road to construct a second eastbound and westbound left-turn lane. Restripe westbound Bogue Road approaching SR 99 to consist of two left-turn lanes, one through lane, and one right-turn lane (with the right-turn consisting of an overlap arrow); and	Contractor/Individual project applicants. City of Yuba City to confirm compliance.				X	X			Compliance review as needed prior to construction and during construction (As needed).			
ii. Install a traffic signal at the SR 99/Stewart Road intersection.												
3.14-4(a) Caltrans Intersections Queuing (BSMP)												
Implement Mitigation Measure 3.14-3(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane. To address queuing impacts in the southbound left-turn lane prior to the overall intersection LOS reaching an unacceptable level, the second left-turn lane is necessary. The timing of the need for these improvements will depend on the amount of development on the west versus east side of SR 99, mix of land uses, and level of background traffic growth. The applicant shall coordinate with City staff and Caltrans regarding construction of these improvements as individual projects within the BSMP are proposed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction (As needed).			
3.14-4(b) Caltrans Intersections Queuing (NR/KER)												
The project applicant(s) shall construct the following improvements at the SR 99/Bogue Road intersection. These improvements shall be in place at such time that the 21-acre retail center located in the southwest quadrant of the Bogue Road/Phillips Road intersection and 20 additional acres of residential in Newkom Ranch or Kells East Ranch are constructed. The financial responsibility for each project applicant shall be determined by the City and shall be included in each applicant's project approval documentation.	Contractor/Individual project applicants. City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction (As needed).			
i. Widen the SR 99/Bogue Road intersection to provide a second southbound left-turn lane that provides 500 feet of storage in each lane.												
3.14-7(a) Cumulative Yuba City Intersections (BSMP)												
i. Implement Mitigation Measure 3.14-1(a)(i): Install traffic signal and add turn lanes at the Bogue Road/South Walton Avenue intersection.												
ii. Implement Mitigation Measure 3.14-1(a)(iii): Install traffic signal at the Bogue Road/Phillips Road intersection.	Contractor/Individual project applicants.											
iii. Implement Mitigation Measure 3.14-1(a)(iv): Install a traffic signal and add turn lanes at the Bogue Road/Railroad Avenue intersection.				X	X							
iv. Implement Mitigation Measure 3.14-1(a)(v): Install traffic signal at the Gilsizer Ranch Way/Bogue Road intersection.	City of Yuba City to confirm compliance.								Compliance review as needed prior to construction and during construction (As needed).			
v. Contribute fair share cost for restriping the eastbound approach at the Garden Highway/Bogue Road intersection from a through lane to a shared through/right lane, and modifying the signal phasing to east-west split-phase.												

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3.14-7(b) Cumulative Yuba City Intersections (NR/KER)												
i. Implement Mitigation Measure 3.14-1(b)(i): Install traffic signal at the Bogue Road/Phillips Road intersection.												
ii. Implement Mitigation Measure 3.14-1(b)(ii): Install a traffic signal and add turn lanes at the Bogue Road/Railroad Avenue intersection.	Contractor/Individual project applicants.											
iii. Contribute fair share cost for installing a traffic signal at the South Walton Avenue/Bogue Road intersection.				X	X							
iv. Contribute fair share cost for installing a traffic signal at the Phillips Road/Lincoln Road intersection.	City of Yuba City to confirm compliance.											
v. Contribute fair share cost for installing a traffic signal at the Gilsizer Ranch Way/Bogue Road intersection.												
3.14-9(a) Cumulative Yuba City Intersections (BSMP)												
i. Implement Mitigation Measure 3.14-3(a)(i): Add turn lanes at the SR 99/Bogue Road intersection.												
ii. Implement Mitigation Measure 3.14-3(a)(ii): Install traffic signal at the SR 99/Stewart Road intersection.	Contractor/Individual project applicants.											
iii. Contribute fair share cost for adding a second northbound left-turn lane and adding dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.				X	X							
iv. Contribute fair share cost for installing a traffic signal at the SR 99/Hunn Road intersection.	City of Yuba City to confirm compliance.											
v. Contribute fair share cost for installing a traffic signal at the SR 99/Smith Road intersection.												
3.14-9(b) Cumulative Caltrans Intersections LOS (NR/KER)												
i. Implement Mitigation Measure 3.14-4(b)(i): Add second southbound left-turn lane at the SR 99/Bogue Road intersection.												
ii. Contribute fair share cost for adding a second northbound left-turn lane and adding dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.	Contractor/Individual project applicants.											
iii. Contribute fair share cost for installing a traffic signal at the SR 99/Hunn Road intersection.				X	X							
iv. Contribute fair share cost for installing a traffic signal at the SR 99/Smith Road intersection.	City of Yuba City to confirm compliance with Caltrans.											
v. Contribute fair share cost for installing a traffic signal at the SR 99/Stewart Road intersection.												
3.14-10(a) Cumulative Caltrans Intersections Queuing (BSMP)												
i. Implement Mitigation Measure 3.14-3(a)(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane.	Contractor/Individual project applicants.											
ii. Implement Mitigation Measure 3.14-9(a)(iii), which consists of paying fair share cost of adding a second northbound left-turn lane and dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.	City of Yuba City to confirm compliance with Caltrans.			X	X							
3.14-10(b) Cumulative Caltrans Intersections Queuing (NR/KER)												
i. Implement Mitigation Measure 3.14-4(a)(i), which consists of adding a second southbound left-turn lane at the SR 99/Bogue Road intersection and providing 500 feet of storage in each turn lane.	Contractor/Individual project applicants.											
ii. Implement Mitigation Measure 3.14-9(b)(ii), which consists of paying fair share cost of adding a second northbound left-turn lane and dedicated eastbound and westbound right-turn lanes at the SR 99/Bogue Road intersection.	City of Yuba City to confirm compliance with Caltrans.			X	X							

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MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Responsible Party for Implementation	Verification of Implementation (Responsible Party)		Timing of Compliance				Verification of Compliance				Comments	
		Initials	Date	Design	Construction	Operation	Frequency	Name and Affiliation	Method of Compliance Verification	Signature	Date		
iii. Implement Mitigation Measure 3.14-9(b)(v), which consists of paying fair share cost for installing a traffic signal at the SR 99/Stewart Road intersection.	Contractor/Individual project applicants.												
iv. Contribute fair share cost for adding a second northbound left-turn lane at the SR 99/Stewart Road intersection, or contributing fair share cost for widening Bogue Road to four lanes from Gilsizer Ranch Way to South Walton Avenue.	City of Yuba City to confirm compliance with Caltrans.			X	X				Compliance review as needed prior to construction and during construction (As needed).				
3.15 Utilities and Service Systems													
Water Supply													
3.15-1 Wastewater Treatment Capacity (BSMP/NR/KER)													
a) Individual project applicants shall pay the fair share of costs for each development's proportion of the water supply deficits estimated through 2040. The payments shall be directed to a City fund for the construction and operation of new groundwater well(s) as determined by the City. The City shall reflect the requirement for the fair share payment for each development in any future development agreement in the BSMP site, and payment shall be made to the City prior to final tentative map approval and building permit.	Contractor/Individual project applicants, and the City of Yuba City.								Compliance review as needed prior to construction and during construction (As needed).				
b) The City shall construct new groundwater well(s) to be operable and sufficient to serve the water supply demands of each development approved prior to year 2030. The groundwater well(s) shall be constructed to produce sufficient water to make up the shortfalls in any given single-dry year or the first year of a multi-dry year scenario as determined by the City.	City of Yuba City to confirm compliance.			X	X								
c) The City shall not approve a final tentative map or building permit for any development pursuant to the proposed BSMP or City beyond the supplies available from 2030 through 2040 without a reliable source of water supply to meet the shortfalls in the single-dry year or the first year of a multi-dry year scenario, as detailed above.													
3.15-6 Wastewater Treatment Capacity (BSMP/NR/KER) Implement Mitigation Measure 3.15-1(a) through (c).	Contractor/Individual project applicants, and the City of Yuba City. City of Yuba City to confirm compliance.			X	X				Compliance review as needed prior to construction and during construction (As needed).				

CHAPTER 5

List of Preparers and Persons Consulted

5.1 Report Authors

The City of Yuba City is the CEQA lead agency for preparation of this EIR.

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